And whisper prayers for their friend in flight—
That all their wishes will arrive this night.

But we, as older children know
That bombs are falling with the snow.
And while we are blessed—together and warm,

Half of our world is alone in the storm—
Some never seeing the light of this dawn.

It's a long time our world has waited,
Some people hungry, some people hated.
So please God! For all mankind,
Give us the peace that will clear our mind.
Erase the will, not the might, to fight,
And bless us with your silent night.

—LINDA BRASCO.

FROM SANTA: PHOTOS OF PRESIDENT NIXON AND ELVIS PRESLEY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1970

Mr. FINDLEY. Mr. Speaker, a frantic call last night from a friend in Quincy, Ill., disclosed this problem. His 8-year-old granddaughter believes most firmly in Santa Claus and at that very late hour announced to her granddad the only things she wants for Christmas are photographs of her two heroes—President Nixon and Elvis Presley.

I have solved the Nixon photo problem, but I make this appeal hoping that one of my colleagues has a photo of Elvis he or she is willing to part with. If so, this will brighten Christmas in a Quincy home.

I voice this appeal with some reluctance, because it just may ruin Mr. AGNEW's Christmas to know that he has slipped from No. 2 position on at least one person's list.

SENATE—*Monday, December 21, 1970*

(Legislative day of Tuesday, December 15, 1970)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

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

O Thou Eternal Spirit, "Before the mountains were brought forth, or ever Thou hadst formed the earth and the world, even from everlasting to everlasting, Thou art God." Thy grace and wisdom are sufficient for all our needs. Make us humble before Thee that we may know both our strength and our weaknesses.

Spare us, O Righteous God, from self-righteousness, from moral arrogance, from unloving dogmatism, from all hostility to one another, concealed or revealed. Help us in this place to open our lives before Thee and before one another. Keep us sincere, honest, and brave in all our ways, mindful of the purpose for which we work, the cause to which we are dedicated, the Nation we serve, and the peaceful and righteous world to which we aspire.

In the name of Him whose name is called Wonderful, Counselor, the Mighty God, the Everlasting Father, the Prince of Peace. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, December 19, 1970, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

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

NOTICE THAT THE 9 A.M. TO 10 A.M. PERIOD TOMORROW WILL BE SET ASIDE FOR TRIBUTES TO SENATORS

Mr. MANSFIELD. Mr. President, for the information of the Senate, I wish to reiterate what the deputy majority leader said on Saturday; namely, that tomorrow, the hour between 9 and 10 a.m. will be set aside for tributes to some of our departing Members.

ORDER SETTING TIME FOR VOTE ON CLOTURE MOTION

Mr. MANSFIELD. Therefore, the 1-hour limitation on the cloture motion will begin at 10 a.m. and the vote thereon will be held at 11 a.m. or shortly thereafter. I ask unanimous consent that that be the order.

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

The Chair would inquire of the Senator from Montana as to how the time will be divided.

Mr. MANSFIELD. Between the majority and minority leaders or whomever they may designate. I designate the Senator from Nevada (Mr. BIBLE).

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

ORDER FOR CONSIDERATION OF VETO OF MANPOWER BILL—PRINTING OF VETO MESSAGE AS SENATE DOCUMENT (S. DOC. NO. 91-118)

Mr. MANSFIELD. Mr. President, during a conversation with some Senators late last week the question of the President's veto of the manpower bill came up, and I believe I agreed that I would go along with their expressed wishes. I therefore ask unanimous consent that at an appropriate time later today a period of not to exceed 1½ hours, at the most, be set aside for the discussion of this matter, with the time to be divided between the majority and minority leaders, and that the Senate prepare itself for the consideration and disposition of this matter.

Mr. SCOTT. To begin at what hour?

Mr. MANSFIELD. Later this afternoon.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the veto message be printed as a Senate document.

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

ORDER FOR DIVISION OF TIME ON TRIBUTES TO SENATOR YARBOROUGH TOMORROW

Mr. KENNEDY. Mr. President, for the information of the Senate, as I understand it, an order has been entered to convene the Senate tomorrow at 9 a.m., and I therefore at this time ask unanimous consent that after the disposition of the reading of the Journal, 1 hour be set aside so that Senators may have the opportunity to pay tribute to the distinguished Senator from Texas (Mr. YARBOROUGH); and that, following that period, which is not to extend beyond the hour of 10 o'clock, the time for the next hour then be devoted to the consideration on the cloture motion.

Mr. SCOTT. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Would the same disposition of control of the time during the first hour be in order?

Mr. KENNEDY. It would be controlled by the majority leader.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, under the previous order, the Senator from Minnesota (Mr. MONDALE) is recognized for 1 hour.

TRIBUTES TO THE DISTINGUISHED SENIOR SENATOR FROM MINNESOTA, EUGENE McCARTHY

Mr. MONDALE. Mr. President, at the end of this Congress a great American, one of America's greatest, my friend and a friend of all my colleagues, retires from the Senate, completing 22 years in Congress, in which he established one of the most remarkable parliamentary records in our Nation's history. These have been 22 years in which his name and his leadership were found on virtually every piece of social and economic reform legislation, every piece of legislation designed to expand this Nation's civil rights and civil liberties, the rights of minorities and the powerless, and the rights of women. In every respect, during these years, he sought to expand the opportunity of the people of this country to obtain the fairest and fullest life.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

From personal choice, he has announced his decision to retire from the Senate. I know that his friendship, his inspiration, and his contribution here will be missed by me and by all my colleagues.

It is not necessary for me to recount his leadership in the issues to which I have just made reference. It is not necessary to repeat what is already known about his leadership in the House, where he and a few others established the Democratic Study Group, of which he was initially its chairman, an organization which even today is a leader in the quest for more responsive legislation in all fields.

I recall that the present occupant of the chair, the Acting President pro tempore (Mr. METCALF), joined with the then Representative McCARTHY in the creation of that organization.

The point I should like to make, which stands out above all, is the courage and vision which Senator McCARTHY showed with respect to the war in Vietnam and with respect to this Nation's distorted priorities. It was in this area where he made his toughest, his most difficult, and his most courageous personal decision. It is precisely in this area where, above all, he has left his mark upon our society and upon every American. For this act of singular courage, every Member of this body, every citizen of this country, and indeed, virtually everyone in the world owes him an enormous debt. This Nation had to be brought to its senses. It had to understand that we were engulfed with pride in pursuing a disastrous, costly, and tragic war in which this Nation's interests were not involved, but from which we seemed hopelessly unable to extricate ourselves.

It was EUGENE McCARTHY who showed us the way to recovering our senses, our true pride, and a deeper understanding of America's role in the world.

He did so at enormous personal sacrifice and in one of the most remarkable demonstrations of political courage I have seen in our country. Indeed, the work of EUGENE McCARTHY upon the course of the war in Vietnam stands as one of the great examples of what one man can do if he has the courage and the vision to do it.

I was one of those that needed to be brought to his senses on the issue of Vietnam. And I speak for all Minnesotans and, I think, for most Americans when I express my profound admiration and appreciation to him for what he has done for our Nation and for me.

Mr. President, I have now served as his junior Senator for nearly 6 years. During all of this time Senator McCARTHY has been fair and kind to me. It is said that it is often difficult for a junior and senior Senator from the same political party to get along. That has not been true with us. We have had some political differences, but I think we have agreed or come to agree on nearly all matters which affected the people of our State and our Nation. But perhaps even more important in the relationship of two Senators, he has always treated me with the utmost respect and fairness. As his junior Senator, I owe a great debt to the example which he has provided me.

It is not only in a public sense but also in a personal sense that I am proud to stand with my colleague and salute this great American, and, may I say, for all of the citizens of my State, perhaps one of the greatest Senators ever produced by the State of Minnesota.

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

Mr. MONDALE. I yield.

Mr. MANSFIELD. Mr. President, the relationship existing between the junior Senator from Minnesota and the senior Senator from Minnesota can be described in a somewhat parallel manner by the relationship existing between the two Senators from Montana. I am delighted that on this particular occasion the Senator presiding over this body is my colleague, because between him and Senator McCARTHY while they served together in the House there was a very close relationship and a decided community of interest primarily in establishing and leading the Democratic study group.

I also had the privilege of serving with Senator McCARTHY in the House of Representatives where I first made his acquaintance and got to know him fairly well.

I was very much impressed with his integrity, with his grasp of issues, and with his courage.

GENE McCARTHY has not been the ordinary Senator. He has gone his way on occasion. He has undertaken to espouse issues which generate great opposition. But he has done so with an open heart, an open mind, and with the firm conviction that what he was doing was right, and he was right.

When GENE McCARTHY became a candidate for the Presidency, he did so after a great deal of study, consideration, and, I am sure, travail. It was no easy decision to make. It was no easy campaign to undertake.

While he did not achieve the nomination, I believe he achieved something much more worthwhile, and that was bringing home to the American people the issue which had divided this country, which has and still is costing us tens of billions of dollars, and which had cost us tens of scores of thousands of lives, and it still does.

He has performed as a Senator, as a scholar, as a teacher, and as a statesman with aplomb, with understanding, and with distinction.

I was very much disappointed when I heard for the first time many months ago that Senator McCARTHY would not be a candidate for reelection, because I thought he should have continued to represent the people of Minnesota and the Nation as well. I thought he should have continued to contribute of his energies, his abilities, and his talents to this body. But on the basis of his own judgment, he decided otherwise.

We will miss GENE McCARTHY, whom I am proud to call friend. We will miss him because of the many contributions he has made.

It is my opinion that history will truly evaluate this great Senator from Minnesota and, in doing so, will accord to him his proper niche in history, and it will be a most important niche.

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

Mr. MONDALE. I yield.

Mr. HART. Mr. President, this RECORD and other sources from which history is drawn will speak in a magnificent manner concerning GENE McCARTHY.

We here in this Chamber are familiar with each of those dramatic chapters. I shall leave to those other sources the big and the striking and the public aspect of the man.

I would for a moment just like to speak on a very personal note about a very good friend. For I suppose 10 years it has been my happy fortune to sit at the desk next to GENE McCARTHY. Even if I had some notion that I had the talent to speak fully of the depth of my feelings, I would reject the idea, for I have heard him many times with an aside destroy some of the full blown expressions that run around this Chamber.

I shall miss him as a friend sitting to my right. I speak also for my children and, I think, most of the young people of America, but certainly for the Hart children.

Not many years ago the oldest of our children were among the group who had a very strong doubt that this system of ours, whatever its magnificent objectives, had the capacity to achieve any measure of success.

GENE McCARTHY turned my children around. He gave them hope.

I hope very much that he will find a continuing place in our public life, because there continues to be a very real need for this kind of interest. It is not required that one be in the Senate in order to provide hope for young people and for the helpless and to give the dramatic talent that is his.

I voice the petition that he not obscure himself in some cloistered library cell.

I voted for him in Chicago. I am glad I did. Lest he misunderstand the implications, I hope I shall vote for the man who sits to my left (Mr. MUSKIE) the next time we have the opportunity.

But I guess what I am really saying is that I speak for the Hart family and the great many families in our country like our family in thanking GENE McCARTHY and in urging him to "stay with it."

Mr. MONDALE. I thank the Senator for those words.

I am glad to yield to the senior Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, Senator EUGENE McCARTHY is certainly one of the most unusual Senators I have known in the years I have been here. He is a very different kind of person. We know of his extraordinary intelligence and understanding; we know he is a man of deep and genuine compassion, which has been demonstrated many times.

We know from that remarkable campaign of 1968 how, as Senator MONDALE pointed out, Senator McCARTHY showed what one man who is really devoted and dedicated to a cause can do.

Many times in the past couple of years young people have asked me, as I am sure they have asked other Senators, what real hope there is in our system and, "What can we really do about the Vietnam war?" The obvious answer is to point to what Senator McCarthy did in his great campaign in 1968. We all know that the course of the Vietnam war has been turned around and I am convinced the McCarthy candidacy had more to do with it than any one thing by far.

We are also aware of the sharp wit, sometimes cutting wit, of the Senator from Minnesota. Some of us have been victims of it; I have been a victim of it once or twice in a light way. We know of his great charm, but more than anything, I think Senator McCarthy, in my view, is a man who is very helpful to us because he does not take himself too seriously or any of the rest of us too seriously. Perhaps the best way to summarize that is to say I could not imagine him doing what I am doing now, not that he does not have deep respect and admiration for others, but somehow he has too much a sense of humor, proportion, and I suppose a sense of the small impression any man can make on the course of human history, to be very fulsome in his expressions of esteem.

So I join other Senators in paying my tribute to a remarkable man who has had a profound, salutary, healthy, and wholesome effect on all of us. He has certainly elevated the dialog and discussion here and he has helped all of us to have a better sense of proportion and to not take ourselves too seriously, pompousness, and self-importance being what it is, that is as significant a contribution as anyone can make.

I thank the Senator for yielding to me.

Mr. MONDALE. Mr. President, I yield to the chairman of the Committee on Public Welfare, one of the most committed and humane men of the Senate who served during the 12 years with my colleague, Senator McCarthy, and who now will be retiring with him.

Mr. YARBOROUGH. Mr. President, I thank the distinguished Senator from Minnesota for yielding.

It is a great privilege to participate in honoring a truly great and decent man. Having in August of 1968 become the only Senator in this body who publicly endorsed Senator McCarthy during his campaign and who spoke for him, I believe I have some particular right to speak here.

I liken him to the great giant we had in this body from my State of Texas, Sam Houston, and I would like to digress for a moment to draw that parallel. In 1854, when the Kansas-Nebraska Act to repeal the Missouri Compromise of 1850 and open Kansas and Nebraska to slavery was pending in Congress, a deal was made beween the Whigs and the Democrats that they would pass this measure and stop the dissension over slavery. Sam Houston agreed, however, that such action would only reopen and extend this question. He spoke all one night, until sunup the next day in a one-man filibuster against this measure. He said:

> If you repeal this measure, it will so inflame the North that they will form a new party. The Whigs are already dead. They will form a new party and, while they may not win in 1856, they will alert the people.

And he said:

> In 1860 that new party will win the Presidency on this issue of slavery.

He went on to say to his southern friends:

> You will secede. You think the North will not fight, but they will, and you will be ruined and you are ruining yourselves with this Kansas-Nebraska Act.

That was in 1854. He foretold the entire course of events up to 1865. His term ended in 1859. From that day forward, every major newspaper in Texas except one called him the "traitor-knave" for being against secession. Sam Houston spoke out against secession when the issue loomed large. In 1857 the legislature met and elected his successor, 2 years before his term expired to show their contempt for him. And when Texas seceded in 1861, he refused as Governor to take the oath of allegiance to the Confederacy. He was thrown out of office and stoned in the streets of Austin as he walked from the capitol to the Governor's mansion.

So, too, did Senator McCarthy play the role of a statesman when he spoke out against an unjust war, a war without a moral basis, a war the President was waging contrary to his promise not to commit American men to that war in Asia.

When Senator McCarthy came to Houston in August of 1968 and spoke, I had the privilege of introducing him to the massive rally there. The crowd was so big that while the newspapers estimated the size to be 20,000, but a judge told me he stepped off a square yard and would count the people, move over 50 yards, step off another square yard and count the people, and that by his counting and estimation, there were 50,000 people at that rally. That was the greatest political rally ever held in the State of Texas for a presidential candidate who had not won the nomination.

On that historic night, Senator McCarthy reached the hearts of the people of Texas. We had elected a President in 1964 on a promise never to send our men to fight in South Vietnam. We elected another President in 1968 who promised to settle that war. Senator McCarthy changed history by compelling both candidates of both major parties in 1968 to promise they would settle the war if elected.

Once the people had elected President Nixon, I wished him well and I made speeches in which I expressed my hope that he would fulfill his promise to end the war. Unfortunately, however, he immediately escalated the war by increasing from January 1969 to May 1969 the number of men in combat. He sent over tens of thousands more Americans into battle than his predecessor in the White House had ever sent to Southeast Asia.

The honeymoon period was on. One does not bother a President the first 6 months in office. But finally, when the number of troops was escalated, the press began to alert the people to his fact in May of 1969, and the President began to pull out miniscule numbers of troops.

We see these great headlines all over the country even now to the effect that we are deescalating the war, that we are pulling out 7,000 men—that in vast headlines—but in tiny print to read that we were going to have 344,000 men left. So that has been the story of the President's deescalation plan. At the present rate of withdrawal, it will take four more Presidents to get the men home.

Each time these last two presidential elections the people have elected men that they thought would not engage us in the war, but would disengage us. The Senator from Minnesota forced the issue on each party candidate singlehandedly in 1968, joined by others later. He forced the issue on whether these candidates in 1968 would get us out of that morass that others had promised never to get us engaged in. For this he holds a unique place in history.

I mentioned a great hero of Texas who opposed secession. Texas history books brush that off with one line, the greatest things he ever did. He was elected Governor to try to prevent Texas from seceding, to try to save the union.

History should be written to honor acts of people that were just and right, not only those that bring temporary popularity to a politician.

So I hope that the writers of the history of the 1968 campaign will write the verities of life and write about the one candidate who, though he lost, brought about the hope in the hearts of the American people that they could be exorbitated from the quicksands of Southeast Asia. How can we expect the lessons of the past to benefit us in the future if men such as Sam Houston and Gene McCarthy, who took the right course, but the unpopular course, are given only one line in the history books? We should have written in the books of history brave and just acts of rights and justice done for this Nation.

I honor the Senator from Minnesota for the courage he has shown. Many joined him later, but he had the courage to be the first voice. When he first spoke out, people said he was wild. Pretty soon, by having the courage to speak out, it became apparent that a majority of the American people agreed with him. He was someone speaking on the side of justice and right and the people listened.

We owe it to ourselves and to our young people to continue to appeal for justice and build a national image of peace, and honor. Now we are building an image much like that which the Kaiser did when he told the German troops, during the Boxer Rebellion, to go to China and "remember the Huns. Make your reputation." We ought to purge ourselves of that kind of image.

The Senator from Minnesota tried to turn the course of history of his country toward a just course, and I honor him for the courage he displayed. His message will long be remembered.

Mr. MONDALE. I thank the Senator from Texas for those kind words and insights.

I yield now to the Senator from Ohio (Mr. YOUNG), who, like the senior Senator from Minnesota, is retiring after an inspiring career in the House of Representatives and in the U.S. Senate.

Mr. YOUNG of Ohio. I thank the distinguished junior Senator from Minnesota very much.

May I say that over many years I have held my colleague, Senator GENE MCCARTHY, in the highest admiration. Years ago he and I served together in the House of Representatives. We became good friends at that time. He served his State and the Nation for 10 years, I believe, in the House of Representatives, and then on November 4, 1958, he and I came into the Senate together.

In 1958 it happens that for the first time in the history of this Republic 15 men of the same political party, men who had never before served in the Senate of the United States, were elected Senators from their various States. We have been a close group. We call ourselves the class of 1958. We meet together and have had some very fine parties together.

I remember one morning about 2 a.m., following a good party of the class of 1958, when each one in turn called up former President Harry S. Truman, in Independence, Mo. He probably did not like it very much at first that we got him out of bed, but in the end he was happy with us, as one after another attributed out election to the Senate to Harry Truman.

I behold in this Chamber, close by, the distinguished Senator from Maine (Mr. MUSKIE). We had a wonderful party in his home recently.

I manifest my deference and devotion and high admiration to our colleague GENE MCCARTHY of Minnesota. He is really and truly a poet. I am not a poet. But as one of the Fearless Fifteen, as we term ourselves, the class of 1958, if Senators will indulge me, I shall read in part a poem I wrote. I was told by our lovely hostess, Jane Muskie, that we must each bring a poem. In addition to bringing a so-called poem, I also sang that night. I shall skip my song but I will read my poem:

THE FEARLESS FIFTEEN

It was '58, in the early fall
Fifteen men rode proud and tall
That class of '58

The economy had grown sour
But them were the days of Eisenhower
They did what they could to patch the crack
And everybody waited for Joe's son Jack
That class of '58

Jack came along and things picked up
Dick went home, his wounds to pluck
The Fearless Fifteen had done it again
They put the bad guys out and the good guys in
That class of '58

Wherever they went it was always the same
Bad guys everywhere feared their name
No Republican dared to slumber
The Fearless Fifteen had every number

And so over the years and across the land
Fighting for right, they took their stand
That class of '58

With apologies to a true poet, GENE MCCARTHY, I have read a few couplets of mine.

May I say seriously now that I am one who rejoiced in the great victory won by GENE MCCARTHY in the New Hampshire primary in 1968. I feel that to some extent I manifested my rejoicing in that fact because I immediately sought to be a delegate to the Democratic National Convention, unfortunately held in Chicago, in 1968. The fact is that I was elected chairman of the Ohio delegation, but, very definitely as chairman, I was a leader who had lost his troops. Thirty-one of the Ohio delegates to the Democratic Convention were pledged to the nomination of EUGENE MCCARTHY for President of the United States.

We thought we were pledged, but when the showdown came in our caucus, it was evident to all who would be the nominee for President, and so, instead of having 31, the caucus showed 18 stood for GENE MCCARTHY. Then it was my sad duty to announce the result of the Ohio poll, and I said to John J. Gilligan, who was a delegate there, "Jack, you are a candidate for office this year; I am not. You will be on television all over Ohio; so you announce the poll." He said, "I am heartsick, Steve. I hope you will do it."

On one occasion in particular, I recall Senator MCCARTHY'S commitment to policy change within the framework of our democratic system. Directly after the balloting at the 1968 Democratic Convention a number of us including Senator MCCARTHY, John J. Gilligan, who in a few weeks will become Governor of Ohio, and I tried very hard to have the convention adopt the peace plank in the platform. We were successful. It has always been my feeling, Mr. President, that had the Hubert Humphrey subordinates running things in his behalf not been so arrogant, had they accepted our views and written the peace plank into our national platform then Hubert Humphrey would have been elected President and ED MUSKIE Vice President.

So feelings were deep there. As I have often said—I witnessed some of the rioting and some of the police brutality close to my room in the hotel—frankly I had the worst time during 6 days and nights at the Chicago convention I had had at any time during a like period since I was in the Anzio Beachhead early in 1944. It was a bad experience, and I am glad it is behind me.

But I want at this time to attest my admiration for EUGENE MCCARTHY. I knew him, as I have stated, when we both served in the House of Representatives. I know also that he is the author of a fine publication which I enjoyed much and profited from reading, a book he wrote some years back, entitled "A Liberal Answer to the Conservative Challenge."

It has been my privilege in the Senate to vote with him on many, many occasions; and I know that GENE MCCARTHY is a man of great courage as well as a most personable colleague. As one incident to indicate the sort of courage he has, he was one of five Senators who voted hopelessly, but voted anyway, to repeal the Gulf of Tonkin resolution.

Senator MCCARTHY, however, did not allow defeats in his campaign for the nomination to diminish his sincere desire for peace, or cause him to reject a search for national solutions. A lesser man might have used his position as leader of a substantial segment of the population to encourage divisiveness and suggest more radical solutions. Senator MCCARTHY did none of these things. He did not choose to fan the fires of hatred resulting from our policies in Vietnam, nor did he seek to set American against American. Few would deny that he would have had the power to do so. Instead, he has attempted to persuade our younger generation to continue to seek nonviolent solutions to our pressing political problems. Insofar as our young people have done so—and I think that they generally have despite the attempts of irresponsible officials to increase this alienation—the senior Senator from Minnesota should receive a large share of the credit.

Mr. President, EUGENE MCCARTHY has done a great deal to turn this country toward peace. I admired him for his stand at a time when there were few who would stand with him. I admire him today when the verdict upon our policies has shown him to have been courageous and right.

Mr. President, I consider that EUGENE MCCARTHY is one of the truly great Americans of our time, and, with others of my colleagues on both sides of the aisle in this Chamber, I simply express, not only my admiration of him as an American statesman, but also the fact that I have confidence that a fine future is ahead of EUGENE MCCARTHY; and so, to GENE MCCARTHY I say, "Godspeed, and happy landings in all things."

Mr. MONDALE. I am delighted by those kind remarks of the retiring Senator from Ohio and, unknown to me, the retiring poet laureate of the U.S. Senate.

I am happy to yield to the junior Senator from Ohio.

Mr. SAXBE. Mr. President, I would just like to interject at this point in the well deserved tribute to the senior Senator from Minnesota the fact that we are also going to miss my colleague, the senior Senator from Ohio. He has certainly been a tower of strength to me; he has helped me in every way that he could. We have not always agreed, but we have agreed to the point where it is sometimes embarrassing.

I wish to say that my first contact with Senator YOUNG was when we were opponents in a statewide race—my first statewide race—in 1956. Our contact then was pleasant, and it has continued that way to this time, and I know will continue hereafter.

So, as a tribute to you, Senator YOUNG, I want to say that I and my whole family appreciate your help in getting me started, and to say that your friendship is valued, and I hope that it will continue.

Mr. MONDALE. I thank the Senator from Ohio.

I now yield to the distinguished assistant majority leader, the Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, President Kennedy used to say that every man can make a difference, and each man should try to do so.

Senator MCCARTHY has demonstrated well to the American people that one

man can make a difference, by the extraordinary contribution that he made to this country and to changing our policies within this country in 1968.

I know that any of a score of Senators could stand here and list the great achievements of Senator McCarthy in committee rooms and on the floor of the Senate, could list the speeches that he has made showing his vision and compassion about many of the great problems that we face as a Nation; but perhaps I am singularly qualified to comment on the measure of the man from having been, for the period of a few short but terribly important months in 1968, on the other side of a barrier.

I think all of us, having been through political wars, know the extraordinary test that they provide for us as individuals and for the causes which we espouse. I must say, having had the opportunity, through many weeks and months, under the most difficult, trying, and often desperate circumstances, whether in the primaries of Indiana, South Dakota, and Nebraska, and the various State conventions that were held, back out to Oregon, and then to California, that in such a campaign you cannot help but develop some understanding of the measure of your competitor. After coming through that period, I can say with the deepest sincerity that I emerged from the trauma of what was 1968, with the greatest respect for the distinguished Senator from Minnesota, for his great and deep conviction about a matter of the first priority for this Nation, and for the manner in which he handled himself and the people who were most closely identified with his cause.

Senator McCarthy is a man whom some Senators know a good deal better than others, but we all know him as a sensitive man, an artist, and a poet, and it was perhaps because of those characteristics that he sensed the mood of the people and the outrage of this war more deeply and perhaps earlier than some of the rest of us.

He served well the cause which he was so deeply concerned about—the cause of peace. To him and his coworkers, the realization that some measure of progress has been made in moving us somewhat closer to the cause of peace is really a great tribute to his selflessness and sincere conviction.

I rise today to pay tribute to a man whom I have grown to respect because I feel that he has provided to the whole dialog of American political life a sense of light and reason on one of the most perplexing problems of our time.

Mr. MONDALE. I thank the Senator from Massachusetts for those kind and insightful words.

I am glad to yield to the Senator from Tennessee.

Mr. GORE. Mr. President, it has been my honor, pleasure and privilege to serve with Senator McCarthy in both the House of Representatives and the Senate, and to serve with him in intimate committee sessions of both the Committee on Foreign Relations and the Committee on Finance. I think it is often in the committee work that a Senator's most sterling work comes to notice and comes to fruitfulness.

Here is a man who has been truly knowledgeable, not only in affairs of a political arena, but also of finance, foreign policy, economics, and the security, the aspirations, and well-being of the mass of our people.

The service with him has been a rewarding one for me, rewarding in helpfulness, mutual assistance, guidance, and inspiration.

Along with a relatively few members of the Senate Foreign Relations Committee, Senator McCarthy, both in the committee as a Senator and as a contender in the political arena, contributed to an alteration of American history. He and a relatively few of this brave little band may have saved our country from a war with Red China. Whether this be true, no one can now know or will ever know. At least, the trend toward an ever widening, ever escalating war was altered. Sadly, we are yet involved in that war. But the American people are now convinced that the war should be ended. A part of that conviction comes from the glorious record of Senator Eugene McCarthy.

Mr. MONDALE. I thank the Senator from Tennessee.

May I say to the Senator, as he, too, retires from the Senate, how much those of us who served with him admire his magnificent, brilliant, and courageous service to this country. We shall never forget his performance.

Mr. GORE. I thank the Senator.

Mr. MONDALE. I yield to the distinguished Senator from Kentucky.

Mr. COOPER. Mr. President, one of the great satisfactions of serving in the Senate is the opportunity one has to know men of great qualities and abilities and to share sometimes in their friendship.

I consider Eugene McCarthy one of the outstanding Members of the Senate I have known since World War II. We know that he is a man of simplicity, one who is unassuming and yet capable of bringing into play all the force and strength of his mind, his character, for great causes. He is a master of understatement, but all of us who have heard him will never forget his eloquence and passion for causes in which he believes.

I have enjoyed knowing him in committee work and have valued very much the warmth of his personality, and his friendship.

Eugene McCarthy will be remembered in history. He has joined the small group of men in the history of our country—Theodore Roosevelt, Franklin Roosevelt, among others—who have been able to arouse and gain the support of the people of the country for natural causes and to provide them inspiring leadership. I believe that as one man, sounding his call in 1967 and 1968, arousing the interest of the people, particularly the younger people, he has done more than any other since 1960, to bring the people into active participation in politics.

So today I regret his going, but I know that in some place—and it may be here—he will continue to exert his tremendous and great influence for our country.

Mr. MONDALE. I thank the Senator from Kentucky.

I yield to the distinguished Senator from Maine.

Mr. MUSKIE. I thank the distinguished Senator from Minnesota for yielding.

I rise, Mr. President, primarily as a member of the class of 1958, to which Senator Young made reference a few moments ago. We do consider that, as a class, we bear an unusual distinction, which Senator Young, in his own inimitable way, has described.

Incidentally, at this point I should like to say how very much I have enjoyed serving in the Senate with Steve Young. He described himself as an old man. In the fall of 1958, when we were all first elected to the Senate, he said he intended to serve only one term in the Senate. That was not enough. It was not enough for him, and it was not enough for his constituents. So he served another term, and then gracefully decided to retire.

He had the energy and optimism of youth. He had the abrasiveness which only a man of his years is entitled to enjoy in the U.S. Senate. But he is a wonderful human being. So I take this occasion to pay my tribute to him.

With respect to Gene McCarthy, we have known for 2 years that this day was coming. Yet, it is difficult to absorb the knowledge that it is here.

Senator Hart, Gene McCarthy, and I became something of a triumvirate in January of 1959. Perhaps it was because we were summer bachelors together in those early summers when the Senate labored while our families went home. But I have always felt that we had special ties of friendship and of value. The fact that the three of us have sat side by side in this back row, which supposedly is reserved for young and freshmen Senators, is testimony to our refusal to be separated even in the Senate Chamber.

The story of the Gene McCarthy of 1967 and 1968 has been written and will be rewritten many times. He made a lonely decision. He challenged an incumbent President of his own party. He made history. I doubt that many, if any, of us expected him at the time to lay down that challenge. Yet, once we were fully aware of the depth of his concern about the war, it was no longer a surprise, because we knew the man.

I have regarded Gene as a friend, not as a political friend or a senatorial friend, but as a friend. I enjoyed his company. He was comfortable to be with. But he could also be uncomfortable. He was congenial, but he also could be withdrawn. He was a man of many moods, often preferred to be alone. He did not solicit friendship. But his friendship was the rewarding friendship of a man with great capacity for understanding and sympathy.

He is an unconventional politician. He is impatient with the conventional privileges, prerogatives, and pretensions of political place and power. He could never really be a "Senate man." He could only be his own man. For him, the political process and political power are only the means to an end, that end being the im-

provement of the human condition—and he sought even that end in unconventional ways.

One can seldom predict what GENE MCCARTHY will do. He cannot always predict it himself. We cannot, because he will not move from cause to effect as the rest of us do. He may not, because he always seeks to identify the higher purpose which shapes the affairs of man, and that is so often hidden.

GENE is a remarkable man, who will continue to do remarkable things. We will all miss him, especially we of the class of 1958, who came to know him as a man who had the courage to make lonely decisions.

He once said to me that a Senator has not really proved himself until he has stood with a minority of not more than three in a Senate rollcall vote.

GENE MCCARTHY has proved himself in matters of conscience and consequence. He sets a standard for us all.

That is how we will remember him.

Mr. MONDALE. I thank the Senator from Maine.

Now, Mr. President, I yield to the Senator from Iowa (Mr. HUGHES).

Mr. HUGHES. Mr. President, I thank the Senator from Minnesota for yielding to me.

I have had the opportunity this morning to listen to those who have spoken on behalf of Senator MCCARTHY, those who have known him for years, longer than I have had the privilege of making his acquaintance, who have served with him in both House and Senate.

I am keenly impressed not only by the kindness, gentleness, and courage of this particular man, but also by the impression he has made on his colleagues over this period of years.

As we look throughout history, we see all the nations of the earth at various times in their growth and their decline faced with difficult decisions. Our own young Nation has faced many. But in 1967 and 1968, the very soul of the American people was being tried. We were mixed in our emotions. At that point, I was not one of the earlier supporters of the great Senator from Minnesota. My alinements were in other directions. I, too, was a late arrival at the conclusion that this war was intolerable, that it was morally wrong, and for other reasons; and that the soul of our Nation was being tried and the responsibility of its leadership was to offer alternatives. But how, where, and with whom?

Then there came men out of this trauma, willing to express themselves and be criticized, many of them from the floor of the Senate, and many of them who are seated here this morning, and others who have been struck down in other ways tragically in recent history, political and otherwise.

Thus, I came to the conclusion that the leadership essential was that which not only understood what was happening in this Nation but what was happening all over the earth; namely, that mankind cannot continue, merely for the sake of military might and destruction, to destroy his brothers; that there must be other goals, that there must be other purposes.

If the sacrifice of a personal career and the criticisms of millions who will stand against him is the price that must be paid, and to have the courage and willingness to pay that price and make that sacrifice, then GENE MCCARTHY was and is such a man.

It is his own decision that he is leaving the Senate, not his decision that what he did was wrong, because it is continuing to be proven he was right. Not only did he challenge the morality of a war, he also challenged the morality of our own political party and its structure, the fact that we were ruled by political bosses, that we were, in fact, tied up so that the people could not express their will. That reform is continuing to take place. Although we have not totally succeeded, it is going on. The will of the American people as expressed by democratic registration will eventually lead to an open and free America, because he had the courage to lead the way to challenge the system, the political bosses, and the structure of our time. That is continuing.

Yes, he challenged the soul of the Nation as many others have done.

Yes, in that he suffered defeat of a kind—but I believe that that defeat was greater than a victory. History will point to that. In my opinion, the changes that have taken place and the ultimate conclusions that this Nation will raise will be those conclusions that were pointed out years ago, by men like GENE MCCARTHY, GEORGE MCGOVERN, Robert Kennedy, and others in this body who had the will in those days to see, to know, and to believe that our directions must be changed.

For some, the price has been heavy. But the real testimony today is to the strength and the spirit of this man, the conviction of his soul, and the very love of humanity itself in what he has done. He has displayed this in many ways. His spirit will continue to walk. Change will continue to take place. Millions of young Americans who have been "dealt out" as hopeless will be "back in." They are still with us. They will not be judged by the hair on their faces but the hope in their hearts, not by the length of the hair on their heads but the courage of their own morality. And when that day does arrive in America and we stand on the floor of the Senate to remember those who have gone before, GENE MCCARTHY will always stand high in the history of America and the history of his contributions for the sake of mankind.

I am proud to have had the opportunity to have nominated GENE MCCARTHY at the Democratic National Convention in 1968 and to have served with him for this brief period in the Senate.

Mr. MONDALE. I thank the Senator from Iowa very much.

The PRESIDING OFFICER (Mr. STEVENSON). The time of the Senator from Minnesota has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended not beyond 10:25 a.m.

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

Mr. MONDALE. Mr. President. I am happy now to yield to the Senator from Oklahoma (Mr. HARRIS).

Mr. HARRIS. Mr. President, I am very glad that the Senator from Minnesota (Mr. MONDALE) has brought us all together on this occasion. It is an occasion of great sadness for the country that GENE MCCARTHY is leaving the Senate. It is an occasion which is being rightly marked by all of us today who have served with GENE MCCARTHY in this body to pay tribute to him, even though we will continue to serve here.

The wit and wisdom, the compassion and the courage of GENE MCCARTHY have altered things in this country which have sorely needed to be altered. Those qualities are rare in any man serving in a legislative body. They are rare in this body.

The words of Homer come to mind:

Grief to his foes; to his friends great joy.

I believe that has been GENE MCCARTHY's record here. It will continue to be in the days ahead into whatever endeavors he may be led.

We all will miss him.

Mr. MONDALE. Mr. President, I thank the Senator from Oklahoma.

Now, Mr. President, I yield to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I would be remiss this morning if someone from the other side of the aisle did not wander over to the Democratic side and pay tribute to one of our colleagues who, regretfully, is leaving the Senate. I would be particularly remiss if I did not do so, in view of the fact that throughout the course of the past 2 years, I have tried, throughout the country and particularly in my State, to encourage young people on the college campuses to engage directly in the political process.

I have, time after time, tried to manifest to them the value of their participation. I used as an example the way in which the distinguished Senator from Minnesota brought young people into politics through the primary election itself where they could engage in the nitty gritty of politics and learn the ropes from the bottom up.

I admonish young people at the same time that, when they campaigned for candidates with their slogan, "Win with Gene," suggesting their slogan represented a solution to the problems in any one of the areas where they campaigned, they were involving themselves in the political process by selling a candidate as one would sell a product. Thus, they should do the job as salesmen in the best way possible by establishing a rapport with the people to whom they were talking trying to sell the candidate.

The message which the distinguished Senator from Minnesota carried throughout the country with such enthusiasm brought young people for the first time into the political process where their voices could be heard. And their voices were heard in the political process.

Today, as young people despair because of their feeling that they are unable to conduct a campaign in the country, I seek to restore the faith of the young people by pointing out what the young people have accomplished. They literally brought about the passage of the Civil Rights Act of 1964 by their voter registration drives in the South. No one can

seriously question the tremendous impact their activities had on the legislation. And their drive for environmental controls resulted in strong, new legislation being enacted into law in this body.

I think we all owe a great debt of gratitude to the distinguished Senator from Minnesota for originally having the concept of involving youth in the political process, to permit their protests to be manifest in a way that would produce dramatic results.

We should be eternally grateful to Senator McCARTHY. I would not be surprised if the action taken in the House and the Senate in bringing the vote to the 18-year-olds—which I hope will be sustained today by the Supreme Court of the United States—was directly inspired by his campaign which distinguished itself for its enthusiasm, vigor, and for its engagement of young people in the political process.

I am filled with admiration for his ability to appeal to the young people. It is an example that I certainly feel will be followed by all political figures in this country from this time forward.

Mr. MONDALE. Mr. President, I yield to the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, I presume that there will be the usual unanimous-consent agreement that Senators may have their remarks about our friend, the Senator from Minnesota, printed in the RECORD. I have some remarks that I would like to make.

Mr. President, I was born in Minnesota, and we do a lot of fishing up there.

The toughest fish in Minnesota is the pike, and it is the best eating. I always thought that the greatest contribution of the Senator from Minnesota was that he was a pike.

A pike is a fish that swims into a shallow, sluggish area and nudges the inhabitants there, to come alive and think, come out of their lethargy, if they are to survive—this is GENE McCARTHY's contribution to American politics.

Mr. President, I will have further remarks to make later.

Mr. MONDALE. Mr. President, I yield now to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I have a very warm, friendly, and kind feeling for Senator McCARTHY. I think that all of us do. That is one of the real tests of an effective Senator.

I think that Senator McCARTHY has exercised a very fine influence here. I consider his very fine sense of humor to be an asset. I consider him to be a wise man.

Senator McCARTHY has helped me in passing on matters here. He has rendered outstanding service in his quiet way in some of the problems that came before our Select Committee on Standards and Conduct in trying to handle some very difficult matters. He was outstanding in writing the rules—written standards we proposed along that line—the first that the Senate had ever attempted in written form. They were adopted in the Senate.

Senator McCARTHY was always responsible and steady and fair. In writing those difficult rules, he showed respect, responsibility, and a high tactical approach, but always with a deep sense of fairness.

I thank him for those things as well as for many other things that have been mentioned. I thank him as a fellow Senator for what he has done here for the Nation and for all of us.

I certainly wish him well in his endeavors. I certainly hope that he has further contributions to make in political life.

Mr. MONDALE. Mr. President, I thank the Senator from Mississippi.

I now yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I have been very impressed this morning in listening to the remarks of my colleagues in the Senate about Senator McCARTHY.

The Senator from Minnesota is often described as a man who is difficult to understand, something of an enigma. It seems to me that what has emerged here this morning is a very clear profile of a man whose colleagues appreciate him and understand him for the remarkable qualities he has manifested.

Recurring throughout all of these remarks and tributes to GENE McCARTHY are references to his wit, his high intelligence, and his gracefulness.

I think that of all of the Members of the U.S. Senate, there is no one whose place at the present time is so secure in history as is that of the Senator from Minnesota. He has accomplished a very unique achievement at a rather early age. Because of the courage and intelligence he manifested in 1967 and 1968, no matter what else happens, he has already been assured of a very high place in the history of this Nation. That, I suppose, is the highest aspiration that any of us can hope for. To have achieved that at a relatively early age, as he has, seems to me to be the highest possible tribute and sense of satisfaction that could come to anyone.

I remember the very first encounter I had with Senator McCARTHY some years ago, as a young Member of the House of Representatives when I gave my maiden speech. We were talking about a matter that was very controversial at the time—the agricultural program in this country. We had a rather unpopular Secretary of Agriculture then.

In that grim debate, Senator McCARTHY demonstrated, for the first time, as far as I was concerned, the matchless wit that all of us have come to admire. From that day to this, I have known no one in the Congress of the United States who could match his humor and intelligence.

Beyond that, he possesses the courage that was described by Hemingway as "grace under pressure."

He could have been made to look ridiculous in the venture he undertook 2 years ago but for his sense of patriotism and sense of history. His sense of values has stood him well throughout his career.

I consider it a great honor to have been a colleague of his and I look forward to a great many years of satisfying associations with him in the future.

Mr. MONDALE. I thank the Senator.

I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, the State of Minnesota has sent a number of outstanding men to the Senate. One of them is EUGENE McCARTHY, who will certainly be long remembered for the contributions he has made to the Nation and the Senate.

EUGENE McCARTHY has played a unique role in this Nation's recent history. He is one of the men who did the most to help focus public attention on our disastrous course of action in Southeast Asia. His leaving the Senate raises serious question about the judgment our system arrives at.

He has rare qualities of perception that are sorely needed in this age. He is a man of letters in the tradition of some of our greatest American leaders. We will miss his voice of reason in the Senate.

I regard him as a friend. He served on the Committe on Foreign Relations, but perhaps more important than simply his personal friendship, which I value highly, I feel in many important issues we have shared and continue to share similar views about what is in the national interest, which after all is what we are here for and it is what is expected of Senators.

I believe all people in and out of the Senate will feel we have lost a person with deep perception with respect to what is in the national interest.

I have always felt there is no real difference in Senators as far as objectives are concerned, those objectives being the welfare of the country and humanity generally; but there is a difference with respect to what is needed to promote that welfare.

I have always felt assured by the thought that GENE McCARTHY and I—and I do not want to identify with him completely—shared on many occasions views of what were and what are the best policies to promote the welfare of our country.

I will miss him and Americans throughout the country will miss his voice in the public arena. However, I still feel he will find some public endeavor through which he can make a great contribution.

Mr. MONDALE. I thank the Senator. I yield to the Senator from Nevada.

Mr. BIBLE. Mr. President, I wish to say a few words on this occasion about my dear friend from Minnesota. He has been here about the same length of time I have been here. I suppose that he and I have disagreed on about as many occasions as two men can, but in disagreement he has not been disagreeable. He has always had a twinkle in his eye and a smile. He always accused me of shaking my head when I support him when he is talking, and when I hear the other side, that I shake my head as supporting that side also. This is a part of the nature of the man.

He has a most remarkable sense of wit and built-in philosophy and understanding of other men. He fights hard for those things in which he believes. He is a crusader in every sense of the word. I had the privilege and pleasure 2 years ago of having him as my guest in a place almost as beautiful, I think equally with his, out in Nevada. We have had some great conversations.

I think this is a man who will be judged kindly by history as a man who was so

firm in his convictions and belief that somewhere along the way his view would prevail.

I do not know what the future holds for him. He is a man who out in Nevada we would say has some mystery about him, but whatever he does he has my best wishes and the best wishes of my wife Lucille, who happens to be from Minnesota.

I thank the Senator for yielding.

Mr. MONDALE. I thank the Senate for setting aside this time today to permit colleagues who wished to do so to express tribute to a great Senator.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. BYRD of West Virginia. Mr. President, GENE MCCARTHY and I served together in the House of Representatives before we came to this body. We came to the U.S. Senate together as Members of that large class of 1958. I have enjoyed these years of serving with GENE MCCARTHY. I was one of those, and I am sure there were many others, who, in conversations with GENE, from time to time, expressed hope he would change his mind and remain a Member of this body with us.

But he is a man who knows his own mind and he is a man who knows his own heart. He has chosen his course and I trust it will be the best one for him.

GENE MCCARTHY is a man of remarkable ability, a man of great wit, and a very warm personality. I think he proves the truth of that verse of Scripture that states, "He that hath friends must show himself friendly."

We shall miss Senator EUGENE MCCARTHY. He has made his mark upon our party, he has made his mark upon our country, and he has made an indelible mark upon the hearts of all in the Senate who are privileged to call him friend.

Mr. President, I shall briefly transgress the rules of the Senate by addressing Senator MCCARTHY in the second person. We are admonished by the precedents not to do that.

GENE, as you leave, may I just say this to you. It is in the form of a wish, perhaps, or a prayer. I know it is joined in by all of my colleagues.

> The hours are like a string of pearls,
> The days like diamonds rare,
> The moments are the threads of gold,
> That binds them for our wear,
> So may the years that come to you
> Such wealth and good contain
> That every moment, hour, and day
> Be like a golden chain.

Mr. MONDALE. I thank the Senator from West Virginia.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MONDALE. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

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

Mr. MONDALE. Mr. President, several other Senators have asked for an opportunity to be recognized, the Senator from Tennessee (Mr. BAKER) among them.

I ask unanimous consent that they may be permitted to include remarks at this point in the RECORD before we go to the pending business.

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

Mr. MONDALE. Mr. President, finally may I say this. In Minnesota we pride ourselves with having a special commitment to the education and enlightenment of our citizens, and to the supreme values of compassion and human justice, and to the greatest cause of all—the cause of peace. I think our State produced as many or more spokesmen for these things than any other State.

Perhaps the embodiment of that effort and all that my wonderful State stands for is best expressed and best personified by this man we honor today. Minnesota has produced none greater than GENE MCCARTHY, and I thank him.

Mr. AIKEN. Mr. President, during his 12 years as Senator from Minnesota, GENE MCCARTHY has not been what we would call an orthodox Senator.

In fact, he has been a rather individualistic Senator, and I think we should give him credit for that.

He has never been willing to sacrifice his own beliefs in exchange for acclamation from people that he inwardly disagreed with.

He has performed a unique service.

I am not speaking of his work on the Senate floor, but about his work with the young people of our country.

He has tried and tried successfully to interest thousands of them in our processes of government and the responsibility of the citizen.

And I expect that after he voluntarily leaves this body on January 3, he will continue to work with the youth of the Nation.

Yes, GENE MCCARTHY may have been an unorthodox Senator, but he has played a useful role in awakening the political conscience of millions of young people and for that we are very grateful.

Mr. HOLLINGS. Mr. President, I welcome the opportunity to join in tribute to the retiring senior Senator from Minnesota, EUGENE J. MCCARTHY. His taking leave from this Chamber does not mean retirement in the usual sense, of course, because Senator MCCARTHY has many distinguished years ahead of him. If the past has any bearing on the future, we are on secure ground in predicting that the Senator from Minnesota will be much in our attention in the years ahead.

The touchstone of Senator MCCARTHY's career is the politics of conscience. And in this era of impassioned rhetoric, widespread intolerance and violent confrontation, his is a voice urging us to exorcise our demons, lower our voices, and conduct our affairs in an atmosphere of reasoned tolerance. When future historians comb the annals of the stormy present, they will find in his career an uncommon dedication to right. They will find candor and eloquence, sobriety and wit, politics and poetry. They will find an individual's hope in a period when too many were gripped by despair; and confidence in the possibility of reform from within when too many lost faith in reason and turned to radical faiths. Now we seem to be seeing the first faint signs that the mindless binge on violence is coming to an end. We seem to be seeing the dawning realization that the young accomplished much more with Senator MCCARTHY in 1968 than a few of them have done on their own in the months since.

EUGENE MCCARTHY is an individualist in an age of conformity. His background is wide and his opinions range over many fields. No one would expect, least of all the Senator himself, to find other people in agreement all of the time. Nevertheless the integrity and wisdom he brought to this chamber leave an enduring legacy for us all. I am grateful for having served alongside Senator MCCARTHY and for the enjoyment of his friendship. And I join my colleagues in wishing him well in his future pursuits.

Mr. METCALF. Mr. President, it was my privilege and pleasure earlier today to preside over a session in which many of my colleagues paid tribute to Senator GENE MCCARTHY upon his pending departure from the Senate at the end of this Congress—if this Congress ever ends. Most of those who lauded Senator MCCARTHY and his splendid record as an active political figure concentrated upon the campaign of 1968 when he literally turned the country around and was the catalyst that demonstrated that the majority of the people of the United States were opposed to our activities in Vietnam. His courage in taking a very lonely stand in the New Hampshire primary, his leadership throughout the campaign have been mentioned several times and deserve such mention.

Not enough mention, however, has been made of the early MCCARTHY, GENE MCCARTHY as a leader before 1968. If I may be permitted to recall some of his activity in those earlier years, it will be no surprise to anyone that he made the decision he did in 1968 and that he has exercised the leadership he has in recent years.

As a freshman Congressman in 1953, I went to see the then Representative MCCARTHY to talk about committee assignments. He was already a leader and to show the scarcity of Democratic representation in the House from the Northwest, the only representatives on the Ways and Means Committee from the whole great western area were Congressman Cecil King of California and MCCARTHY of Minnesota. It was finally decided that I would be in Congressman King's area for assignment to committee and GENE had nothing to do with sponsoring me. But that first meeting was an important one. He could see that I was in need of help and guidance and he was generous and kind enough to give it to me. He called me back to his office and under the guise of discussing some of the legislative problems before the 82d Congress he gave me wise and experienced advice. I later learned that a good many other members had benefited from such guidance because during the first session of the 82d Congress whenever a question arose someone would always say, "Let us see what GENE has to say about it."

An example is a liberal statement that was issued in 1957 just before President Eisenhower's state of the Union and budget messages. Several Congressmen, including former Secretary of the Interior Stewart L. Udall, FRANK THOMPSON of New Jersey, James Roosevelt, and

others wanted to nave a Democratic program. So we all went to see GENE and he wrote a draft of a program that was adopted substantially in its entirety. It soon became known that GENE MCCARTHY had written most of the document and during the 85th Congress it became known as the "McCarthy manifesto."

A study of the McCarthy manifesto will show what an innovative and imaginative legislator GENE MCCARTHY was. Many of his suggestions met with determined resistance from some of his Democratic colleagues. Yet looking back with the advantage of 20/20 hindsight we can see that he had the wisdom and the sagacity to foresee the impact of programs that was denied to many of us.

And that is how the Democratic Study Group was formed. Those who wanted to talk it over with GENE began to meet in his office and soon there were a group of regulars who met and discussed legislation.

Therefore it was no surprise to those of us who knew and loved GENE MCCARTHY that he embarked on the long journey that led to the confrontation in Chicago and a repudiation of the war in Vietnam. He had led other less publicized but equally important crusades.

In all the years of my friendship with GENE MCCARTHY I have most enjoyed his wit. Daily he has an original and pertinent comment on some current event. He strolls into the Senate, makes his observation and moves on and our day is the better for his presence.

Senator MCCARTHY has made a significant contribution to our time. He has been a unique and distinguished Senator. I have been proud to have been his friend. He will be missed in the Senate and I will miss him personally. I wish him good fortune in his continued endeavors.

I ask unanimous consent that the so-called "McCarthy manifesto" of 1957 together with the signers thereto be printed at this point in the RECORD.

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

PROPOSED FOR THE DEMOCRATS IN THE HOUSE OF REPRESENTATIVES IN THE 85TH CONGRESS

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes and to revise and extend my remarks.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, I am highly honored to have been chosen to place in the Congressional Record today a proposed program for the Democrats in the House of Representatives during the 85th Congress. This program has been endorsed by 80 of my colleagues.

This program was first announced on January 8, prior to the state of the Union and budget messages.

The program covers foreign policy and national defense, immigration, civil rights, improved civil service, education, health and housing, taxes, labor, business and industry, agriculture, public works, resources, atomic energy, veterans benefits, and government operations.

The President's state of the Union and budget messages recommended the passage of a number of the proposals contained in the program we are recommending. Among the President's recommendations, for instance, were revision of the immigration laws, civil rights legislation, aid to school construction, revision of the Taft-Hartley Act, the extension of the Fair Labor Standards Act, atomic energy, and statehood for Alaska and Hawaii.

The proposed program for Democrats in the House of Representatives in this Congress goes beyond the administration's recommendations in a number of areas including the treatment and compensation of Government employees, revision of the labor relations law, housing, revision of the tax laws, tax relief for small business, an improved unemployment program, assistance to industry in depressed areas, and the revision of farm legislation. The program also calls for a repudiation of the administration's partnership approach to the development of natural resources, and its replacement by what the signers of the proposed program describe as a return to the historic resources development partnership, including farmer cooperatives, public power districts, private enterprise, and the Federal Government.

The program also calls for congressional action to provide for greater responsibility in the executive offices and action to make clearer the administration's accountability to Congress and the people of the United States.

Mr. Speaker, the signers of this proposed program are convinced that if a sufficient number of the so-called modern Republicans join in support of the program there will be no difficulty in securing passage of legislation to carry it out.

Signers of the proposed program for the Democrats in the House of Representatives in the 85th Congress are STEWART L. UDALL; JOHN E. MOSS; JOHN F. SHELLEY; JOHN J. MCFALL; B. F. SISK; JAMES ROOSEVELT; CECIL R. KING; CHET HOLIFIELD; CLYDE DOYLE; D. S. SAUND; BYRON G. ROGERS; WAYNE N. ASPINALL; GEORGE P. MILLER; GRACIE PFOST; WILLIAM L. DAWSON; BARRATT O'HARA; JOHN C. KLUCZYNSKI; THOMAS J. O'BRIEN; JAMES B. BOWLER; THOMAS S. GORDON; SIDNEY R. YATES; CHARLES A. BOYLE; RAY J. MADDEN; WINFIELD K. DENTON; J. FLOYD BREEDING; CARL D. PERKINS; EDWARD P. BOLAND; CHARLES C. DIGGS, JR.; LOUIS C. RABAUT; JOHN D. DINGELL; JOHN LESKIE, JR.; MARTHA W. GRIFFITHS; THADDEUS M. MACHROWICZ; EUGENE J. MCCARTHY; JOHN A. BLATNIK; ROY W. WIER; COYA KNUTSON; FRANK M. KARSTEN; LEONOR K. SULLIVAN; A. S J. CARNAHAN; GEORGE H. CHRISTOPHER; LEE METCALF; LEROY H. ANDERSON; PETER W. RODINO, JR.; HUGH J. ADDONIZIO; FRANK THOMPSON, JR.; LESTER HOLTZMAN; VICTOR L. ANFUSO; EUGENE J. KEOGH; EDNA F. KELLY; EMANUEL CELLER; ABRAHAM J. MULTER; JOHN J. ROONEY; ALFRED E. SANTANGELO; LEONARD FARBSTEIN; LUDWIG TELLER; HERBERT ZELENKO; JAMES C. HEALEY; ISIDORE DOLLINGER; LEO W. O'BRIEN; WAYNE L. HAYS; CHARLES A. VANIK; THOMAS L. ASHLEY; AL ULLMAN; EDITH GREEN; CHARLES O. PORTER; WILLIAM A. BARRETT; KATHRYN E. GRANAHAN; JAMES A. BYRNE; EARL CHUDOFF; WILLIAM J. GREEN, JR.; HERMAN P. EBERHARTER; GEORGE M. RHODES; ELMER J. HOLLAND; GEORGE S. MCGOVERN; DON MAGNUSON; HENRY S. REUSS; LESTER R. JOHNSON; CLAIR ENGLE.

PROPOSED PROGRAM FOR THE DEMOCRATS IN THE HOUSE OF REPRESENTATIVES, 85TH CONGRESS

For the first time since 1848, when party designation was vague and ill-defined, the voters of the United States have not given the President-elect a Congress of his own party. This situation is especially significant so far as the House of Representatives—the people's branch of the Government of the United States—is concerned. It indicates approval of the record of the 84th Congress, controlled by Democrats, and approval of the program projected by the Democratic candidates in the campaign of 1956.

We believe it important that the projected program of the majority of the party in control of the House of Representatives be publicly stated at the beginning of the first session of this Congress. The statement which follows contains proposals which are within the range of authority and of the responsibilities of the House of Representatives. It presents a program which is, we believe, supported by a majority of the Democratic Members of the House of Representatives and also by a majority of those voters among the citizens of the United States who in the last election voted to elect this Democratic majority.

FOREIGN POLICY AND NATIONAL DEFENSE

We favor the maintenance of adequate defense forces and believe that this can best be accomplished by maintaining balance among the three branches of the armed services. We believe, also, that unless the world situation improves significantly, there should be no reduction of the personnel in the armed services. We will support legislation and appropriations necessary to accomplish these purposes.

We will continue to give strong and consistent support to the United Nations. We urge the administration to work through this agency whenever feasible, not only in the military and diplomatic fields, but also in economic and cultural areas.

We believe that our friendship with the countries of Western Europe need not be sacrificed and that these nations need not be humiliated in the eyes of the world in order to win for the United States the friendship of the uncommitted peoples of the rest of the world. We therefore favor the continuance of an adequate aid program to meet the needs of our Western European and other allies, especially those needs which result from the loss of Near Eastern oil supplies.

We propose that instead of indiscriminate condemnation of colonialism, the Eisenhower administration offer positive aid to countries holding colonial possessions, so that the economic shock of abandoning such possessions can be cushioned and, at the same time, protection given to persons and property in the colonial areas during the transition to independence. We will give our support to such efforts.

We favor an expanded point 4 program, and we are hopeful that the Eisenhower administration, after 4 years of hesitation and contradiction, will develop and present such a program to the Congress.

We favor the passage of legislation necessary to encourage and facilitate world trade, and we will propose legislation to meet the special problems of United States industries and workers affected by liberalization of trade policy.

We are for statehood for Alaska and for Hawaii.

IMMIGRATION

We will propose legislation and work for the revision of immigration and naturalization laws to eliminate the national origins rule and to provide flexibility in the admission of displaced persons, refugees, and other deserving cases.

CIVIL RIGHTS AND CIVIL SERVICE

We will propose measures and work for the enactment of legislation designed to eliminate illegal and unconstitutional discrimination affecting the right to vote and the right to engage in gainful occupation, and designed, also, to insure full protection of the law of the enjoyment of the security of persons and of the rights of citizenship.

We favor legislation to protect the national security and, at the same time, in keeping with recent Supreme Court decisions, to protect Government employees and other citizens from the violation of rights and from the abusive practices of the Eisenhower administration.

We favor an increase in the compensation of Government employees to meet the increased cost of living and to compare with the compensation paid to persons performing similar work in nongovernmental employment.

We favor the recognition of the right of employee organizations to represent their members and the granting to Government employees of the right to full participation in the political life of the nation.

EDUCATION, HEALTH, AND HOUSING

We favor the enactment of legislation to assist States and local communities in building schools and providing essential health and safety facilities to all school children. This legislation should be similar to that proposed in the last Congress. It should not include the unsound financial provisions recommended in the first Eisenhower education bill in the 84th Congress or the unworkable proposal for the distribution of funds incorporated in what was described by the Republican candidate as the "one clear call to action" on education.

We favor an expanded program of Federal aid for medical education, hospital construction, and health services.

We shall support increased benefits under the social security program, the extension of coverage, and the raising of the wage base upon which benefits depend.

We will propose and support an expanded and improved Federal housing program designed to meet the special needs of low-income and middle-income families, and senior citizens. We will also support an expanded urban redevelopment program.

We will oppose efforts to destroy the effectiveness of laws designed to protect consumers and businessmen from exploitation and unfair practices.

TAXES

We favor revision of the tax law to close the loopholes in the 1954 act, to eliminate unwarranted privileges, and to provide tax adjustment for small businesses.

We favor the elimination of the most burdensome and inequitable excise taxes.

As the budget and general economic conditions indicate, the income tax should be reduced.

BUSINESS, INDUSTRY, AND LABOR

We will undertake to assist small independent businesses by strengthening the Small Business Administration, and by inquiry with a view to the improvement of the antitrust laws and of their administration, as well as the administration of various Government commissions and agencies affecting small businesses.

We will propose and seek to enact legislation to assist in promoting industry and creating jobs in depressed areas of the United States and in areas of underdevelopment and unemployment.

We propose to strengthen the unemployment-compensation system, to extend its coverage and improve its benefits, and to adjust it to meet the problems of automation and industrial change.

We favor the repeal of the Taft-Hartley Act and its replacement by labor-relations legislation that is favorable to labor, to management, and to the public.

We favor the extension of the coverage of the Fair Labor Standards Act, together with an increase in the minimum wage to conform with increased productivity and the rising cost of living.

AGRICULTURE

We will propose and support the enactment of legislation to improve the farm program so as to assist the farmers of the United States to secure parity of income.

We favor legislation to improve the water-and-soil-conservation program, to insure that the soil bank be used for the purposes for which it was designed, rather than an instrument of political expediency.

The problems of drought relief and crop insurance would be met by the expansion, the improvement, and the effective administration of the existing drought-relief and crop-insurance programs.

We favor an expanded school-lunch program and other programs for the disposal of agriculutral surpluses.

PUBLIC WORKS

We will work for a stepped-up, sound program of public-works projects in rivers and harbors, hydroelectric, flood control, and public buildings to better utilize existing resources and provide better and more adequate facilities and services to meet the needs of an ever-increasing population in an expanding economy.

We will continue work to build up momentum for an effective, long-range, expanded, and accelerated Federal-aided highway and public-roads program.

RESOURCES

We propose to abandon this administration's limited partnership with the commercial utilities and return to the historic resources-development partnership between farmer cooperatives, public-power districts, private enterprise, and the Federal Government.

We believe in the principle of multiple-purpose use of the land and water resources of our river basins, with special emphasis on the protection of our watersheds for domestic, agricultural, recreational, and industrial uses, and in the comprehensive development and management of these resources to get maximum flood control, irrigation and reclamation, power, forest production, grazing, mining, and fish and wildlife conservation and recreation.

We will continue to work for the adoption of a generous Federal program to assist Indian tribes in the full development of their human and natural resources and prompt settlement of Indian claims against the United States, including negotiations and compromise in the best interests of both parties.

We will again oppose altering treaty or other Federal-Indian contractual relationships without the free consent of the tribes concerned and will oppose programs similar to those supported by the Eisenhower administration to weaken Federal control over public grazing lands, national forests, and other resources now held for the people of the United States by the United States Government.

ATOMIC ENERGY

In addition to the continued development of a balanced and flexible stockpile of nuclear weapons, we will propose legislation to accelerate the domestic civilian atomic-energy program by the construction of prototype reactors, to increase the production of fissionable material for further nuclear experimentation, and to bring about greater cooperation in this entire field, in domestic operations and in cooperation with our allies. We will also seek a comprehensive survey of radiation hazards from bomb tests and reactor operations.

VETERANS

We will continue to press for legislation to compensate veterans and their dependents for the physical, economic, and the other losses which they have suffered as a consequence of military service.

GOVERNMENT OPERATIONS

We will propose legislation to make the Congress more effective and to provide for greater efficiency, economy, and responsibility in the executive offices, and to make clear the administration's accountability to the Congress and to the people of the United States.

Mr. PEARSON. Mr. President, most men of high public office are intelligent. Most have the capacity to assimilate and synthesize the current state of knowledge. But few are intellectuals in the true sense of the word. Few have the ability to add to the state of knowledge. GENE MCCARTHY is a member of this small minority.

Moreover, GENE is not only an original thinker but a gifted stylist as well. He can break through the suffocating sameness of conventional rhetoric and speak and write true eloquence. He has helped to elevate the language of politics.

And being a man of dignity, compassion, and fine sentiment, he has helped to improve the image of politicians in the American mind.

As a student of history, he understands the capriciousness of human events. A man of honor and conscience he knows that the only truly lasting reward in life is in knowing that one has met the world on one's own terms and has been true unto himself.

GENE MCCARTHY is a skilled politician, a deeply conscientious public servant, a poet of distinction, a man of incisive wit and humor, and an intellectual in the classical tradition.

But above all, he is, more than most, his own man. And in the final analysis this is the finest accolade that one can earn.

Mr. President, the Senate will miss GENE MCCARTHY but I know that we will continue to hear from him. He will continue to add to our store of political wisdom. He will continue to elevate the standards of public dialog.

SENATOR M'CARTHY HAS BEEN A LEADER IN ATTEMPTS TO BRIDGE GENERATION GAP

Mr. RANDOLPH. Mr. President, I join with my colleagues in observing that Senator EUGENE J. MCCARTHY will be missed in the Senate. This tall, soft-spoken Minnesotan has served for a decade in the House of Representatives and for almost 12 years in the Senate. He is, at the same time, a distinguished author whose observations on government and politics provide provocative stimulus to democratic process.

Recognition of his scholarly talents in economics and education came with his appointment as a member of the Senate Finance and Foreign Relations Committees.

Within a year after coming to the Senate, it was my privilege to serve as a member of the Special Committee on Unemployment Problems, with Senator MCCARTHY as chairman. This committee, created by a resolution of the 86th Congress, held a total of 27 days of hearings in 24 cities across the Nation. Its report, submitted by Senator MCCARTHY on March 3, 1960, is a valuable reference work for economists and social scientists. It analyzes the causes and conditions of joblessness and rightly defines it as a human and social problem, not merely an economic one. I commend this detailed work under the leadership of Senator MCCARTHY as a former accomplishment applicable to today's rising unemployment problem.

I recall an occasion in May of 1965 when Senator MCCARTHY accompanied

me to Weirton, W. Va., and gave a delightful and informative talk to the Weirtonian Lodge of the Order of Italian Sons and Daughters of America. He has always received a warm welcome in West Virginia.

During his colorful career in public service, EUGENE MCCARTHY has provided the Nation with another important function. He has been, at a critical time in our country's turbulent history, a leader in his attempts to bridge the so-called generation gap. While some deplored the actions of young and involved students, Senator MCCARTHY set about teaching them how to make their idealism for the public good, how to make their hopes and aspiration a reality. He has helped to demonstrate that youth can be an effective force in our democratic system.

As GENE leaves the Senate, I am heartened by the knowledge that this very decent and human citizen will continue to focus his considerable intellectual skills on the problems of mankind. Senator MCCARTHY will be missed by his friends on the Hill.

IN PRAISE OF EUGENE M'CARTHY

Mr. CHURCH. Mr. President, I speak on this occasion with conflicting emotions. I always welcome an opportunity to laud my esteemed friend and colleague EUGENE MCCARTHY. But, on this occasion, I speak out of a deep sense of regret over the circumstances which prompted him to retire from the Senate.

EUGENE MCCARTHY, a very private man in a very public office, has generated reams of curbstone analysis regarding his political psyche. Be that as it may, the name of this extraordinary man has already been written large in the annals of the Senate, where the forum proved too limited to contain the force in him.

For Senator MCCARTHY achieved his eminent position in our politics outside the Senate. By taking his case against the war in Vietnam directly to the American people, he became the most important political figure in the United States in 1968. EUGENE MCCARTHY lost his race for President. He failed even to win his party's nomination. Yet, more than any other man, Senator MCCARTHY, in that tumultuous year, changed the course of the Nation.

His willingness to carry the torch for peace, his relentless, reasoned argument against the insane arithmetic of the war, aroused the conscience of the people. His opposition represented a great act of faith that in a democracy the people can be entrusted to pass a sensible judgment on the gravest issues, even in the midst of an ongoing war.

Largely because of that singular and courageous act of faith, the American people, shown the horrendous consequences of a misbegotten war, have drawn back their elected leaders from the abyss of Vietnam. For this, EUGENE MCCARTHY deserves a larger measure of credit than any other American. Whatever political offices were denied him in the process, I believe he has won history's larger verdict.

Mr. YOUNG of North Dakota. Mr. President, I wish to associate myself with the many nice and well deserved tributes paid to our beloved friend, the senior Senator from Minnesota, Senator EUGENE MCCARTHY.

GENE, as we all know him, is one of the most friendly, likable, and intelligent Members of the Senate. He has a rare and very enviable sense of humor and wit. It has always been refreshing to visit with him when on occasion, and this is quite often, he wanders over to the Republican side of the Chamber and carries on a friendly dissertation on our differing views. This is only one of the many friendly, likable traits about GENE MCCARTHY that we will all miss.

While my views and those of my friend GENE MCCARTHY on general political philosophy differ considerably, I have always enjoyed a very warm personal friendship with him.

Senator MCCARTHY is one of the really able Members of the Senate and a powerful advocate of the liberal philosophy to which he has dedicated his life. I know of no Member of the Senate who has more effectively and earnestly championed his cause. I consider him to be a truly great Senator. He has represented his State very diligently and effectively and has been looked upon nationwide as a powerful advocate of the political philosophy he espouses.

No one will miss him more than I and I wish him well in all of his undertakings in the future.

Mr. BAYH. Mr. President, I rise today to pay tribute to my friend and colleague, Senator EUGENE MCCARTHY, who in 11 years of devoted service has made a lasting contribution both to this body and to the whole country. I have always admired GENE MCCARTHY. For he not only acts on principle but invests considerable thought in the development and expression of his principles. His contemplative presence will certainly be missed in these Chambers.

Such a contribution is noble by any standards. But GENE MCCARTHY has gone beyond the Senate and made a courageous, nationwide effort to live by his beliefs. In 1968, GENE MCCARTHY renewed our pride in this country and its politics. He reminded us all that an election in a democracy should be the most noble and far-reaching educational experiment of all. In short, GENE has demonstrated the power of ideas in history.

These past years have seen a wide variety of assumptions about successful campaign strategies. Some of the strategies have led us to doubt our own powers of leadership. But GENE had the courage to personally refute those visions of safe, issueless victories. Adlai Stevenson in 1956 said:

> The idea that you can merchandise candidates for high office like breakfast cereal—that you can gather votes like boxtops—is, I think, the ultimate indignation to the democratic process.

GENE proved that such merchandising is not only an indignation, but that it is by no means always successful.

For among the far-reaching legacies of the McCarthy campaign have been party reform, an assumption by this country that the war must end, and a desire to discover new insurances of citizen participation. In a decade when all generations are looking for new forms to better express their evolving aspirations, the McCarthy movement stands as a powerful promise that those forms do exist and only require renewed cooperation and trust.

Whatever our personal beliefs, we should all join to thank Senator EUGENE MCCARTHY for the contribution he has made to remind each of us as citizens that on our shoulders lies the destiny of our Nation.

TRIBUTE BY COMMITTEE ON FINANCE TO SENATOR M'CARTHY

Mr. LONG. Mr. President, the Committee on Finance met in executive session Friday, December 11, and approved a resolution expressing gratitude for the service that Senator EUGENE MCCARTHY has given to the committee. He has been an invaluable companion in developing legislation relating to trade, Government finance, and social welfare. He has served on the Committee on Finance since January 14, 1959, and has been a Member of this body for 12 years. His service has been most distinguished.

The resolution adopted by the Committee on Finance in behalf of EUGENE MCCARTHY reads as follows:

> Whereas, Eugene J. McCarthy, of Minnesota, has served honorably and faithfully as a member of the Committee on Finance since January 14, 1959, and
>
> Whereas, Eugene J. McCarthy generously devoted his knowledge and energy to the consideration of the many complex issues before this Committee during this period, and
>
> Whereas, Eugene J. McCarthy has unceasingly advanced the development of legislation relating to trade, government finance, and social welfare in execution of the broad responsibilities of this Committee; Now, therefore, be it
>
> Resolved, That the Committee on Finance hereby expresses to Eugene J. McCarthy its sincere appreciation and gratitude for his outstanding contributions to the fulfillment of the obligations of this Committee, and for his faithful and devoted service as a member of this Committee.

Senator MCCARTHY, as all of you know, has a very sharp and keen wit which helps to relieve the most strenuous of situations. His good-natured company is always welcome. Perhaps more important, he has always taken a stand on the domestic or foreign issues of the day, no matter how different the stand might be from the conventional party line. Time and again, he has demonstrated his ability to stand up and be counted, and I have never known him to fail to do so.

Although many times I have disagreed with the propositions advanced by Senator MCCARTHY, his speeches were always delivered with an eloquence that won him many supporters. His efforts on behalf of single people brought about one of the most significant changes wrought by the massive Tax Reform Act of 1969.

I hope Senator MCCARTHY continues to give us his best advice and wisdom unsparingly. I know I personally will miss his keen wit and his ability to maintain a sense of humor in the most trying circumstances.

I valued his support highly in my efforts a few years ago to work out a fair and equitable system of financing political campaigns for the office of the Presidency of the United States. He had the

vision to recognize the importance of the sort of changes I was proposing. He knew the influence of money in a political campaign and of the many conflicts of interest facing a candidate who accepted large contributions from persons likely to be looking for political favors in the future. We tried to get the influence of money out of the President's election.

I also valued his support in the race for assistant majority leader.

He must continue to make himself available to us, for I as one, will continue to look for his help in crystalizing and understanding the great issues which our committee and this body are called upon to decide. EUGENE MCCARTHY has been in Congress for 22 years—10 years in the House, and then 12 years more in this body. His experience and public dedication will be missed.

Mr. JAVITS. Mr. President, I join my colleagues today in paying tribute to a Senator who has made an indelible imprint on American politics, and, even more important, who rendered a great national service in 1968 at a tense moment of the crisis with youth in our country by establishing so many young people in the American political process. At a time when many young Americans were developing an increasing sense of alienation, he swept them up in a feeling that the system can be made to work, that voices will be heard, and that even international conflict can be turned around if only people care enough and work hard enough for peace.

Senator MCCARTHY has earned national universal respect. I value my years of service and friendship with him. I wish for him many continual years of success and fruitful living. He cannot fail to be of service to our country and to freedom wherever he is.

Mr. MCCARTHY. Mr. President, I ask unanimous consent that I may have 5 minutes.

Mr. BIBLE. Mr. President, I ask unanimous consent that the Senator from Minnesota may have 5 minutes.

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

Mr. MCCARTHY. Mr. President, I wish I could take more time that I might respond, particularly to those who have spoken here. The public record is rather clear as to how my colleague from Minnesota has sustained me through the years in the Senate and on some issues outside the Senate. The record of men like Senator HUGHES of Iowa, made in a difficult time, is also clear. I will not speak of all my colleagues today, but I would now particularly want to express my thanks to the leadership, Senator MANSFIELD, Senator KENNEDY, and Senator BYRD of West Virginia, for the assistance they have given me, most of it never made public, and for their great understanding and great courtesy.

I would speak also in tribute to Senators who have been chairmen of committees on which I have served, and on which I will serve for the rest of this year: Of the Senator from Arkansas (Mr. FULBRIGHT), chairman of the Committee on Foreign Relations particularly, for his consideration and support, and also for his leadership in very difficult areas, both inside and outside the Senate; of the Senator from Louisiana (Mr. LONG), chairman of the Finance Committee, with whom I have worked for the 12 years I have been in the Senate; also, of the Senator from Mississippi (Mr. STENNIS), chairman of the Committee on Standards and Conduct.

If I had time I would have something positive to say about every Member of the Senate. I have been given publicity, and I will not say justly or unjustly, for having criticized, the Senate and Senators; the positive things I have said have often been ignored. In fact, I have been criticized more for good things I have said about Senators or Senate action which the critics thought were bad than for bad things or critical things I have said about Senators or Senate actions which the critics thought were good.

Now that I am leaving the Senate I am one of the few who are not complaining about the length of the session. I would just as soon serve until January 3. I am not anxious to have it end. I am quite content to stay here for the remaining 3 or 4 days in which I shall officially be a Member of the Senate.

What the Senate is doing and has been doing through the year, perhaps at a pace that might have been somewhat different, is in accordance with the constitutional intent and purpose and also, in the best tradition of the Senate, to stand in judgment for the country over the judicial system of this country, to judge how national policy, particularly foreign policy, should be conducted, to judge the personnel of the Government, and also to stand in reserve judgment over the action of the House of Representatives.

I will conclude by saying that as I leave the Senate it can expect from me the most positive kind of support for this body and a continuing interest in problems with which you will have to deal.

Mr. MONDALE. I thank the Senator.

Mr. President, I ask unanimous consent that the RECORD remain open until the end of this Congress and that the tributes be printed as a Senate document.

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

THE GOVERNMENT AND POLITICS OF SWEDEN

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that a review of the book, "The Government and Politics of Sweden," by Joseph B. Board, be printed in the RECORD as a part of my remarks. I think the book indicates some extremely relevant activities on the part of Sweden, relevant to our own problems in this country. I would hope that those who are interested in these problems would take note of the problems in Sweden.

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

SWEDEN STILL WORKS

(Review of the book: "The Government and Politics of Sweden". By Joseph B. Board, Houghton Mifflin, 261 pp. $7.95.)

(By Steven Kelman)

Tell someone that you're studying about Cuba or China, and you'll receive immediate nods of interest and understanding. Tell someone you're interested in Sweden, and puzzled reaction will probably be "Why?" New books about Cuba or China receive widespread attention from critics and large-scale promotion by "with-it" publishing houses. But when the American journalist Frederic Fleisher came out several years ago with an excellent report entitled *The New Sweden* reviews were few and far between, and sales were sparse. It is a safe bet that this new book by Joseph Board, chairman of the department of political science at Union College, will be generally ignored.

It's a shame. For those who follow the latest developments in the lands of Fidel and Chairman Mao profess to be concentrated with seeing how other countries have dealt with problems which America faces. Now it is doubtful whether the Cuban experience has much in it to teach *anyone*, except by force of negative example. But to maintain that the problems of an underdeveloped country like Cuba have anything to do with the problems of the world's leading industrial nation is not just doubtful but absurd.

When we talk about Sweden, on the other hand, we're talking about a country in the same ballpark we're in. Sweden's per capita GNP lies second in the world, right behind ours. Sweden, like us, has big and bulging cities, serious threats to its natural environment, rapid rural-urban migration, and other problems which industrialized countries face. And while the country's small size makes it easier to deal with problems, Sweden's one-time ethnic homogeneity has disappeared with the influx of southern European immigrants who have come to Sweden seeking jobs. One out of every ten residents of Sweden today arrived as an immigrant after 1945.

Facing many of the same "inputs" as American society, the Swedes seem to have worked things to get "outputs" of a rather better quality. Unemployment has remained under 1.5 percent throughout the Sixties. The rate of housing construction has been the highest in the world, and was not affected by the recent tight money as it was in America. The revolt of youth is hardly a tenth as severe as in America or other Western European countries, and the phrase "generation gap" is hardly mentioned. The standard of health care is the world's highest.

How do they do it? Of course, a detailed answer would be not only lengthy but incredibly difficult. But, simply put, the Swedish successes are the result neither of some ill-defined national character nor of the special conditions of Swedish society—but rather very specific, imitable government and private policies.

Take unemployment. The low unemployment rate has hardly been a coincidence. The Swedish government constantly maintains a group of public works projects "on the shelf," fully planned and ready to be activated as soon as the unemployment rate hits a certain level. Similarly, the tax system allows industry to put aside a certain amount of its profits, tax free, into a "reserve investment fund, on condition that the funds be invested by the company in new plants and equipment when unemployment threatens to get too high.

The policies towards unemployment have a useful side-effect. The trade unions, aware that the government will not allow the unemployment rate to rise very high, are released from the necessity of opposing tech-

nological changes which might get their members fired. Assured that new jobs will be found (usually at higher wages), the trade unions encourage technological change and rationalization—thus promoting Swedish economic growth.

Take the question of dirty cities. The Swedes have a reputation for being clean, but so do the Germans and the Dutch, and any look at German and Dutch cities will quickly belie any connection between repute and reality. If Swedish cities are remarkably clean this is simply because money has been put into keeping them clean.

Or take American urban planning. The planning of new communities for lower- or middle-income people has always had low priority in America, both in terms of money spent on it and public esteem awarded the field. The puny and unimaginative results show it. But Swedish urban planning, with its emphasis on not making things too uniform (planners retain jutted rocky areas and unkempt woods in the areas they plan, rather than creating artificial-looking parks), shows that it can be done, if resources and imaginative energy are devoted to it.

The Government and Politics of Sweden is well-organized and competent, but unless one is interested in a detailed account of the workings of Sweden's weighted proportional representation electoral system, data about the circulation and political affiliations of Sweden's leading newspapers or facts about local government, a good portion of it may prove dull. However, Board has a crisp, readable style and even drops an occasional witticism. ("No prominent Swedish actors have yet run for high office at last report," he writes during a discussion of the influence of television on Swedish election campaigns.) And the section on the very powerful interest groups (Swedes often call their country "organization Sweden") is excellent.

Board's book shows that there is a lot more to Sweden than pornography (I am convinced that Swedish sex habits do not differ significantly from ours, the only difference being that they talk about it more), suicide (the rate is below that of Austria and Switzerland, countries nobody ever mentions, and hasn't increased since the introduction of the welfare state) and Ingmar Bergman (a brilliant artist, the Swedes will tell you, but slightly crazy). There is probably no way to make Sweden "in" among the circles that count, but perhaps books like *The Government and Politics of Sweden* will help close the knowledge gap.

A LAMENT FOR EAST PRUSSIA

Mr. FULBRIGHT. Mr. President, I also ask unanimous consent to have printed in the RECORD and article by Countess Marion Donhoff, entitled "A Lament for East Prussia," which was translated and published in the London Times of November 20, 1970. I think it gives a penetrating and very perceptive analysis of the situation in Germany, and especially in Prussia.

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

A LAMENT FOR EAST PRUSSIA

(By Countess Marion Dönhoff)

The treaty on the Oder-Neisse frontier between Poland and Germany has been negotiated and it will be said that the west German Government has given away German land: but the cross was put on the grave of Prussia 25 years ago. It was Adolph Hitler whose brutality and megalomania extinguished 700 years of German history, but nobody had the courage to demand the death certificate or even to accept it.

Home, for most people, is something beyond reason or description. It shapes their entire life. For people from the east this is particularly true. To someone who was born there, in that great lonely landscape, with its endless woods, blue lakes and broad river estuaries, home probably means more than for someone who grew up in an industrial area or a great city.

The Federal Republic, with its open society and its possibilities for a person to live fairly freely, is a state in whose growth it is worth participating and working. But home? No, never for someone from the east.

My family lived there for centuries which I mention only because it illustrates the fate of millions of people. Loyalty was not primarily, as in the west, to the rulers, but to the land. The decisive thing was not which of the many changing powers held sway—the Teutonic knights, the Poles, Swedes, Danes, Russians or Prussians. The decisive thing was to hold on to the land and to remain connected with the land. Frederick the Great never forgave the east Prussian estates for the fact that, during the Seven Years' War, when East Prussia was occupied by the Russians, they gave their allegiance to the Tsaritsa Elisabeth, although that was in fact the most reasonable thing that they could do. Only in the last century, as the spirit of nationalism poisoned all relationships, did everything change.

The Germans have now been driven out of their homeland east of the Oder and Neisse Rivers, and the changing of rulers has ended. The land is now Polish. Nearly half the people now living in the former German territories were born there. The Poles, like the Czechs in Bohemia, made a mercilessly clean sweep. Never before had anybody in the east tried to take final possession of lands and provinces by driving eight million people from their homes. But who can blame the Poles? Never before has a people been subjected to so much suffering as during the Third Reich.

Hitler's Governor, Hans Frank, who with the SS terrorized the Polish people, deported them and sent them to gas chambers, once clarified Nazi Policy as follows: "No Pole shall rise above the rank of a foreman. No Pole shall be able to get higher education at a state institution. . . . That which we call the Polish elite must be liquidated. Any new elite which grows up is to be taken care of and eventually removed. . . . We don't need to send these elements to concentration camps in Germany for that would mean trouble and unnecessary exchanges of letters with the relatives. We will liquidate the matter on the spot."

After the Warsaw uprising of Autumn 1944, Hitler ordered the city to be razed to the ground and the SS excelled themselves in thoroughness and brutality. When they left there were only 2,000 people surviving in the cellars and ruins of a city once populated by millions.

Nobody can hope any more that the lost territories will ever again be German. Anybody who thinks otherwise must still dream of reconquering the world. That would mean again expelling millions of people, which in reality, nobody wants. One must hope that the polemics of the expellee organizations, for whom anybody is a traitor who does not take their illusions for reality, will at last end.

One may also hope that in future the Poles will also spare us their own chauvinism, their references to "the recovered territories" and their claim that the western territories under German rule were mostly occupied by Polish people. The truth is that in East Prussia, Pomerania, East Brandenburg, and Lower Silesia, 98 to 100 per cent of the population was German. Upper Silesia was the only province with a significant Polish speaking minority. The eastern frontier of East Prussia remained unchanged for 700 years and Silesia's frontiers have remained the same except for the upper Silesian industrial area since 1335.

In all these questions there are many cliches on both sides, and very seldom sound judgments. The history of the east is too complicated and too unknown. Many also forget that it is always the victors who write history. Who in east Europe still speaks of the secret protocols in the treaties which Hitler and Stalin signed on August 23 and September 28, 1939? They were the basis for a Russian attack on Poland, agreed with Hitler, in which Moscow took over what at that time was half of Poland.

Although this secret agreement did not automatically exclude the further existence of the Polish State, Moscow did put pressure on the German Ambassador, Count Schulenburg, to prevent the formation of a Polish rump state after the invasion of Soviet troops into East Poland—when the Polish elite was also deported and destroyed.

Few people also remember that the Poles at the time of the Munich agreement took some Czech lands and, by supporting the German adventure in the Sudeten crisis, encouraged the Berlin Government to make the demands which in the end led to the destruction of their own land.

Nobody is without sin, but the attempt to reckon up each other's sins is not only senseless, it means that the curse of evil deeds gives birth to more evil. A new beginning? Yes, for otherwise there will be no end to the escalation. Does that mean farewell to Prussia? No, for the spirit of Prussia must work on in this age of materialistic greed if this state which we call the Federal Republic of Germany is to have any durability.

(NOTE.—Countess Marion Dönhoff, Editor-in-Chief of the Hamburg weekly paper Die Zeit, grew up in East Prussia. She escaped on horseback from the advancing Russian Army towards the end of the war.

This is a slightly shortened version of an article which is published on the front page of Die Zeit today.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 212.

The PRESIDING OFFICER laid before the Senate a message from the House on H.R. 212, an act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill.

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in accordance with the practice of some days now, that the conference report on H.R. 17755, the Department of Transportation Appropriation Act, be laid before the Senate.

The PRESIDING OFFICER. The conference report will be stated by title.

The assistant legislative clerk read as follows:

Report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to the consideration of the conference report.

Mr. PERCY. Mr. President, some time ago on a trip to Asia, in visiting a country in that part of the world, I was told by a government official that, by his estimate, more than half of the Members of the Cabinet consulted astrology before they made any important decision.

I returned to Washington from Chicago last Wednesday to engage in deliberations on the SST, and I noticed, in the Chicago Sun-Times, the astrological forecast by Sydney Omarr, under Libra, my own sign. I find his advice to me:

Don't get caught in the middle of dispute among friends. What starts as informed debate, could end in shambles. Word to wise should be sufficient. Take no unnecessary chances.

Somehow we have survived here despite this astrological prediction of disaster and even though we have engaged in debate on controversial matters. We have remained friends. We have unbounded respect for each other even though we differ in judgment as to what is right for the country. We are continuing this debate with the earnest hope that we shall find a solution to this problem. Of course, we have conducted all our meetings on that basis.

THE SST: A COSTLY COMPROMISE

Mr. President, we have before us a conference report on the Department of Transportation appropriations, which provides for $210 million for the SST development program. It is an attempt at compromise which is both wasteful and unnecessary, and which fails altogether to deal with the concerns expressed by the Senate on December 3.

We do not have in that conference report any other controversial matters. It is naive to think that now, as we approach the third year of a new administration, this administration has not yet had a Department of Transportation budget that bears the full imprint of its own thinking and policy. The first budget presented by the administration was very much a carryover of the thinking of the previous administration. But fiscal 1971 is the first full year when the Nixon administration was able to think through the problems of mass transit, highways, Coast Guard, air controllers and air safety, airports, as well as aviation development.

Yet, month after month, we have had continuing resolutions carrying forward the old budget, preventing the country from having the results of Administration views.

It has long been my feeling, of course, that the noncontroversial matters could and should have been handled long ago; but that was neither the will of the Senate nor the House of Representatives. This package is therefore still bound together—an appropriation that is for the most part noncontroversial, except for one item still in deep controversy between the two Houses of Congress, and of course within this Chamber.

But on December 3, the Senate of the United States clearly spoke, and overwhelmingly rejected the concept of continuing the development of the SST, for a variety of reasons. We acted clearly and decisively 2 weeks ago to stop Federal funding of the SST program.

Our action was not the usual type of economy vote, by which we give a program or agency less than was asked for, but enough to keep the program going at a lower rate. The Senate was not saying, "Let us not spend so much on the SST." Instead, the Senate said, in effect, "It is time to stop Federal funding of the SST. The time is now."

Mr. President, I have been involved as have many other Members of the Senate, in comparable decisions as to whether it be a research project in an educational institution or foundation, or a business venture with which we are associated, shall be canceled. In organizations of those types, a final decision is ultimately required. I have never seen any hesitancy, once an overwhelming body of evidence has proved that a project is not being fulfilled as it was originally intended, once it is determined that it cannot meet the standards that were originally set up, and that its cost estimate will far exceed the cost estimates that were originally predicted, to face up to the situation, bite the bullet, and make a decision. In fact, in my own business life, we have had to make many such decisions. They have been difficult decisions, especially when we realize that hundreds of thousands of dollars, sometimes millions of dollars, have been spent on a project we hoped would be something at close as possible to the original concept, but which we realized was simply not moving in the proper direction and could not fulfill the hopes and expectations or meet the standards and specifications that had originally been laid down.

You have to make those important decisions in a business organization. If you continue to put more money in after bad money, the misadventure simply continues to bury itself. The process has to stop at some point. An educational institution that must make ends meet and is without unlimited capacity to borrow, must make a decision to stop a project once and for all, when it realizes that good judgment dictates a halt.

Yet, with the unlimited borrowing capacity of the Federal Government, with the difficulty in making a decision, with the capability to continue to procrastinate, to live in eternal hope that somehow, in some way, the expectations that were originally held will be fulfilled, we continue to piddle with this project. I use that term intentionally, disrespectful though it may be, to describe a project that is costing the American taxpayer approximately $300 million a year.

As I mentioned on the floor of the Senate last week, the Senate of the United States passed almost unanimously a bill to provide money for mass transit, to provide funds for cities that have gone into debt because they were forced to borrow money to buy equipment, to improve services, to fend off inflationary price increases and wage increases in order to provide low-cost, efficient, mass transit. When those transit systems fail, or mount up huge debts, and Congress' response via an authorization bill last week in conference was to cut out every single penny for such systems, allegedly because we do not have the money, I came back to this requested appropriation for some $290 million for a plane that will not meet the specifications originally outlined for it and I ask, What is happening to us, that we have such an order of priorities? How is it that we place so high a priority on something that ought to be at the bottom of the list of priorities from the standpoint of meeting existing needs? We find ways to fund such projects as the SST, only to find that we cannot fund projects that are at the very top of our list of critical needs: that is, finding ways to move people about in urban areas, to get people from one point, to another point, efficiently and at low cost.

We continue to fail in meeting that objective, aud yet we continue to find ways to fund projects of the type which offer such a low return on investment and which, instead of detracting from pollution, as mass transit does, would add to the environmental hazards.

In listening to the debate that preceded the vote on December 3, I was impressed by the virtual unanimity among Senators who supported the amendment to strike funds for the SST. Almost to a man, they supported a complete termination of SST appropriations. Some of my colleagues favored a suspension of Federal funding until the environmental problems of the SST had been overcome. Others favored terminaiton of the Federal program, on grounds that private enterprise should build the SST if there were an economic value in building it.

Hardly a Senator, however, expressed support for a mere paring down of the SST appropriation, and for good reason. If the program is simply scaled down, it increases the total cost to the Government. You cannot build half an SST. Reducing the appropriation does not alter the objectives of the program; it merely prolongs the program and greatly increases its cost.

Mr. President, I move to postpone consideration of the Department of Transportation conference report until tomorrow.

Mr. BYRD of West Virginia. Mr. President, what is the request?

Mr. PERCY. I move to postpone consideration of the Department of Transportation conference report until tomorrow.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois.

Mr. PERCY. Mr. President, I wish to debate the motion at this point.

As I have said, you cannot build half an SST. Reducing the appropriation does not alter the objectives of the program; it merely prolongs the program and greatly increases its cost.

Secretary of Transportation John A. Volpe said recently in a letter dated December 9:

> Any significant reduction in fiscal year 1971 SST funding would increase program costs on a 2 to 1 ratio.

In other words, for every dollar cut now, two dollars will have to be spent before the program is completed.

The reasons for this increase are twofold. First, such reductions in funding create inefficiency in the program. Where under original schedules several tasks were programed to be done concurrently, now they may have to be strung out instead. The basic overhead costs continue to add up, of course. Second, the longer the program is drawn out, the more the effects of inflation increase the costs across the board.

If Secretary Volpe's speculation holds true, the cut of $80 million adopted by the conference committee would mean that an extra $160 million will have to be appropriated somewhere down the line, to complete the program for just this phase of the funding.

In fact, the SST program is experiencing cost increases because of cuts already made. Last year, Congress reduced the appropriation by $11 million—from $96 to $85 million—for fiscal 1970, and the Office of Management and Budget reduced the fiscal 1971 budget request by $25 million—from $315 programed, to the $280 now at issue.

Under Secretary of Transportation James A. Beggs was asked about this during hearings of the House Appropriations Committee earlier this year. He supplied for the hearing record a statement indicating that these reductions, amounting to $36 million in all, would result in a projected $76 million overrun.

On the basis of this experience, I think it is quite clear that the reduction proposed by the conference committee is completely unacceptable. It will merely add to the Government's burden. It certainly will not save us any money. In the name of commonsense, I urge my colleagues to oppose this conference report.

Mr. President, two recent newspaper articles have brought home again the fact that we would be blindly naive were we to believe we can continue with the SST development and production along presently conceived lines, relying on the ability and willingness of commercial airlines to repay the Federal investment with interest.

I have long maintained that in terms of national spending priorities, the $290 million appropriation for the SST just does not make sense. In fact, the problem that it presumably solves would be near the bottom of any list made up of urgent national needs and interests. But the economics of the SST contract do not make sense either, primarily because of attempts to justify Federal spending on the prospect of private repayment. The repayment promise generally follows these lines, according to SST proponents: If 300 SST's are sold, the anticipated Federal investment of $1.3 billion will be repaid; if 500 SST's are sold, the Government will get an additional $1 billion bonus.

The figures cited are weak in themselves. Inflationary factors which should be considered in a prolonged program designed to last some 25 years from beginning to end have not been considered. The probability of overruns has not been considered, a serious omission in light of the fact that last year alone there were overruns to the tune of some $76 million. And the investment made in 1970, even if it were to be repaid in 1990 with the $1 billion promised bonus—which I cannot believe—would bring the Government a meager return of only 3 to 4 percent on its investment.

It makes one think that the Government needs an attorney to protect it in drafting its contracts. More importantly, it makes one think the Government probably shouldn't be in the marketplace in this role at all.

As I have indicated, the terms of this contract seem decidedly weighted against the Government. But the real weakness in the SST proposition is that the whole project is predicated on the ability and willingness of commercial airlines to buy the "product."

Will there be a market for the SST? Obviously, the answer to that question must be speculative to some degree. But I believe we will be dealing in informed speculation—not mere guesses—if we examine closely the data available to us on present airline production, present market pressures and present performance.

In this context, it was very illuminating to learn from the December 11 edition of the Washington Post that "the Nation's 13 major airlines will lose $123 million in the current year," according to the Air Transport Association. At prevailing fare levels, losses for 1971 are estimated to reach $192 million.

Do these figures suggest a vital, soundly financed and growth oriented air industry capable of buying and operating the new SST's in the volume required to make investment in them profitable? I think not.

Is the prospect of higher fares for flights on existing planes likely to meet projected figures for individuals expected to travel by air in future years? Again, I think not.

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

Mr. PERCY. I am happy to yield the floor to the majority leader. I ask unanimous consent that in yielding, I do not lose my right to the floor; and, further, I ask unanimous consent that when I resume speaking, it will not be counted as a second speech.

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

U.S. PARTICIPATION IN CERTAIN INTERNATIONAL FINANCIAL INSTITUTIONS

Mr. MANSFIELD. Mr. President, it is my opinion that the pending business very likely will not be settled on the floor of the Senate, but in a conference being held now. With that thought in mind, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1259, H.R. 18306, that it be made the pending business, and that there be a time limitation of 20 minutes attached thereto, 10 minutes to a side.

The PRESIDING OFFICER (Mr. STEVENSON). The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 18306) to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, this may be the first breach in the wall.

I ask unanimous consent, Mr. President, that the time for debate be controlled and divided between the distinguished senior Senator from Tennessee and the distinguished chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULBRIGHT).

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

Mr. FULBRIGHT. I yield myself 5 minutes.

Mr. President, I have discussed this matter at some length with the distinguished Senator from Tennessee. He has been reasonable in his attitude toward trying to work out a compromise on the pending bill. It is an important bill. We have discussed it thoroughly.

I think there is no misunderstanding—I will put it another way: There is a full understanding of the significance of the bill, and many parts of it are extremely valuable to our country.

The Senator from Tennessee has made some most persuasive observations about the necessity for learning more about what is called the soft loan window in the Inter-American Bank and the Asian Development Bank, and we have arrived at what I would call a genuine compromise which I think is very much in the interest of the country.

I think that the amendment which the Senator from Tennessee will soon offer is in the interest of the country. It allows us to take another look at certain aspects of this bill at a later date, when the pressure of time is not so great.

So I will yield for the moment to the Senator from Tennessee, to allow him to explain his own views about his proposal. I only say at this time that I think he has been most reasonable in his attitude toward this controversy.

Mr. GORE. I wish to thank the junior Senator from Arkansas, the chairman of the committee, for his generous remarks. It has been pleasant to work with the distinguished chairman and with the distinguished ranking minority member, the able senior Senator from Vermont (Mr. AIKEN), on this matter.

Mr. President, I send to the desk an amendment which I ask to have reported.

The PRESIDING OFFICER. The amendment offered by the Senator from Tennessee will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GORE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 11, beginning with line 5, strike out all through line 12 on page 14.

On page 14, line 13, strike out "Chapter 2" and insert in lieu thereof "Chapter 1".

On page 14, between lines 13 and 14, strike out "21." and "22." and insert in lieu thereof "1." and "2.".

On page 14, line 14, strike out "21." and insert in lieu thereof "1.".

On page 15, line 11, strike out "22." and insert in lieu thereof "2.".

On page 15, line 22, strike out "3." and insert in lieu thereof "2.".

On page 15, after line 23, strike out "31." and insert in lieu thereof "21.".

On page 16, line 1, strike out "31." and insert in lieu thereof "21.".

On page 16, line 22, after "and" insert ", upon further authorization by the Congress,".

On page 17, strike out lines 7 and 8 and insert the following: "one installment of $100,000,000 for the United States share".

Mr. GORE. Mr. President, I have raised questions about the advisability of approving what appeared to me to be an imprudently large amount of money for the soft-loan programs of both the Asian Development Bank and the Inter-American Development Bank at this time.

Let us look first at the Inter-American Development Bank. A President of the Bank who, to be most charitable in my reference, was controversial, who certainly used the Bank, the prestige of the Bank,and the funds of the Bank for questionable purposes in some instances, has resigned. He is to be replaced by a new President, for whom I have high respect. But the newly chosen President of the Inter-American Development Bank will not take office until next February; yet, without knowing of his plans, without giving him an opportunity of developing a prospectus to submit to the Bank, and through the Bank to the U.S. Government, some index to the manner of the use which he proposes for soft-loan money, the bill as it came to the Senate provided $1 billion over a period of 3 years, beginning July 1 next. It seems to me that this is an imprudent disposition of the funds of the U.S. Government. Surely Congress and the executive branch should know more definitely to what use the funds are to be put. The amendment proposed here would permit $100 million to be available, beginning June 30 next, but would defer the second and third installments of our commitment of $450 million each until further action by the Congress, presumably after the new President and the Bank have prepared plans and the committee has had an opportunity to review the plans and perhaps to make a study of past use of soft-loan money.

In addition to the $100 million which my amendment would authorize the IDB still has approximately $500 million of the commitment that Congress made 2 years ago, so this would provide all the funds requested for use until July 1, 1972. So, if I may say so, I think I have been generous in the compromise—I have tried to be—and the distinguished chairman of the committee has generously said so. But I have also tried to be responsible and prudent, as I regard it, with respect to my responsibility as a Member of the Senate and as a member of the Committee on Foreign Relations, who has taken a particular interest in the Inter-American Development Bank.

The Inter-American Development Bank in my view can be a very useful tool. I raise no question about its hard loans, though I think they should be watched carefully.

Soft loans are not without a place in hemisphere affairs. But, Mr. President, the multilateralism about which we have heard so much here is more apparent than real.

The United States provides all of the extra-country money. For instance, if a soft loan is made to a borrower in Venezuela, the only part of the fund provided outside of Venezuela comes from the United States. Venezuela would provide some matching funds, in Venezuela. Likewise, Colombia, Chile, and all other countries. So let me repeat, the multilateralism is more apparent than real. So I see no need for the hand of the U.S. Government to be hidden. I see no reason to withhold from the people of our neighboring countries the information that it is the money of the people of the United States which is being granted to them through the bank on soft loan terms. But, in any event, I am satisfied with this compromise. At least, it lessens the commitment of the United States by $900 million. The Senate can have an opportunity to examine it with caution and prudence before acting further. There will be ample time for this.

My amendment would eliminate entirely soft loan funds for the Asian Development Bank. Obviously, in the condition that prevails in Southeast Asia today, soft loans are inappropriate.

This reduces the commitment by another $100 million, making a total reduction of $1 billion in soft loan commitment.

The next Senate can and will, I trust, examine carefully the soft loan operations with care. Perhaps this action will bring this about.

My intervention may have served, also, to call attention to the need to reorder our national priorities. The sad and calloused neglect of the pressing problems of our own people must end.

Mr. AIKEN. Mr. President, will the Senator from Tennessee yield for a question?

Mr. GORE. I yield.

Mr. AIKEN. As for the rest of the bill, is the Senator leaving that unchanged?

Mr. GORE. My amendment makes no change in any provision except the soft loans.

Mr. FULBRIGHT. In the Asian Bank.

Mr. GORE. In the Asian bank, and in the Inter-Development Bank.

Mr. AIKEN. The Senator proposes another amendment here.

Mr. GORE. It strikes the commitment for the soft loans to the Asian Development Bank. I might say, incidentally, that the administration said that this might be dropped.

Mr. AIKEN. I think it would be unthinkable and disastrous to our foreign relations to go home without taking any action at all on this particular bill. I think that the Senator from Tennessee has adopted a statesmanlike attitude in making this proposal as an amendment.

As for the Asian situation, this is somethings we do not know for sure about this as things are happening in Southeast Asia and the South Pacific almost faster than we can keep up with them. But this amendment on the whole seems to be an exceptionally good way to get out of our present dilemma, or at least postpone it, and assure our South American brothers and sisters in those countries that we are not just simply passing them by but are providing a means to carry on the work of the Inter-American Development Bank with them, at least for another year, during which time—well, Heaven knows that will happen anywhere in the Western Hemisphere.

Mr. GORE. A year and a half.

Mr. AIKEN. A year and a half—I think it is a particularly good proposal that the Senator from Tennessee has made.

Mr. GORE. I thank the Senator.

Mr. FULBRIGHT. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Arkansas is recognized for 3 minutes.

Mr. FULBRIGHT. As I said a moment ago, I discussed this with the Senator from Tennessee and I think his proposal is eminently sensible and sound. I will feel absolutely committed, morally and otherwise, to maintain this amendment in case the House is disposed not to accept it. If it refuses to accept it, I will say to the Senator from Tennessee that I will do everything possible within my power to insist upon the amendment which he has made, which I think is reasonable. The fact is, quite obviously, that without such an agreement this bill could not be passed.

All the most important elements with respect to the IMF, the World Bank, and so forth are all preserved without change, as he has stated. The only change is in the soft loans—$100 million deleted for the Asian Bank and the retention of $100 million out of $1 billion for the Inter-American Bank.

The deleted $900 million for the IDB would not be required in any case until after the end of our fiscal year 1971. So I do not think there should be any great difficulty. Possibly there may be some slight embarrassment to our representatives in the Treasury who have negotiated the agreement calling for the full 3 years. But I am quite sure they will be able to explain the necessities of the case satisfactorily to the other Bank members who negotiated the agreement with regard to contributions to the Inter-American Bank.

I wish to express my appreciation to the Senator from Tennessee. He has, throughout his service here in the Senate, been extremely helpful not only in foreign relations, but also in the financial aspects of foreign relations as well as

domestic affairs. No other Senator is more knowledgeable about our domestic economy.

He has made great contributions in the Committee on Finance in all of the various tax bills and the other complicated issues that have come out of that committee.

I, for one, would not like to allow this opportunity to pass without expressing my appreciation to the Senator from Tennessee. I think it is a very great loss to the country and to the Senate that he will not be back in this body next year, but that is one of the tragedies of our political system that occur from time to time.

I wish to express my personal appreciation to the Senator for all that he has done during the period he has been in the Senate.

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

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 additional minutes.

Mr. FULBRIGHT. Mr. President, I yield now to the Senator from Illinois.

Mr. PERCY. Mr. President, I add my voice to those of the others who have commended the distinguished Senator from Tennessee.

This action obviously will set a precedent with relation to our other legislative stoppages. Obviously, as the majority leader has expressed, the logjam will be broken.

I think the distinguished Senator's point has been well made in the country and that the compromise that has been worked out is equitable and fair.

I have spoken at some length on the bill. I think it is a very significant bill. I will not take the time of the Senate to do so this morning.

Mr. President, I would particularly like to mention the fact that on a recent trip that I made last month throughout Europe and the countries of Africa, I made a point of stopping in to see the Governors of the Central Bank in Africa, Ethiopia, and Nigeria.

The distinguished President of the World Bank, Mr. McNamara, had recently visited with these officials and had visited Africa.

I was deeply impressed with the remark of a responsible African official that it was an attempt to make these loans bankable loans and to make funds available in those areas involving the the greatest return in investments. If it had not been for these international organizations, I do not know what these countries would have done, because capital is not available to them through conventional means at anywhere near the rate that would enable them to meet the responsibilities they face concerning the needs of their countries.

I feel this is a significant bill. I fully support it.

I would like to ask a question of the distinguished chairman of the committee. Does the Senator from Arkansas intend to ask for a rollcall vote? I think the bill is significant enough to have such a vote.

Mr. FULBRIGHT. I did not intend to do so. Any Senator could ask for a rollcall vote. I am perfectly willing to have one.

Mr. MANSFIELD. Mr. President, I would just as soon have the bill passed by a voice vote.

Mr. FULBRIGHT. Mr. President, we had a test vote on this matter before which indicated very strong support for the bill. I do not see any need for a rollcall. I am perfectly willing to accept this. I hope that the Senate will agree to the amendment and pass the bill.

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

Mr. FULBRIGHT. I yield.

Mr. HOLLAND. Mr. President, as one who has watched this dispute between the distinguished Senators from Arkansas and Tennessee, I want to say that I recognize the patriotism which both of them have shown, the love of the Senate which both of them have shown, and the interest in the subject matter of this bill—which is of very great importance to our country and to many other countries—which both of them have shown.

I further want to pay tribute to the Senator for effecting a compromise in these days when there has been in the Senate very little giving and taking.

May I express at this time, to both of my distinguished friends, along with my wishes for a Merry Christmas and a Happy New Year, my very deep appreciation for the decision they have made, which is certainly in the interest of the Senate's national image.

Mr. FULBRIGHT. Mr. President, I thank the Senator. I am quite sure that it is in the interest of the Senate and of the country. The distinguished Senator from Tennessee deserves the credit.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 18306) was passed.

The title was amended so as to read: "An act to authorize U.S. participation in increases in the resources of certain international financial institutions, and for other purposes."

Mr. FULBRIGHT. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. AIKEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT ON TIME FOR A VOTE ON VETO OF S. 3867

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the Presidential veto of S. 3867, for which we have an hour and a half's time, begin to run at 6 o'clock this evening.

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

Mr. PERCY. Mr. President, to continue my comments on the SST, I ask this question: will large numbers of people be willing to pay substantially higher fares for an SST flight in order to save relatively few hours on an intercontinental trip?

Hardly. And if they do not choose to do so, the SST cannot show a profit. Indeed, it could become a financial nightmare, devouring ever larger chunks of Federal funds to keep it active and endangering the private ownership of our airlines.

Mr. President, on December 16, the New York Times quoted an executive in one of the country's major airlines as having said that the continuing slump in air travel was prompting the Nation's airlines to review orders for large jetliners. He estimated that "the trunk airline industry might have postponed delivery of 15 wide-body jets scheduled for delivery for 1971 and 1972." The postponement involves some $836 million in previously planned capital expenditures. What are we to infer from this sort of data? Can Congress ignore it? Can Congress pretend to believe that economic indicators in 1970 bear no relevance to the economics of the future?

This information suggests strongly to me that if the airlines are having economic difficulty operating equipment that they now possess, if they are postponing purchases of conventional equipment, it is foolhardy to pretend that the airlines will be able to purchase and operate the SST with their own resources.

And let us remember that the purchases being deferred now are relatively inexpensive in comparison to the SST. A fully equipped Boeing 747 costs $23 million; it is estimated that a fully equipped SST will cost approximately $50 million. This is why a prominent American airline executive, former chairman of the board of one of the world's largest carriers, told me:

> The decision of the Congress is not a decision involving $1.3 billion of financing of the SST prototypes, it is a $20 to $25 billion decision to have the government finance the production cost of 500 SST's if

the program is to go forward as its proponents contend.

I do not intend to begin a discussion at this late date of the comparative ranges, passenger capacities, and subsonic operating costs of the SST and the 747. But let me indicate briefly that an examination of these comparative data provides further evidence that the SST appropriation should be defeated.

I have listed only the purchase price comparisons—$23 million for the 747; $50 million for the SST—and pointed to authoritative reports that clearly indicate that the airline companies are undergoing a critical struggle for fiscal survival.

How, I ask, in light of all this, can anyone realistically expect a viable market for the SST when it is produced? It does not take an experienced businessssman to understand that there is no reasonable expectancy of repayments on investments, nor are there profits that can be counted when there is such a dubious market and such limited sales.

Mr. President, I ask unanimous consent that the two newspaper articles to which I have alluded be printed in the RECORD at the conclusion of my remarks.

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

[From the Washington Post, Dec. 12, 1970]

AIRLINES PROJECT HUGE 1970 LOSSES

(By Robert J. Samuelson)

The nation's 12 major airlines will lose $123 million in the current year, the Air Transport Association said yesterday.

The prediction was made in an economic presentation to high officials of the Department of Transportation on Wednesday. The ATA outlined the projections to reporters yesterday.

For 1971, the trade association estimated a loss of $192 million at the prevailing fare levels. The industry has been pushing hard for another general increase in fares—the Civil Aeronautics Board is scheduled to complete a major price investigation next spring—and the ATA said it would take at least a 5.1 per cent upward adjustment to produce a $100 million profit next year.

A number of airline analysts contacted yesterday said the ATA's estimates should be viewed cautiously.

"The trends in the economy are very confused now," one said. Another indicated that there might be an element of "gamesmanship" to the projections—producing figures that would tend to support a fare increase.

The assumptions underlying the ATA's 1971 report include:

A projected traffic growth of 5 per cent in 1971 over 1970; the economic slowdown discouraged traveling this year, producing an estimated 1 per cent decline in travel which, as much as any other factor, probably accounts for the airlines' troubles (in 1969, traffic grew nearly 10 per cent).

A moderation of the airlines' anticipated 1971 increase in capacity from an earlier estimate of 9 per cent to 7 per cent. Measured in available-ton-miles (one available ton miles is an airline's potential to carry one ton one mile), capacity will rise from 41.9 billion atms to 44.8 billion in 1971, not the 25.9 billion originally forecast.

Yesterday's presentation emphasized the uncertainty in the predictions. Just five months ago, the ATA estimated the 1971 loss at nearly $500 million (now reduced to $192 million) but, in the meantime, the airlines cut costs (including advertising and flight frequencies).

Although the ATA did not name the profitable airlines, they are reliably reported to be Delta ($35.7 million earnings for the first nine months), Continental ($3.7 million for the same period), Eastern ($12.2 million), and Northwest ($25.7 million for the first half year). The remaining major carriers are: United, American, Braniff, Pan American, Trans World Airlines, National, Western and Northeast.

Just before the ATA-DOT meeting, the Association of Local Transport Airlines (ALTA)—representing the nine "feeder" local carriers—met with transportation officials. One idea proposed at this meeting was that the State Department buy turbo-prop planes (which are now being replaced by pure jets) and include the planes in foreign aid programs to underdeveloped countries.

Last June, the local carriers had 233 such planes (against 149 jets) but, said one ALTA official, "the market for these used planes—well, there just isn't any (here)."

[From the New York Times, Dec. 16, 1970]

JET-ORDER BY AIRLINES SEEN—OFFICIAL AT AMERICAN CITES SLUMP IN AIR TRAVEL

(By Robert Lindsey)

An American Airlines executive said yesterday that the continuing slump in air travel was prompting the nation's airlines to review orders for large jet airliners creating a situation that may add further problems for the aerospace industry.

Donald Lloyd-Jones, senior vice president-finance, said his company had not delayed delivery on any new planes. But he estimated, based on discussions with officials at other lines, that the trunk airline industry might have postponed delivery of 15 wide-body jets scheduled for delivery in 1971 and 1972.

One airline, United, susbequently acknowledged it delayed delivery of Boeing 747's it had on order.

FORECAST PESSIMISTIC

In a generally pessimistic forecast to the press on the airlines' prospects next year, Mr. Lloyd-Jones said that, due to the sluggish economy and financing problems, the 11 United States trunk (long-haul) airlines had decided to postpone $836 million worth of previously planned capital expenditures for aircraft and ground facilities over the next two years.

In 1969, before the airlines' traffic began to slide, he said they contemplated capital expenditures of $2.235-billion in 1971 and $2.448-billion in 1972. Now, he said, projected expenditures in 1971 were $1.71-billion and, in 1972, $1.78-billion.

Over the two years under the figures outlined by Mr. Lloyd-Jones, there would be a slight increase in spending for ground facilities, but $1.84-billion less would be spent on aircraft.

In many cases, airlines have proceeded with plans to acquire new aircraft through leasing arrangements.

Mr. Lloyd-Jones said it was his understanding that up to 15 "firm orders" for wide-body jets—apparently Boeing 747's, McDonnell-Douglas DC-10's and Lockheed 1011's—were being renegotiated to permit later deliveries. Under original schedules, 58 of the large jets are scheduled for delivery in 1971.

Mr. Lloyd-Jones did not identify the airlines that he said had delayed deliveries. However, one company, United Air Lines, said yesterday that it had stretched out delivery of 18 747's it had ordered. As now planned, 12 will be in service by the end of this year instead of 14 and the full complement will not be in service until late 1973, a year behind the original timetable.

Mr. Lloyd-Jones, who met with newsmen at the American Airlines executive offices, 633 Third Avenue, said he expected the industry's traffic to pick up this spring, but doubted whether the total revenue passenger mile increase for the year would exceed 1 or 2 per cent.

"We at American are using a zero growth rate for the year for our planning and budgeting purposes," he said.

He said the airlines were cutting costs by sharply reducing flight and by taking other economy measures. But the executive contended that the trunk lines, which he estimated would collectively lose $110 million or more in 1970, needed a 5 to 7 per cent fare increase in 1971 for recovery.

Mr. MAGNUSON. Mr. President, will the Senator yield without losing his right to the floor? I would like to make an announcement.

Mr. PERCY. Mr. President, I yield with the understanding that I do not lose my right to the floor and also with the understanding that the continuation of my remarks not be counted as a second speech.

SUPREME COURT UPHOLDS 18-YEAR-OLD VOTE IN FEDERAL ELECTIONS

Mr. MAGNUSON. Mr. President, I understand the Supreme Court this morning upheld the Congress on the 18-year-old vote amendment to the 1970 Voting Rights Act. Interestingly, they applied the ruling only to Federal elections and not to State elections. I thought Senators would appreciate hearing this.

Mr. PERCY. I very much welcome this interjection. It is a very, very significant piece of news. I am delighted. This is one matter where the Senator from Washington and the Senator from Illinois thoroughly concur. It is good for the country.

Mr. MAGNUSON. I am certain other Senators will be glad to hear this news, including the distinguished occupant of the Chair (Mr. HUGHES) and others.

Mr. PERCY. I think this is a momentous decision by the Supreme Court.

Mr. MAGNUSON. I have not read the details but I just heard what the decision was on the 18-year-old amendment.

Mr. PERCY. My own State, by a very narrow margin, rejected the 18-year-old vote. I know the concern of young people who want to take part in the democratic process.

Mr. BYRD of West Virginia. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order is called for. The Senator from Illinois has the floor.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

Mr. PERCY. Mr. President, the conference committee's proposal is unacceptable in that it requires us to throw away the opportunity we now have to suspect the program in the light of a

realistic appraisal of the market situation.

Indication during the past 2 months suggest that, in addition to the problems U.S. airlines are having with existing operations, the Anglo-French Concorde has run into trouble. Just this past Wednesday, a new report in the Washington Post indicated that the British and French have decided not to build four production-model Concordes because the market outlook for SST's has taken a turn for the worse. In fact, no airline has yet converted its options to buy SST's into actual orders for the Concorde.

Despite this uncertainty expressed by the Concorde builders, the conference report would force us to go ahead with construction of prototypes prior to the completion of Department of Transportation studies that will consider some of the environmental problems.

Assuming that we want to construct the SST, what would be the rationale in our proceeding blindly along the present design, leaving all the economic and environmental questions unanswered, while the British and French pause to reconsider after investing $1.8 billion in the project?

In my remarks during the debate 2 weeks ago, I sought to outline some of the problems which result when the Government becomes an advocate in the marketplace. I pointed out the tendency of certain DOT officials to ignore some of the exigencies of the marketplace, such as the burdens noise-suppression devices would place on the performance of the SST. The sponsors of the SST program have consistently failed to take competitive factors into account. Their unwillingness to stop and re-examine our SST program at a time the other SST programs are faltering further underscores the problems created when Government goes into a competitive commercial market.

The only competitive factor DOT spokesmen seem willing to consider is the existence of the Concorde and the Soviet SST. But they use it only to justify proceeding with a U.S. plane. They discount the need for caution, even when the competition has assumed that stance, arguing that we can "build a better SST." The point is they conveniently continue to overlook this: No one can "build a better SST" until some of the preliminary uncertainties and questions are settled. Everyone will suffer from the same problems—sonic booms, sideline noise, economic feasibility, and all the rest—until adequate studies and tests have been conducted. The example the producers of the Concorde have given us by slowing down even at this advanced stage should be a warning to us.

Mr. President, I ask unanimous consent that the Washington Post article from December 16 be inserted in the RECORD at this point.

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

PLAN TO BUILD FOUR CONCORDES IS DEFERRED

LONDON.—The British and French ministers responsible for the Concorde supersonic jet project refused today to authorize production of four or more aircraft until the commercial future of the $2-billion project is clearer.

At a meeting here, Frederick Corfield, British Minister of Aviation Supply, and Robert Calley, France's Minister of Posts and Telecommunications, deferred the expected decision to build more Concordes—probably until spring or summer of next year.

This negative decision is bound to send a shiver of anxiety through aircraft industries. The British Aircraft Corporation alone has 8,000 men working on the project since it had been widely expected that they would give the go ahead to build the next four aircraft. Six of the aircraft already have been built, or are under construction.

[The U.S. supersonic transport plane, the SST, survived another test yesterday when the House approved a transportation appropriation bill that includes $210 million for the SST this year. The bill now heads into an expected filibuster in the Senate.]

The British Government was at pains today to emphasize that the ministers held a "constructive" meeting and, by implication, that one should not draw sinister conclusions.

The ministers had simply agreed, a Government spokesman said, that there is no point in committing the taxpayer to production expenditure that could be avoided until the aircraft's commercial future was clear. Some materials, which take a long time to deliver, have already been ordered for the additional aircraft.

The airliner's commercial potential will be discussed again at a ministerial meeting in February. Another meeting will be held in March.

Today's meeting "noted the satisfactory progress of flight tests, including the achievement of flight at twice the speed of sound by both prototypes," and the "encouraging nature of the results of the Mach 2 tests so far."

Mr. PERCY. Mr. President, I have sought to raise briefly some of the many problems presented by continued Federal involvement in the development and construction of the SST. I deeply regret that the cloture motion which has been offered threatens to cut off debate prematurely, before the problems can be adequately aired and the rebuttal attempts made.

Ordinarily, when I feel debate has been prolonged beyond the point of reason and is amounting to a thwarting of the will of the Senate, I am in the vanguard to call for cloture. But this debate on the SST is easily distinguishable: Because the Senate expressed its will in unequivocal terms when the SST was voted on 2 weeks ago by supporting 52 to 41 an amendment to delete the SST funds; because the conference committee has flagrantly ignored that mandate, its very makeup being contrary to Senate ruling, and because the present debate is necessary to uphold the will of the majority.

The Senate is in the uncomfortable position of having to crowd a full debate on this issue into the waning days of the session because of the Appropriations Subcommittee's delay in reporting out the DOT bill. The House passed the DOT appropriation on May 27; the Senate subcommittee did not report out a bill until November 25. The subcommittee spent four times as long considering the DOT appropriation as was spent on the next most time-consuming money bill. It took 6 months to move the bill through committee for floor action after the House had already acted. In the interim, five other appropriations bills cleared the House and the Senate: Agriculture, Public Works, Labor-HEW, District of Columbia, and military construction.

I think the cloture move is improper at this time largely because it was filed before we had enough time to fully debate the issues raised by the conference report. No one can reasonably question the fact that there are many problems presented by this appropriation. In my judgment, we threaten a great disservice to the American people if we thwart the opportunity for open and full debate on the issues. As I indicated earlier, I have consistently opposed filibusters in the U.S. Senate. But I fully support the effort being made now by those of us who oppose the SST, since we are acting in the best tradition of full debate. This is not a filibuster in the traditional sense. None of the dilatory tactics that usually attend such procedural maneuvering are involved here: No extraneous readings, no delaying quorum calls. Each man who has risen to speak has spoken directly to the issues for his allotted time.

The point is, Mr. President, there just has not yet been adequate time devoted to reviewing the issues posed by the SST appropriation. I urge my colleagues to oppose the cloture motion when it is voted on tomorrow morning, so that a full and adequate record can be made prior to the vote on the conference report. If we are permitted to debate these issues openly, freely, and fully prior to considering the conference report, I am persuaded a majority of the Senate will find that funding the SST gives them more than sufficient cause to oppose the DOT appropriation. We can then begin work immediately on either a supplemental appropriation or a DOT appropriation from which the problematic and misguided SST funding is eliminated.

Mr. President, I suggest that the difference between $290 million and zero is not $210 million. The cloture motion and the conference report should be defeated.

Mr. President, today's New York Times published an interesting article which is symbolic of many articles that have appeared in this country. There is no question that the sonic boom creates great damage. The military, the Defense Department in this country, have paid substantial damage claims against those who have been damaged; and others are, of course, pending. We in this body overwhelmingly passed a law which makes sonic flight over any part of the United States illegal, and certainly we can expect that other countries across the earth will take similar action. In fact, it would be unthinkable to me that a nation that has a parliamentary system of government that is responsive to the people would not pass such legislation.

It is true, of course, that in the Soviet Union, where development of a supersonic plane is also underway, there is not the responsiveness of the people to the so-called legislative body in that country. Thus, it might be possible that Communist countries would not enact this sort of legislation. I am not so sure that in Poland this morning there might not be a greater responsiveness to public will than there was just last week, however. Thus, it is possible that even in some

Communist countries there would be laws passed of this type. But I would say that if legislatures across the world adopt the same policy we have in this country, they will do so for good cause.

In the New York Times article there appeared an article under the headline, "Concorde's Boom Cuts $3,120 Swath on Britain's Coast." I wish to quote just one paragraph from that news report:

> A Welsh farmer reported that his cow, startled by the boom, suffered a miscarriage. A Cornish woman said her elderly father was rendered "shuddering and speechless." A woman in St. Ives said her electric fire was toppled over.

I am not quite sure how one assesses damage in the case of an elderly man who was rendered "shuddering and speechless." I suppose a court could assess damages. But, the distinguished Senator from Arizona indicated the other day, the sonic boom is, in his terms, unpleasant, but one can get used to it.

I just wonder how many pregnant women would get used to it and be willing simply to say, "Well, that is the price of progress," if they happen to lose their babies as a result of a sonic boom trauma.

So we can well expect that every habitable island and every land mass will pass legislation to prevent sonic flight.

If we take a look at our own flights which any of us might have taken in recent months or weeks and recognize how many times around the world that plane is over a body of land as opposed to being over a body of water, we will recognize that the efficiency expected of the SST is in great peril from its original specifications.

Yesterday in the Washington Post there appeared an even more illuminating article under the title "Chief Advisers Estimate Start of SST Fleet Figured at $5 Billion." An eminent scientist is reported as having made the point that I have tried to make many times on the floor of the Senate, sitting here as a body of legislators on this decision, sit as a board of directors. We are the board of directors responsible for investing or spending, and in some cases, we squander the taxpayers' money. It is up to us to determine the feasibility of a project, and it is certainly up to us to try to determine accurately what the cost is going to be.

That is just elementary. A child would be able to determine that one should not start a project unless he really knows what the cost is going to be.

In 1963 the Congress of the United States was advised by a letter from the President, then President Kennedy, that the Government should not invest a penny more than $750 million in this project. Certainly, I doubt that we would have gone into it if we had been told that the expenditure would almost be open ended and unlimited. The Congress of the United States started the project on the basis that it knew the limitation of expense and that the President of the United States had said we should not go one penny beyond that level. We are already beyond that level of funding. With this appropriation bill we will be approaching the one billion dollar figure.

And where is the plane? Can anyone get in it and fly it? Can anyone get in and test it? Has any flight testing been accomplished?

When the President of the United States said we should put a limitation of $750 million on the project, he meant that the amount should include the completion of the prototypes and all of the Government expense involved in testing those planes. We are a long, long, long way from testing those planes.

But now let us take an accurate reassessment. Let us look at all of the figures we have available to us. The representations that have been made in connection with this appropriation are that the limitation will be extended from $750 million to $1.3 billion.

I would like to say that any Senator who is so naive as to believe that that is the limitation on Federal spending in this project should be questioned seriously both as to the judgment he renders and as to the time he has taken to think the whole thing through. He has been put on notice by experts all over the country, certainly by his colleagues in the Senate, that the repayment of this amount is not only dubious, in the loose and strict senses of that term and he has been put on notice that the cost is not going to stop at $1.3 billion, but will probably go considerably beyond that. The loan of Federal funds is a "soft loan" if ever I have seen one and I would not anticipate the loan being repaid in the lifetime of any Senator now sitting in the Senate.

Consider what this Washington Post article of yesterday had to say. The article, written by George Lardner, Jr., states:

> The chairman of a special White House advisory committee on the supersonic transport (SST) has warned that another $5 billion may be needed to certify the jetliner and launched production of a commercial SST fleet. In other words, Dr. Richard L. Garwin, a member of the President's Science Advisory Committee, has said he was convinced "that it will take much more government financing than the Nixon administration has suggested to make the SST a commercial success." He pointed out that the builders of the controversial superjet have been repeatedly allowed to hold back proposals for financing the project beyond the production and testing of SST prototypes.
>
> The Boeing Co., which is building the SST, and General Electric, which is making the engines, were originally supposed to submit plans for financing certification and production costs by June 30, 1968. The deadline, Garwin said, has now been postponed until 1972.
>
> Meanwhile, Garwin said, the FAA has estimated that it will cost $600 million to certify plans and another $3.2 billion to finance initial production of commercial models. Both calculations, he added in a phone interview, were put in terms of 1967 dollars. Inflation, he estimated, will send these costs up to $5 billion by 1976.
>
> Supporters of the SST in Congress and within the Nixon administration have steadily insisted that private financing can and will take over once the two SST prototypes have been built and flight-tested, with an estimated $1.3 billion in government support.

Continuing to read the article:

> But Garwin, who has repeatedly recommended the government's abandonment of the SST, said he still feels that the 1,800-mile-an-hour jetliner will remain too shaky a project to get along with fresh federal funds, over and above the $1.3 billion.
>
> "After all," he told a Senate subcommittee earlier this year, "the prototype will not have demonstrated the actual capability of the production aircraft, nor does it need to any more."
>
> The FAA's initial contract with the Boeing Co., would have required the prototypes to have had the same aerodynamic configuration as a "safe and economically profitable production model."
>
> But under contract changes adopted last year, Garwin said, the production models can be different and the prototypes need only show that a successful SST program—financed either publicly or privately—"could emerge" from their performance.

Dr. Garwin is a noted physicist. He is an executive of the IBM Corp. He has been one of a number of distinguished scientists whom I have personally consulted during this past year, as I have been reappraising and reanalyzing my own position on the SST. He has been a scientific adviser not only to President Nixon, but to our two preceding Presidents. He headed an ad hoc scientific advisory panel, whose findings on the SST were submitted last year to Mr. Nixon's scientific adviser, Dr. Lee A. DuBridge, and to the White House.

If I might quote further from the article:

> Rep. Henry S. Reuss (D-Wis.) has said he was told the report labeled the SST "an economic fiasco, an environmental disaster, and a social outrage," but the White House refused to release the study on the grounds that it was "prepared for the advice of the President."

Mr. President, I do indeed wish that this body and its Members could have available every bit of evidence possible on which to base judgment on this project. I would urge the administration to make available to us such studies, as long as they were made by distinguished, prominent scientists whose judgment should be taken into account in making decisions of this character.

In view of the fact that the studies have not been released, we must proceed simply on the basis of our own best judgment. I have spent many hours with Dr. Garwin, not saying to him, "Give me arguments that I can use to oppose the SST." I went to him with an open mind earlier this year, when I had not made a definite decision, and said to him, "I would like a balanced judgment on both sides as to the pros and cons of the SST." I have gone to other experts as well, such as Mr. Magruder, with whom I have consulted several times, and have said to him in effect, "Give me every conceivable argument you can in support of the SST."

Thus I have tried to listen to both sides. But as of yesterday, Dr. Garwin reaffirmed his opposition to the SST. As of 2 weeks ago, General Quesada, former FAA Administrator, reaffirmed to me his opposition to the SST. In fact, he said.

> I feel more strongly than I did before this, because the financial condition of this country is much more imperiled than it was when I made my original judgment.

Now, as we sit here in the position of a board of directors, can we say to ourselves, "We cannot take into account changing circumstances"? Should we not

look at changing facts? Should we not take into account that the great Boeing Co., one of the truly great companies in this country, if not in the world, has had to compromise steadily in meeting the specifications they originally agreed to adhere to because of the difficulty of the project they have been given?

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. PERCY. I am very happy to yield to the Senator from Wisconsin.

Mr. PROXMIRE. From time to time during the course of the debate, several of us have pointed to the great financial difficulty that the development of a supersonic transport would put the airlines in. I think the Senator has referred to the position of General Quesada, who is a Director of American Airlines and the former Chairman of the FAA, and who knows much about the economics of the airline industry.

But I think we should also consider the effect this plane might have on the Boeing Co. The reason I raise this point especially with the Senator from Illinois is that the Senator from Illinois is a businessman; he understands the very difficult problem, these days, of securing financing and of finding reliable customers who are able to buy your product and financially able to pay for it.

I ask the Senator from Illinois to consider the position that Boeing is now put in, in view of developments in the Senate and the House of Representatives, the questions that have been raised concerning the environment, and so forth.

If we should agree to provide an additional $200 million toward production of the SST, it would mean that the cost financing research and development of the SST to the Government would be about $1.5 billion. It would mean that the program will be delayed longer. On the basis of everything we have seen, the cost per copy of these planes is likely to be $50 million or more.

Would not the Senator from Illinois feel that the Boeing Corp. would be in considerable jeopardy, under those circumstances? Are they not involved in producing a plane costing $50 million apiece, that can be used only under unusual circumstances with its customer industry which is now in serious financial straits? Is not the airline industry one in which no single concern has made more that $50 million in any one year? Does this not mean that Boeing is proposing to sell them a product which costs $50 million apiece, and which will require extensive financing at a time when those customer airlines are having great trouble financing the purchase of the present subsonic jets?

Under those circumstances, does it not occur to the Senator from Illinois that the Boeing Corp. might be in very difficult circumstances if we should proceed with the SST through the prototype? Then would they be in the position, of course, of getting no further payments from the Government? On the other hand if we stop it now they and General Electric would get default payments. But if we continue they would be in the position of having two prototypes, and customers, that is airlines which are in very serious financial difficulties. Is it not true we do Boeing a favor by stopping this SST now?

Mr. PERCY. Am I correct in my recollection that the distinguished Senator from Wisconsin began his career as an investment banker?

Mr. PROXMIRE. Well, it was with J. P. Morgan & Co., at 23 Wall Street, in New York.

Mr. PERCY. Then I would simply say that the distinguished Senator from Wisconsin has not forsaken his early training and experience, and thank heaven he has taken into Government the approach that a banker might take when looking for return on an investment. I have seen, throughout the Senator's career in the Senate, a constant watchdog attitude toward the taxpayers' money, and I think at the end—and I hope to be in this body long enough to be able to say this has been proven true—that the distinguished Senator, as a former investment banker, probably by his courage and forthrightness and tenacity in this position not only will save the aircraft manufacturers and the Boeing Co. from possibly becoming another Lockheed or another Penn Central, but also, he is going to keep the airlines of this country in the private sector and not have them taken over by the Government or the banks because of their huge bonded indebtedness, which would be just skyrocketed if they had to finance the SST purchase.

I back this up not with just my own analysis and feeling, but also the testimony given personally to me by a former chairman of the board of an American carrier, one of the oldest airlines in this country, a name that is revered and respected and has been for the last 35 years of American aviation.

He said to me that this is not a $1.3 billion decision. Nor is it, as Dr. Garwin, scientific adviser to the President, said yesterday, a $5 billion decision; because that is the initial, basic figure he said we are going to have to appropriate in order to just get the production models going. But my informant advises me that the Senate had better face up to the fact that this is a $20 to $25 billion decision, because the project cannot possibly pay back, as it is anticipated it will, unless we build 500 airplanes. Even at the minimum figure of $50 million a copy—and no one believes that the last hundred would be $50 million if the first ones are $50 million—there is not enough money in the aircraft industry, airline carriers, or the manufacturers, or certainly the banks, who apparently are not willing to put a penny into this, to finance the production, other than coming right back to you know whom, Uncle Sam, and tapping the Federal Treasury. We would have to borrow the money to do it. Where is the $20 to $25 billion of production funds coming from? I would say we are going to be back in the public till time after time after time, trying to find the funds.

Talk about soft loans to developing countries, this is certainly a soft, soft loan; and I do not expect that we would ever see the repayment in the lifetime of any Member of the Senate.

So I think the point raised by the distinguished Senator from Wisconsin is a very pertinent one. I think that when the SST is finally rejected at this stage and is shelved for now, until we have seen our way clear to solving many of the problems, including how we finance it, by that action we will probably have taken the biggest single step toward keeping the airline manufacturers and the airlines in the public sector and not having them slip over into the public sector, as has happened in many countries around the world.

Mr. PROXMIRE. In addition to the hazards of the Boeing Corp.—and those hazards are very considerable. No. 1 the plane will not be built if they cannot solve environmental problems which many people feel are insoluble. The plane will not be built if the market does not develop the way the most optimistic proponents think it will develop. If the market develops the way many indepedent economists say, that is with few if any, built—under these circumstances, does it not appear that the workers at Boeing and at General Electric, working for the subcontractors, would be better served by a prompt decision to provide alternative work to solve some of the other enormously important problems we have—pollution and housing? Would they not be better served in the long run if we made this decision promptly? Should not we make it now?

Mr. PERCY. Absolutely. For the great Boeing Co. to be putting so large a proportion of its resources behind this dubious project because of the nature of this contract, I think it must be disheartening to the workers involved.

Talk about make work: If the only purpose in going ahead with this is to provide some sort of west coast WPA project, then I should think there would be far more useful things on which the same skilled people could be working. I would certainly like to see the same group of people be given responsibility for solving some of the really urgent problems in our country. It is terribly important to this country for instance to save time in commuting.

But let us take the amount of time a person would save in flying on the SST. Who is going to save the time—a tourist? A tourist, once he gets to jet speed, is not interested, as the FAA found, in paying a premium for getting some place faster.

In fact, the airlines try to make the passage pleasant. They show movies. They serve lovely meals. They try to make it an experience. They have attractive girls. It is a lovely experience. The tourists to whom I have talked looked forward to that plane ride. We used to take ships to Europe, and people enjoyed it. It was the only time for 5 days that they could get away from a telephone. I have spoken with people who have said that the only time they can get work done or read or can get away from the telephone and unravel is to get on an airplane. We are going to put that person on the SST and he will get off before he can unravel.

Already, there is not enough time to serve a meal between Cleveland and Chi-

cago. You are up at cruise level 10 minutes; they are accelerating up and going down the rest of the time. I used to go between those two cities and enjoy the transportation. Now it is too fast.

Who are the people who are willing to pay the cost? Approximately 20 percent of the travel is by people traveling on business—Government employees, sometimes Senators and Representatives, but for the most part business executives. Where do most of those business executives live? Los Angeles or San Francisco, let us say, and New York.

So consider the Los Angeles and San Francisco business executives. I looked through the Boeing Co. presentation on the SST. At present, ordinarily if an executive wants to get from London to San Francisco, he goes the polar route; but, for some reason or other, the Boeing Co. now has him going across the country and back on the return trip from Los Angeles to New York, and then supersonic speed from New York to London. Thus he is flying at subsonic speed for 3,000 miles, at a considerable increase in cost because of the very unfavorable cost distribution figures on an SST as compared to a subsonic jet. Consequently the SST will even penalize that business executive a little.

The business executive who is advantaged is the New York business executive, who can get right on the plane there—that is, if the city of New York permits an SST to land; right now they say they will not, but assume they remove the barrier—and gets off in London. He has saved 2 or 2½ hours—that is, if he can land, and depending upon other factors.

I would like to ask the Boeing Co.: Is that the problem we are trying to solve? We ought to be trying to solve problems. We have enough of them. In building the SST are we merely trying to save that New York business executive a few hours a year? Let us say he takes three trips to London, and thereby averages 10 hours in time saved by supersonic flight. If the goal is to save a business executive some 10 hours, I would say the quickest way to save them time would be to try to get them home sooner to Scarsdale from Manhattan, or vice versa. Just try to save them 10 minutes. That would be quicker and better. If Boeing could do that, they would be performing a service for which there is a considerable market in this country today, not the very limited market that, I would say, we have with the SST.

In fact, Mr. President, I was very much pleased to read an article in the Chicago Sun Times for December 15 entitled, "HUD To Train Idle Scientists as Urban Affairs Specialists."

If we are concerned, as I know we are, about the scientists, engineers, and technicians who would be released from the Boeing Co. because of the cancellation of the SST, I would say that we should take a page out of the book of Secretary Romney who has looked at the pool of idle scientists and realized that they could be helped and the country could be helped because we need their expertise. We need all who can contribute to our problems.

Let me read the article from the Chicago Sun Times' article because I think it provides an answer to those who say, "Do not cancel the SST because it will put people out of work at Boeing":

HUD To Train Idle Scientists as Urban Affairs Specialists

The Department of Housing and Urban Development is in the final stages of planning a campaign to train and place thousands of unemployed scientists as urban affairs specialists in local and state government.

The aim is to fill an existing shortage of urban experts from the expanding pool of scientists left jobless by federal research cuts, financial troubles of many universities and slashes in space and defense spending.

A HUD spokesman said Monday final plans for the program should be complete in the next few weeks. There are strong indications it will receive speedy White House approval, administration sources said.

The government would use money from existing programs for special college courses and on-the-job training for as many as 20,000 of an estimated jobless 45,000 scientists, the spokesman said.

It is believed that a physicist, for example, can receive additional training in a relatively short time as an urban planner or systems analyst. He then would be matched on a three-year contract with the city needing such a specialist.

Model Cities branch of HUD has been successful with one small pilot program attempting the conversion of scientists for employment in its Washington office, the spokesman said.

Cities which require specialists for planning and operating urban renewal in Model Cities programs often appoint consulting firms rather than full-time employees.

At present they have no money for extensive recruitment of on-job training of scientists for the new disciplines.

The program would begin with several thousand scientists in such hard-hit areas as Boston, Wichita, Kans., and Los Angeles and cost less than $5 million initially, a HUD official estimated.

Such retraining for scientists would be the Nixon administration's first such step in carrying out its promise to plan a smooth transition between wartime economy and a peacetime one.

The scientists would be paid on some still undetermined scale while being retrained. Their salaries later would be paid by the governmental units hiring them.

Mr. President, I think that this article illustrates the principle that whenever we have to face up to priorities in the country, we can meet that demand.

Once it is determined that we do not need a product, adjustments should be made.

I know that when a business discerns changing needs in its customers, it sometimes is inconvenient to tear down the assembly line, to retrain people who have been engaged in making that product; but this decision is made by the customer. It is made by the citizen who is the purchaser. By the nature of our economic system, he can dictate to all the producers in this country what he or she wants, and it is up to the producer to reorder and start the production lines to meet that need.

Through the whole course of history we have done that.

It is something of an inconvenience to a buggymaker to have to readjust his whole production schedule when, over a period of time, people phase out the purchase of buggies because they feel that the automobiles will serve them better. That buggy maker can hang on. He can keep producing buggies. He can continue his research along that line, trying to develop that mode of transportation for a long time to come, but he will go bankrupt if he keeps it up too long. An adjustment has to be made.

So too with the refrigerator. It is an inconvenience to the icemaker or the salesman, and it is an inconvenience to the icebox maker. But the refrigerator is going to take over and the icemaker and icebox producer had better adjust to those production schedules.

So we face this same agonizing situation as a country when we have decided to scale down certain defense spending, to deemphasize the production and development of certain types of weapons systems, and move those funds into other areas. In a free economy, the people involved have to make the individual decision to adjust their skills, to carry them into an economic structure that can better utilize their skill.

Has the country itself made a decision on the SST? I think it has. I think that this is the kind of problem the citizens of this country are competent to judge.

Many times I have been told, when we completed analysis of certain military project in trying to set the appropriate level of spending, "Well, you really do not understand that." I do not understand why it is impossible for me to understand anything that is in the military budget, if someone would take the time to explain it to me, or I took the time to study it. After all, I was a contracting officer for the U.S. Navy here in Washington 30 years ago, and for 25 years I was a defense production contractor. I felt I was competent to judge whether an item was needed or not needed. I think many others in this body described that they were competent to judge, and that we should not serve simply as a rubber stamp on a budget that was presented, simply because it had gone through the Armed Services Committee and we were told, "Well, this is sort of sacrosanct to the defense of the country. It is too complicated for anyone really to understand."

The more we penetrated, probed, and dug into projects, the more we began to understand that they were not all that complicated, that certain foolish mistakes were being made, that were being papered over.

It would have been a good thing if the Department of Defense had listened to the Senate discussion of the F–111, the TFX airplane, as this project was questioned many times. Now some $7 billion to $8 billion later we have found, to our dismay, that the cost was exorbitant and that we should not have stayed with the project as long as we did.

So, too, I think it is possible for the American citizen to make such judgments on the SST. After all, it does not involve a complex series of questions. They can ask themselves: Is it in our national defense to develop this? Is the future defense of this country dependent upon our having an SST?

They do not have to go any further than their own representative in Congress, or Senator, or the local army unit, to determine that there is no requirement by the military for the SST. The military cannot afford to put that kind of money into a plane to move personnel or materiel and equipment with the low ratio of payload to the overall expense.

They feel that the cost of moving goods and services and equipment and personnel at that speed and at that cost is exorbitant. So, they have not been willing to put one single cent into it.

There being no military requirement for the SST, the taxpayer can say, "Therefore, the defense of the country is not involved. The SST is therefore intended to serve the civilian economy. What is our need for it? What will it cost me? Am I inclined to use it?"

I think that 90 percent or more of the taxpayers would quickly assert that if it can't be available and ready to fly at a cost of no more than the conventional 707 or 747, they are not willing to pay that higher cost. In fact, 90 percent of them would probably say, "I have no intention of even getting on a 707 or 747 to go abroad. I do not have the hope of doing it. Why would I then, if I am not even planning on going abroad in my lifetime, want to support the economic investment necessary to get there a little faster than otherwise?"

So we are down to about 10 percent of the people. I would say this is why the country has overwhelmingly rejected the concept. This is why those Senators who are proponents of the SST refused to let this question come to a vote before the election. As one of them said to me:

> We have no intention of having Senators committed on this question when they have to go before the electorate to secure reelection this year. We do not want this to be an issue in this campaign.

There was a conscientious effort to withhold the matter as an issue when we were ready to go on the floor of the Senate long before the election. It was withheld until after the election was over, after Senators no longer had to be accountable to the people, after our feet were no longer held to the fire, and after Representatives and Senators had been subject to the direct scrutiny of the voters. Then and only then, after the elections, were we willing to face up to the issue.

But even then, to the astonishment of the proponents of the SST, the Senate overwhelmingly rejected the SST.

Is it any wonder that we who feel we have won the battle now insist upon carrying our story to the rest of the Senate and, hopefully, have it heard by the House? We intend to carry the story to the rest of the people in the country as well who might not have made up their minds as yet. If we were to leave the decision to the people in the country, there would be no question that the SST would be overwhelmingly rejected.

Thus we get down to the question of how we can use this money which would otherwise go for the development of the SST.

I would like to make this point crystal clear. The money we are talking about spending on the SST is money that we do not have. There is no surplus in the Treasury. We do not have any funds idle and available. We are not looking around and saying, "We have some money. What are we going to spend it on?"

We do not have any money. We are going to have to go out and borrow the money, and from whom? We are going to have to go to the very bankers who have consistly refused to finance the SST themselves. We are going to have to borrow the money from them or we are going to have to go to the taxpayers and somehow get the additional revenue from the taxpayers. Either now or later the taxpayers will be required to finance something they have overwhelmingly said they do not want.

What a ludicrous position we are in. In addition to borrowed capital, we are going to have to pay a very high rate of interest.

As a matter of fact, the cost involves much more than just money. The cost will come out of the hides of the people in several different ways. We all know that money borrowed by the Federal Government puts an upward pressure on prices, particularly on the cost of money.

As the prices inch up, maybe it is only a half a percent this month and a half a percent next month, and as we total up at the end of the year the significance of 6- to 7-percent increases for food, 10-percent increases for clothing, and increases for rent, we begin to realize the seriousness of the matter.

The people in some of the cities are now up in arms over the rent increases they are experiencing. Who have we hurt? Have we hurt the business executive that is going to go to London on the SST? Obviously not.

Have we hurt the affluent American who might be traveling to Europe or around the world who might not want to fly the SST until after all of the bugs are out of it? Many people have not gone on the 747's as yet. They are going to wait and see.

The cost of an idle $23 million aircraft is enormous for the airlines as well. One of the airlines has six 747's in mothballs. The people are not using them. The cost, therefore, to the public is even greater than the inflationary cost.

The committee involved in banking, housing, and urban affairs will be hearign testimony in the next session of the Congress. In private talks that I have had, the former Director of the Budget, Dr. Charles Schultz, indicated that there is a direct 1 for 1 ratio between funds borrowed by the Federal Government and a dropoff in housing. In other words, there is an upward pressure on interest rates. As interest costs go up with Government borrowing, the number of dollars going into the private housing market reduces $1 for every $1 borrowed by the Federal Government. So in the case of the SST, year after year, the $290 million or $300 million that is put into that project by the Federal Government—all of which has to be borrowed by the Government—comes out in part of the housing market. As the housing market reduces in size and scope, people are laid off. They are laid off in the very States that are building the SST, so that the people who are laid off in the lumber industry, in lumber mills, in furniture factories, in all of the appliance manufacturing industries—whose sales vary somewhat with the new housing units that are started—are adversly affected by the decline in the housing market.

As we know, as the housing market gyrates up and down, it causes tremendous implications throughout the American economy.

I would say that there is no single industry in this country in which there is a greater correlation between a drop in the basic industry—housing—and the drop in the other industries that service it. A very high proportion of American workers are involved in housing and in furnishing houses.

It reaches into the textile industry to the extent that the making of rugs can only be used to furnish the new housing that it created. The carpet manufacturers rely for their markets on new housing. So we have a maladjustment because we are forcing people to spend their time, energy, and effort on the SST, which serves one of the lowest needs in any order of priorities we could ever make up. We find money being forced into that market. We find, as we pump this money from the Federal Treasury into that market it is necessarily being drained off someplace else. It is as a consequence causing people to be laid off in other areas.

I again refer to the other specific illustrations I have mentioned before where we have turned down funds for mass transit, and we have turned down funds to build hospitals, day care centers and neighborhood health centers. We have turned down funds for training people to go into service industries and we have turned down funds for people to go into sophisticated industrial operations—all because of the lack of money.

We lack $300 million of that money because we are artificially forcing it and diverting it into this project which the country neither needs nor wants.

The argument has been made that our prestige is involved. I just do not know how much prestige there is in owning and operating a big white elephant. There is no prestige for any country which operates a big white elephant. I do not notice that the Ford Motor Co. talks a great deal about the Edsel. It pumped a lot of money into the Edsel. I suppose many people said, "We have to have it." But finally Henry Ford, who is a realist and who used the same kind of judgment each Senator is responsible for exercising today, said, "We have reached the point where there is no further advantage to the country or the company in pursuing the Edsel." He made the courageous decision to say, we made a mistake. The Ford Motor Co. is better for it and the country is better for it.

That is the decision I think the Senate should make. We should forthrightly say, "We made a mistake." We rightly responded to Sputnik by going to the moon and putting satellites around the earth. We felt that the SST would have a comparable impact on the world. Well, I can

certify that the Concorde has no impact even in England, much less around the world.

I was in England recently when the newspapers announced that everyone could watch the Concorde, and suggested people stop their cars and watch when it was going to cross the country, according to the announced schedule.

I was on the road to the airport. I thought, "My heavens, we are either going to be blocked out there or we are going to have to clear a way because everyone will be pulling off the highway to see the Concorde."

I did not see more than a car or two stop. I did not hear it discussed. People just did not seem to care. This is not another man-on-the-moon project. It is a potential white elephant, and even if it is successful, it will not bring great prestige to this country.

If it is built, it will be sold at a loss; every single one of the planes we underwrite and sell will be at a loss. The only prestige or notoriety we will have is that the United States will become the biggest polluter in the world. I expect the SST to be just about as popular with the people of the world as it is with the Sierra Club, and I can speak to the popularity of the SST within the Sierra Club.

I have a telegram from Mr. Phillip S. Berry, noted and respected conservationist. In his telegram he stated:

> The *Sierra Club* believes that legislation passed by the Senate to control flights of supersonic transports within the continental United States is wholly inadequate to protect against adverse environmental impacts of SST operation, including noise levels, pollution, massive fuel consumption, etc. to prevent world-wide environmental degradation from SST operations we urge your support of the Proxmire amendment to delete $290 million from the Department of Transportation appropriation bill for further subsidy of the SST).
>
> PHILLIP S. BERRY,
> *President, Sierra Club.*

Mr. President, there has been a great deal of discussion about the environmental hazard. I have spent probably less than 10 percent of my speaking on this project discussing the environmental hazard involved, even though I consider it very important. I have tried to prove simply that this is a bad investment for the taxpayers of this country. There is not a company in this country that could go before its stockholders and receive support for any major part in financing this project. There is not a bank in America that would finance this project. Why, then, if the bankers will not finance this project should we, after the election is over and 2 years before the next election—when we sometimes feel the people will perhaps forget how we voted—stick the taxpayers with the cost of this project? We have so many other urgent projects to carry forward.

So, on the basis of the economic viability of the project and its failure to meet those specifications, and the fact that this decision will otherwise be on the floor of the Senate every single year for as far as I can foresee in the future, I think the time has arrived to bite the bullet, and make the decision.

A majority of this body has said, "We want no more money spent on the SST." We did not say, "We want some money spent." We did not say, "Let us build just the front half of it or just the back half of it or just three-fourths of an SST." The Senate said, "We do not want to build any SST."

In addition, it is not in the nature of the order of priorities of this country to proceed with the SST. The so-called compromise that we were given does not impress me one bit because the difference between $290 million and zero is not $210 million, and the difference between go and no-go is not, "Let us go slower." We made the decision not to go ahead with this project and that is the decision which the Senate should stick to; it is the decision the conferees should have maintained.

I do not blame the conferees who, contrary to Senate rules, were appointed and were almost all proponents of the project. I cannot blame them when in their hearts they could not carry out the will of the Senate making a halfhearted attempt, or, in their judgment at the time, a wholehearted attempt; but from the end result we can only say it was a halfhearted attempt to stop the project.

It is for this reason we feel we must carry on this dialog. We must continue to bring out new facts, and I believe we have many, many new facts that need to be brought out. If anyone would say the weight of evidence is still not in favor of the opponents of the SST, I would remind that person that there are still many witnesses whose views have not yet been aired in this debate.

I have myself received thousands of communications on this issue. At some time, I should like to read them into the RECORD so that the RECORD will reflect the comments of some of the thoughtful people in the State of Illinois who represent a cross section of the views of my constituency. These are people deeply concerned about their country and they are people deeply concerned about the symbol the SST represents, a symbol of whether or not the will of the people shall prevail over the will of some private special interests in the reordering of our priorities. At the appropriate time, I should like to give the Senate the benefit of being able to hear and, if they wish, to debate the judgment reached by a representative group of citizens in my State who have thought through this project and who have expressed to me in unequivocal terms their opposition to it.

In fact, the only support of any consequence for the SST I can really find in my State comes from those who would be in some way or other directly subsidized or benefited by the project. Even to those contractors in Illinois—and I like to bring contracts into the State of Illinois; like anyone else, I would like to see our economy expand and grow—who would receive a total of some $33 million which they would derive in benefits from the $1.3 billion, my answer is very clear: If you are asking me to judge this on the basis of what is best for Illinois, my decision is a resounding "no" to the SST, because while we would gain $33 million in contracts, and would put some people to work, we would (a) be building something that the people of Illinois overwhelmingly do not want the U.S. Government to build, and (b) be assessing the people of Illinois their proportionate tax share of the $1.3 billion cost—some $115 million. I would therefore have to say that to invest $115 million to get back $33 million is, even for the State of Illinois, a pretty poor investment. To those contractors who say to me, "You have got to keep fighting for the contracts for Illinois," I say, "My job is to keep defending the taxpayers of Illinois who are going to have to pay for these contracts three to four times over."

There are some States, of course, which might receive what might be called a surplus in their balance of payments; they will actually receive back into those States more for the project than they will put out in paying their proportionate share of taxes. But I would say to those distinguished Senators who represent that point of view of their own constituents, it would be my hope that we would build something, with those same people and those same facilities, that will fill an urgent need for the country.

I can recall when I came to Washington as a contracting officer, many years ago in World War II. I was in the Navy as a gunnery officer in charge of production control for aviation fire control equipment for the Navy Air Corps. I had left a company that had built a torpedo director for an aircraft, and was interested in that torpedo director, which involved millions and millions of dollars for our company. I was still a stockholder for the company and was still retained on the payroll, as many times young men who went into the service were. For that pay I had to send every single month a report of what I felt the company should be doing when the war was over. So I was really retained by that company. The amount was only $50 a week, but it made a big difference to a yeoman in the Navy to have this additional compensation. I felt a loyalty to that company.

But I was shocked when I went to the Bureau of Aeronautics and saw a director there from COMAIRPAC saying that the Mark 30 torpedo director should not be used in combat. The computations were so complicated that by the time the pilot put those computations into the director, he was in range of the target. We were losing too many planes. The COMAIRPAC directive said to use the seaman's eye in lieu of the torpedo director.

I went back to my commanding officer, who will be nameless, and said:

> I would like to show you something that I found on the torpedo director.

He said, after he looked at it:

> That is none of our business. It is our job to build them. It is their job to use them, and if they are not going to use them, they should tell us. We have received no such communication from them.

After a rather heated discussion extending over a period of several days, I finally received permission to bring this matter to the attention of other officials in the department, and my commanding officer and I began to work together, and it resulted in a cancellation of contracts to my own company amounting to millions of dollars.

Because I had been so instrumental in his matter, I felt obligated to call the ompany, to notify the President, and to ffer to resign, but I indicated at the ame time that, in my conscience, I did he right thing. I felt that, in the midst f a war, a company should not be work- ng on products that were not needed. Even though the cancellation of that roduction would cost much, and the acilities would have to be torn down, nd the company would have to get other ontracts, I thought it was the right hing to do, and I was notifying the com- any of what I had done.

After a long pause, the President said ords to me that I will never forget:

You did the right thing. Don't worry bout our adjustment. We should not be pro- ucing anything that the country does not eed or want.

I have said many times on the floor he great Boeing Co. is truly one of the reatest companies I have ever worked ith. I was instrumental in trying to ring their management deeper into the pace program than they were when I as a member of the Space Committee. know their management. It is a most istinguished management team, with reat knowledge, and they lead a really fficient and well-organized company hat has made tremendous contributions o this country and to the field of avia- ion.

If the country's decision is not to pro- uce this plane and if the decision of his body is not to produce the plane, hen I will be in the forefront of those ho say that adjustments and costs must e met because this company in good aith has proceeded in accordance with irectives it has received in contracts ith the U.S. Government. I would be he first to say we should pay fully for he cancellation costs. I would put that ompany in the same category as I would ut any small business, and I am a de- ender of small business, who thinks they hould have priority in receipt of Federal ontracts. I would give every conceivable onsideration to the Boeing Co. for addi- ional contracts that would place skilled eople immediately to work on meeting ew needs to solve new problems that are eal problems.

If that is the decision of the Congress f the United States, I would hope to be orking very closely with my distin- uished colleagues from the State of ashington, who share, firsthand, the reat respect I have for the Boeing Co. would be the first to work with them in nding an equitable adjustment if, by ction of the Congress of the United tates, this project is shelved, or termi- ated, or mothballed, or whatever one ants to call it at the present time. I ould help to find a way to devote those esources, money, and talents to solving eal human needs, rather than continu- g to lose money on the basis of a very, ery sketchy, skimpy, skeptical case that believe has to date been made for the ST. The case for the SST is, I feel, full f holes and simply will not stand up nder the test of sound investment of he taxpayers' money.

THE 18-YEAR-OLD VOTE

Mr. MAGNUSON. Mr. President, I have just learned that the U.S. Supreme Court has upheld part of the 18-year-old vote amendment to the Voting Rights Act of 1970. As one of the principal sponsors of the 18-year-old vote amendment to the act, I am truly gratified, as I know Senators MANSFIELD and KENNEDY must also be.

Not only will this measure, as upheld by the Supreme Court, extend the right to vote to 10 million young Americans—at a time when their involvement is so important to the political processes of this Nation—but also extends for 5 years the most effective civil rights measure of modern times, the Voting Rights Act of 1965.

I have not yet read the entire opinion of the Supreme Court, so it would be inappropriate to comment on the reasons why the Court did not uphold the extension of the vote to 18-year-olds in State and local elections. I certainly am pleased, however, that the Court did extend the franchise to 18-year-olds in all Federal elections.

My experience in this matter goes back a long, long time. I was a member of my State legislature in 1933, and at that time I introduced in the legislature a bill which would permit 18-year-olds to vote. I happened to be chairman of the judiciary committee of the house in my State at that time, and the committee passed my bill unanimously. But the rules committee of the house refused to allow it to come to the floor for a vote.

I must state, frankly, that this has been one of the longest and most difficult legislative endeavors which I have participated in; yet, today is one of my most satisfying as a U.S. Senator.

Mr. President, I ask unanimous consent that at this point several articles and reprints on the 18-year-old vote be printed in the CONGRESSIONAL RECORD, including an article entitled: "Senate Approves Vote At 18 In All Elections" published in the Washington Post at the time the Senate voted, 64 to 17, to lower the voting age. I also ask that the Supreme Court decision written by Mr. Justice Black be included at this point; this is only a portion of the very lengthy opinion.

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

SENATE APPROVES VOTE AT 18 IN ALL ELECTIONS

(By Spencer Rich)

The Senate, on a 64-to-17 roll call, voted yesterday to lower the voting age to 18 for federal, state and local elections.

The proposal, sponsored by Senate Majority Leader Mike Mansfield (D-Mont.), Majority Whip Edward M. Kennedy (D-Mass.) and Sen. Warren G. Magnuson (D-Wash.), was tacked on a voting rights bill that is expected to pass the Senate today.

The amendment would boost voting age population by some 10 million persons once it went into effect at the start of 1971, including 204,000 in Maryland, 46,000 in the District of Columbia and 286,000 in Virginia.

But it faces formidable obstacles before it can become law. House Judiciary Committee Chairman Emanuel Celler (D-N.Y.), who will handle the whole voting rights package once it is sent back to the House, has repeatedly expressed his opposition to the proposal and has promised to "fight like hell" to kill the provision.

If the overall voting rights measure goes to a House-Senate conference, Celler will have a chance to kill the voting-age provision there.

"I think Celler will probably stop it," said Senate Minority Leader Hugh Scott (R-Pa.) yesterday.

Some Senate backers of the amendment believe the best chance of putting the provision through the House lies in getting Celler to agree to an up-or-down vote on the whole Senate rights package without going to conference.

The House last year passed an administration bill that scraps the 1965 Voting Rights Act in favor of a different scheme of voting rights protection which civil rights groups consider inadequate.

The Senate, however, is expected to approve today a substitute voting rights measure, sponsored by Scott and Sen. Philip A. Hart (D-Mich.), which extends the 1965 act for five years, abolishes residency requirements for presidential elections and bans literacy tests all over the country.

Celler favors these Senate provisions and will be under pressure to take the whole Senate bill and avoid a conference in which Southern senators might strive to block the five-year extension of the 1965 act.

Still another obstacle, even if the 18-year-old voting provision ultimately clears Congress, will be a court test of the constitutionality of lowering the voting age by statute, rather than by a constitutional amendment.

The idea of using the statutory approach and tacking the 18-year-old vote provision onto the voting rights measure was first conceived by Kennedy, but he appeared ready to drop it because of fears it might endanger final House acceptance of the Scott-Hart substitute. Mansfield then took up the proposal and pressed it forward to yesterday's vote.

Mansfield said he decided to do so when, following a late Saturday session of the Senate Feb. 28, he gave Magnuson a ride home. During the ride, Mansfield said, Magnuson told him, " Mike, you know Kennedy has a pretty good idea. I first introduced it in the Washington state legislature in 1933. Why don't you and I get together and introduce that as an amendment to Scott-Hart? Ted's in Ireland, but what do you think?"

"I said I'd think it over," said Mansfield. "Next day I saw him and said, 'I think your idea's a good one. I'll introduce it in all three names.' And I did." Mansfield singled out Marlow W. Cook (R-Ky.) for special praise in helping on the amendment by proposing a Jan. 1, 1971, effective date, which Mansfield said strengthened the amendment.

The Senate had been expected to complete action on the whole voting rights package yesterday, but Sen. James B. Allen (D-Ala.), as he had on Wednesday, offered a series of amendments that consumed most of the day. One Allen amendment, to make voting by 18-year-olds effective in 1973 instead of 1971, was rejected, 72-to-15. Another, to repeal all the key sections of the 1965 Voting Rights Act, was defeated, 63 to 15. Also defeated by voice vote was an amendment by Jack Miller (R–Iowa) changing coverage tests under the 1965 act.

Allen then said he wished to add to the administration bill two key provisions which were also in the Scott-Hart substitute, so that when the test vote between the two comes in the Senate today, the only difference will be that the Scott-Hart measure continues the 1965 act for five years and the administration measure does not.

This was done on roll calls of 69 to 15 and 78 to 5. The two provisions were the 18-year vote which had just been tacked onto the Scott-Hart substitute and a revised ban on residency requirements in presidential elections.

In yesterday's roll call on changing the voting age, Sens. Charles McC. Mathias (R-Md.) and William B. Spong (D-Va.) voted in favor, and Joseph Tydings (D-Md.) was paired in favor. Sen. Harry F. Byrd Jr. (D-Va.) did not vote.

[From the CONGRESSIONAL RECORD, Mar. 11, 1970]

VOTING RIGHTS ACT AMENDMENTS OF 1969

Mr. MAGNUSON. Mr. President, will the Senator yield me 5 minutes?

Mr. MANSFIELD. I yield 5 minutes to the distinguished senior Senator from Washington.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Washington.

Mr. RANDOLPH. Mr. President, I ask that the Senate be in order. We have indicated that this is a very important subject.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. RANDOLPH. Mr. President, I hope we can listen to all Senators who speak on the issue in this body today.

Mr. MAGNUSON. Mr. President, I thoroughly agree with the Senater from West Virginia that this is a very important matter. Taking progressive action is long overdue.

I am a cosponsor, with the Senator from Montana, of this amendment. As a matter of fact, we discussed it at some length, the two of us, before offering the amendment. I feel responsible not only to make my position clear on this issue, but, because the Senator from Montana and I cosponsored the amendment originally, to clarify my position on its constitutionality.

There is no question about the legality of the constitutional amendment approach. But for many, many years this approach has failed and unless we act forthrightly with this amendment to the voting bill—it will drag along many, many more years.

My experience in this matter goes back a long, long time. I was a member of my State legislature in 1933, and at that time I introduced in the legislature a bill which would permit 18-year-olds to vote. I happened to be chairman of the Judiciary Committee of the House in my State at that time, and the committee passed it unanimously. But the Rules Committee of the House refused to allow it to come to floor for a vote.

That was a long, long time ago, and we have never been able to get the Washington State Legislature to act on the matter until the last session—and then they did not pass it, but instead submitted it to the people, who will vote on it in November, at the general election.

That has been an issue in Washington State for some 36 years, and I think that the young people of my State and this Nation are justified in suggesting that they want some action on this matter, and they want it now. This is a method by which I think the Senate can express itself as to its conviction about the right of 18-year-olds to vote.

I need not go into all the reasons or arguments, I know that many of us have said on many occasions in our home States, in talking to groups of young people, that the most potent argument we can think of is that if a man is old enough to fight for his country, to bleed and die and serve his country, he or she is old enough to have a say in how this country is governed. That is one argument.

The next argument is this: I do not depreciate those of us who are a little older, but I think the young people today are better informed than we were at age 18, 19, 20, and 21.

I think they can assume this responsibility in a fuller way than we could have; in fact, the young people of America today are the best informed young people, in the entire world. They have a deep interest in politics, and in the political life of their communities, States, and the Nation. I think that it would be safe to say that their knowledge and ability to reason has doubled many times since 1933 when I introduced that first bill. I think they have strong beliefs about what this country should do. Their interest in the political life of their community and of the Nation entitles them to vote. They have been more active in the past decade than ever in all the years of our history, and I think they know what is going on, and are entitled to express their opinions at the ballot box.

I think there are many compelling reasons to change the age at which young people may vote. I share the opinion of Prof. Archibald Cox:

"Congress has the power to find the facts and to find that a distinction between those who are 18 to 21 and those who are over 21 is an invidious classification and denial of equal protection under the 14th amendment."

I think, at this time in this changing world and changing society, it is appropriate to review our past thinking on giving the vote to 18-year-olds. There has been great improvement in education. There has been great change in the age at which young people take jobs, marry, raise families, and have children.

This all bears on the propriety of concluding that these interests make waiting until one is 21 to vote an unreasonable requirement. I am privileged to say that I approve of this.

I remember, when I attended high school, we had only one government class. It was called civics, not political science, and was a course in which we learned basically that there were three branches of Government—legislative, executive, and judicial—we also learned how they operated, and that was about all. There was no discussion about what really made things work, what the political issues of the day were, and where our Nation was heading.

Today, it is different. Just go into any high school in the United States today, or visit any community college, and you will find that students take many courses and attend many seminars about politics in the United States, and about the programs the issues, and so forth. This is something new in my State, it has happened in the last 10 years and I enjoy it. I go to some of their sessions. Students even have mock political conventions which are very exciting. I need not tell Members of the Senate how many young people now come to Washington, D.C., to learn about what is happening and at the same time are getting an education in the political life and activities of the Nation.

I do not question the sincerity of the great majority of Members of the Senate who agree on this issue. I think the argument today is over the method, because some believe valid legal questions are involved. I appreciate this, but believe we have a valid, constitutional technique that can be implemented by congressional action alone. Prof. Archibald Cox, testifying before the Subcommittee on Constitutional Rights, gave strong support for this legislative approach. The Supreme Court in the Kramer case uttered some language that seems to be very pertinent on this matter. It said that any unjustified discrimination in determining who may participate in political affairs or the selection of public officials undermines the legitimacy of representative government.

I think that constitutionally we are on proper footing. I am afraid that the Constitutional amendment process would just take too long. These amendments get bottled by a few States—three or four States can mean the difference in meeting the three-fourth requirement.

So, as a cosponsor along with the Senator from Montana on this amendment, I urge its adoption.

[From the CONGRESSIONAL RECORD, May 6, 1970]

THE LAW WITH RESPECT TO LOWERING THE VOTING AGE

Mr. MAGNUSON. Mr. President, President Nixon recently sent a letter to House leaders explaining why he believes it is unconstitutional for Congress to lower the voting age by statute. Mr. Nixon believes that the Constitution generally leaves setting of voting qualifications to the States. While this statement is generally true, it has been strictly qualified by the Supreme Court.

Mr. Nixon does not mention that the Voting Rights Act as presently drafted also removes the literacy test and any durational residency requirement. These provisions certainly set voting qualifications yet no one seriously doubts that this is appropriate legislation under section 5 of the 14th amendment.

The proposition that Congress can lower the voting age to 18 is also supported by *Katzenbach* v. *Morgan*, 338 U.S. 641 (1966). The Supreme Court held that the power of Congress under section 5 of the 14th amendment to enact legislation prohibiting enforcement of a State law is not limited to situations where the State law is unconstitutional. The test as to the power of Congress in such a case is whether the Federal statute is appropriate legislation, that is, legislation plainly adopted to the end of implementing the 14th amendment and consistent with the Constitution.

In the Morgan case, the Supreme Court explicitly recognized that Congress had the power to legislate beyond the initial dictates of the equal protection clause especially in the area of suffrage.

The Supreme Court held that Congress has broad power to weigh the facts and make its own determination under the equal protection clause and that where there was a reasonable basis for legislation by Congress in this area, then the legislation will be sustained as the court stated in Morgan:

"Thus our task in this case is not to determine whether the New York literacy requirement . . . violates the Equal Protection Clause . . . Without regard to whether the Judiciary would find that the Equal Protection Clause itself nullifies New York's English literacy requirement . . . could Congress prohibit the enforcement of the State law by legislating under Section 5 of the 14th amendment? In answering this question, our task is limited to determining whether such legislation is, as required by Section 5, appropriate legislation to enforce the Equal Protection Clause.

"By including Section 5, the founders sought to grant to Congress, by a specific provision applicable to the 14th amendment, the same broad powers expressed in the Necessary and Proper Clause, Article I, Section 8, Clause 18."

In *Ex parte Virginia*, 100 U.S. 339, 345 decided 12 years after the adoption of the 14th amendment, the Supreme Court held that congressional power under section 5 had the same scope as that under the necessary and proper clause. The Court stated with regard to the section 5 power:

"Whatever legislation is appropriate, that is, adopted to carry the objectives the amendments have in view, whatever intends to enforce submission to the prohibitions they contain, and to secure to all persons enjoyment of perfect equality of civil rights and the equal protection of the laws against

State denial or invasion, if not prohibited is brought within the domain of Congressional power."

The issue, therefore, before the Supreme Court in the test of congressional power to lower the voting age to 18 by statute, will be the same as it was in Morgan, that is, whether the congressional action is appropriate legislation under section 5 of the 14th amendment. In Morgan the Court held that section 4(a) of the Voting Rights Act was appropriate legislation to enforce the equal protection clause. The Court said:

"Section 4(e) . . . enables the Puerto Rican minority better to obtain perfect equality of civil rights and the equal protection of the laws. It was well within Congressional authority to say that the need of the Puerto Rican minority for the vote warranted Federal intrusion upon any State interests served by the English literacy requirements. It was for Congress . . . to assess and weigh the various conflicting considerations . . . It is not for us to review the Congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did."

In other words, with respect to granting the vote to 18 years olds, it is enough for Congress to weigh the justifications for and against extending the franchise to this age group. If Congress concludes that the justifications in favor of extending the franchise outweigh the justifications for restricting the franchise, then Congress has the power to change the law by statute and grant the vote to 18-year-olds, even though, in the absence of action by Congress, the Supreme Court would have upheld State laws setting the voting age at 21.

The next issue raised by President Nixon is that thousands of elections will be in doubt if the constitutional question is not settled in time by the Supreme Court. Apparently the President questions the length of time necessary to have a Supreme Court test of the 18-year-old provision. I am convinced that a judicial test would be achieved quite quickly.

For instance, the Voting Rights Act was passed on August 6, 1965. The Supreme Court passed on the merits on March 7, 1966, only 7 months after the voting rights measure was passed. In that case, *South Carolina* v. *Katzenbach*, 338 U.S. 301 (1966), South Carolina invoked the Supreme Court's original jurisdiction under article III, section 2, of the Constitution, seeking a declaration of unconstitutionality as to certain provisions of the Voting Rights Act of 1965 and an injunction against their enforcement by defendant, the Attorney General. South Carolina wanted to obtain a ruling prior to its primary elections in June 1966. The basic problem was the registration of voters under the Federal provisions.

Obviously this situation will present itself again when 18 year olds try to register for local elections after this bill is passed. Although the Court is not compelled to exercise its original jurisdiction, *George* v. *Pennsylvania R. Co.*, 324 U.S. 439, 464 (1944), it probably would do so because of the compelling reasons stated by President Nixon and because of the importance of resolving this question quickly.

The Voting Rights Act also includes a provision giving district courts of the United States jurisdiction of proceedings instituted pursuant to the Voting Rights Act. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code, and any appeal shall be to the Supreme Court. The provision also states:

"It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited."

It is obvious to me that these two judicial procedures provide the possibility for quick judicial review. The President is obviously trying to defeat the Voting Rights Act by raising this false issue. The President, not Congress, will be responsible for the continued disillusionment of our young people if this measure is defeated.

I am convinced that the Senate has passed a constitutional provision, and that a rapid judicial test of this provision can be obtained.

Let us also remember, that if for some reason the Court did strike down this provision, that we can still use the constitutional amendment technique. I also feel that because of the President's recent action, that Congress should continue in its consideration of the 18-year-old Constitutional amendment. In this way we do not put all our eggs in one basket. I believe we should move courageously and immediately to give younger Americans the right to vote.

The Senate overwhelmingly passed this provision and has laid down a very strong and persuasive legislative history. The Court in South Carolina against Katzenbach, relied heavily on the "finding of fact" as made by Congress. Our young people are waiting to see if their leaders are responsive to change, let us show them that we in Congress, at least, recognize that the times are changing and that younger Americans do deserve the right to vote.

[Supreme Court of the United States, No. 46 Orig.—OCTOBER TERM, 1970*]

UNITED STATES, PLAINTIFF, *v.* STATE OF ARIZONA ON BILL OF COMPLAINT

[December 21, 1970]

Mr. JUSTICE BLACK, announcing the judgments of the Court in an opinion expressing his own view of the cases.

In these suits the States resist compliance with the Voting Rights Amendments of 1970, Pub. L. 91-285, 84 Stat. 314, because they believe that the Act takes away from them powers reserved to the States by the Constitution to control their own elections.[1] By its terms the Act does three things. First: It lowers the minimum age of voters in both state and federal elections from 21 to 18. Second: Based upon a finding by Congress that literacy tests have been used to discriminate against voters on account of their color, the Act enforces the Fourteenth and Fifteenth Amendments by barring the use of such tests in all elections, state and national. Third: The Act forbids States from disqualifying voters in national elections for presidential and vice presidential electors because they have not met state residency requirements.

For the reasons set out in Part I of this opinion, I believe Congress can fix the age of voters in national elections, such as congressional, senatorial, Vice-Presidential and Presidential elections, but cannot set the voting age in state and local elections. For reasons expressed in separate opinions, my Brothers DOUGLAS, BRENNAN, WHITE, and MARSHALL join me in concluding that Congress can enfranchise 18-year-old citizens in national elections, but dissent from the judgment that Congress cannot extend the franchise to 18-year-old citizens in state and local elections. For reasons expressed in separate opinions, my Brothers THE CHIEF JUSTICE, HARLAN, STEWART, and BLACKMUN join me in concluding that Congress cannot interfere with the age for voters set by the States for state and local elections. They, however, dissent from the judgment that Congress can control voter qualifications in federal elections. In summary, it is the judgment of the Court that the 18-year-old vote provisions of the Voting Rights Act Amendments of 1970 are constitutional and enforceable insofar as they pertain to federal elections and unconstitutional and unenforceable insofar as they pertain to state and local elections.

For the reasons set out in Part II of this opinion, I believe that Congress, in the exercise of its power to enforce the Fourteenth and Fifteenth Amendments, can prohibit the use of literacy tests or other devices used to discriminate against voters on account of their race in both state and federal elections. For reasons expressed in separate opinions, all of my Brethren join me in this judgment. Therefore the literacy tests provisions of the Act are upheld.

For the reasons set out in Part III of this opinion, I believe Congress can set residency requirements and provide for absentee balloting in elections for presidential and vice presidential electors. For reasons expressed in separate opinions, my Brothers THE CHIEF JUSTICE, DOUGLAS, BRENNAN, STEWART, WHITE, MARSHALL, and BLACKMUN concur in this judgment. My Brother HARLAN, for the reasons stated in his separate opinion, considers that the residency provisions of the statute are unconstitutional. Therefore the residency and absentee balloting provisions of the Act are upheld.

I

The Framers of our Constitution provided in Art. I, § 2, that members of the House of Representatives should be elected by the people and that the voters for Representatives should have "the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." Senators were originally to be elected by the state legislatures, but under the Seventeenth Amendment Senators are also elected by the people, and voters for Senators have the same qualifications as voters for Representatives. In the very beginning the responsibility of the States for setting the qualifications of voters in congressional elections was made subject to the power of Congress to make or alter such regulations if it deemed advisable.[2] This was done in Art. I, § 4, of the Constitution which provides:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof; *but the Congress may at any time by Law make or alter such Regulations*, except as to the Place of Chusing Senators." (Emphasis supplied.)

Moreover, the power of Congress to make election regulations in national elections is augmented by the Necessary and Proper Clause. See *McCulloch* v. *Maryland*, 4 Wheat. 316 (1819). In *United States* v. *Classic*, 313 U.S. 299 (1941), where the Court upheld congressional power to regulate party primaries, Mr. Justice Stone speaking for the Court construed the interrelation of these clauses of the Constitution, stating:

"While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states, . . . this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause 18 of the Constitution 'to make all laws which shall be necessary and proper for carying into execution the foregoing powers.' " 313 U.S. at 315.

See also *Ex parte Siebold*, 100 U.S. 371 (1879); *Ex parte Yarbrough*, 110 U.S. 651 (1884); *Swafford* v. *Templeton*, 185 U.S. 487 (1902); *Wiley* v. *Sinkler*, 179 U.S. 58 (1900).

The breadth of power granted to Congress to make or alter election regulations in national elections, including the qualifications of voters, is demonstrated by the fact that the Framers of the Constitution and the state legislatures which ratified it intended to

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Footnotes at end of article.

grant to Congress the power to lay out or alter the boundaries of the congressional districts. In the ratifying conventions speakers "argued that the power given Congress in Art. 1, § 4, was meant to be used to vindicate the people's right to equality of representation in the House," *Wesberry* v. *Sanders*, 376 U.S. 1, 16 (1964), and the Congress would "most probably . . . lay the state off into districts." And in *Colegrove* v. *Green*, 328 U.S. 549 (1946), no Justice of this Court doubted Congress' power to rearrange the congressional districts according to population; the fight in that case revolved about the judicial power to compel redistricting.

Surely no voter *qualification* was more important to the Framers than the *geographical qualification* embodied in the concept of congressional districts. The Framers expected Congress to use this power to eradicate "rotten boroughs,"[3] and Congress has in fact used its power to prevent States from electing all Congressmen at large.[4] There can be no doubt that the power to alter congressional district lines is vastly more significant in its effect than the power to permit 18-year-old citizens to go to the polls and vote in all federal elections.

Any doubt about the powers of Congress to regulate congressional elections, including the age and other qualifications of the voters should be dispelled by the opinion of this Court in *Smiley* v. *Holm*, 285 U.S. 355 (1932).

There, Chief Justice Hughes writing for a unanimous Court discussed the scope of congressional power under § 4 at some length. He said:

"The subject matter is the 'times, places and manner of holding elections for Senators and Representatives.' It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. . . .

"This view is confirmed by the second clause of Article I, section 4, which provides that 'the Congress may at any time by law make or alter such regulations,' with the single exception stated. The phrase 'such regulations' plainly refers to regulations of the same general character that the legislature of the State is authorized to prescribe with respect to congressional elections. In exercising this power, the Congress may supplement these state regulations or many substitute its own. . . . It 'has a general supervisory power over the whole subject.'" *Id.*, at 366–367.

In short, the Constitution allotted to the States the power to make laws regarding national elections, but provided that if Congress became dissatisfied with the state laws, Congress could alter them.[5] A newly created national government could hardly have been expected to survive without the ultimate power to rule itself and to fill its offices under its own laws. The Voting Rights Act Amendments of 1970 now before this Court evidence dissatisfaction of Congress with the voting age set by many of the States for national elections. I would hold, as have a long line of decisions in this Court, that Congress has ultimate supervisory power over congressional elections.[6] Similarly, it is the prerogative of Congress to oversee the conduct of presidential and vice presidential elections and to set the qualifications for voters for electors for those offices. It cannot be seriously contended that Congress has less power over the conduct of presidential elections than it has over congressional elections.[7]

On the other hand, the Constitution was also intended to preserve to the States the power that even the Colonies had to establish and maintain their own separate and independent governments, except insofar as the Constitution itself commands otherwise. My Brother HARLAN has persuasively demonstrated that the Framers of the Constitution intended the States to keep for themselves, as provided in the Tenth Amendment,[8] the power to regulate elections. My major disagreement with my Brother HARLAN is that, while I agree as to the States' power to regulate the elections of their own officials, I believe, contrary to his view, that Congress has the final authority over federal elections. No function is more essential to the separate and independent existence of the States and their governments than the power to determine within the limits of the Constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices. *Pope* v. *Williams*, 193 U.S. 621 (1904); *Minor* v. *Happersett*, 21 Wall. 162 (1874). Moreover, Art. I, § 2,[9] is a clear indication that the Framers intended the States to determine the qualifications of their own voters for state offices, because those qualifications were adopted for federal offices unless Congress directs otherwise under Art. I, § 4. It is a plain fact of history that the Framers never imagined that the national Congress would set the qualifications for voters in every election from President to local constable or village alderman. It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendments have specifically narrowed the powers of the States. Amendments Fourteen, Fifteen, Nineteen, and Twenty-Four, each of which has assumed that the States had general supervisory power over state elections, are examples of express limitations on the power of the States to govern themselves. And the Equal Protection Clause of the Fourteenth Amendment was never intended to destroy the States' power to govern themselves, making the Nineteenth and Twenty Fourth Amendments superfluous. My Brother BRENNAN'S opinion, if carried to its logical conclusion, would, under the guise of insuring equal protection, blot out all state power, leaving the 50 States little more than impotent figureheads. In interpreting what the Fourteenth Amendment means, the Equal Protection Clause should not be stretched to nullify the States' powers over elections which they had before the Constitution was adopted and which they have retained throughout our history.

Of course, the original design of the Founding Fathers was altered by the Civil War Amendments and various other amendments to the Constitution. The Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments have expressly authorized Congress to "enforce" the limited prohibitions of those amendments by "appropriate legislation." The Solicitor General contends in these cases that Congress can set the age qualifications for voters in state elections under its power to enforce the Equal Protection Clause of the Fourteenth Amendment.

Above all else, the Framers of the Civil War Amendments intended to deny to the States the power to discriminate against persons on account of their race. *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960); *Brown* v. *Board of Education*, 347 U.S. 483 (1954); *Slaughter House Cases*, 16 Wall. 36, 71–72 (1872). While this Court has recognized in some instances that the Equal Protection Clause of the Fourteenth Amendment protects against discriminations other than those on account of race,[10] see *Reynolds* v. *Sims*, 377 U.S. 533 (1964); *Hadley* v. *Junior College District*, 397 U.S. 50 (1970); see also *Kotch* v. *Board of River Port Pilots*, 330 U.S. 552 (1947), and cases cited therein, it cannot be successfully argued that the Fourteenth Amendment was intended to strip the States of their power carefully preserved in the original Constitution, to govern themselves. The Fourteenth Amendment was surely not intended to make every discrimination between groups of people a constitutional denial of equal protection. Nor was the Enforcement Clause of the Fourteenth Amendment intended to permit Congress to prohibit every discrimination between groups of people. On the other hand, the Civil War Amendments were unquestionably designed to condemn and forbid every distinction, however trifling on account of race.

To fulfill their goal of ending racial discrimination and to prevent direct or indirect state legislative encroachment on the rights guaranteed by the amendments, the Framers gave Congress power to enforce each of the Civil War Amendments. These enforcement powers are broad. In *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409, 439 (1968), the Court held that § 2 of the Thirteenth Amendment "clothed 'Congress with the power to pass *all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.*'" In construing § 5 of the Fourteenth Amendment, the Court has stated:

"It is not said the *judicial power* of the general government shall extend to enforcing the prohibitions and to protecting the rights and immunities guaranteed. It is not said that branch of government shall be authorized to declare void any action of a State in violation of the prohibitions. *It is the power of Congress which has been enlarged.*" *Ex parte Virginia*, 100 U. S. 339, 345 (1879). (Emphasis added.)

And in *South Carolina* v. *Katzenbach*, 383 U. S. 301 (1966) (MR. JUSTICE BLACK dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965 under Congress' Fifteenth Amendment enforcement power.

As broad as the congressional enforcement power is, it is not unlimited. Specifically, there are at least three limitations upon Congress' power to enforce the guarantees of the Civil War Amendments. First, Congress may not by legislation repeal other provisions of the Constitution. Second, the power granted to Congress was not intended to strip the States of their power to govern themselves or to convert our national government of enumerated powers into a central government of unrestrained authority over every inch of the whole Nation. Third, Congress may only "enforce" the provisions of the amendments and may do so only by "appropriate legislation." Congress has no power under the enforcement sections to undercut the Amendments' guarantees of personal equality and freedom from discrimination, see *Katzenbach* v. *Morgan*, 384 U. S. 641, 651 n. 10 (1966), or to undermine those protections of the Bill of Rights which we have held the Fourteenth Amendment made applicable to the States.[11]

Of course, we have upheld congressional legislation under the Enforcement Clauses in some cases where Congress has interfered with state regulation of the local electoral process. In *Katzenbach* v. *Morgan*, *supra*, the Court upheld a statute which outlawed New York's requirement of literacy in English as a prerequisite for voting as this requirement was applied to Puerto Ricans with certain educational qualifications. The New York statute overridden by Congress applied to all elections. And in *South Carolina* v. *Katzenbach*, *supra* (MR. JUSTICE BLACK dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965. That Act proscribed the use of the literacy test in all elections in certain areas. But division of power between state and national governments, like every provision of

Footnotes at end of article.

the Constitution, was expressly qualified by the Civil War Amendments' ban on racial discrimination. Where Congress attempts to remedy racial discrimination under its enforcement powers, its authority is enhanced by the avowed intention of the Framers of the Thirteenth, Fourteenth and Fifteenth Amendments. Cf. *Harper* v. *Virginia Board of Elections*, 383 U. S. 663, 670 (1966) (dissenting opinion of MR. JUSTICE BLACK).

In enacting the 18-year-old vote provisions of the Act now before the Court, Congress made no legislative findings that 21-year-old vote requirements were used by the States to disenfranchise voters on account of race. I seriously doubt that such a finding, if made, could be supported by substantial evidence. Since Congress has attempted to invade an area preserved to the States by the Constitution without a foundation for enforcing the Civil War Amendments' ban on racial discrimination, I would hold that Congress has exceeded its powers in attempting to lower the voting age in state and local elections. On the other hand, where Congress legislates in a domain not exclusively reserved by the Constitution to the States, its enforcement power need not be tied so closely to the goal of eliminating discrimination on account of race.

To invalidate part of the Voting Rights Act Amendments of 1970, however, does not mean that the entire Act must fall or that the constitutional part of the 18-year-old vote provision cannot be given. In passing the Voting Rights Act Amendments of 1970, Congress recognized that the limits of its power under the Enforcement Clauses were largely undetermined, and therefore included a broad severability provision:

"If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination."

In this case, it is the judgment of the Court that Title III, lowering the voting age to 18, is invalid as applied to voters in state and local elections. It is also the judgment of the Court that Title III is valid with respect to national elections. We would fail to follow the express will of Congress in interpreting its own statute if we refuse to sever these two distinct aspects of Title III. Moreover, it is a longstanding canon of statutory construction that legislative enactments are to be enforced to the extent that they are not inconsistent with the Constitution, particularly where the valid portion of the statute does not depend upon the invalid part. See, *e.g.*, *Watson* v. *Buck*, 313 U.S. 387 (1941); *Marsh* v. *Buck*, 313 U.S. 406 (1941). Here, of course, the enforcement of the 18-year-old vote in national elections is in no way dependent upon its enforcement in state and local elections.

II

In Title I of the Voting Rights Act Amendments of 1970 Congress extended the provisions of the Voting Rights Act of 1965 which ban the use of literacy tests in certain States upon the finding of certain conditions by the United States Attorney General. The Court upheld the provisions of the 1965 Act over my partial dissent in *South Carolina* v. *Katzenbach*, *supra*, and *Gaston County* v. *United States*, 395 U. S. 285 (1969). The constitutionality of Title I is not raised by any of the parties to these suits.[12]

In Title II of the Amendments Congress prohibited the use of any test or device resembling a literacy test in any national, state, or local election in any area of the United States where such test is not already proscribed by the Voting Rights Act of 1965. The State of Arizona maintains that Title II cannot be enforced to the extent that it is inconsistent with Arizona's literacy test requirement. Ariz. Rev. Stat. Ann. §§ 16–101.A.4, 16–101.A.5 (1956). I would hold that the literacy test ban of the 1970 Amendments is constitutional under the Enforcement Clause of the Fifteenth Amendment and that it supersedes Arizona's conflicting statutes under the Supremacy Clause of the Federal Constitution.

In enacting the literacy test ban of Title II Congress had before it a long history of the discriminatory use of literacy tests to disfranchise voters on account of their race. Congress could have found that as late as the summer of 1968, the percentage registration of nonwhite voters in seven Southern States was substantially below the percentage registration of white voters.[13] Moreover, Congress had before it striking evidence to show that the provisions of the 1965 Act had in the span of four years had a remarkable impact on minority group voter registration.[14] Congress also had evidence to show that voter registration in areas with large Spanish-American populations was consistently below the state and national averages. In Arizona, for example, only two counties out of eight with Spanish surname populations in excess of 15% showed a voter registration equal to the statewide average.[15] Arizona also has a serious problem of deficient voter registration among Indians. Congressional concern over the use of literacy test to disfranchise Puerto Ricans in New York State is already a matter of record in this Court. *Katzenbach* v. *Morgan*, *supra*. And as to the Nation as a whole, Congress had before it statistics which demonstrate that voter registration and voter participation are consistently greater in States without literacy tests.[16]

Congress also had before it this country's history of discriminatory educational opportunities in both the North and the South. The children who were denied an equivalent education by the "separate but equal" rule of *Plessy* v. *Ferguson*, 163 U.S. 537 (1896), overruled in *Brown* v. *Board of Education*, 347 U.S. 483 (1954), are now old enough to vote. There is substantial, if not overwhelming, evidence from which Congress could have concluded that it is a denial of equal protection to condition the political participation of children educated in a dual school system upon their educational achievement. Moreover, the history of this legislation suggests that concern with educational inequality was perhaps uppermost in the minds of the congressmen who sponsored the Act. The hearings are filled with references to educational inequality. Faced with this and other evidence that literacy tests reduce voter participation in a discriminatory manner not only in the South but throughout the Nation, Congress was supported by substantial evidence in concluding that a nationwide ban on literacy tests was appropriate to enforce the Civil War Amendments.

Finally, there is yet another reason for upholding the literacy test provisions of this Act. In imposing a nationwide ban on literacy tests, Congress has recognized a national problem for what it is—a serious *national* dilemma that touches every corner of our Land. In this legislation Congress has recognized that discrimination on account of color and racial origin is not confined to the South, but exists in various parts of the country. Congress has decided that the way to solve the problems of racial discrimination is to deal with nationwide discrimination with nationwide legislation. Compare *South Carolina* v. *Katzenbach*, *supra*, and *Gaston County* v. *United States*, *supra*.

In Title II of the Voting Rights Act Amendments Congress also provided that in presidential and vice presidential elections, no voter could be denied his right to cast a ballot because he had not lived in the jurisdiction long enough to meet its residency requirements. Furthermore, Congress provided uniform national rules for absentee voting in presidential and vice presidential elections. In enacting these regulations for national elections Congress was attempting to insure a fully effective voice to all citizens in national elections. What I said in Part I of this opinion applies with equal force here. Acting under its broad authority to create and maintain a national government, Congress unquestionably has power under the Constitution to regulate federal elections. The Framers of our Constitution were vitally concerned with setting up a national government that could survive. Essential to the survival and to the growth of our national government is its power to fill its elective offices and to insure that the officials who fill those offices are as responsive as possible to the will of the people whom they represent.

Our judgment today gives the Federal Government the powers the Framers conferred upon it, that is, the final control of the elections of its own officers. Our judgment also saves for the States the power to control state and local elections which the Constitution originally reserved to them and which no subsequent amendment has taken from them.[17] The generalities of the Equal Protection Clause of the Fourteenth Amendment were not designed or adopted to render the States impotent to set voter qualifications in elections for their own local officials and agents in the absence of some specific constitutional limitations.

FOOTNOTES

*Together with No. 43 Orig., *Oregon* v. *Mitchell*; No. 44 Orig., *Texas* v. *Mitchell*, and No. 47 Orig., *United States* v. *Idaho*.

[1] In Nos. 43 and 44 Oregon and Texas respectively invoke the original jurisdiction of this Court to sue the United States Attorney General seeking an injunction against the enforcement of Title III (18-year-old vote) of the Act. In No. 46 the United States invokes our original jurisdiction seeking to enjoin Arizona from enforcing its laws to the extent that they conflict with the Act, and directing the officials of Arizona to comply with the provisions of Title II (nationwide literacy test ban) and Title III (18-year-old vote) of the Act. In No. 47 the United States invokes our original jurisdiction seeking to enjoin Idaho from enforcing its laws to the extent that they conflict with Title II (abolition of residency requirements in presidential and vice presidential elections) and Title III (18-year-old vote) of the Act. No question has been raised concerning the standing of the parties or the jurisdiction of this Court.

[2] Article I, § 4 was a compromise between those delegates to the Constitutional Convention who wanted the States to have final authority over the election of all state and federal officers and those who wanted Congress to make laws governing national elections. 2 Story, Commentaries on the Constitution of the United States 280-292 (1st ed. 1883). The contemporary interpretation of this compromise reveals that those who favored national authority over national elections prevailed. Six States included in their resolutions of ratification the recommendation that a constitutional amendment be adopted to curtail the power of the Federal Government to regulate national elections. Such an amendment was never adopted.

A majority of the delegates to the Massachusetts ratifying convention must have assumed that Art. I, § 4 gave very broad powers to Congress. Otherwise that convention would not have recommended an amendment providing:

"That Congress do not exercise the powers vested in them by the 4th section of the 1st Article, but in cases where a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a

free and equal representation in Congress, agreeably to the Constitution." 2 Elliot's Debates on the Federal Constitution 177 (1876).

The speech of Mr. Cabot, one delegate to the Massachusetts convention, who argued that Art. I, § 4, was "to be as highly prized as any in the Constitution," expressed a view of the breadth of that section which must have been shared by most of his colleagues.

"[I]f the State Legislatures are suffered to regulate conclusively the election of the democratic branch, they may . . . finally annihilate, that control of the general government which the people ought always have . . . *Id.*, at 26.

And Cabot was supported by Mr. Parsons, who added:

". . . They might make an unequal and partial division of the states into districts for election of representatives, or they might even disqualify one third of the electors. Without these powers in Congress, the people can have no remedy; but the fourth section provides a remedy, a controlling power in a legislature, composed of senators and representatives of twelve states, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election." *Id.*, at 27.

[3] See *Wesberry* v. *Sanders*, 376 U.S. 1, 14–16 (1964).

[4] See, *e.g.*, Act of August 8, 1911, c. 5, 37 Stat. 13.

[5] My Brother Stewart has cited the debates of the Constitutional Convention to show that Oliver Ellsworth, George Mason, Madison, and Franklin successfully opposed granting Congress the power to regulate federal elections, including the qualifications of voters, in the original Constitution. I read the history of our Constitution differently. Mr. Madison, for example, explained Art. I, § 4, to the Virginia ratifying convention follows:

"[I]t was thought that the regulation of the time, place and manner, of electing Representatives, should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. . . . Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the general government." 3 Elliot's Debates on the Federal Constitution 367 (1876).

And Mr. Mason, who was supposedly successful in opposing a broad grant of power to Congress to regulate federal elections, still found it necessary to support an unsuccessful Virginia proposal to curb the power of Congress under Art. I, § 4. *Id.*, at 403.

[6] See, *e.g.*, *Ex parte Siebold*, 100 U.S. 371 (1879); *Ex parte Yarbrough*, 110 U.S. 651 (1884); *United States* v. *Mosley*, 238 U.S. 383 (1915); *United States* v. *Classic*, 313 U.S. 299 (1941).

[7] With reference to the selection of the President and Vice President, Art. II, § 1 provides: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress. . . ." But this Court in *Burroughs* v. *United States*, 290 U.S. 534 (1934), upheld the power of Congress to regulate certain aspects of elections for presidential and vice-presidential electors, specifically rejecting a construction of Art. II, § 1, that would have curtailed the power of Congress to regulate such elections. Finally, and most important, inherent in the very concept of a supreme national government with national officers is a residual power in Congress to insure that those officers represent their national constituency as responsively as possible. This power arises from the nature of our constitutional system of government and from the Necessary and Proper Clause.

[8] "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. Const. Amend. X.

[9] "The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

[10] My Brother BRENNAN relies upon *Carrington* v. *Rash*, 380 U.S. 89 (1965); *Cipriano* v. *City of Houma*, 395 U.S. 701 (1969); and *Evans* v. *Cornman*, 398 U.S. 419 (1970). These typical equal protection cases in which I joined are not relevant or material to our decision in the cases before us. The establishment of voter age qualifications is a matter of legislative judgment which cannot be properly decided under the Equal Protection Clause. The crucial question here is not who is denied equal protection, but rather which political body, state or federal, is empowered to fix the minimum age of voters. The Framers intended the States to make the voting age decision in all elections with the judgments concerning the qualifications of voters in federal elections.

[11] See: the First Amendment, *e. g.*, *Gitlow* v. *New York*, 268 U. S. 652 (1925); *Cantwell* v. *Connecticut*, 310 U. S. 296 (1940); *Edwards* v. *South Carolina*, 372 U.S. 229 (1963); the Fourth Amendment, *Mapp* v. *Ohio*, 367 U. S. 643 (1961); the Fifth Amendment, *Chicago, B. & Q. R. Co.* v. *Chicago*, 166 U. S. 226 (1897); *Malloy* v. *Hogan*, 378 U.S. 1 (1964); *Benton* v. *Maryland*, 395 U. S. 784 (1969); the Sixth Amendment, *Gideon* v. *Wainwright*, 372 U. S. 335 (1963); *Pointer* v. *Texas*, 380 U. S. 400 (1965); *Klopfer* v. *North Carolina*, 386 U. S. 213 (1967); *Duncan* v. *Louisiana*, 391 U.S. 145 (1968); and the Eighth Amendment, *Robinson* v. *California*, 370 U. S. 660 (1962).

[12] Yuma County, Arizona, is presently subject to the literacy test ban on the Voting Rights Act of 1965 pursuant to a determination of the Attorney General under § 4 (a) of the 1965 Act. I do not understand Arizona to contest the application of the 1965 Act or its extension to that county. Arizona "does not question" Congress' authority to enforce the Fourteenth and Fifteenth Amendments "when Congress possesses a 'special legislative competence';" and cites *South Carolina* v. *Katzenbach*, 383 U.S. 641 (1966), with approval. Answer and Brief for Arizona, No. 46 Orig., O.T. 1970.

[13] Hearings on H.R. 4249, H.R. 5538, and Similar Proposals before Subcommittee No. 5 of the House Committee on the Judiciary, pt. 3, at 14 (1969).

[14] *Id.*, at 93.

[15] Hearings on S. 818, S. 2456, S. 2507, and Title IV of S. 2029 before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, at 406 (1969-1970).

[16] *Id.*, at 401.

[17] That these views are not novel is demonstrated by Mr. Justice Story in his Commentaries on the Constitution of the United States, vol. II, at 284–285 (1st ed. 1833).

"There is, too, in the nature of such a provision [Article I, § 4], something incongruous, if not absurd. What would be said of a clause introduced into a national constitution to regulate the state elections of the members of the state legislatures? It would be deemed a most unwarrantable transfer of power, indicating a premeditated design to destroy the state governments. It would be deemed so flagrant a violation of principle, as to require no comment. It would be said, and justly, that the state governments ought to possess the power of self-existence and self-organization, independent of the pleasure of the national government. *Why does not the same reasoning apply to the national government?* What reason is there to suppose, that the state governments will be more true to the Union, than the national government will be to the state governments?" (Emphasis added.) (Footnote omitted.)

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

Mr. MAGNUSON. I ask that the Senator from Illinois yield to the Senator from Massachusetts, since I mentioned his name.

Mr. PERCY. Yes; I yield to the distinguished Senator from Massachusetts, with the understanding that I consider this a special purpose, and that my subsequent remarks not be considered a second speech on the same subject on the same day.

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

Mr. KENNEDY. I thank the distinguished Senator from Illinois. I was not here when the distinguished Senator from Washington made his comments. Of course, he was one of the architects of the amendment, which received such overwhelming support in the U.S. Senate last March, and I know he shares with me the sense of gratitude for the action today of the Supreme Court of the United States.

By upholding the validity of the statute for Federal elections, the Court has now cleared the path for effective implementation of the statute on January 1, its effective date, and a new era in American democracy is being born. Equally significant, once the law goes into effect for Federal elections, it is extremely likely that the States will lower the voting age to 18 for State elections, so that a uniform voting age requirement will prevail for all elections throughout the Nation—Federal, State, and local. To speed this result, I am today introducing in the Senate a constitutional amendment to lower the voting age to 18 in State and local elections. I am hopeful that, spurred by the Supreme Court's decision, Congress will be able to action the amendment in the waning days of this session, and send it to the States for ratification.

Of course, we in the Senate who proposed and strongly supported the 18-year-old voting statute would have preferred a decision by the Supreme Court upholding the voting age statute in its entirety, and solidly reaffirming the precedent of Katzenbach against Morgan, decided by a 7–2 majority of the Court in 1966. Nevertheless, in light of the reality of the new membership of the Court, the pressures for a shift in judicial philosophy and the Nixon administration's strong opposition to the statute, I believe that today's decision is a significant victory. Indeed, it is a triple victory.

First, it is a victory for the 11 million young citizens between the ages of 18 and 21 enfranchised by the statute for Federal elections. At last, we have begun to end the arbitrary and unfair discrimination by which 18-year-old Americans are old enough to work, marry, pay taxes, fight and die in Vietnam, and bear all the other burdens and responsibilities of citizenship, yet are denied the most basic right of all in our democratic society, the right to vote.

Second, the Supreme Court's decision is a victory for Congress and a welcome new assertion of the stewardship of Congress, together with the Court, of the 14th amendment and all the other great provisions of the Constitution. In many respects, today's decision by the Burger court reaffirms the broad authority given Congress by the Warren court in Katzenbach against Morgan to enforce the majestic guarantees of the 14th amendment. For too long, Congress has abdicated its responsibility in this area. By default, the Supreme Court has had to carry an excessively heavy burden. Now, at last, the balance is being redressed. Congress is beginning to exercise its responsibility, and to form a new partnership with the Court for the enforcement of basic constitutional rights.

Third, and perhaps most important, today's decision by the Supreme Court is a victory for our political system and our democratic institutions. By lowering the voting age to 18, Congress has taken a historic step to halt the alienation of our youth and to encourage young citizens to work within the system. At a time when, as the Scranton commission has so clearly shown, all our institutions are under challenge, it is especially important that we open up new avenues of peaceful change for youth, and encourage young persons to take their protest and dissent into the voting booth. We would have a different country today if 18-year-olds had voted in the past. We will have a different country tomorrow when 18-year-olds begin to vote, because they will learn the voting habit in school and keep it all their lives.

In each of these respects, the Supreme Court has vindicated the constitutional judgment and moral leadership of Congress. The Nation is the richer. I welcome today's decision as a major new sign of hope for the vitality and responsiveness of our institutions, and I hope that every young American will exercise his newly won right to vote, a right he richly deserves.

In closing, I want to extend once again a word of congratulations to the distinguished Senator from Washington and also to the majority leader for the leadership they provided on this issue. I ask unanimous consent that the five separate opinions in this case—by Justices Black, Douglas, Harlan, Brennan, and Stewart—be printed in the RECORD.

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

[Supreme Court of the United States, No. 46 Orig.—October Term, 1970*]

UNITED STATES VERSUS ARIZONA

(United States, Plaintiff, *v.* State of Arizona on Bill of Complaint, Dec. 21, 1970)

MR. JUSTICE BLACK, announcing the judgments of the Court in an opinion expressing his own view of the cases.

In these suits the States resist compliance with the Voting Rights Act Amendments of 1970, Pub. L. 91-285, 84 Stat. 314, because they believe that the Act takes away from them powers reserved to the States by the Constitution to control their own elections.[1] By its terms the Act does three things. First: It lowers the minimum age of voters in both state and federal elections from 21 to 18. Second: Based upon a finding by Congress that literacy tests have been used to discriminate against voters on account of their color, the Act enforces the Fourteenth and Fifteenth Amendments by barring the use of such tests in all elections, state and national. Third: The Act forbids States from disqualifying voters in national elections for presidential and vice presidential electors because they have not met state residency requirements.

For the reasons set out in Part I of this opinion, I believe Congress can fix the age of voters in national elections, such as congressional, senatorial, Vice-Presidential and Presidential elections, but cannot set the voting age in state and local elections. For reasons expressed in separate opinions, my Brothers DOUGLAS, BRENNAN, WHITE, and MARSHALL join me in concluding the Congress can enfranchise 18-year-old citizens in national elections, but dissent from the judgment that Congress cannot extend the franchise to 18-year-old citizens in state and local elections. For reasons expressed in separate opinions, my Brothers THE CHIEF JUSTICE, HARLAN, STEWART, and BLACKMUN join me in concluding that Congress cannot interfere with the age for voters set by the States for state and local elections. They, however, dissent from the judgment that Congress can control voter qualifications in federal elections. In summary, it is the judgment of the Court that the 18-year-old vote provisions of the Voting Rights Act Amendments of 1970 are constitutional and enforceable insofar as they pertain to federal elections and unconstitutional and unenforceable insofar as they pertain to state and local elections.

For the reasons set out in Part II of this opinion, I believe that Congress, in the exercise of its power to enforce the Fourteenth and Fifteenth Amendments, can prohibit the use of literacy tests or other devices used to discriminate against voters on account of their race in both state and federal elections. For reasons expressed in separate opinions, all of my Brethren join me in this judgment. Therefore the literacy test provisions of the Act are upheld.

For the reasons set out in Part III of this opinion, I believe Congress can set residency requirements and provide for absentee balloting in elections for presidential and vice presidential electors. For reasons expressed in separate opinions, my Brothers THE CHIEF JUSTICE, DOUGLAS, BRENNAN, STEWART, WHITE, MARSHALL, and BLACKMUN concur in this judgment. My Brother HARLAN, for the reasons stated in his separate opinion, considers that the residency provisions of the statute are unconstitutional. Therefore the residency and absentee balloting provisions of the Act are upheld.

I

The Framers of our Constitution provided in Art. I, § 2, that members of the House of Representatives should be elected by the people and that the voters for Representatives should have "the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." Senators were originally to be elected by the state legislatures, but under the Seventeenth Amendment Senators are also elected by the people, and voters for Senators have the same qualifications as voters for Representatives. In the very beginning the responsibility of the States for setting the qualifications of voters in congressional elections were made subject to the power of Congress to make or alter such regulations if it deemed advisable.[2] This was done in Art. I, § 4, of the Constitution which provides:

"The Time, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; *but the Congress may at any time by Law make or alter such Regulations,* except as to the Place of Chosing Senators." (Emphasis supplied.)

Moreover, the power of Congress to make election regulations in national elections is augmented by the Necessary and Proper Cause. See *McCulloch v. Maryland,* 4 Wheat. 316 (1819). In *United States v. Classic,* 313 U.S. 299 (1941), where the Court upheld congressional power to regulate party primaries, Mr. Justice Stone speaking for the Court construed the interrelation of these clauses of the Constitution, stating:

"While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of a right derived from the states, . . . this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause 18 of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.'" 313 U.S., at 315.

See also *Ex parte Siebold,* 100 U.S. 371 (1879); *Ex parte Yarborough,* 110 U.S. 651 (1884); *Swafford* v. *Templeton,* 185 U.S. 487 (1902); *Wiley* v. *Sinkler,* 179 U.S. 58 (1900).

The breadth of power granted to Congress to make or alter election regulations in national elections, including the qualifications of voters, is demonstrated by the fact that the Framers of the Constitution and the state legislatures which ratified it intended to grant to Congress the power to lay out or alter the boundaries of the congressional districts. In the ratifying conventions speakers "argued that the power given Congress in Art. 1, § 4, was meant to be used to vindicate the people's right to equality of representation in the House," *Wesberry* v. *Sanders,* 376 U.S. 1, 16 (1964), and that Congress would "most probably . . . lay the state off into districts." And in *Colegrove* v. *Green,* 328 U.S. 549 (1946), no Justice of this Court doubted Congress' power to arrange the congressional districts according to population; the fight in that case revolved about the judicial power to compel redistricting.

Surely no voter *qualification* was more important to the Framers than the *geographical qualification* embodied in the concept of congressional districts. The Framers expected Congress to use this power to eradicate "rotten boroughs," [3] and Congress has in fact used its power to prevent States from electing all Congressmen at large.[4] There can be no doubt that the power to alter congressional district lines is vastly more significant in its effect than the power to permit 18-year-old citizens to go to the polls and vote in all federal elections.

Any doubt about the powers of Congress to regulate congressional elections, including the age and other qualifications of the voters should be dispelled by the opinion of this Court in *Smiley* v. *Holm,* 285 U.S. 355 (1932). There, Chief Justice Hughes writing for a unanimous Court discussed the scope of congressional power under § 4 at some length. He said:

"The subject matter is the 'times, places and manner of holding elections for Senators and Representatives.' It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. . . .

"This view is confirmed by the second clause of Article I, section 4, which provides that 'the Congress may at any time by law

Footnotes at end of article.

make or alter such regulations,' with the single exception stated. The phrase 'such regulations' plainly refers to regulations of the same general character that the legislature of the State is authorized to prescribe with respect to congressional elections. In exercising this power, the Congress may supplement these state regulations or may substitute its own. . . . It 'has a general supervisory power over the whole subject.'" *Id.*, at 366–367.

In short, the Constitution allotted to the States the power to make laws regarding national elections, but provided that if Congress became dissatisfied with the state laws, Congress could alter them.[5] A newly created national government could hardly have been expected to survive without the ultimate power to rule itself and to fill its offices under its own laws. The Voting Rights Act Amendments of 1970 now before this Court evidence dissatisfaction of Congress with the voting age set by many of the States for national elections. I would hold, as have a long line of decisions in this Court, that Congress has ultimate supervisory power over congressional elections.[6] Similarly, it is the prerogative of Congress to oversee the conduct of presidential and vice presidential elections and to set the qualifications for voters for electors for those offices. It cannot be seriously contended that Congress has less power over the conduct of presidential elections than it has over congressional elections.[7]

On the other hand, the Constitution was also intended to preserve to the States the power that even the Colonies had to establish and maintain their own separate and independent governments, except insofar as the Constitution itself commands otherwise. My Brother HARLAN has persuasively demonstrated that the Framers of the Constitution intended the States to keep for themselves, as provided in the Tenth Amendment,[8] the power to regulate elections. My major disagreement with my Brother HARLAN is that, while I agree as to the States' power to regulate the elections of their own officials, I believe, contrary to his view, that Congress has the final authority over federal elections. No function is more essential to the separate and independent existence of the States and their governments than the power to determine within the limits of the Constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices. *Pope* v. *Williams*, 193 U.S. 621 (1904); *Minor* v. *Happersett*, 21 Wall. 162 (1874). Moreover, Art. I, § 2,[9] is a clear indication that the Framers intended the States to determine the qualifications of their own voters for state offices, because those qualifications were adopted for federal offices unless Congress directs otherwise under Art. I, § 4. It is a plain fact of history that the Framers never imagined that the national Congress would set the qualifications for voters in every election from President to local constable or village alderman. It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendments have specifically narrowed the powers of the States. Amendments Fourteen, Fifteen, Nineteen, and Twenty-Four, each of which has assumed that the States had general supervisory power over state elections, are examples of express limitations on the power of the States to govern themselves. And the Equal Protection Clause of the Fourteenth Amendment was never intended to destroy the States' power to govern themselves, making the Nineteenth and Twenty Fourth Amendments superfluous. My Brother BRENNAN'S opinion, if carried to its logical conclusion, would, under the guise of insuring equal protection, blot out all state power, leaving the 50 States little more than impotent figureheads. In interpreting what the Fourteenth Amendment means, the Equal Protection Clause should not be stretched to nullify the States' powers over elections which they had before the Constitution was adopted and which they have retained throughout our history.

Of course, the original design of the Founding Fathers was altered by the Civil War Amendments and various other amendments to the Constitution. The Thirteenth Fourteenth, Fifteenth, and Nineteenth Amendments have expressly authorized Congress to "enforce" the limited prohibitions of those amendments by "appropriate legislation." The Solicitor General contends in these cases that Congress can set the age qualifications for voters in state elections under its power to enforce the Equal Protection Clause of the Fourteenth Amendment.

Above all else, the Framers of the Civil War Amendments intended to deny to the States the power to discriminate against persons on account of their race. *Loving* v. *Virginia*, 338 U.S. 1 (1967); *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960); *Brown* v. *Board of Education*, 347 U.S. 483 (1954); *Slaughter House Cases*, 16 Wall. 36, 71–72 (1872). While this Court has recognized in some instances that the Equal Protection Clause of the Fourteenth Amendment protects against discriminations other than those on account of race,[10] see *Reynolds* v. *Sims*, 377 U.S. 533 (1964); *Hadley* v. *Junior College District*, 397 U.S. 50 (1970); see also *Kotch* v. *Board of River Port Pilots*, 330 U.S. 552 (1947), and cases cited therein, it cannot be successfully argued that the Fourteenth Amendment was intended to strip the States of their power, carefully preserved in the original Constitution, to govern themselves. The Fourteenth Amendment was surely not intended to make every discrimination between groups of people a constitutional denial of equal protection. Nor was the Enforcement Clause of the Fourteenth Amendment intended to permit Congress to prohibit every discrimination between groups of people. On the other hand, the Civil War Amendments were unquestionably designed to condemn and forbid every distinction, however trifling, on account of race.

To fulfill their goal of ending racial discrimination and to prevent direct or indirect state legislative encroachment on the rights guaranteed by the amendments, the Framers gave Congress power to enforce each of the Civil War Amendments. These enforcement powers are broad. In *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409, 439 (1968), the Court held that § 2 of the Thirteenth Amendment "clothed 'Congress with the power to pass *all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.*'" In construing § 5 of the Fourteenth Amendment, the Court has stated:

"It is not said the *judicial power* of the general government shall extend to enforcing the prohibitions and to protecting the rights and immunities guaranteed. It is not said that branch of government shall be authorized to declare void any action of a State in violation of the prohibitions. *It is the power of Congress which has been enlarged.*" *Ex parte Virginia*, 100 U.S. 339, 345 (1879). (Emphasis added.)

And in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966) (MR. JUSTICE BLACK dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965 under Congress' Fifteenth Amendment enforcement power.

As broad as the congressional enforcement power is, it is not unlimited. Specifically, there are at least three limitations upon Congress' power to enforce the guarantees of the Civil War Amendments. First, Congress may not by legislation repeal other provisions of the Constitution. Second, the power granted to Congress was not intended to strip the States of their power to govern themselves or to convert our national government of enumerated powers into a central government of unrestrained authority over every inch of the whole Nation. Third, Congress may only "enforce" the provisions of the amendments and may do so only by "appropriate legislation." Congress has no power under the enforcement sections to undercut the Amendments' guarantees of personal equality and freedom from discrimination, see *Katzenbach* v. *Morgan*, 384 U.S. 641, 651 n. 10 (1966), or to undermine those protections of the Bill of Rights which we have held the Fourteenth Amendment made applicable to the States.[11]

Of course, we have upheld congressional legislation under the Enforcement Clauses in some cases where Congress has interfered with state regulation of the local electoral process. In *Katzenbach* v. *Morgan*, *supra*, the Court upheld a statute which outlawed New York's requirement of literacy in English as a prerequisite for voting as this requirement was applied to Puerto Ricans with certain educational qualifications. The New York statute overridden by Congress applied to all elections. And in *South Carolina* v. *Katzenbach*, *supra* (MR. JUSTICE BLACK dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965. That Act proscribed the use of the literacy test in all elections in certain areas. But division of power between state and national governments, like every provision of the Constitution, was expressly qualified by the Civil War Amendments' ban on racial discrimination. Where Congress attempts to remedy racial discrimination under its enforcement powers, its authority is enhanced by the avowed intention of the Framers of the Thirteenth, Fourteenth and Fifteenth Amendments. Cf. *Harper* v. *Virginia Board of Elections*, 383 U.S. 663, 670 (1966) (dissenting opinion of MR. JUSTICE BLACK).

In enacting the 18-year-old vote provisions of the Act now before the Court, Congress made no legislative findings that 21-year-old vote requirements were used by the States to disenfranchise voters an account of race, I seriously doubt that such a finding, if made, could be supported by substantial evidence. Since Congress has attempted to invade an area preserved to the States by the Constitution without a foundation for enforcing the Civil War Amendments' ban on racial discrimination, I would hold that Congress has exceeded its powers in attempting to lower the voting age in state and local elections. On the other hand, where Congress legislates in a domain not exclusively reserved by the Constitution to the States, its enforcement power need not be tied so closely to the goal of eliminating discrimination on account of race.

To invalidate part of the Voting Rights Act Amendments of 1970, however, does not mean that the entire Act must fall or that the constitutional part of the 18-year-old vote provision cannot be given effect. In passing the Voting Rights Act Amendments of 1970, Congress recognized that the limits of its power under the Enforcement Clauses were largely undetermined, and therefore included a broad severability provision:

"If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination."

In this case, it is the judgment of the Court that Title III, lowering the voting age to 18, is invalid as applied to voters in state and local elections. It is also the judgment of the Court that Title III is valid with respect to national elections. We would fail to follow the express will of Congress in interpreting its own statute if we refuse to sever these two distinct astinct aspects of Title III. Moreover, it is a longstanding canon of statutory construction that legislative enactments are to be enforced

Footnotes at end of article.

to the extent that they are not inconsistent with the Constitution, particularly where the valid portion of the statute does not depend upon the invalid part. See, *e. g., Watson* v. *Buck*, 313 U. S. 387 (1941); *Marsh* v. *Buck*, 313 U.S. 406 (1941). Here, of course, the enforcement of the 18-year-old vote in national elections is in no way dependent upon its enforcement in state and local elections.

II

In Title I of the Voting Rights Act Amendments of 1970 Congress extended the provisions of the Voting Rights Act of 1965 which ban the use of literacy tests in certain States upon the finding of certain conditions by the United States Attorney General. The Court upheld the provisions of the 1965 Act over my partial dissent in *South Carolina* v. *Katzenbach*, *supra*, and *Gaston County* v. *United States*, 395 U.S. 285 (1969). The constitutionality of Title I is not raised by any of the parties to these suits.[12]

In Title II of the Amendments Congress prohibited the use of any test or device resembling a literacy test in any national, state, or local election in any area of the United States where such test is not already proscribed by the Voting Rights Act of 1965. The State of Arizona maintains that Title II cannot be enforced to the extent that it is inconsistent with Arizona's literacy test requirement. Ariz. Rev. Stat. Ann. §§16.101.A.4, 16–101.A.5 (1956). I would hold that the literacy test ban of the 1970 Amendments is constitutional under the Enforcement Clause of the Fifteenth Amendment and that it supersedes Arizona's conflicting statutes under the Supremacy Clause of the Federal Constitution.

In enacting the literacy test ban of Title II Congress had before it a long history of discriminatory use of literacy tests to disfranchise voters on account of their race. Congress could have found that as late as the summer of 1968, the percentage registration of nonwhite voters in seven Southern States was substantially below the percentage registration of white voters.[13] Moreover, Congress had before it striking evidence to show that the provision of the 1965 Act had in the span of four years had a remarkable impact on minority group voter registration.[14] Congress also had evidence to show that voter registration in areas with large Spanish-American populations was consistently below the state and national averages. In Arizona, for example, only two counties out of eight with Spanish surname populations in excess of 15% showed a voter registration equal to the state-wide average.[15] Arizona also has a serious problem of deficient voter registration among Indians. Congressional concern over the use of literacy test to disfranchise Puerto Ricans in New York State is already a matter of record in this Court. *Katzenbach* v. *Morgan*, supra. And as to the Nation as a whole, Congress had before it statistics which demonstrate that voter registration and voter participation are consistently greater in States without literacy tests.[16]

Congress also had before it this country's history of discriminatory educational opportunities in both the North and the South. The children who were denied an equivalent education by the "separate but equal" rule of *Plessy* v. *Ferguson*, 163 U.S. 537 (1896), overruled in *Brown* v. *Board of Education*, 347 U.S. 483 (1954), are now old enough to vote. There is substantial, if not overwhelming, evidence from which Congress could have concluded that it is a denial of equal protection to condition the political participation of children educated in a dual school system upon their educational achievement. Moreover, the history of this legislation suggests that concern with educational inequality was perhaps uppermost in the minds of the congressmen who sponsored the Act. The hearings are filled with references to educational inequality. Faced with this and other evidence that literacy tests reduce voter participation in a discriminatory manner not only in the South but throughout the Nation, Congress was supported by substantial evidence in concluding that a nationwide ban on literacy tests was appropriate to enforce the Civil War Amendments.

Finally, there is yet another reason for upholding the literacy test provisions of this Act. In imposing a nationwide ban on literacy tests, Congress has recognized a national problem for what it is—a series *national* dilemma that touches every corner of our Land. In this legislation Congress has recognized that discrimination on account of color and racial origin is not confined to the South, but exists in various parts of the country. Congress has decided that the way to solve the problems of racial discrimination is to deal with nationwide discrimination with nationwide legislation. Compare *South Carolina* v. *Katzenbach*, *supra*, and *Gaston County* v. *United States*, *supra*.

III

In Title II of the Voting Rights Acts Amendments Congress also provided that in presidential and vice presidential elections, no voter could be denied his right to cast a ballot because he had not lived in the jurisdiction long enough to meet its residency requirements. Furthermore, Congress provided uniform national rules for absentee voting in presidential and vice presidential elections. In enacting these regulations for national elections Congress was attempting to insure a fully effective voice to all citizens in national elections. What I said in Part I of this opinion applies with equal force here. Acting under its broad authority to create and maintain a national government, Congress unquestionably has power under the Constitution to regulate federal elections. The Framers of our Constitution were vitally concerned with setting up a national government that could survive. Essential to the survival and to the growth of our national government is its power to fill its elective offices and to insure that the officials who fill those offices are as responsive as possible to the will of the people whom they represent.

Our judgment today gives the Federal Government the powers the Framers conferred upon it, that is, the final control of the elections of its own officers. Our judgment also saves for the States the power to control state and local elections which the Constitution originally reserved to them and which no subsequent amendment has taken from them.[17] The generalities of the Equal Protection Clause of the Fourteenth Amendment were not designed or adopted to render the States impotent to set voter qualifications in elections for their own local officials and agents in the absence of some specific constitutional limitations.

FOOTNOTES

*Together with No. 43, Orig., *Oregon* v. *Mitchell;* No. 44 Orig., *Texas* v. *Mitchell*, and No. 47 Orig., *United States* v. *Idaho*.

[1] In Nos. 43 and 44 Oregon and Texas respectively invoke the original jurisdiction of this Court to sue the United States Attorney General seeking an injunction against the enforcement of Title III (18-year-old vote) of the Act. In No. 46 the United States invokes our original jurisdiction seeking to enjoin Arizona from enforcing its laws to the extent that they conflict with the Act, and directing the officials of Arizona to comply with the provisions of Title III (nationwide literacy test ban) and Title III (18-year-old vote) of the Act. In No. 47 the United States invokes its laws to the extent that they conflict with Title II (abolition of residency requirements in presidential and vice presidential elections) and Title III (18-year-old vote) of the Act. No question has been raised concerning the standing of the parties or the jurisdiction of this Court.

[2] Article I, § 4 was a compromise between those delegates to the Constitutional Convention who wanted the States to have final authority over the election of all state and federal officers and those who wanted Congress to make laws governing national elections, 2 Story, Commentaries on the Constitution of the United States 280–292 (1st ed. 1883). The contemporary interpretation of this compromise reveals that those who favored national authority over national elections prevailed. Six States included in their resolutions of ratification the recommendation that a constitutional amendment be adopted to curtail the power of the Federal Government to regulate national elections. Such an amendment was never adopted.

A majority of the delegates to the Massachusetts ratifying convention must have assumed that Art. I, § 4 gave very broad powers to Congress. Otherwise that convention would not have recommended an amendment providing:

"That Congress do not exercise the powers vested in them by the 4th section of the 1st Article, but in cases where a state shall neglect or refuse to make the regulations therein mentioned or shall make regulations subversive of the rights of the people to a free and equal representation in Congress agreeably to the Constitution." 2 Elliot's Debates on the Federal Constitution 177 (1876).

The speech of Mr. Cabot, one delegate to the Massachusetts convention, who agreed that Art. I, § 4, was "to be as highly prized as any in the Constitution," expressed a view of the breadth of that section which must have been shared by most of his colleagues.

"[I]f the State Legislatures are suffered to regulate conclusively the election of the democratic branch, they may . . . finally annihilate, that control of the general government which the people ought always have . . . . *Id.*, at 26.

And Cabot was supported by Mr. Parsons, who added:

". . . They might make an unequal and partial division of the states into districts for election of representatives, or they might even disqualify one third of the electors. Without these powers in Congress, the people can have no remedy; but the fourth section provides a remedy, a controlling power in a legislature, composed of senators and representatives of twelve states, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election." *Id.*, at 27.

[3] See *Wesberry* v. *Sanders*, 376 U.S. 1, 14–16 (1964).

[4] See, *e.g.*, Act of August 8, 1911, c. 5, 37 Stat. 13.

[5] My Brother STEWART has cited the debates of the Constitutional Convention to show that Oliver Ellsworth, George Mason, Madison, and Franklin successfully opposed granting Congress the power to regulate federal elections, including the qualifications of voters, in the original Constitution. I read the history of our Constitution differently. Mr. Madison, for example, explained Art I, § 4, to the Virginia ratifying convention follows:

"[I]t was thought that the regulation of the time, place and manner, of electing Representatives, should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. . . . Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the general government." 3 Elliot's Debates on the Federal Constitution 367 (1876).

And Mr. Mason, who was supposedly successful in opposing a broad grant of power to Congress to regulate federal elections, still found it necessary to support an unsuccessful Virginia proposal to curb the power of Congress under Art. I, § 4. *Id.*, at 403.

[6] See, *e.g.*, *Ex parte Siebold*, 100 U.S. 371 (1879); *Ex parte Yarbrough*, 110 U.S. 651 (1884); *United States* v. *Mosley*, 238 U.S. 383 (1915); *United States* v. *Classic*, 313 U.S. 299 (1941).

[7] With reference to the selection of the President and Vice President, Art. II § 1 provides: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress. . . ." But this Court in *Burroughs* v. *United States*, 290 U.S. 534 (1934), upheld the power of Congress to regulate certain aspects of elections for presidential and vice-presidential electors, specifically rejecting a construction of Art. II, § S 1, that would have curtailed the power of Congress to regulate such elections. Finally, and most important, inherent in the very concept of a supreme national government with national officers is a residual power in Congress to insure that those officers represent their national constituency as responsively as possible. This power arises from the nature of our constitutional system of government and from the Necessary and Proper Clause.

[8] "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. Const. Amend. X.

[9] "The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of most numerous Branch of the State Legislature."

[10] My Brother BRENNAN relies upon *Carrington* v. *Rash*, 380 U.S. 89 (1965); *Cipriano* v. *City of Houma*, 395 U.S. 701 (1969); and *Evans* v. *Cornman*, 398 U.S. 419 (1970). These typical equal protection cases in which I joined are not relevant or material to our decision in the cases before us. The establishment of voter age qualifications is a matter of legislative judgment which cannot be properly decided under the Equal Protection Clause. The crucial question here is not who is denied equal protection, but rather which political body, state or federal is empowered to fix the minimum age of voters. The Framers intended the States to make the voting age decision in all elections with the provision that Congress could override state judgments concerning the qualifications of voters in federal elections.

[11] See: the First Amendment, *e.g.*, *Gitlow* v. *New York*, 268 U.S. 652 (1925); *Cantwell* v. *Connecticut*, 310 U.S. 296 (1940); *Edwards* v. *South Carolina*, 372 U.S. 229 (1963); the Fourth Amendment, *Mapp* v. *Ohio*, 367 U.S. 643 (1961); the Fifth Amendment, *Chicago B. & Q. R. Co.* v. *Chicago*, 166 U.S. 226 (1897); *Malloy* v. *Hogan*, 378 U.S. 1 (1964); *Benton* v. *Maryland*, 395 U.S. 784 (1969); the Sixth Amendment, *Gideon* v. *Wainwright*, 372 U.S. 335 (1963); *Pointer* v. *Texas*, 380 U.S. 400 (1965); *Klopfer* v. *North Carolina*, 386 U.S. 213 (1967); *Duncan* v. *Louisiana*, 391 U.S. 145 (1968); and the Eighth Amendment, *Robinson* v. *California*, 370 U.S. 660 (1962).

[12] Yuma County, Arizona, is presently subject to the literacy test ban on the Voting Rights Act of 1965 pursuant to a determination of the Attorney General under § 4(a) of the 1965 Act. I do not understand Arizona to contest the application of the 1965 Act or its extension to that county. Arizona "does not question" Congress' authority to enforce the Fourteenth and Fifteenth Amendments "when Congress possesses a 'special legislative competence'; and cites *South Carolina* v. *Katzenbach*, 383 U.S. 641 (1966), with approval. Answer and Brief for Arizona, No. 46 Orig., O. T. 1970.

[13] Hearings on H.R. 4249, H.R. 5538, and Similar Proposals before Subcommittee No. 5 of the House Committee on the Judiciary, pt. 3, at 14 (1969).

[14] *Id.*, at 93.

[15] Hearings on S. 818, S. 2456, S. 2507, and Title IV of S. 2029 before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, at 406 (1969–1970).

[16] *Id.*, at 401.

[17] That these views are not novel is demonstrated by Mr. Justice Story in his Commentaries on the Constitution of the United States, vol. II, at 284–285 (1st ed. 1833).

"There is, too, in the nature of such a provision [Article I, § 4], something incongruous, if not absurd. What would be said of a clause introduced into a national constitution to regulate the state elections of the members of the state legislatures? It would be deemed a most unwarrantable transfer of power, indicating a premeditated design to destroy the state governments. It would be deemed so flagrant a violation of principle, as to require no comment. It would be said, and justly, that the state governments ought to possess the power of self-existence and self-organization, independent of the pleasure of the national government. *Why does not the same reasoning apply to the national government?* What reason is there to suppose, that the state governments will be more true to the Union, than the national government will be to the state governments?" (Emphasis added.) (Footnote omitted.)

[Supreme Court of the United States, Nos. 43, 44, 46, 47 Org.—October Term, 1970]

OREGON VERSUS MITCHELL

(State of Oregon, Plaintiff, *v.* John N. Mitchell, Attorney General of the United States; State of Texas, Plaintiff, *v.* John N. Mitchell, Attorney General of the United States; United States, Plaintiff, *v.* State of Arizona; United States, Plaintiff, *v.* State of Idaho on Bills of Complaint, Dec. 21, 1970)

Mr. JUSTICE DOUGLAS.

I dissent from the judgment of the Court insofar as it declares § 302 unconstitutional as applied to state elections and concur in the judgment as it affects federal elections but for different reasons. I rely on the Equal Protection Clause and on the Privileges and Immunities Clause of the Fourteenth Amendment.

I

The grant of the franchise to 18-year-olds by Congress is in my view valid across the board.

I suppose that in 1920, when the Nineteenth Amendment was passed giving women the right to vote, it was assumed by most constitutional experts that there was no relief by way of the Equal Protection Clause of the Fourteenth Amendment. In *Minor* v. *Happersett*, 21 Wall. 162, the Court held in the 1874 Term that a State could constitutionally restrict the franchise to men. While the Fourteenth Amendment was relied upon, the thrust of the opinion was directed at the Privileges and Immunities Clause with a subsidiary reference to the Due Process Clause. It was much later, indeed not until the 1961 Term—nearly a century after the Fourteenth Amendment was adopted—that discrimination against voters on grounds *other than race* was struck down.

The first case in which this Court struck down a statute under the Equal Protection Clause of the Fourteenth Amendment was *Strauder* v. *West Virginia*, 100 U.S. 303, decided in the 1879 Term.[1] In the 1961 Term we squarely held that the manner of apportionment of members of a state legislature raised a justiciable question under the Equal Protection Clause, *Baker* v. *Carr*, 369 U.S. 186. That case was followed by numerous others, *e.g.*: that one person could not be given twice or 10 times the voting power of another person in a statewide election merely because he lived in a rural area or in the smallest rural county; [2] that the principle of equality applied to both Houses of a bicameral legislature; [3] that political parties receive the protection under the Equal Protection Clause just as voters do.[4]

The reapportionment cases, however, are not quite in point here, though they are the target of my Brother HARLAN'S dissent. His painstaking review of the history of the Equal Protection Clause leads him to conclude that "political" rights are not protected though "civil" rights are protected. The question of what questions are "political" has been a recurring issue in this Court from the beginning, and we recently reviewed them all in *Baker* v. *Carr*, *supra*, and in *Powell* v. *McCormack*, 395 U.S. 486. *Baker* v. *Carr* was a reapportionment case and *Powell* v. *McCormack* involved the exclusion from the House of Representatives of a Congressman. The issue of "political" question versus "justiciable" question was argued *pro* and *con* in those cases; and my Brother HARLAN stated in *Baker* v. *Carr*, 369 U.S., at 330 *et. seq.*, and on related occasions (*Gray* v. *Sanders*, 372 U.S. 368, 382 *Westbury* v. *Sanders*, 376 U.S. 1, 20; *Reynolds* v. *Sims*, 377 U.S. 533, 589) his views on the constitutional dimensions of the "political" question in the setting of the reapportionment problem.

Those cases involved the question whether legislatures must be so structured as to reflect with approximate equality the voice of every voter. The ultimate question was whether absent a proper apportionment by the legislature a federal court could itself make an apportionment. That kind of problem raised issues irrelevant here. Reapportionment, as our experience shows, presented a tangle of partisan politics in which geography, economics, urban life, rural constituencies, and numerous other nonlegal factors play varying roles. The competency of courts to deal with them was challenged. Yet we held the issues were justiciable. None of those so-called "political" questions are involved here.

This case, so far as equal protection is concerned, is no whit different from a controversy over a state law that disqualifies women from certain types of employment, *Goesaert* v. *Cleary*, 335 U.S. 464, or that imposes a heavier punishment on one class of offender than on another whose crime is not intrinsically different. *Skinner* v. *Oklahoma*, 316 U.S. 535. The right to vote is, of course, different in one respect from the other rights in the economic, social, or political field which as indicated in the Appendix to this opinion are under the Equal Protection Clause. The right to vote is a civil right deeply embedded in the Constitution. Art. I, § 2, provides that the House is composed of members "chosen . . . by the people" and the electors "shall have the qualifications requisite for electors of the most numerous Branch of the State Legislature." The Seventeenth Amendment states that Senators shall be "elected by the people." The Fifteenth Amendment speaks of the "right of citizens of the United States to vote"—not only in federal but in state elections. The Court in *Ex parte Yarbrough*, 110 U.S. 651, 665, stated:

"This new constitutional right was mainly designed for citizens of African descent. The principle, however, that the protection of the exercise of this right is within the power of Congress, is as necessary to the right of other citizens to vote as to the colored citizen, and to the right to vote in general as to the right to be protected against discrimination."

It was in that tradition that we said in *Reynolds* v. *Sims*, *supra*, at 555, "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restriction on that right strikes at the heart of representative government."

This "right to choose, secured by the Constitution," *United States* v. *Classic*, 313 U.S. 314, 315, is a civil right of the highest order. Voting concerns "political" matters; but the

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Footnotes at end of article.

right is not "political" in the constitutional sense. Interference with it has given rise to a long and consistent line of decisions by the Court; and the claim has always been upheld as justiciable.[5] Whatever distinction may have been made, following the Civil War, between "civil" and "political" rights, has passed into history. In *Harper* v. *Virginia Board*, 383 U.S. 663, 669, we stated: "Notions of what constitutes equal treatment for purposes of the Equal Protection Clause *do* change." That statement is in harmony with my view of the Fourteenth Amendment, as expressed by My Brother BRENNAN: "We must therefore conclude that its framers understood their Amendment to be a broadly worded injunction capable of being interpreted by future generations in accordance with the vision and needs of those generations." *Post*, at ——. Hense the history of the Fourteenth Amendment tendered by Brother HARLAN is irrelevant to the present problem.

Since the right is civil and not "political," it is protected by the Equal Protection Clause of the Fourteenth Amendment which in turn by § 5 of that Amendment can be "enforced" by Congress.

In *Carrington* v. *Rash*, 380 U.S. 89, we held that Texas could not bar a person, otherwise qualified, from voting merely because he was a member of the armed services. Occupation, we held, when used to bar a person from voting, was that invidious discrimination which the Equal Protection Clause condemns. In *Evans* v. *Cornman*, 398 U.S. 419, we held that a State could not deny the vote to residents of a federal enclave when it treated them as residents for many other purposes. In *Harper* v. *Virginia Board*, 383 U.S., at 666, we held a State could not in harmony with the Equal Protection Clause keep a person from voting in state elections because of "the affluence of the voter or payment of any fee." In *Kramer* v. *Union School District*, 395 U.S. 621, we held that a person could not be barred from voting in school board elections merely because he was a bachelor. So far as the Equal Protection Clause was concerned, we said that the line between those qualified to vote and those not qualified turns on whether those excluded have "a distinct and direct interest in the school meeting decisions." *Id.*, at 632. In *Cipriano* v. *City of Houma*, 395 U.S. 701, we held that a state law which gave only "property taxpayers" the right to vote on the issuance of revenue bonds of a municipal utility system violated equal protection as "the benefits and burdens of the bond issue fall indiscriminately on property owner and non-property owner alike." *Id.*, at 705. And only on June 23, 1970, we held in *Phoenix* v. *Kolodziejski*, 399 U.S. 204, that it violates equal protection to restrict those who may vote on general obligation bonds to real property taxpayers. We looked to see if there was any "compelling state interest" in the voting restrictions. We held that "non-property owners" are not "substantially less interested in the issuance of these securities than are property owners," *id.*, at 212, and that presumptively "when all citizens are affected in important ways by a governmental decision subject to a referendum, the Constitution does not permit weighted voting or the exclusion of otherwise qualified citizens from the franchise."[6] *Id.*, at 209. And as recently as November 9, 1970, we summarily affirmed a district court decision (310 F. Supp. 72) on the basis of *Kolodziejski. Parish School Board of St. Charles* v. *Stewart*, 400 U.S. ——, where Louisiana gave a vote on municipal bonds issued only to "property taxpayers."

The powers granted Congress by § 5 of the Fourteenth Amendment to "enforce" the Equal Protection Clause are "the same broad powers expressed in the Necessary and Proper Clause, Art. I, § 8, cl. 18." *Katzenbach* v. *Morgan*, 384 U.S. 641, 650. As we stated in that case, "Correctly viewed, § 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment."

Congress might well conclude that a reduction in the voting age from 21 to 18 was needed in the interests of equal protection. The Act itself brands the denial of the franchise to 18-year-olds as "a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed" on them. Section 301(a)(1), Voting Rights Act of 1970, 84 Stat. 314, 42 U.S.C. § 1973. The fact that only males are drafted while the vote extends to females as well is not relevant, for the female component of these families or prospective families is also caught up in war and hit hardest by it. Congress might well believe that men and women alike should share the fateful decision.

It is said, why draw the line at 18? Why not 17? Congress can draw lines and I see no reason why it cannot conclude that 18-year-olds have that degree of maturity which entitles them to the franchise. They are "generally considered by American law to be mature enough to contract, to marry, to drive an automobile, to own a gun, and to be responsible for criminal behavior as an adult."[7] Moreover, we are advised that under state laws, mandatory school attendance does not, as a matter of practice, extend beyond the age of 18. On any of these items the States, of course, have leeway to raise or lower the age requirements. But voting is "a fundamental matter in a free and democratic society," *Reynolds* v. *Sims*, 377 U.S. 533, 561. Where "fundamental rights and liberties are asserted under the Equal Protection Clause, classifications which might invade or restrain them must be closely scrutinized and carefully confirmed." *Harper* v. *Virginia Board*, 383 U.S. 663, 670. There we were speaking of state restrictions on those rights. Here we are dealing with the right of Congress to "enforce" the principles of equality enshrined in the Fourteenth Amendment. The right to "enforce" granted by § 5 of that Amendment is, as noted, parallel with the Necessary and Proper Clause whose reach Chief Justice Marshall described in *McCulloch* v. *Maryland*, 4 Wheat. 316, 421: "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

Equality of voting by all who are deemed mature enough to vote is certainly consistent "with the letter and spirit of the constitution." Much is made of the fact that Art. 1, § 4 of the Constitution[8] gave Congress only the power to regulate the "manner of holding elections," not the power to fix qualifications for voting in elections. But the Civil War Amendments—the Thirteenth, Fourteenth, and Fifteenth—made vast inroads on the power of the States. Equal protection became a standard for state action and Congress was given authority to "enforce" it. See *Katzenbach* v. *Morgan*, 384 U.S. 641, 647. The manner of enforcement involves discretion; but that discretion is largely entrusted to the Congress, not to the courts. If racial discrimination were the only concern of the Equal Protection Clause, then across-the-board voting regulations set by the States would be of no concern to Congress. But it is much too late in history to make that claim, as the cases listed in the Appendix to this opinion show. Moreover, election inequalities created by state laws and based on factors other than race may violate the Equal Protection Clause, as we have held over and over again. The reach of § 5 to "enforce" equal protection by eliminating election inequalities would seem quite broad. Certainly there is not a word of limitation in § 5 which would restrict its applicability to matters of race alone. And if, as stated in *McCulloch* v. *Maryland*, the measure of the power of Congress is whether the remedy is consistent "with the letter and spirit of the constitution," we should have no difficulty here. We said in *Gray* v. *Sanders*, 372 U.S. 368, 381: "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote."

It is a reasoned judgment that those who have such a large "stake" in modern elections as 18-year-olds, whether in times of war or peace, should have political equality.

II

I likewise find the objections which Arizona and Idaho make to the literacy and residence requirements of the 1970 Act to be insubstantial.

Literacy. We held in *Lassiter* v. *Northampton Election Board*, 360 U.S. 44, that a State could apply a literacy test in selecting qualified voters provided the test is not "discriminatory" and does not contravene "any restriction that Congress, acting pursuant to its constitutional powers, has imposed." *Id.*, at 51. The question in these cases is whether Congress has the power under § 5 of the Fourteenth Amendment to bar literacy tests in all federal, state, or local elections.

Section 201 bars a State from denying the right to vote in any federal, state, or local election because of "any test or device" which is defined, *inter alia*, to include illiteracy.[9] We traveled most of the distance needed to sustain this Act in *Katzenbach* v. *Morgan*, 384 U.S. 641, where we upheld the constitutionality of an earlier Act which prohibited the application of English literacy tests to persons educated in Puerto Rico. The power of Congress in § 5 to "enforce" the Equal Protection Clause was sufficiently broad, we held, to enable it to establish voting requirements which might pass muster under the Equal Protection Clause, absent an Act of Congress. *Id.*, 648–651.

The question, we said, was whether the Act of Congress was "appropriate legislation to enforce the Equal Protection Clause":

"It was well within congressional authority to say that this need of the Puerto Rican minority for the vote warranted federal intrusion upon any state interests served by the English literacy requirement. It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did." *Id.*, at 653.

We also held that the Act might be sustained as an attack on the English language test as a device to discriminate. *Id.*, at 654. And we went on to say that Congress might have concluded that "as a means of furthering the intelligent exercise of the franchise, an ability to read or understand Spanish is as effective as ability to read English for those to whom Spanish-language newspapers and Spanish-language radio and television programs are available to inform them of election issues and governmental affairs." *Id.*, at 655.

Footnotes at end of article.

We took a further step toward sustaining the present type of law in *Gaston County* v. *United States*, 395 U.S. 285. That decision involved a provision of the Voting Rights Act of 1965 which suspended the use of any "test or device," including illiteracy, as a prerequisite to registration in a State which was found by the Attorney General and Director of the Census to have used it in any election on November 1, 1964, and in which less than 50% of the residents of voting age were registered and had voted.[10] Gaston County, North Carolina, was so classified and its literacy test was thereupon suspended. In a suit to remove the ban we sustained it. We noted that Congress had concluded that "the County deprived its black residents of equal educational opportunities, which in turn deprived them of an equal chance to pass the literacy test." *Id.*, at 291. Congress, it was argued, should have employed a formula based on educational disparities between the races or one based on literacy rates. *Id.*, at 292. But the choice of appropriate remedies is for Congress and the range of available ones is wide It was not a defect in the formula that some literate Negroes would be turned out by Negro schools.

"It is only reasonable to infer that among black children compelled to endure a segregated and inferior education, fewer will achieve any given degree of literacy than will their better-educated white contemporaries. And on the Government's showing, it was certainly proper to infer that Gaston County's inferior Negro schools provided many of its Negro residents with a subliterate education, and gave many others little inducement to enter or remain in school." *Id.*, at 295–296.

By like reasoning Congress in the present legislation need not make findings as to the incidence of literacy. It can rely on the fact that most States do not have literacy tests, that the tests have been used at times as a discriminatory weapon against some minorities—not only Negroes but Americans of Mexican ancestry, and American Indians; that radio and television have made it possible for a person to be well informed even though he may not be able to read and write. We know from the legislative history that these and other desiderata influenced Congress in the choice it made in the present legislation; and we certainly cannot say that the means used were inappropriate.

Residence. The residence requirements of § 202 relate only to elections for President and Vice President. Section 202 abolishes durational residency[11] and provides for absentee voting provided that registration may be required 30 days prior to the election. The effect of § 202 is to reduce all state durational residency requirements to 30 days. In presidential elections no parochial interests of the state, county, or city are involved. Congress found that a durational residency requirement "in some instances has the impermissible purpose or effect of denying citizens the right to vote." § 202(a)(4). It found in § 202(a)(3) that a durational residency requirement denies citizens their privileges and immunities.[12]

The Seventeenth Amendment states that Senators shall be "elected by the people." Article I, § 2, provides that the House shall be chosen "by the People of the several States." The right to vote for national officers is a privilege and immunity of national citizenship. *Ex parte Yarbrough*, 110 U.S. 651; *In re Quarles*, 158 U.S. 523, 534; *Twining* v. *New Jersey*, 211 U.S. 78, 97; *Burroughs* v. *United States*, 290 U.S. 534; *United States* v. *Classic*, 313 U.S. 299, 315.[13]

The Fourteenth Amendment provides that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." Durational residency laws of the States had such effect, says Congress. The "choice of means" to protect such a privilege presents "a question primarily addressed to the judgment of Congress." *Burroughs* v. *United States, supra*, at 547. The relevance of the means which Congress adopts to the condition sought to be remedied, the degree of their necessity, and the extent of their efficacy are all matters for Congress. *Id.*, at 548.

The judgment which Congress has made respecting the ban of durational residency in presidential elections is plainly a permissible one in its efforts under § 5 to "enforce" the Fourteenth Amendment.

APPENDIX TO OPINION OF DOUGLAS, J.

Cases which have struck down state statutes under the Equal Protection Clause other than statutes which discriminate on the basis of race.

Statutes which discriminated against certain businesses

Gulf, C. & S. F. Co. v. *Ellis*, 165 U.S. 150; *Atchison & Santa Fe Ry.* v. *Vosburg*, 238 U.S. 56 (railroad must pay attorney fees if loses suit, but other businesses need not). *Kentucky Finance Co.* v. *Paramount Auto Exchange*, 262 U.S. 544; *Power Co.* v. *Saunders*, 274 U.S. 490 (burdens placed upon out-of-state corporations in litigation).

Statutes which favored certain business

Connolly v. *Union Sewer Pipe Co.*, 184 U.S. 540 (exemption from state antitrust law for agricultural goods); *Smith* v. *Cahoon*, 283 U.S. 553 (act exempting certain motor vehicles from insurance requirements); *Mayflower Farms* v. *Ten Eyck*, 297 U.S. 266 (act allowing certain milk dealers to sell at lower than the regulated price); *Hartford Co.* v. *Harrison*, 301 U.S. 459 (statute permitting mutual, but not stock, insurance companies to act through salaried representatives), and *Morey* v. *Dowd*, 354 U.S. 457 (American Express exempted from licensing requirements applied to "currency exchanges").

Taxing statutes struck down

Concordia Ins. Co. v. *Illinois*, 292 U.S. 535; *Iowa-Des Moines Bank* v. *Bennett*, 284 U.S. 239; *Cumberland Coal* v. *Board*, 284 U.S. 23; *Quaker City Cab. Co.* v. *Pennsylvania*, 277 U.S. 389; *Louisville Gas* v. *Coleman*, 277 U.S. 32; *Hanover Fire Ins. Co.* v. *Harding*, 272 U.S. 494; *Schlesinger* v. *Wisconsin*, 270 U.S. 230; *Sioux City Bridge* v. *Dakota County*, 260 U.S. 441; *F. S. Royster Guano Co.* v. *Virginia*, 253 U.S. 412, and *Southern Railway* v. *Greene*, 216 U.S. 400.

Treatment of convicted criminals

Rinaldi v. *Yeager*, 384 U.S. 305 (statute requiring unsuccessful criminal appellants who were in jail to pay cost of trial transcript); *Baxstrom* v. *Herold*, 383 U.S. 107 (statute denying convict a sanity hearing before a jury prior to civil commitment); and *Skinner* v. *Oklahoma*, 316 U.S. 535 (sterilization of some convicts).

Indigents

Douglas v. *California*, 372 U.S. 353 (Rule of Criminal Procedure which did not provide counsel for appeal to indigents); and *Shapiro* v. *Thompson*, 394 U.S. 618 (denial of welfare benefits based on residency requirement).

Legitimacy

Glona v. *American Guarantee*, 391 U.S. 73 (mother denied right to sue for wrongful death of illegitimate child); and *Levy* v. *Louisiana*, 391 U.S. 68 (illegitimate children denied recovery for wrongful death of mother).

Aliens

Truax v. *Raich*, 239 U.S. 33 (statute limiting the number of aliens that could be employed to 20%); and *Takahashi* v. *Fish & Game Commission*, 334 U.S. 410 (denial of fishing rights to aliens ineligible for citizenship).

FOOTNOTES

[1] Strauder was tried for murder. He had sought removal to federal courts on the ground that "by vitue of the laws of the State of West Virginia no colored man was eligible to be a member of the grand jury or to serve on the petit jury in the State. *Id.*, at 304. He was convicted of murder and the West Virginia Supreme Court affirmed. This Court held the West Virginia statute limiting jury duty to whites only unconstitutional:

"We do not say that within the limits from which it is not excluded by the amendment a State may not prescribe the qualifications of its jurors, and in so doing make discrimination . . . [The aim of the Fourteenth Amendment] was against discrimination because of race or color." 100 U.S., at 310.

[2] *Gray* v. *Sanders*, 372 U.S. 368; *Davis* v. *Mann*, 377, U.S. 678; *Swann* v. *Adams*, 385 U.S. 440; *Kilgarn* v. *Hill*, 386 U.S. 120; *Avery* v. *Midland County*, 390 U.S. 474; *Moore* v. *Ogilvie*, 394 U.S. 814; *Hadley* v. *Junior College*, 397 U.S. 50.

[3] *Reynolds* v. *Sims*, 377 U.S. 533; *WMCA* v. *Lorenzo*, 377 U.S. 633; *Roman* v. *Sincock*, 377 U.S. 695.

[4] *Williams* v. *Rhodes*, 393 U.S. 23. We also held in federal elections that the command of Art. I, § 2 of the Constitution that representatives be chosen "by the People of the several States" means that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's." *Wesberry* v. *Sanders*, 376 U.S. 1, 7–8, and that that meant "vote-diluting discrimination" could not be accomplished "through the device of districts containing widely varied numbers of inhabitants." *Id.*, at 8; *Lucas* v. *Colorado General Assembly*, 377 U.S. 713; *Kirkpatrick* v. *Preisler*, 394 U.S. 526; *Wells* v. *Rockefeller*, 394 U.S. 542.

[5] *Ex parte Siebold*, 100 U.S. 371; *Ex parte Yarbrough*, 110 U.S. 651; *Guinn* v. *United States*, 238 U.S. 347; *United States* v. *Mosley*, 238 U.S. 383; *Lane* v. *Wilson*, 307 U.S. 268; *United States* v. *Classic*, 313 U.S. 299; *United States* v. *Saylor*, 322 U.S. 385.

[6] We noted that general obligation bonds may be satisfied not from real property taxes but from revenues from other local taxes paid by nonproperty owners as well as those who own realty. Moreover, we noted that property taxes paid initially by property owners are often passed on to tenants or customers. 399 U.S., at 209 209–211.

[7] Engdahl, Constitutionality of the Voting Age Statute, 39 Geo. Wash. L. Rev. 1, 36 (1970).

[8] Art. 1, § 4 provides: [1] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

"[2] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day."

[9] Section 201(b) defines "test or device" as "any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class."

[10] The constitutionality of that procedure has been sustained in *South Carolina* v. *Katzenbach*, 383 U.S. 301.

[11] This Court upheld durational residency requirements as applied in presidential and vice presidential elections absent an Act of Congress. See *Drueding* v. *Devlin*, 234 F. Supp. 721 (D. Md. 1964), aff'd 380 U.S. 125. Subsequently we vacated as moot a case pre-

senting the same question. *Hall* v. *Beals*, 396 U.S. 45. The district courts have been faced with the issue of durational residency requirement as they would be applied to congressional elections. Two have concluded the requirement is constitutional. *Sirak* v. *Brown*, —— F. Supp. —— (ED Ohio 1970); *Cocanower* v. *Marston*, —— F. Supp. —— (D. Ariz. 1970). Additionally one other court has refused a preliminary injunction in a case presenting the issue. *Piliavine* v. *Hoel*, —— F. Supp. —— (WD Wis. 1970). Some district courts, however, believe that *Drueding* cannot stand (absent an Act of Congress) after *Carrington* v. *Rash*, 380 U.S. 89; *Kramer* v. *Union School District*, 395 U.S. 621; *Cipriano* v. *City of Houma*, 395 U.S. 701, and *Phoenix* v. *Kolodziejski*, 399 U.S. 204. Accordingly they have held durational residency requirements for congressional elections (and by implication presidential elections) violate the Equal Protection Clause. See *Burg* v. *Canniffee*, 315 F. Supp. 380 (D. Mass. 1970); *Ellington* v. *Blumstein*, —— F. Supp. (MD Tenn. 1970); *Hadnott* v. *Amos*, —— F. Supp. —— (MD Ala. 1970); *Bufford v. Holton*, —— F. Supp. —— (ED Vir. 1970).

In none of these cases was an Act of Congress involved.

[12] Article IV, § 2 of the Constitution provides:

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

The Fourteenth Amendment provides in § 1 that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

[13] The cases relied on by my Brother HARLAN, *post*, at ——, are not to the contrary. *Snowden* v. *Hughes*, 321 U.S. 1, 6–7, states "The right to become a candidate for *state* office, like the right to vote for the election of *state* officers, . . . is a right or privilege of state citizenship." (Emphasis added.) Arguably *Minor* v. *Happersett*, 21 Wall. 162, is to the contrary, but to the extent its dicta indicated otherwise, it was limited in *Ex parte Yarbrough*, *Breedlove* v. *Suttles*, 302 U.S. 277, overruled by *Harper* v. *Virginia Board*, 383 U.S. 663, involved a poll tax applied in both federal and state elections; it erroneously cited *Yarbrough* for the proposition voting is not a privilege and immunity of national citizenship. *Pope* v. *Williams*, 193 U.S. 621, involved durational residency requirements, but expressly reserved the question of their application to presidential and vice presidential elections. Our holdings concerning privileges and immunities of national citizenship were analyzed less than five years ago by my Brother HARLAN. After referring to *Ex parte Yarbrough*, and *United States* v. *Classic*, he stated that those cases "are essentially concerned with the vindication of important relationships with the Federal Government—*voting in federal elections*, involvement with federal law enforcement, communicating with the Federal Government." *United States* v. *Guest*, 383 U.S. 745, 772 (concurring opinion) (emphasis added).

Contrary to the suggestion of my Brother HARLAN, *post*, at ——, we need not rely on the power of Congress to declare the meaning of § 1 of the Fourteenth Amendment. This Court had determined that voting for national officers is a privilege and immunity of national citizenship. No congressional declaration was necessary. Congressional power under § 5 of the Fourteenth Amendment is, as stated, buttressed by congressional power under the Necessary and Proper Clause. Thus even if the durational residency requirements do not violate the Privileges and Immunities Clause, Congress can determine that it is necessary and proper to abolish them in national elections to effectuate and further the purpose of § 1 as it has been declared by this Court.

[Supreme Court of the United States, Nos. 43, 44, 46, 47 Orig.—OCTOBER TERM, 1970]

OREGON VERSUS MITCHELL

(State of Oregon, Plaintiff, *v.* John N. Mitchell, Attorney General of the United States; State of Texas, Plaintiff, *v.* John N. Mitchell, Attorney General of the United States; United States, Plaintiff, *v.* State of Arizona; United States, Plaintiff, *v.* State of Idaho on Bills of Complaint, Dec. 21, 1970)

Mr. JUSTICE HARLAN, concurring in part and dissenting in part.

From the standpoint of this Court's decisions during an era of judicial constitutional revision in the field of the suffrage, ushered in eight years ago by *Baker* v. *Carr*, 369 U.S. 186 (1962), I would find it difficult not to sustain all three aspects of the Voting Rights Act Amendments of 1970, Pub. L. 91–285, 84 Stat. 314, here challenged. From the standpoint of the bedrock of the constitutional structure of this Nation, these cases bring us to a crossroad that is marked with a formidable "Stop" sign. That sign compels us to pause before we allow those decisions to carry us to the point of sanctioning Congress' decision to alter state-determined voter qualifications by simple legislation, and to consider whether sound doctrine does not in truth require us to hold that one or more of the changes which Congress has thus sought to make can be accomplished only by constitutional amendment.

The four cases require determination of the validity of the Voting Rights Act Amendments in three respects. In Nos. 43 and 44, Oregon and Texas have sought to enjoin the enforcement of § 302 of the Act as applied to lower the voting age in those States from 21 to 18.[1]

In Nos. 46 and 47 the United States seeks a declaration of the validity of the Act and an injunction requiring Arizona and Idaho to conform their laws to it. The Act would lower the voting age in each State from 21 to 18. It would suspend until August 6, 1975, the Arizona literacy test, which requires that applicants for registration be able to read the United States Constitution in English and write their names. It would require Idaho to make several changes in its laws governing residency, registration, and absentee voting in presidential elections. Among the more substantial changes, Idaho's present 60-day state residency requirement will in effect be lowered to 30 days; its 30-day county residency requirement for intrastate migrants will be abolished; Idaho will have to permit voting by citizens of other States formerly domiciled in Idaho who emigrated too recently to register in their new homes; and it must permit absentee registration and voting by persons who have lived in Idaho for less than six months. The relevant provisions of the Act and of the constitutions and laws of the four States are set out in an Appendix to this opinion.

Each of the States contests the power of Congress to enact the provisions of the Act involved in its suit.[2] The Government places primary reliance on the power of Congress under § 5 of the Fourteenth Amendment to enforce the provisions of that Amendment by appropriate legislation. For reasons to follow, I am of the opinion that the Fourteenth Amendment was never intended to restrict the atuhority of the States to allocate their political power as they see fit and therefore that it does not authorize Congress to set voter qualifications, in either state or federal elections. I find no other source of congressional power to lower the voting age as fixed by state laws, or to alter state laws on residency, registration, and absentee voting, with respect to either state or federal elections. The suspension of Arizona's literacy requirement, however, can be deemed an appropriate means of enforcing the Fifteenth Amendment, and I would sustain it on the basis.

Footnotes at end of article.

I

It is fitting to begin with a quotation from one of the leading members of the 39th Congress, which proposed the Fourteenth Amendment to the States in 1866:

"Every Constitution embodies the principles of its framers. It is a transcript of their minds. If its meaning in any place is open to doubt, or if words are used which seem to have no fixed signification, we cannot err if we turn to the framers; and their authority increases in proportion to the evidence which they have left on the question." Cong. Globe, 39th Cong., 1st Sess. 677 (1866) (Senator Sumner).

Believing this view to be undoubtedly sound, I turn to the circumstances in which the Fourteenth Amendment was adopted for enlightenment on the intended reach of its provisions. This, for me, necessary undertaking has unavoidably led to an opinion of more than ordinary length. Except for those who are willing to close their eyes to constitutional history in making constitutional interpretations or who read such history with a preconceived determination to attain a particular constitutional goal, I think that the history of the Fourteenth Amendment makes it clear beyond any reasonable doubt that no part of the legislation now under review can be upheld as a legitimate exercise of congressional power under that Amendment.

a. Historical setting [3]

The point of departure for considering the purpose and effect of the Fourteenth Amendment with respect to the suffrage should be, I think, the pre-existing provisions of the Constitution, Article I, § 2, provided that in determining the number of Representatives to which a State was entitled, only three-fifths of the slave population should be counted.[4] The section also provided that the qualifications of voters for such Representatives should be the same as those established by the States for electors of the most numerous branch of their respective legislatures. Article I, § 4, provided that, subject to congressional veto, the States might prescribe the times, places, and manner of holding elections for Representatives. Article II, § 1, provided that the States might direct the manner of choosing electors for President and Vice President, except that Congress might fix a uniform time for the choice.[5] Nothing in the original Constitution controlled the way States might allocate their political power except for the Guaranty of a Republican Form of Government, which appears in Article IV, § 4.[6] No relevant changes in the constitutional structure were made until after the Civil War.

At the close of that war, there were some four million freed slaves in the South, none of whom were permitted to vote. The white population of the Confederacy had been overwhelmingly sympathetic with the rebellion. Since there was only a comparative handful of persons in these States who were neither former slaves nor Confederate sympathizers, the place where the political power should be lodged was a most vexing question. In a series of proclamations in the summer of 1865, President Andrew Johnson had laid the ground work for the States to be controlled by the white populations which had held power before the war, eliminating only the leading rebels and those unwilling to sign a loyalty oath.[7] The Radicals, on the other hand, were ardently in favor of Negro suffrage as essential to prevent resurgent rebellion, requisite to protect the freedmen, and necessary to ensure continued Radical control of the government. This ardor cooled as it ran into northern racial prejudice. At

that time, only six States—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and New York—permitted Negroes to vote, and New York imposed special property and residency requirements on Negro voters.[8] In referenda late that year, enfranchising proposals were roundly beaten in Connecticut, Wisconsin, Minnesota, the Territory of Colorado, and the District of Columbia. Gillette, *supra*, n. 3, at 25–26. Such popular rebuffs led the Radicals to pull in their horns and hope for a protracted process of reconstruction during which the North could be educated to the advisibility of Negro suffrage, at least for the South. In the meantime, of course, it would be essential to bar southern representation in Congress lest a combination of southerners and Democrats obtain control of the government and frustrate Radical goals.

The problem of congressional representation was acute. With the freeing of the slaves, the Three-Fifths Compromise ceased to have any effect. While predictions of the precise effect of the change varied with the person doing the calculating, the consensus was that the South would be entitled to at least 15 new members of Congress, and, of course, a like number of new presidential electors. The Radicals had other rally cries which they kept before the public in the summer of 1865, but one author gives this description of the mood as Congress convened: [9]

"Of all the movements influencing the Fourteenth Amendment which developed prior to the first session of the Thirty-ninth Congress, that for Negro suffrage was the most outstanding. The volume of private and public comment indicates that it was viewed as an issue of prime importance. The cry for a changed basis of representation was, in reality, subsidiary to this, and was meant by Radicals to secure in another way what Negro suffrage might accomplish for them: removal of the danger of Democratic dominance as a consequence of Southern restoration. The danger of possible repudiation of the national obligations, and assumption of the rebel debt, was invariably presented to show the need for Negro suffrage or a new basis of representation. Sentiment for disqualification of ex-Confederates, though a natural growth, well suited such purposes. The movement to guarantee civil rights, sponsored originally by the more conservative Republicans, received emphasis from Radicals only when state elections indicated that suffrage would not serve as a party platform."

When Congress met, the Radicals, led by Thaddeus Stevens, were successful in obtaining agreement for a Joint Committee on Reconstruction, composed of 15 members, to "inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress. . . ." Cong. Globe, 39th Cong., 1st Sess. 30, 47 (1865) (hereafter Globe).

All papers relating to representation of the southern States were to be referred to the Committee of Fifteen without debate. The result, which many had not foreseen, was to assert congressional control over Reconstruction and at the same time to put the congressional power in the hands of a largely Radical secret committee.

The Joint Committee began work with the beginning of 1866, and in due course reported a joint resolution, H.R. No. 51, to amend the Constitution. The proposal would have based representation and direct taxes on population, with a proviso that "whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation." Globe 351.

The result, if the southern States did not provide for Negro suffrage, would be a decrease in southern representation in Congress and the Electoral College by some 24 seats from their pre-war position instead of an increase of 15. The House, although somewhat balky, approved the measure after lengthy debate. Globe 538. The Senate proved more intractable. An odd combination of Democrats, moderate Republicans, and extreme Radicals combined to defeat the measure, with the Radicals basing their opposition largely on the fear that the proviso would be read to authorize racial voter qualifications and thus prevent Congress from enfranchising the freedmen under powers assertedly granted by other clauses of the Constitution. See, *e.g.*, Globe 673–687 (Senator Sumner).

At about this same time the Civil Rights Bill and the Second Freedman's Bureau Bill were being debated. Both bills provided a list of rights secured, not including voting.[10] Senator Trumbull, who reported the Civil Rights Bill on behalf of the Senate Judiciary Committee, stated "I do not want to bring up the question of negro suffrage in the bill." Globe 606. His House counterpart exhibited the same reluctance. Globe 1162 (Cong. Wilson of Iowa). Despite considerable uncertainty as to the constitutionality of the measures, both ultimately passed. In the midst of the Senate debates on the basis of representation, President Johnson vetoed the Freedmen's Bureau Bill, primarily on constitutional grounds. This veto, which was narrowly sustained, was followed shortly by the President's bitter attack on Radical Reconstruction in his Washington's Birthday speech. These two actions, which were followed a month later by the veto of the Civil Rights Bill, removed any lingering hopes among the Radicals that Johnson would support them in a thoroughgoing plan of reconstruction. By the same token they increased the Radicals' need for an articulated plan of their own to be put before the country in the upcoming elections as an alternative to the course the President was taking.

The second major product of the Reconstruction Committee before the resolution which became the Fourteenth Amendment was a proposal to add an equal rights provision to the Constitution. This measure, H.R. No. 63, which foreshadowed § 1 of the Fourteenth Amendment, read as follows:

"The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several states (Art. 4, Sec. 2); and to all persons in the several States equal protection in the rights of life, liberty and property (5th Amendment)." Globe 428.

It was reported by Congressman Bingham of Ohio, who later opposed the Civil Rights Bill because he believed it unconstitutional. Globe 1292–1293. The amendment immediately ran into serious opposition in the House and the subject was dropped.[11]

Such was the background of the Fourteenth Amendment. Congress, at loggerheads with the President over Reconstruction, had not come up with a plan of its own after six months of deliberations; both friends and foes prodded it to develop an alternative. The Reconstruction Committee had been unable to produce anything which could even get through Congress, much less obtain the adherence of three-fourths of the States. The Radicals, committed to Negro suffrage, were confronted with widespread public opposition to that goal and the necessity for a reconstruction plan that could do service as a party platform in the elections that fall. The language of the Fourteenth Amendment must be read with awareness that it was designed in response to this situation.

B. The language of the amendment and and reconstruction measures

Sections 1 and 2 of the Fourteenth Amendment as originally reported read as follows:[12]

"Sec. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"Sec. 2. Representatives shall be apportioned among the several States which may be included within this Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age." Globe 2286.

In the historical context, no one could have understood this language as anything other than an abandonment of the principle of Negro suffrage, for which the Radicals had been so eager. By the same token, the language could hardly have been understood as affecting the provisions of the Constitution placing voting qualifications in the hands of the States. Section 1 must have been seen as little more than a constitutionalization of the 1866 Civil Rights Act, concededly one of the primary goals of that portion of the Amendment.[13]

While these conclusions may, I think, be confidently asserted, it is not so easy to explain just how contemporary observers would have construed the three clauses of § 1 to reach this result.[14] No doubt in the case of many Congressmen it simply never occurred to them that the States' longstanding plenary control over voter qualifications would be affected without explicit language to that effect. And since no speaker during the debates on the Fourteenth Amendment pursued the contention that § 1 would be construed to include the franchise, those who took the opposite view rarely explained how they arrived at their conclusions.

In attempting to unravel what was seldom articulated, the appropriate starting point is the fact that the Framers of the Amendment expected the most significant portion of § 1 to be the clause prohibiting state laws "which shall abridge the privilege and immunities of citizens of the United States." These privileges were no doubt understood to include the ones set out in the first section of the Civil Rights Act. To be prohibited by law from enjoying these rights would hardly be consistent with full membership in a civil society.

The same is not necessarily true with respect to prohibitions on participation in the political process. Many members of Congress accepted the jurisprudence of the day, in which the rights of man fell into three categories; natural, civil, and political. The privileges of citizens, being "civil" rights, were distinct from the rights arising from governmental organization, which were political in character.[15] Others no doubt relied on the experience under the similar language of Article IV, § 2, which had never been held to guarantee the right to vote. The remarks of Senator Howard of Michigan, who as spokesman for the Joint Committee explained in greater detail than most why the Amendment did not reach the suffrage, contain something of each view. See Globe 2766, quoted at p. —, *post;* nn. 56 and 57, *post;* cf. *Baker* v. *McClung*, 172 U.S. 239, 256 (1898) (dictum).

Footnotes at end of article.

Since the Privileges and Immunities Clause was expected to be the primary source of substantive protection, the Equal Protection and Due Process Clauses were relegated to a secondary role, as the debates and other contemporary materials make clear.[16] Those clauses, which appear on their face to correspond with the latter portion of § 1 of the Civil Rights Act, see n. 13, *supra*, and to be primarily concerned with person and property, would not have been expected to enfranchise the freedmen if the Privileges and Immunities Clause did not.

Other members of Congress no doubt saw § 2 of the proposed Amendment as the Committee's resolution of the related problems of suffrage and representation. Since that section did not provide for enfranchisement, but simply reduced representation for disfranchisement, any doubts about the effect of the broad language of § 1 were removed. Congressman Bingham, who was primarily responsible for the language of § 1, stated this view. Globe 2542, quoted at p. —, *post*. Finally, characterization of the Amendment by such figures as Stevens and Bingham in the House and Howard in the Senate, not contested by the Democrats except in passing remarks, was no doubt simply accepted by many members of Congress; they, repeating it, gave further force to the interpretation, with the result that, as will appear below, not one speaker in the debates on the Fourteenth Amendment unambiguously stated that it would affect state voter qualifications, and only three, all opponents of the measure, can fairly be characterized as raising the possibility.[17] Further evidence of this original understanding can be found in later events.

The Thirty-ninth Congress, which proposed the Fourteenth Amendment, also enacted the First Reconstruction Act, c. 153, 14 Stat. 428 (1867). This Act required, as a condition precedent of readmission of the southern States, that they adopt constitutions providing that the elective franchise should be enjoyed by all male citizens over the age of 21 who had been residents for more than one year and were not disfranchised for treason or common-law felony; even so, no State would be readmitted until a legislature elected under the new Constitution had ratified the proposed Fourteenth Amendment and that Amendment had become part of the Constitution.

The next development came when the ratification drive in the North stalled. After a year had passed during which only one northern State had ratified the proposed Fourteenth Amendment, Arkansas was readmitted to the Union by the Act of June 22, 1868, c. 69, 15 Stat. 72. This readmission was based on the "fundamental condition" that the state constitution should not be amended to restrict the franchise, except with reference to residency requirements. Three days later the Act of June 25, 1868, c. 70, 15 Stat. 73, held out a promise of similar treatment to North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida if they would ratify the Fourteenth Amendment. By happy coincidence, the assent of those six States was just sufficient to complete the ratification process. It can hardly be suggested, therefore, that the "fundamental condition" was exacted from them as a measure of caution lest the Fourteenth Amendment fail of ratification.

The Fortieth Congress, not content with enfranchisement in the South, proposed the Fifteenth Amendment to extend the suffrage to Northern Negroes. See Gillette, *supra*, n. 3, at 46. This fact alone is evidence that they did not understand the Fourteenth Amendment to have accomplished such a result. Less well known is the fact that the Fortieth Congress considered and very nearly adopted a proposed amendment which would have expressly prohibited not only discriminatory voter qualifications but discriminatory qualifications for office as well. Each House passed such a measure by the required two-thirds margin. Cong. Globe, 40th Con., 3d Sess., 1318, 1428 (1869). A conference committee, composed of Senators Stewart and Conkling and Representatives Boutwell, Bingham, and Logan, struck out the office-holding provision, *id.*, at 1563, 1593, and with Inauguration Day only a week away, both Houses accepted the conference report. *Id.*, at 1564, 1641. See generally Gillette 58–77. While the reasons for these actions are unclear, it is unlikely that they were provoked by the idea that the Fourteenth Amendment covered the field; such a rationale seemingly would have made the enfranchising provision itself unnecessary.

The Forty-first Congress readmitted the remaining three States of the Confederacy. The admitting act in each case recited good-faith ratification of the Fourteenth and Fifteenth Amendments, and imposed the fundamental conditions that the States should not restrict the elective franchise[18] and "That it shall never be lawful for the said State to deprive any citizen of the United States, on account of his race, color, or previous condition of servitude, of the right to hold office under the constitution and laws of said State." Act of Jan. 26, 1870, c. 10, 16 Stat. 63 (Virginia); Act of Feb. 23, 1870, c. 19, 16 Stat. 68 (Mississippi); Act of Mar. 30, 1870, c. 39, 16 Stat. 81 (Texas).

These materials demonstrate not only that § 1 of the Fourteenth Amendment is susceptible of an interpretation that it does not reach suffrage qualifications, but that this is the interpretation given by the immediately succeeding Congresses. Such an interpretation is the most reasonable reading of the section in view of the background against which it was proposed and adopted, particularly the doubts about the constitutionality of the Civil Rights Act, the prejudice in the North against any recognition of the principle of Negro suffrage, and the basic constitutional structure of leaving suffrage qualifications with the States.[19] If any further clarification were needed, one would have thought it provided by the second section of the same Amendment, which specifically contemplated that the right to vote would be denied or abridged by the States on racial or other grounds. As a unanimous Court once asked, "Why this, if it was not in the power of the [state] legislature to deny the right of suffrage to some male inhabitants?" *Minor* v. *Happersett*, 88 U. S. (21 Wall.) 162, 174 (1874).

The Government suggests that the list of protected qualifications in § 2 is "no more than descriptive of voting laws as they then stood." Brief for the United States, Nos. 46 and 47, Original, at 75. This is wholly inaccurate. Aside from racial restrictions, all States had residency requirements and many had literacy, property, or taxation qualifications. On the other hand, several of the western States permitted aliens to vote if they had satisfied certain residency requirements and had declared their intention to become citizens.[20] It hardly seems necessary to observe that the politicians who framed the Fourteenth Amendment were familiar with the makeup of the electorate. In any event, the congressional debates contain such proof in ample measure.[21]

Assuming, then, that § 2 represents a deliberate selection of the voting qualifications to be penalized, what is the point of it? The Government notes that "it was intended—although it has never been used—to provide a remedy against exclusion of the newly freed slaves from the vote." Brief for the Defendant, Nos. 43 and 44, Original, at 20. Undoubtedly this was the primary purpose. But the Framers of the Amendment, with their attention thus focused on racial voting qualifications, could hardly have been unaware of § 1. If they understood that section to forbid such qualifications, the simple means of penalizing this conduct would have been to impose a reduction of representation for voting discrimination in violation of § 1. Their adoption instead of the awkward phrasing of § 2 is therefore significant.

To be sure, one might argue that § 2 is simply a rhetorical flourish, and that the qualifications listed there are merely the ones which the Framers deemed to be consistent with the alleged prohibition of § 1. This argument is not only unreasonable on its face and untenable in light of the historical record; it is fatal to the validity of the reduction of the voting age in § 302 of the Act before us.

The only sensible explanation of § 2, therefore, is that the racial voter qualifications it was designed to penalize were understood to be permitted by § 1 of the Fourteenth Amendment. The Amendment was a half-way measure, adopted to deprive the South of representation until it should enfranchise the freedmen, but to have no practical effect in the North. It was politically acceptable precisely because of its regional consequences and its avoidance of an explicit recognition of the principle of Negro suffrage. As my Brother BLACK states, "it cannot be successfully argued that the Fourteenth Amendment was intended to strip the States of their power, carefully preserved in the original Constitution, to govern themselves." *Ante*, p. —. The detailed historical materials make this unmistakeably clear.

C. The Joint Committee

The first place to look for the understanding of the Framers of the Fourteenth Amendment is the Journal of the Joint Committee on Reconstruction.[22] The exact sequence of the actions of this Committee presumably had little or no effect on the members of Congress who were not on the Committee, for the Committee attempted to keep its deliberations secret,[23] and the Journal itself was lost for nearly 20 years.[24] Nevertheless the Journal, although only a record of proposals and votes, illustrates the thoughts of those leading figures of Congress who were members and participated in the drafting of the Amendment.

Two features emerge from such a review with startling clarity. First the Committee regularly rejected explicitly enfranching proposals in favor of plans which would postpone enfranchisement, leave it to congressional discretion, or abandon it altogether. Second, the abandonment of Negro suffrage as a goal exactly corresponded with the adoption of provisions to reduce representation for discriminatory restrictions on the ballot.

This correspondence was present from the start. Five plans were proposed to deal with representation. One would have prohibited racial qualifications for voters and based representation on the whole number of citizens in the State; the other four proposals contained no enfranchising provision but in various ways would have reduced representation for States where the vote was racially restricted. Kendrick 41–44. A subcommittee reduced the five proposals to two, one prohibiting discrimination and the other reducing representation where it was present. On Stevens' motion the latter alternative was accepted by a vote of 11 to 3; Kendrick 51; with minor changes it was subsequently reported as H.R. No. 51.

The subcommittee also proposed that whichever provision on the basis of representation was adopted, the Congress should be empowered to legislate to secure all citizens "the same political rights and privileges" and also "equal protection in the enjoyment of

Footnotes at end of article.

life, liberty and property." Kendrick 51. After the Committee reported H.R. No. 51, it turned to consideration of this proposal. At a meeting attended by only 10 members, a motion to strike out the clause authorizing Congress to legislate for equal political rights and privileges lost by a vote of six to four. Kendrick 57. At a subsequent meeting, however, Bingham had the subcommittee proposal replaced with another which did not mention *political* rights and privileges, but was otherwise quite similar. Kendrick 61; see the opinion of Mr. JUSTICE BRENNAN, Mr. JUSTICE WHITE, and Mr. JUSTICE MARSHALL, *ante*, p. —, for the text of the two provisions. The Committee reported the substitute as H.R. No. 63. In the House so much concern was expressed over the centralization of power the amendment would work—a few said it would even authorize Congress to regulate the suffrage—that the matter was dropped. *Ante*, p. —.

The Fourteenth Amendment had as its most direct antecedent a proposal drafted by Robert Dale Owen, who was not a member of Congress, and presented to the Joint Committee by Stevens.[25] Originally the plan provided for mandatory enfranchisement in 1876 and for reduction of representation until that date. Kendrick 82–84. However, Stevens was pressured by various congressional delegations who wanted nothing to do with Negro suffrage, even at a remove of 10 years.[26] He therefore successfully moved to strike out the enfranchising provision and correspondingly to abolish the 10-year limitation on reduction of representation for racial discrimination. The motion carried by a vote of 12 to 2. Kendrick 101.

Bingham was then successful in replacing § 1 of Owen's proposal, which read

"No discrimination shall be made by any State, or by the United States, as to the civil rights of persons, because of race, coler or previous condition of servitude" with the following now-familiar language:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." Kendrick 106.

The summary style of the Journal leaves unclear the reasons for the change. However, Bingham himself had rather consistently voted against proposals for direct and immediate enfranchisement,[27] and on the face of things it seems unlikely that the other members of the Joint Committee understood his provision to be an enfranchising proposal.[28] That they did not so understand is demonstrated by the speeches in the debates on the floor.[29]

Before I examine those debates, a word of explanation is in order. For obvious reasons, the discussions of voter qualifications in the Thirty-ninth Congress and among the public were cast primarily in terms of racial disqualifications. This does not detract from their utility as guides to interpretation. When an individual speaker said that the Amendment would not result in the enfranchisement of Negroes, he must have taken one of two views: either the Amendment did not reach voter qualifications at all; or it set standards limiting state restrictions on the ballot, but those standards did not prohibit racial discrimination. I have already set out some of the reasons which lead me to conclude that the former interpretation is correct, and that it is the understanding shared by the Framers of the Amendment, as well as by almost all of the opponents. The mere statement of the latter position appears to me to be a complete refutation of it. Even on its wholly unsupportable assumptions (1) that certain Framers of the Amendment contemplated that the privileges and immunities of citizens included the vote, (2) that they intended to permit state laws to abridge the privileges and immunities of citizens whenever it was rational to do so, and (3) that they agreed on the rationality of prohibiting the freed slaves from voting, this remarkable theory still fails to explain why they understood the Amendment to permit racial voting qualifications in the free States of the North.

D. In Congress

On May 8, 1866, Thaddeus Stevens led off debate on H.R. No. 127, the Joint Resolution proposing the Fourteenth Amendment. After explaining the delay of the Joint Committee in coming up with a plan of reconstruction, he apologized for his proposal in advance:

"This proposition is not all that the committee desired. It falls far short of my wishes, but it fulfills my hopes. I believe it is all that can be obtained in the present state of public opinion. Not only Congress but the several States are to be consulted. Upon a careful survey of the whole ground, we did not believe that nineteen of the loyal States could be induced to ratify any proposition more stringent than this." Globe 2459.

In the climate of the times, Stevens could hardly have been understood as referring to anything other than the failure of the measure to make some provision for the enfranchisement of the freedmen. However, lest any mistake be made, he recounted the history of the Committee's prior effort in the field of representation and suffrage, H.R. No. 51, which "would surely have secured the enfranchisement of every citizen at no distant period." That measure was dead, "slaughtered by a puerile and pedantic criticism," and "unless this (less efficient, I admit) shall pass, its death has postponed the protection of the colored race perhaps for ages." *Ibid.*

With this explanation made, Stevens turned to a section-by-section study of the proposed resolution. The results to be achieved by § 1, as he saw it, would be equal punishment for crime, equal entitlement to the benefits of "[w]hatever law protects the white man," equal means of redress, and equal competence to testify. *Ibid.* If he thought the section provided equal access to the polls, despite his immediately preceding apology for the fact that it did not, his failure to mention that application is remarkable.[30]

Turning then to § 2, Stevens again discussed racial qualifications for voting. He explained the section as follows:

"If any State shall exclude any of her adult male citizens from the elective franchise, or abridge that right, she shall forfeit her right to representation in the same proportion. The effect of this provision will be either to compel the States to grant universal suffrage or so to shear them of their power as to keep them forever in a hopeless minority in the national Government, both legislative and executive." *Ibid.*

Stevens recognized that it might take several years for the coercive effect of the Amendment to result in Negro suffrage, but since this would give time for education and enlightenment of the freedmen, "That short delay would not be injurious." *Ibid.* He did not indicate that he believed it would be unconstitutional. He admitted that § 2 was not so good as the proposal which had been defeated in the Senate, for that, by reducing representation by all the members of a race if any one was discriminated against, would have hastened full enfranchisement. Section 2 allowed proportional credit. "But it is a short step forward. The large stride which we in vain proposed is dead . . . ." Globe 2460.

I have dealt at length with Stevens' remarks because of his prominent position in the House and in the Joint Committee. The remaining remarks, except for Bingham's summation, can be treated in more summary fashion. Of the supporters of the Amendment, Garfield of Ohio,[31] Kelley of Pennsylvania,[32] Boutwell of Massachusetts (a member of the Joint Committee),[33] Eliot of Massachusetts,[34] Beaman of Michigan,[35] and Farnsworth of Illinois,[36] expressed their regret that the Amendment did not prohibit restrictions on the franchise. As the quotations set out in the margin indicate, the absence of such a prohibition was generally attributed to prejudice in the Congress, in the States, or both, to such an extent that an enfranchising amendment could not pass. This corresponds with the first part of Stevens' introductory speech.

Other supporters of the Amendment obviously based their remarks on their understanding that it did not affect state laws imposing discriminatory voting qualifications, but did not indicate that the omission was a drawback in their view. In this group were Thayer of Pennsylvania,[37] Broomall of Pennsylvania,[38] Raymond of New York,[39] McKee of Kentucky,[40] Miller of Pennsylvania,[41] Banks of Massachusetts,[42] and Eckley of Ohio.[43]

The remaining members of the House who supported the Fourteenth Amendment either did not speak at all or did not address themselves to the suffrage issue in any very clear terms. Those in the latter group who gave speeches on the proposed Amendment included Spalding of Ohio,[44] Longyear of Michigan,[45] and Shellabarger of Ohio.[46] The remaining Republican members of the Joint Committee—Washburne of Illinois, Morrill of Vermont, Conkling of New York, and Blow of Missouri—did not participate in the debates over the Amendment.

In the opposition to the Amendment were only the handful of Democrats. Even they, with one seeming exception, did not assert that the Amendment was applicable to suffrage, although they would have been expected to do so if they thought such a reading plausible. Finck of Ohio and Shanklin of Kentucky did not even mention Negro suffrage in their attacks on the Amendment, although Finck discussed the reasons why the southern States could not be expected to ratify it. Globe 2460–2462, and Shanklin characterized the Amendment as "tyrannical and oppressive." Globe 2501. Eldridge of Wisconsin[47] and Randall of Pennsylvania[48] affirmatively indicated their understanding that with the Amendment the Radicals had at least temporarily abandoned their crusade for Negro suffrage, as did Finck when the measure returned from the Senate with amendments.[49]

The other two Democrats to participate in the three days of debate on H.R. No. 127, Boyer of Pennsylvania and Rogers of New Jersey, have been a source of great comfort to those who set out to prove that the history of the Fourteenth Amendment is inconclusive on this issue. Each, in the course of a lengthy speech, included a sentence which, taken out of context, can be read to indicate a fear that § 1 might prohibit racial restrictions on the ballot. Boyer said, "The first section embodies the principles of the civil rights bill, and is intended to secure ultimately, and to some extent indirectly, the political equality of the negro race." Globe 2467. Rogers, commenting on the uncertain scope of the Privileges and Immunities Clause, observed "The right to vote is a privilege." Globe 2538.

While these two statements are perhaps innocuous enough to be left alone, it is noteworthy that each speaker had earlier in the session delivered a tirade against the principle of Negro suffrage;[50] if either seriously believed that the Fourteenth Amendment might enfranchise the freedmen, he was unusually calm about the fact. That they did

Footnotes at end of article.

not seriously interpret the Amendment in this way is indicated as well by other portions of their speeches.[51]

Two other opponents of the Fourteenth Amendment, Phelps of Maryland and Niblack of Indiana, made statements which have been adduced to show that there was no consensus on the applicability of the Fourteenth Amendment to suffrage laws. Phelps voiced his sentiments on May 5, three days before the beginning of debate.[52] In the course of a speech urging a soft policy on reconstruction, he expressed the fear that the Amendment would authorize Congress to define the privileges of citizens to include the suffrage—or indeed that it might have that effect *ex proprio vigore*. Globe 2398. Phelps did not repeat this sentiment after he was contradicted by speaker after speaker during the debates proper; indeed, he did not take part in the debates at all, but simply voted against the Amendment, along with most of his colleagues. Globe 2545.[53]

As for Niblack, on the first day of debate he made the following remarks:

"I give notice that I will offer the following amendment if I shall have the opportunity:

"Add to the fifth section as follows:

"*Provided*, That nothing contained in this article shall be so construed as to authorize Congress to regulate or control the elective franchise within any State, or to abridge or restrict the power of any State to regulate or control the same within its own jurisdiction, except as in the third section hereof prescribed." Globe 2465.

Like Phelps, Niblack found it unnecessary to participate in the debates. He was not heard from again until the vote on the call for the previous question. As Garfield ascertained at the time, the only opportunity to amend H.R. No. 127 would arise if the demand was voted down. Niblack voted to sustain it. Globe 2545.

Debate in the House was substantially concluded by Bingham, the man primarily responsible for the language of § 1. Without equivocation, he stated:

"The amendment does not give, as the second section shows, the power to Congress of regulating suffrage in the several States.

"The second section excludes the conclusion that by the first section suffrage is subjected to congressional law; save, indeed, with this exception, that as the right in the people of each State to a republican government and to choose their Representatives in Congress is of the guarantees of the Constitution, by this amendment a remedy might be given directly for a case supposed by Madison, where treason might change a State government from a republican to a despotic government, and thereby deny suffrage to the people." Globe 2542.

Stevens then arose briefly in rebuttal. He attacked Bingham for saying in another portion of his speech that the disqualification provisions of § 3 were unenforceable. He did not contradict—or even refer to—Bingham's interpretation of §§ 1 and 2. Globe 2544, The vote was taken and the resolution passed immediately thereafter. Globe 2545.

To say that Stevens did not contradict Bingham is to minimize the force of the record. Not once, during the three days of debate, did *any* supporter of the Amendment criticize or correct *any* of the Republicans or Democrats who observed that the Amendment left the ballot "exclusively under the control of the States." Globe 2542 (Bingham). This fact is tacitly admitted even by those who find the debates "inconclusive." The only contrary authority they can find in the debates is the pale remarks of the four Democrats already discussed.[54]

In the Senate, which did not have a gag rule, matters proceeded at a more leisurely pace. The introductory speech would normally have been given by Senator Fessenden of Maine, the Chairman of the Joint Committee on behalf of the Senate, but he was still weak with illness and unable to deliver a lengthy speech. The duty of presenting the views of the Joint Committee therefore devolved on Senator Howard of Michigan.[55]

Howard minced no words. He stated that "the first section of the proposed amendment does not give to either of the classes the right of voting. The right of suffrage is not, in law, one of the privileges or immunities thus secured by the Constitution. It is merely the creature of law. It has always been regarded in this country as the result of positive local law, not regarded as one of those fundamental rights lying at the basis of all society and without which a people cannot exist except as slaves, subject to a despotism [sic]." Globe 2766.

"The second section leaves the right to regulate the elective franchise still with the States, and does not meddle with that right." *Ibid.* Howard stated that while he personally would have preferred to see the freedmen enfranchised, the Committee was confronted with the necessity of proposing an amendment which could be ratified.

"The committee were of opinion that the States are not yet prepared to sanction so fundamental a change as would be the concession of the right of suffrage to the colored race. We may as well state it plainly and fairly, so that there shall be no misunderstanding on the subject. It was our opinion that three fourths of the States of this Union could not be induced to vote to grant the right of suffrage, even in any degree or under any restriction, to the colored race." *Ibid.*

Howard's forthright attempt to prevent misunderstanding was completely successful insofar as the Senate was concerned; at least, no one has yet discovered a remark during the Senate debates on the proposed Fourteenth Amendment which indicates any contrary impression.[56] For some, however, time has muddied the clarity with which he spoke.[57]

The Senate, like the House, made frequent reference to the fact that the proposed amendment would not result in the enfranchisement of the freedmen. The supporters who expressed their regret at the fact were Wade of Ohio, [58] Poland of Vermont,[59] Stewart of Nevada,[60] Howe of Wisconsin,[61] Henderson of Missouri,[62] and Yates of Illinois.[63] The remarks of Senator Sherman of Ohio, whose support for the amendment was lukewarm, see Globe 2986, seems to have been based on the common interpretation.[64]

Doolittle of Wisconsin, whose support for the President resulted in his virtually being read out of the Republican Party, proposed to base representation on adult male voters. Globe 2942. In a discussion with Senator Grimes of Iowa, a member of the Joint Committee, about the desirability of this change, Doolittle defended himself by pointing out that "Your amendment proposes to allow the States to say who shall vote." Globe 2943. Grimes did not respond. Among the Democrats, no different view was expressed. Those whose remarks are informative are Hendricks of Indiana,[65] Cowan of Pennsylvania,[66] Davis of Kentucky,[67] and Johnson of Maryland.[68]

Senator Howard, who had opened debate, made the last remarks in favor of the Amendment. He said:

"We know very well that the States retain the power, which they have always possessed, of regulating the right of suffrage in the States. It is the theory of the Constitution itself. That right has never been taken from them; no endeavor has ever been made to take it from them; and the theory of this whole amendment is, to leave the power of regulating the suffrage with the people or Legislatures of the States, and not to assume to regulate it by any clause of the Constitution of the United States." Globe 3039.

Shortly thereafter the Amendment was approved. Globe 3041–3042.

In the House, there was a brief discussion of the Senate amendments and the measure generally, chiefly by the Democrats. Stevens then concluded the debate as he had begun it, expressing his regret that the Amendment would not enfranchise the freedmen.[69] The House accepted the Senate changes and sent the measure to the States. Globe 3149.

E. Collateral Evidence of Congressional Intent

It has been suggested that despite this evidence of congressional understanding, which seems to be overwhelming, the history is nonetheless inconclusive. Primary reliance is placed on debates over H.R. No. 51, the Joint Committee's first effort in the field of the basis of representation. In these debates, some of the more extreme Radicals, typified by Senator Summer of Massachusetts, suggested that Congress had power to interfere with state voter qualifications at least to the extent of enfranchising the freedmen. This power was said to exist in a variety of constitutional provisions, including Article I, § 2, Article I, § 4, the war power, the power over territories, the guaranty of a republican form of government, and § 2 of the Thirteenth Amendment. Those who held this view expressed concern lest the Committee's proposal be read to authorize the States to discriminate on racial grounds and stated that they could not vote for the measure if such was the correct construction. They were sometimes comforted by supporters of the committee proposal, who assured them that there would be no such effect. From these statements, and the fact that some of those who took the extreme view ultimately did vote for the proposed Fourteenth Amendment, it is sought to construct a counter-argument: if H.R. No. 51, properly interpreted, would not have precluded congressional exercise of power otherwise existing under the constitutional provisions referred to, then § 2 of the Fourteenth Amendment, properly interpreted, does not preclude the exercise of congressional power under §§ 1 and 5 of that Amendment.

This argument, however, is even logically fallacious, and quite understandably none of the options filed today places much reliance on it. I do not maintain that the Framers of the Fourteenth Amendment took away with one hand what they had given with the other, but simply that the Amendment must be construed as a whole, and that for the reasons already given, *ante* p. —, the inclusion of § 2 demonstrates that the Framers never intended to confer the power which my Brethren seek to find in §§ 1 and 5. Bingham, for one, distinguished between these two positions. When it was suggested in the debates over H.R. No. 51 that the proviso would remove preexisting congressional power over voting qualifications, Bingham made the response quoted by my colleagues. Globe 431–432; see pp. —, *ante*. When it was observed during the debates over the proposed Fourteenth Amendment that § 2 demonstrated that the Amendment did not reach state control over voting qualifications, Bingham was the one making the observation. Globe 2542, quoted *ante*, p. —. As Bingham seems to have recognized, the sort of argument he made in connection with H.R. No. 51 is beside the point with respect to the Fourteenth Amendment.

In any event, even disregarding its analytical difficulties, the argument is based on blatant factual shortcomings. All but one of the speakers on whose statements primary reliance is placed stated, either during the debates on the Fourteenth Amendment or subsequently, that the Amendment did not enfranchise the freedmen.[70]

Footnotes at end of article.

Finally, some of those determined to sustain the legislation now before us rely on speeches made between two and three years after Congress had sent the proposed Amendment to the States. Boutwell and Stevens in the House, and Sumner in the Senate, argued that the Fifteenth Amendment or enfranchising legislation was unnecessary because the Fourteenth Amendment prohibited racial discrimination in voter qualifications. Each had earlier expressed the opposite position.[71] Their subsequent attempts to achieve by assertion what they had not had the votes to achieve by constitutional processes can hardly be entitled to weight.

F. Ratification

State materials relating to the ratification process are not very revealing. For the most part only gubernatorial messages and committee reports have survived.[72] So far as my examination of these materials reveals, while the opponents of the Amendment were divided and sometimes equivocal on whether it might be construed to require enfranchisement,[73] the supporters of the Amendment in the States approached the congressional proponents in the unanimity of their interpretation. I have discovered only one brief passage in support of the Amendment which appears to be based on the assumption that it would result in enfranchisement.[74] These remarks, in the message of the Governor of Illinois, had to compete in the minds of the legislators with the viewpoint of the Chicago Tribune. This Radical journal repeatedly criticized the Amendment's lack of an enfranchising provision, and at one time it even expressed the hope that the South would refuse to ratify the Amendment so that the North would turn to enfranchisement of the freedmen as the only means of reconstruction. June 15, 1866, quoted in James 177. In all the other States I have examined, where the materials are sufficiently full for the understanding of a supporter of the Amendment to appear, his understanding has been that enfranchisement would not result.[75]

The scanty official materials can be supplemented by other sources. There was a congressional election in the fall of the year the Fourteenth Amendment went to the States. The Radicals ran on the Amendment as their reconstruction program, attempting to force voters to choose between their plan and that of President Johnson. From the campaign speeches and from newspaper reactions, we can get some further idea of the understanding of the States.

The tone of the campaign was set by the formal report of the Joint Committee, which Fessenden openly stated he had composed as a partisan document. James 147. Indeed, it was not even submitted to Congress until the day the Senate approved the measure, and then only in manuscript form. Globe 3038. On the delicate issue of Negro suffrage, the report read as follows: [76]

"Doubts were entertained whether Congress had power, even under the amended Constitution, to prescribe the qualifications of voters in a State, or could act directly on the subject. It was doubtful, in the opinion of your committee, whether the States would consent to surrender a power they had always exercised, and to which they were attached. As the best if not the only method of surmounting the difficulty, and as eminently just and proper in itself, your committee came to the conclusion that political power should be possessed in all the States exactly in proportion as the right of suffrage should be granted, without distinction of color or race. This it was thought would leave the whole question with the people of each State, holding out to all the advantage of increased political power as an inducement to allow all to participate in its exercise. Such a provision would be in its nature gentle and persuasive, and would lead, it was hoped, at no distant day, to an equal participation of all, without distinction, in all the rights and privileges of citizenship, thus affording a full and adequate protection to all classes of citizens, since all would have, through the ballot-box, the power of self-protection.

"Holding these views, your committee prepared an amendemnt to carry out this idea, and submitted the same to Congress. Unfortunately, as we think, it did not receive the necessary constitutional support in the Senate, and therefore could not be proposed for adoption by the States. The principle involved in that amendment is, however, believed to be sound, and your committee have again proposed it in another form, hoping that it may receive the approbation of Congress."

Newspapers expressed the same view of the reach of the Amendment. Even while deliberations were underway, predictions that Congress would come up with a plan involving enfranchisement of the freedmen had gradually ceased. James 41. When the Amendment was released to the press, Andrew Johnson was reported as seeing in it a "practical abandonment of the Negro suffrage issue." Cincinnati Daily Commercial, April 30, 1866, quoted in James 117. The New York Herald had reported editorially that the Amendment reflected an abandonment of the Radical push for Negro suffrage and acceptance of Johnson's position that control over suffrage rested exclusively with the States. May 1, 1866, reported in James 119. The Nation, a Radical organ, attributed the absence of any provision on Negro suffrage to "sheer want of confidence in the public."

2 Nation 545 (May 1, 1866), quoted in James 120. The Chicago Tribune, another Radical organ, complained that § 1 was objectionable as "surplusage," May 5, 1866, quoted in James 123, and later in the same month criticized the measure for "postponing, not settling" the matter of equal political rights for Negroes. May 31, 1866, quoted in James 146. As deliberations continued, the reporting went on in the same vein. The New York Times reported that with elections approaching, "No one now talks or dreams of forcing Negro suffrage upon the Southern States." June 6, 1866. The Cincinnati Daily Commercial and the Boston Daily Journal for June 7, 1866, commented on the Radicals' abandonment of Negro suffrage. James 145.

Much the same picture emerges from the campaign speeches. Although an occasional Democrat expressed the fear that the Amendment would or might result in political equality,[77] the supporters of the Amendment denied such effects without exception that I have discovered. Among the leading congressional figures who stated in campaign speeches that the Amendment did not prohibit racial voting qualifications were Senators Howe, Lane, Sherman, and Sumner, and Congressmen Bingham, Delano, Schenck, Stevens, and Trumbull. See James 159–168, 173, 178; Fairman, *supra*, 2 Stan. L. Rev., at 70–78.

As was pointed out above, all but a handful of northern States prohibited blacks from voting at all, and opposition to a change was intense. Between 1865 and 1869 referenda on the issue rejected impartial Negro suffrage in Colorado Territory, Connecticut, Wisconsin, Minnesota (twice), the District of Columbia, Nebraska Territory, Kansas, Ohio, Michigan, Missouri, and New York. Only Iowa and Minnesota accepted it, and that on the day Grant was elected to the Presidency.[78] It is inconceivable that those States, in that climate, could have ratified the Amendment with the expectation that it would require them to permit their black citizens to vote.

Small wonder, then, that in early 1869 substantially the same group of men who three years earlier had proposed the Fourteenth Amendment felt it necessary to make further modifications in the Constitution if state suffrage laws were to be controlled even to the minimal degree of prohibiting qualifications which on their face discriminated on the absis of race. If the consequences for our federal system were not so serious the contention that the history is "inconclusive" would be undeserving of attention. And, with all respect, the transparent failure of attempts to cast doubt on the original understanding is simply further evidence of the force of the historical record.

II

The history of the Fourteenth Amendment with respect to suffrage qualifications is remarkably free of the problems which bedevil most attempts to find a reliable guide to present decision in the pages of the past. Instead there is virtually unanimous agreement, clearly and repeatedly expressed, that § 1 of the Amendment did not reach discriminatory voter qualifications. In this rather remarkable situation, the issue of the bearing of the historical understanding on constitutional interpretation squarely arises.

I must confess to complete astonishment at the position of some of my Brethren that the history of the Fourteenth Amendment has become irrelevant. *Ante*, p. ——. In the six years since I first set out much of this history,[79] I have seen no justification for such a result which appears to me at all adequate. With matters in this posture, I need do no more by way of justifying my reliance on these materials than sketch the familiar outlines of our constitutional system.

When the Constitution with its original Amendments came into being, the States delegated some of their sovereign powers to the Federal Government, surrendered other powers, and expressly retained all powers not delegated or surrendered. Amend. X. The power to set state voting qualifications was neither surrendered nor delegated, except to the extent that the guaranty of a republican form of government[80] may be thought to require a certain minimum distribution of political power. The power to set qualifications for voters for national office, created by the Constitution, was expressly committed to the States by Article I, § 2, and Article II, § 1.[81] By Article V, States may be deprived of their retained powers only with the concurrence of two-thirds of each House of Congress and three-fourths of the States. No one asserts that the power to set voting qualications was taken from the States or subjected to federal control by any Amendment before the Fourteenth. The historical evidence makes it plain that the Congress and the States proposing and ratifying that Amendment affirmatively understood that they were not limiting state power over voting qualifications. The existence of the power therefore survived the amending process, and, except as it has been limited by the Fifteenth, Nineteenth, and Twenty-fourth Amendments, it still exists today.[82] Indeed, the very fact that constitutional amendments were deemed necessary to bring about federal abolition of state restrictions on voting by reason of race (Amend. XV), sex (Amend XIX), and even with respect to federal elections, the failure to pay state poll taxes (Amend. XXIV), is itself forceful evidence of the common understanding in 1869, 1919, and 1962, respectively, that the Fourteenth Amendment did not empower Congress to legislate in these respects.

It must be recognized, of course, that the amending process is not the only way in which constitutional understanding alters with time. The judiciary has long been entrusted with the task of applying the Constitution in changing circumstances, and as conditions change the Constitution in a

Footnotes at end of article.

sense changes as well. But when the Court gives the language of the Constitution an unforeseen application, it does so, whether explicitly or implicitly, in the name of some underlying purpose of the Framers.[82] This is necessarily so; the federal judiciary, which by express constitutional provision is appointed for life, and therefore cannot be held responsible by the electorate, has no inherent general authority to establish the norms for the rest of society. It is limited to elaboration and application of the precepts ordained in the Constitution by the political representatives of the people. When the Court disregards the express intent and understanding of the Framers, it has invaded the realm of the political process to which the amending power was committed, and it has violated the constitutional structure which it is its highest duty to protect.[84]

As the Court is not justified in substituting its own views of wise policy for the commands of the Constitution, still less it is justified in allowing Congress to disregard those commands as the Court understands them. Although Congress' expression of the view that it does have power to alter state suffrage qualifications is entitled to the most respectful consideration by the judiciary, coming as it does from a coordinate branch of government,[85] this cannot displace the duty of this Court to make an independent determination whether Congress has exceeded its powers. The reason for this goes beyond Marshall's assertion that "It is emphatically the province and duty of the judicial department to say what the law is." *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803).[86] It inheres in the structure of the constitutional system itself. Congress is subject to none of the institutional restraints imposed on judicial decisionmaking; it is controlled only by the political process. In Article V, the Framers expressed the view that the political restraints on Congress alone were an insufficient control over the process of constitution-making. The concurrence of two-thirds of each House and of three-fourths of the States was needed for the political check to be adequate. To allow a simple majority of Congress to have final say on matters of constitutional interpretation is therefore fundamentally out of keeping with the constitutional structure. Nor is that structure adequately protected by a requirement that the judiciary be able to perceive a basis for the congressional interpretation, the only restriction laid down in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966).

It is suggested that the proper basis for the doctrine enunciated in *Morgan* lies in the relative fact-finding competence of Court, Congress, and state legislatures. *Ante*, p. —. In this view, as I understand it, since Congress is at least as well qualified as a state legislature to determine factual issues, and far better qualified than this Court, where a dispute is basically factual in nature the congressional finding of fact should control subject only to review by this Court for reasonableness.

In the first place, this argument has little or no force as applied to the issue whether the Fourteenth Amendment covers voter qualifications. Indeed, I do not understand the adherents of *Morgan* to maintain the contrary. But even on the assumption that the Fourteenth Amendment does place a limit on the sorts of voter qualifications which a State may adopt, I still do not see any real force in the reasoning.

When my Brothers refer to "complex factual questions," *ante*, p. ——, they call to mind disputes about primary, objective facts dealing with such issues as the number of persons between the ages of 18 and 21, the extent of their education, and so forth. The briefs of the four States in these cases take no issue with respect to any of the facts of this nature presented to Congress and relied on by my Brothers DOUGLAS, *ante*, p. ——, and BRENNAN, WHITE, and MARSHALL, *ante*, p. ——. Except for one or two matters of dubious relevance, these facts are not subject to rational dispute. The disagreement in these cases revolves around the evaluation of this largely uncontested factual material.[87] On the assumption that maturity and experience are relevant to intelligent and responsible exercise of the elective franchise, are the immaturity and inexperience of the average 18-, 19-, or 20-year-old sufficiently serious to justify denying such a person a direct voice in decisions affecting his or her life? Whether or not this judgment is characterized as "factual," it calls for striking a balance between incommensurate interests. Where the balance is to be struck depends ultimately on the values and the perspective of the decisionmaker. It is a matter as to which men of good will can and do reasonably differ.

I fully agree that judgments of the sort involved here are beyond the institutional competence and constitutional authority of the judiciary. See, *e. g.*, *Baker* v. *Carr*, 369 U.S. 186, 266–330 (1962) (Frankfurter, J., dissenting); *Kramer* v. *Union Free School District No. 15*, 395 U.S. 621, 634–641 (1969) (STEWART, J., dissenting). They are preeminently matters for legislative discretion, with judicial review, if it exists at all, narrowly limited. But the same reasons which in my view would require the judiciary to sustain a reasonable state resolution of the issue also require Congress to abstain from entering the picture.

Judicial deference is based, not on relative fact-finding competence, but on due regard for the decision of the body constitutionally appointed to decide. Establishment of voting qualifications is a matter for state legislatures. Assuming any authority at all, only when the Court can say with some confidence that the legislature has demonstrably erred in adjusting the competing interests is it justified in striking down the legislative judgment. This order of things is more efficient and more congenial to our system and, in my judgment, much more likely to achieve satisfactory results than one in which the Court has a free hand to replace state legislative judgments with its own. See *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963).

The same considerations apply, and with almost equal force, to Congress' displacement of state decisions with its own ideas of wise policy. The sole distinction between Congress and the Court in this regard is that Congress, being an elective body, presumptively has popular authority for the value judgment it makes. But since the state legislature has a like authority, this distinction between Congress and the judiciary falls short of justifying a congressional veto on the state judgment. The perspectives and values of national legislators on the issue of voting qualifications are likely to differ from those of state legislators, but I see no reason *a priori* to prefer those of the national figures, whose collective decision, applying nationwide, is necessarily less able to take account of peculiar local conditions. Whether one agrees with this judgment or not, it is the one expressed by the Framers in leaving voter qualifications to the States. The Supremacy Clause does not, as my colleagues seem to argue, represent a judgment that federal decisions are superior to those of the State whenever the two may differ.

To be sure, my colleagues do not expressly say that Congress or this Court is empowered by the Constitution to substitute its own judgment for those of the States. However, before sustaining a state judgment they require a "clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest." [88] *Ante*, p.——; see p. ——, n. 31. I should think that if the state interest were truly "compelling" and "substantial," and a clear showing could be made that the voter qualification was "necessary" to its preservation, no reasonable person would think the qualification undesirable. Equivalently, if my colleagues or majority of Congress deem a given voting qualification undesirable as a matter of policy, they must consider that the state interests involved are not "compelling" or "substantial" or that they can be adequately protected in other ways. It follows that my colleagues must be prepared to hold invalid as a matter of federal constitutional law all state voting qualifications which they deem unwise, as well as all such qualifications which Congress reasonably deems unwise. For this reason, I find their argument subject to the same objection as if it explicitly acknowledged such a conclusion.

It seems to me that the notion of deference to congressional interpretation of the Constitution, which the Court promulgated in *Morgan*, is directly related to this higher standard of constitutionality which the Court intimated in *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966), and brought to fruition in *Kramer*. When the scope of federal review of state determinations became so broad as to be judicially unmanageable, it was natural for the Court to seek assistance from the national legislature. If the federal role were restricted to its traditional and appropriate scope, review for the sort of "plain error" which is variously described as "arbitrary and capricious," "irrational," or "invidious," there would be no call for the Court to defer to a congressional judgment on this score that it did not find convincing. Whether a state judgment has so exceeded the bounds of reason as to authorize federal intervention is not a matter as to which the political process is intrinsically likely to produce a sounder or more acceptable result. It is a matter of the delicate adjustment of the federal system. In this area, to rely on Congress would make that body a judge in its own cause. The role of final arbiter belongs to this Court.

III

Since I cannot agree that the Fourteenth Amendment empowered Congress, or the federal judiciary, to control voter qualifications, I turn to other asserted sources of congressional power. My Brother Black would find that such power exists with respect to *federal* elections by virtue of Article I, § 4, and seemingly other considerations which he finds implicit in federal authority.

The constitutional provisions controlling the regulation of congressional elections are the following:

Art. I, § 2: "the Electors [for Representatives] in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Art. I, § 4: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of Choosing Senators."

Amend. XVII. "The electors [for Senators] in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures."

It is difficult to see how words could be clearer in stating what Congress can control and what it cannot control. Surely nothing in these provisions lends itself to the view that voting qualifications in federal elections are to be set by Congress. The reason for the scheme is not hard to find. In the Constitutional Convention, Madison expressed the view that "The qualifications of electors and elected were fundamental arti-

Footnotes at end of article.

cles in a Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution." 2 M. Farrand, Records of the Federal Convention of 1787, at 249–250 (1911). He explained further in The Federalist No. 52, at 326 (C. Rossiter ed. 1961).

"To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is comfortable to the standard already established or which may be established by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments; and it cannot be feared that the people of the States will alter this part of their constitutions in such manner as to abridge the rights secured to them by the Federal Constitution."

See also Federalist No. 60, at 371 (C. Rossiter ed. 1961) (Hamilton), quoted in the opinion of MR. JUSTICE STEWART, *ante* p. ——, which is to the same effect.

As to presidential elections, the Constitution provides:

"Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors. . . ." Art. II, § 1, cl. 2.

"The Congress may determine the Time of chusing Electors, and the Day on which they shall give their Vote; which Day shall be the same throughout the United States." Art. II, § 1, cl. 4.

Even the power to control the "Manner" of holding elections, given with respect to congressional elections by Article I, § 4, is absent with respect to the selection of presidential electors.[89] And, of course, the fact that it was deemed necessary to provide separately for congressional power to regulate the time of choosing presidential electors and the President himself demonstrates that the power over "Times, Places and Manner" given by Article I, § 4, does not refer to presidential elections, but only to the elections for Congressmen. Any shadow of a justification for congressional power with respect to congressional elections therefore disappears utterly in presidential elections.

IV

With these major contentions resolved, it is convenient to consider the three sections of the Act individually to determine whether they can be supported by any other basis of congressional power.

A. Voting Age

The only constitutional basis advanced in support of the lowering of the voting age is the power to enforce the Equal Protection Clause, a power found in § 5 of the Fourteenth Amendment. For the reasons already given, it cannot be said that the statutory provision is valid as declaratory of the meaning of that clause. Its validity therefore must rest on congressional power to lower the voting age as a means of preventing invidious discrimination that is within the purview of that clause.

The history of the Fourteenth Amendment may well foreclose the possibility that § 5 empowers Congress to enfranchise a class of citizens so that they may protect themselves against discrimination forbidden by the first section, but it is unnecessary for me to explore that question. For I think it fair to say that the suggestion that members of the age group between 18 and 21 are threatened with unconstitutional discrimination, or that any hypothetical discrimination is likely to be affected by lowering the voting age, is little short of fanciful. I see no justification for stretching to find any such possibility when all the evidence indicates that Congress—led on by recent decisions of this Court—thought simply that 18-year-olds were fairly entitled to the vote and that Congress could give it to them by legislation.[90]

I therefore conclude, for these and other reasons given in this opinion, that in § 302 of the Voting Rights Act Amendments of 1970 Congress exceeded its delegated powers.

B. Residency

For reasons already stated, neither the power to regulate voting qualifications in presidential elections, asserted by my Brother BLACK, nor the power to declare the meaning of § 1 of the Fourteenth Amendment, relied on by my Brother DOUGLAS, can support § 202 of the Act. It would also be frivolous to contend that requiring States to allow new arrivals to vote in presidential elections is an appropriate means of preventing local discrimination against them in other respects, or of forestalling violations of the Fifteenth Amendment. The remaining grounds relied on are the Privileges and Immunities Clause of Article IV, § 2,[91] and the right to travel across state lines.

While the right of qualified electors to cast their ballots and to have their votes counted was held to be a privilege of citizenship in *Ex parte Yarbrough*, 110 U. S. 651 (1884), and *United States* v. *Classic*, 313 U. S. 299 (1941), these decisions were careful to observe that it remained with the States to determine the class of qualified voters. It was federal law, acting on this State-defined class, which turned the right to vote into a privilege of national citizenship. As the Court has consistently held, the Privileges and Immunities Clauses do not react on the mere status of citizenship to enfranchise any citizen whom an otherwise valid state law does not allow to vote. *Minor* v. *Happersett*, 88 U.S. (21 Wall.) 162, 170–175 (1874); *Pope* v. *Williams*, 193 U.S. 621, 632 (1904); *Breedlove* v. *Suttles*, 302 U. S. 277, 283 (1937); cf. *Snowden* v. *Hughes*, 321 U.S. 1, 6–7 (1944). Minors, felons, insane persons, and persons who have not satisfied residency requirements are among those citizens who are not allowed to vote in most States.[92] The Privileges and Immunities Clause of Article IV of the Constitution is a direct descendent of Article IV of the Articles of Confederation:

"The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States. . . ."

It is inconceivable that these words when used in the Articles could have been understood to abolish state durational residency requirements.[93] There is not a vestige of evidence that any further extent was envisioned for them when they were carried over into the Constitution. And, as I have shown, when they were substantially repeated in § 1 of the Fourteenth Amendment it was affirmatively understood that they did not include the right to vote. The Privileges and Immunities Clause is therefore unavailing to sustain any portion of § 202.

The right to travel across state lines, see *United States* v. *Guest*, 383 U.S. 745, 757–758 (1966), and *Shapiro* v. *Thompson*, 394 U.S. 618, 630 (1969), is likewise insufficient to require Idaho to conform her laws to the requirements of § 202. MR. JUSTICE STEWART justifies § 202 solely on the power under § 5 of the Fourteenth Amendment to enforce the Privileges and Immunities Clause of § 1 which he deems the basis for the right to travel. *Ante*, p. ——. I find it impossible to square the position that § 5 authorizes Congress to abolish state voting qualifications based on residency with the position that it does not authorize Congress to abolish such qualifications based on race. Since the historical record compels me to accept the latter position, I must reject the former.

MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL do not anchor the right of interstate travel to any specific constitutional provision. *Ante*, p. ——. Past decisions to which they refer have relied on the two Privileges and Immunities Clauses, just discussed, the Due Process Clause of the Fifth Amendment, and the Commerce Clause. See *Shapiro* v. *Thompson*, 394, U. S., at 630 n. 8; *id.*, at 663–671 (dissenting opinion). The Fifth Amendment is wholly inapplicable to state laws; and surely the Commerce Clause cannot be seriously relied on to sustain the Act here challenged. With no specific clause of the Constitution empowering Congress to enact § 202, I fail to see how that nebulous judicial construct, the right to travel, can do so.

The remaining provision of the Voting Rights Act Amendments involved in these cases is the five-year suspension of Arizona's requirement that registrants be able to read the Constitution in English and to write their names. Although the issue is not free from difficulty, I am of the opinion that this provision can be sustained as a valid means of enforcing the *Fifteenth* Amendment.

Despite the lack of evidence of specific instances of discriminatory application or effect, Congress could have determined that racial prejudice is prevalent throughout the Nation, and that literacy tests unduly lend themselves to discriminatory application, either conscious or unconscious.[94] This danger of violation of § 1 of the Fifteenth Amendment was sufficient to authorize the exercise of congressional power under § 2.

Whether to engage in a more particularized inquiry into the extent and effects of discrimination, either as a condition precedent or as a condition subsequent to suspension of literacy tests, was a choice for Congress to make.[95] The fact that the suspension is only for five years will require Congress to re-evaluate at the close of that period. While a less sweeping approach in this delicate area might well have been appropriate, the choice which Congress made was within the range of the reasonable.[96] I therefore agree that § 201 of the Act is a valid exercise of congressional power to the extent it is involved in this case. I express no view about its validity as applied to suspend tests such as educational qualifications, which do not lend themselves so readily to discriminatory application or effect.

For the reasons expressed in this opinion, I would grant the relief requested in Nos. 43 and 44. I would dismiss the complaint in No. 47 for failure to state a claim on which relief can be granted. In No. 46 I would grant declaratory relief with respect to the validity of § 201 of the Voting Rights Act Amendments as applied to Arizona's current literacy test; I would deny relief in all other respects, with leave to reapply to the United States District Court for the District of Arizona for injunctive relief in the event it proves necessary, which I am confident it will not.

▼

In conclusion I add the following. The consideration that has troubled me most in deciding that the 18-year-old and residency provisions of this legislation should be held unconstitutional is whether I ought to regard the doctrine of *stare decisis* as preventing me from arriving at that result. For as I indicated at the outset of this opinion, were I to continue to consider myself constricted by recent past decisions holding that the Equal Protection Clause of the Fourteenth Amendment reaches state electoral processes, I would, particularly perforce of the decisions cited in n. 84, *supra*, be led to cast my vote with those of my Brethren who are of the opinion that the lowering of the voting age

Footnotes at end of article.

and the abolition of state residency requirements in presidential elections are within the ordinary legislative power of Congress.

After much reflection I have reached the conclusion that I ought not to allow *stare decisis* to stand in the way of casting my vote in accordance with what I am deeply convinced the Constitution demands. In the annals of this Court few developments in the march of events have so imperatively called upon us to take a fresh hard look at past decisions, which could well be mustered in support of such developments, than do the legislative lowering of the voting age and, albeit to a lesser extent, the elimination of state residential requirements in presidential elections. Concluding, as I have, that such decisions cannot withstand constitutional scrutiny, I think it my duty to depart from them, rather than to lend my support to perpetuating their constitutional error in the name of *stare decisis*.

In taking this position, I feel fortified by the evident *malaise* among the members of the Court with those decisions. Despite them, a majority of the Court holds that this congressional attempt to lower the voting age by simple legislation is unconstitutional, insofar as it relates to state elections. Despite them, four members of the Court take the same view of this legislation with respect to federal elections as well; and the fifth member of the Court who considers the legislation constitutionally infirm as regards state elections not at all on any of those decisions in reaching the opposite conclusion in federal elections. And of the eight members of the Court who vote to uphold the residential provision of the statute, only four appear to rely upon any of those decisions in reaching that result.

In these circumstances I am satisfied that I am free to decide these cases unshackled from a line of decisions which I have felt from the start entailed a basic departure from sound constitutional principle.

APPENDIX TO OPINION OF HARLAN, J.—VOTING RIGHTS ACTS AMENDMENTS OF 1970, PUB. L. 91–285, 84 STAT. 314

TITLE II—SUPPLEMENTAL PROVISIONS

Application of prohibition to other States

SEC. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act.

(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

Residence requirements for voting

SEC. 202. (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of a registration that does not include a provision for absentee registration.

(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

Separability

SEC. 205. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

TITLE III—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

Declaration and findings

SEC. 301. (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

(3) does not bear a reasonable relationship to any compelling State interest.

(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

Prohibition

SEC. 302. Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

Effective date

SEC. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1971.

Arizona constitution

Art. 7, § 2. No person shall be entitled to vote at any general election, or for any office that now is, or hereafter may be, elective by the people, or upon any question which may be submitted to a vote of the people, unless such person be a citizen of the United States of the age of twenty-one years or over, and shall have resided in the State one year immediately preceding such election, provided that qualifications for voters at a general election for the purpose of electing presidential electors shall be as prescribed by law. The word 'citizen' shall include persons of the male and female sex.

§ 16–101. Qualifications of elector

Arizona revised statutes annotated

A. Every resident of the state is qualified to become an elector and may register to vote at all elections authorized by law if he:

1. Is a citizen of the United States.

2. Will be twenty-one years or more of age prior to the regular general election next following his registration.

3. Will have been a resident of the state one year and of the county and precinct in which he claims the right to vote thirty days next preceding the election.

4. Is able to read the Constitution of the United States in the English language in a manner showing that he is neither prompted nor reciting from memory, unless prevented from so doing by physical disability.

5. Is able to write his name, unless prevented from so doing by physical disability.

B. At an election held between the date of registration and the next regular general election, the elector is eligible to vote if at the date of the intervening election he is twenty-one years of age and has been a resident of the state one year and the county and precinct thirty days.

C. A person convicted of treason or a felony, unless restored to civil rights, or an idiot, insane person or person under guardianship is not qualified to register.

§ 16–107. Closing of registrations

A. No elector shall be registered to vote in a primary election between five o'clock p.m. of the day which is four months preceding the date of the next general election and six o'clock p.m. of the day of the primary election.

B. No elector shall be registered between five o'clock p.m. of the seventh Monday preceding a general election and six o'clock p.m. of the day thereof. As amended Laws 1958, Ch. 48, § 1.

Idaho Constitution

Art. 6. § 2. Qualifications of electors.—Except as in this article otherwise provided, every male or female citizen of the United States, twenty-one years old, who has actually resided in this state or territory for six months, and in the county where he or she offers to vote, thirty days next preceding the day of election, if registered as provided by law, is a qualified elector; provided, however, that every citizen of the United States, twenty-one years old, who has actually resided in this state for sixty days next preceding the day of election, if registered as required by law, is a qualified elector for the sole purpose of voting for presidential electors; and until otherwise provided by the legislature, women who have the qualifications provided in this article may continue to hold such school offices and vote at such school elections as provided by the laws of Idaho territory.

Idaho Code

Sec. 34–401. Qualifications of voters.—Every person over the age of twenty-one (21) years, possessing the qualifications following, shall be entitled to vote at all elections: He shall be a citizen of the United States and shall have resided in this state six (6) months immediately preceding the election at which he offers to vote, and in the county thirty (30) days: provided, that no person shall be permitted to vote at any county seat election who has not resided in the county six (6) months, and in the precinct ninety (90) days, where he offers to vote; nor shall any person be permitted to vote at any election for the division of the county, or striking off from any county any part thereof, who has not the qualifications provided for in section 3, article 18, of the constitution,; nor shall any person be denied the right to vote at any school district elections, nor to hold any school district office on account of sex.

34–408. Eligibility of new residents to vote.—Each citizen of the United States, who, immediately prior to his removal to this state, was a citizen of another state and who has been a resident of this state for sixty (60) days next preceding the day of election but for less than the six (6) month period of required residence for voting prior to a presidential election, is entitled to vote for presidential and vice-presidential electors at that election, but for not other offices, if

(1) he otherwise possesses substantive qualifications to vote in this state (except the requirements of residence and registration, and

(2) he complies with the provisions of this act.

34–409. Application for presidential ballot by new residents.—A person desiring to qualify under this act in order to vote for presidential and vice-presidential electors shall be considered as registered within the meaning of this act if on or before ten (10) days prior to the date of the general election, he shall make an application in the form of and affidavit executed in duplicate in the presence of the county auditor, substantially as follows * * *

34–413. Voting by new residents.—(1) The applicant upon receiving the ballot for presidential and vice-presidential electors shall mark forthwith the ballot in the presence of the county auditor, but in a manner that the official cannot know how the ballot is marked. He shall then fold the ballot in the county auditor's presence so as to conceal the markings, and deposit and seal it in an envelope furnished by the county auditor.

34–1101. Absent voting authorized.—Any qualified elector of the state of Idaho who is absent or expects to be absent from the election precinct in which he resides on the day of holding any election under any of the laws of this state in which an official ballot is required, or who is within the election pricinct and is, or will be, unable, because of physical disability, or because of blindness, to go to the voting place, and if registration is required for such election, who is duly registered therefor, may vote at any such election, as hereinafter provided.

34–1105. Return of ballot.—On marking such ballot or ballots such absent or disabled or blind elector shall refold same as theretofore folded and shall inclose the same in same official envelope and seal said envelope securely and mail by registered or certified mail or deliver it in person to the officer who issued same; provided, that an absentee ballot must be received by the issuing officer by 12:00 o'clock noon on the day of the election before such ballot may be counted. Said ballot or ballots shall be so marked, folded and sealed by said voter in private and secretly. Provided, that whenever the disability or blindness makes it necessary that the voter shall be assisted in marking his ballot, such voter may have the assistance of any person of his choice in marking his ballot.

Oregon Constitution

Art. II, § 2. Every citizen of the United States is entitled to vote in all elections not otherwise provided for by this Constitution if such citizen:

(a) Is 21 years of age or older * * *.

Texas Constitution

Art. VI, § 1. Classes of persons not allowed to vote

Section 1. The following classes of persons shall not be allowed to vote in this State, to wit:

First: Persons under twenty-one (21) years of age.

Second: Idiots and lunatics.

Third: All paupers supported by any county.

Fourth: All persons convicted of any felony, subject to such exceptions as the Legislature may make.

§ 2. Qualified elector; registration; absentee voting.

Sec. 2 Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; provided, however, that before offering to vote at an election a voter shall have registered annually, but such requirement for registration shall not be considered a qualification of an elector within the meaning of the term "qualified elector" as used in any other Article of this Constittuion in respect to any matter except qualification and eligibility to vote at an election. Any legislation enacted in anticipation of the adoption of this Amendment shall not be invalid because of its anticipatory nature. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation.

Texas Election Code

Article 5.01. Classes of persons not qualified to vote

The following classes of persons shall not be allowed to vote in this state:

1. Persons under twenty-one years of age.
2. Idiots and lunatics.
3. All paupers supported by the county.
4. All persons convicted of any felony except those restored to full citizenship and right of suffrage or pardoned.

Art. 5.02. Qualification and requirements for voting.

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one years and who shall be a citizen of the United States and who shall have resided in this state one year next preceding an election and the last six months within the district or county in which such persons offers to vote, and who shall have registered as a voter, shall be deemed a qualified elector. No person shall be permitted to vote unless he has registered in accordance with the provisions of this code. The provisions of this section, as modified by Sections 35 and 39 of this code, shall apply to all elections, including general, special, and primary elections, whether held by the state, by a county, municipality, or other political subdivision of the state, or by a political party.

FOOTNOTES

[1] The Attorney General of the United States, a citizen of New York, is named as defendant. The jurisdictional basis alleged is Art. III. § 2, which gives this Court original jurisdiction over controversies between a State and a citizen of another State. We held a similar suit justiciable and otherwise within our original jurisdiction in *South Carolina* v. *Katzenbach*, 383 U.S. 301, 307 (1966). The parties have not asked us to reexamine the validity of that ruling, and since the Court has not undertaken to do so, I am content to sustain jurisdiction on the authority of that decision.

[2] In response to inquiries from the Attorney General, Arizona, Oregon, and Texas indicated willingness to abide by § 202 of the Act, governing residency, registration, and absentee voting in presidential elections and to conform conflicting state laws.

[3] The account in the text is largely drawn from J. James, The Framing of the Fourteenth Amendment (1956) (hereafter James), and to some extent from W. Gillette. The Right To Vote: Politics and the Passage of the Fifteenth Amendment (1969) (hereafter Gillette), and B. Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction (1914) (hereafter Kendrick), as well.

[4] "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed. three fifths of all other Persons."

[5] See p. ——, *post*, for the text of these provisions, and for discussion of the contention that they empower Congress to set qualifications of voters in federal elections.

[6] "The United States shall guarantee to every State in this Union a Republican Form of Government."

[7] *E.g.*, Proclamation of May 29, 1865, 13 Stat. 760 (North Carolina).

[8] The texts of the state constitutions are most readily available in F. Thorpe, The Federal and State Constitutions (1909). The qualifications imposed by the various States three years later, when the Fifteenth Amendment was proposed, are presented in tabular form in Hearings on the Voting Rights Bill, S. 1564, Before the Senate Committee on the Judiciary, 89th Cong., 1st Sess., 128–129 (1965).

[9] James 33.

[10] See Globe 209 (Freedmen's Bureau Bill); Globe 211 (Civil Rights Bill).

[11] While formally further consideration was postponed until a date in April, six weeks off, Globe 1095, it was generally understood that "April means indefinitely." 2 Nation 289 (March 11, 1866).

[12] The only change made in § 1 was the addition of the Citizenship Clause by the Senate. Globe 3041. The primary change made in § 2 was to condition reduction of representation on denial or abridgement of the right to vote in certain named elections rather than to speak generally of denial or abridgement of "the elective franchise." *Ibid.* That section now reads:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

[13] Section 1 of that Act provided in part that

"all persons . . . shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property and to full and equal benefit of all laws and proceedings for the security of persons and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding." Act of Apr. 9, 1866, c. 31, § 1, 14 Stat. 27.

[14] In this connection, Professor Fairman's admonition of 20 years ago is even more forceful than it was when he wrote:

"We know so much more about the constitutional law of the Fourteenth Amendment than the men who adopted it that we should remind ourselves not to be surprised to find them vague where we want them to prove sharp. Eighty years of adjudication has taught us distinctions and subtleties where the men of 1866 did not even perceive the need for analysis." Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5, 9 (1949).

[15] See, *e. g.*, Globe 599 (Sen. Trumbull); Globe 1117 (Cong. Wilson of Iowa, quoting Kent's Commentaries and Bouvier's Law Dictionary); Globe 1152 (Cong. Thayer). There were some, however, who considered the distinction either nonexistent or too uncertain to be a basis for legislation. *E. g.*, Globe 477 (Sen. Saulsbury); Globe 1157 (Cong. Thornton); Globe 1292–1293 (Cong. Bingham).

It hardly seems necessary to point out that the jurisprudential concept of "political" as opposed to "civil" or "natural" rights bears no relation to that class of nonjusticiable issues perhaps inappropriately known as "political questions." See the opinion of MR. JUSTICE DOUGLAS, *ante*, p. ——.

[16] See generally Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5 (1949), especially at 8–9.

[17] The remarks of these three Democrats, Niblack, Boyer, and Rogers, are discussed at pp.—, *post*. Also discussed there are the remarks of a fourth Democratic Representative, Phelps, which were delivered before the start of debate on the proposed Fourteenth Amendment.

[18] While this provision might seem useless in light of the Fifteenth Amendment, it was doubtless intended to prohibit the imposition of property or literacy qualifications which, even though fairly applied, would have the effect of disfranchising most of the Negroes. The Radicals had sought to prohibit such qualifications in the Fifteenth Amendment, but were unsuccessful. See Gillette 53, 56–62, 69–72, 76.

[19] While the history indicates that the supporters of the Fourteenth Amendment would have been surprised at the suggestion that the Amendment brought qualifications for state office under federal supervision, officeholding was not the focus of attention during the consideration of the Amendment. Moreover, state power to set voter qualifications, unlike state power to set qualifications for office, is explicitly recognized not only in the original Constitution but in § 2 of the Fourteenth Amendment itself. Whether these distinctions are sufficient to justify testing state qualifications for office by the Fourteenth Amendment is a matter not presented by these cases.

Where the state action has a racial basis, see *Anderson* v. *Martin*, 375 U.S. 399 (1964), I am not prepared to assume that the Fifteenth Amendment provides no protection. Despite the statement in the opinion of MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL, *ante*, p. —, I would find it surprising if a State could undercut the right to vote by taking steps to ensure that all candidates are unpalatable to voters of a certain race. Although an explicit provision on office-holding was deleted from the proposed Fifteenth Amendment at the eleventh hour, the idea that the right to vote without more implies the right to be voted for was specifically referred to by supporters of the Fifteenth Amendment in both Houses of Congress. See Cong. Globe, 40th Cong., 3d Sess., 1425–1426 (1869) (Cong. Boutwell); *id.*, at 1426 (Cong. Butler); *id.*, at 1629 (Sen. Sawyer).

[20] Hearings, *supra* n. 8.

[21] See, *e.g.*, Globe 141–142 (Cong. Blaine); Globe 2766–2767 (Sen. Howard); Globe 2769–2770 (Sens. Wade and Wilson); Globe 3033 (Sen. Henderson).

[22] The Journal is reprinted in Kendrick, *supra* n. 3, at 37–129.

[23] The attempts were not altogether successful. See James 108–109.

[24] See generally Kendrick 18–22. For reasons to be developed below, *post*, p. ——, the report of the Joint Committee, H.R. Rep. No. 30, 39th Cong., 1st Sess. (1866), is less useful as an indication of the understanding of the Committee and the Congress than as an indication of the understanding of the ratifying States.

[25] Owen's account of the Fourteenth Amendment is given in Political Results from the Varioloid, 35 Atlantic Monthly 660 (June 1875).

[26] See James 109–112; Gillette 24; Owen, *supra* n. 25, at 666.

[27] See the votes on Stevens' motion to select the alternative which reduced representation rather than that which prohibited racial restrictions on the ballot, Kendrick 52; Boutwell's motion to condition readmission of Tennessee on that State's agreement not to discriminate in its voter qualifications, Kendrick 70; Stevens' motion to strike out the provision of the Owen plan enfranchising Negroes after 1876, Kendrick 101; and the motion to condition readmission of Tennessee and Arkansas on their having provided impartial male suffrage, as well as on conforming their laws and constitutions to the requirements of the proposed amendment (which included Bingham's provision when this motion was made), Kendrick 109.

Bingham was not, however, wholly opposed to Negro suffrage. As chairman of the subcommittee, he reported the equal rights provision which would have empowered Congress to provide for equal political rights and privileges. Kendrick 56, although he was the one who subsequently had that replaced with the first equal rights provision reported to Congress. Kendrick 61. As already noted, the substitute contained substantially identical language, but omitted reference to political rights and privileges. Bingham also voted for Owen's plan, which would have enfranchised Negroes in 1876, when it was first presented. Kendrick 85. In February 1867 he moved to condition readmission of the southern States on impartial male suffrage as well as on the States' ratifying the Fourteenth Amendment and conforming their laws thereto. Kendrick 123.

[28] While any guess as to the motives of Bingham and the other members of the committee is sheer speculation, it is not necessarily true that they believed they were replacing specific language with general. The author of the original plan, for one, seems to have taken the opposite view. He gave the following characterization of § 1 some years later:

"A declaration who is a citizen: unnecessary, if we had given suffrage to the negro; since there could be no possible doubt that an elector, nativeborn, is a citizen of the United States. Also a *specification of the particular* civil rights to be assured: out of place, I think, in a constitutional amendment, though necessary and proper in a civil rights bill." Owen, *supra*, n. 23, at 666 (emphasis added).

[29] The proceedings of the Joint Committee are examined in greater detail in the opinion of MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL. *Ante*, p. —. I agree with their apparent conclusion that the Journal sheds little light on the contemporary construction of the Fourteenth Amendment. One is left to do what he can with the two facts noted at the outset of this section: that of the plans considered by the Joint Committee, all provided either for reduction of representation or for enfranchisement while none provided for both at the same time; and that the Committee consistently rejected provisions to enfranchise the freedmen, with the conceivable exception of a plan which was defeated in the House largely because of the scope of the powers it transferred from the States to the Federal Government.

[30] Unless, of course, one adopts a "conspiracy theory" of the history of the Fourteenth Amendment. Thus far no one has (quite) done so in this context.

[31] "I regret more than I shall be able to tell this House that we have not found the situation [sic] of affairs in this country such, and the public virtue such that we might come out on the plain, unanswerable proposition that every adult intelligent citizen of the United States, unconvicted of crime, shall enjoy the right of suffrage." Globe 2462.

[32] "I shall, Mr. Speaker, vote for this amendment; not because I approve it. Could I have controlled the report of the committee of fifteen, it would have proposed to give the right of suffrage to every loyal man in the country." Globe 2469.

"So far as I am individually concerned, I object to the amendment as a whole because it does not go far enough and propose to at once enfranchise every loyal man in the country." *Ibid.*

[33] "The proposition in the matter of suffrage falls short of what I desire, but so far as it goes it tends to the equalization of the inequality at present existing; and while I demand and shall continue to demand the franchise for all loyal male citizens of this country—and I cannot but admit the possibility that ultimately those eleven States may be restored to representative power without the right of franchise being conferred upon the colored people—I should feel myself doubly humiliated and disgraced, and criminal even, if I hesitated to do what I can for a proposition which equalizes representation." Globe 2508.

[34] "The second section, Mr. Speaker, is, in my judgment, as nearly correct as it can be without being fully, in full measure, right. But one thing is right, and that is secured by the amendment. Manifestly no State should have its basis of national representation enlarged by reason of a portion of citizens within its borders to which the elective franchise is denied. If political power shall be lost because of such denial, not imposed because of participation in rebellion or other crime, it is to be hoped that political interests may work in the line of justice, and that the end will be the impartial enfranchisement of all citizens not disqualified by crime. Whether that end shall be attained or not, this will be secured: that the measure of political power of any State shall be determined by that portion of its citizens which can speak and act at the polls, and shall not be enlarged because of the residence within the State of portions of its citizens denied the right of franchise. So much for the second section of the amendment. It is not all that I wish and would demand; but odious inequalities are removed by it and representation will be equalized, and the political rights of all citizens will under its operation be, as we believe, ultimately recognized and admitted." Globe 2511.

[35] "I did hope to see the rights of the freedmen completely established. . . . I did hope . . . that we should have the manhood and magnanimity to declare that men who have wielded the sword in defense of their country are fit to be intrusted with the ballot. But I am convinced that my expectations, hitherto fondly cherished, are doomed to some disappointment." Globe 2537.

[36] "This is a step in the right direction; and although I should prefer to see incorporated into the Constitution a guarantee of universal suffrage, as we cannot get the required two thirds for that, I cordially support this proposition as the next best." Globe 2540.

[37] "[If the freed slaves had been added] to the thinking, voting men of the southern States, it would be just and proper that that addition should be represented in this body. But we all know that such is not the case. In those States themselves the late slaves do not enter into the basis of local representation. . . .

"Would it not be a most unprecedented thing that when this population are not permitted where they reside to enter into the basis of representation in their own State, we should receive it as an element of representation here. . . ." Globe 2464.

[38] "The second proposition is, in short, to limit the representation of the several States as those States themselves shall limit suffrage . . .

". . . And why not? If the negroes of the South are not to be counted as a political element in the government of the South in the States, why should they be counted as a political element in the government of the country in the Union? If they are not to be counted as against the southern people themselves, why should they be counted against us?" Globe 2498.

[39] H.R. No. 51 "deprived [the southern States] of all inducement for [the] gradual admission [of the freemen] to the right of suffrage, inasmuch as it exacted universal suffrage as the only condition upon which they should be counted in the basis of representation at all. . . . I voted against a proposition which seemed to me so unjust and so injurious, not only to the whites of the southern States, but to the colored race itself. Well, sir, that amendment was rejected in the Senate, and the proposition, as embodied in the committee's report, comes before us in a very different form. It is now proposed to base representation upon suffrage, upon the number of voters, instead of upon the aggregate population in every State of the Union. And as I believe that to be essentially just, and likely to remedy the unequal representation of which complaint is so justly made, I shall give it my vote." Globe 2502.

Later, in discussion of § 3, which at that time would have disfranchised certain rebels in federal elections. Raymond remarked that the effect would be to allow "one fifth, one eighth, or one tenth, as the case may be, of the people of these southern States to elect members from those States, to hold seats upon this floor." *Ibid.* It is obvious that the possibility of Negroes' voting in these elections did not cross his mind.

[40] "But this House is not prepared to enfranchise all men; the nation, perhaps, is not prepared for it to-day; the colored race are not prepared for it, probably, and I am sure the rebels are unfit for it; and as Congress has not the moral courage to vote for it, then put in this provision which cuts off the traitor from all political power in the nation, and then we have secured to the loyal men that control which they so richly deserve." Globe 2505.

[41] "This amendment will settle the complication in regard to suffrage and representation, leaving each State to regulate that for itself, so that it will be for it to decide whether or not it shall have a representation for all its male citizens not less than twenty-one years of age." Globe 2510.

[42] "I have no doubt that the Government of the United States has full power to extend the elective franchise to the colored population of the insurgent States. I mean authority; I said power. I have no doubt that the Government of the United States has the authority to do this under the Constitution; but I do not think they have the power. The distinction I make between authority and power is this: we have, in the nature of our Government, the right to do it; but the public opinion of the country is such at this precise moment as to make it impossible we should do it. It was therefore most wise on the part of the committee on reconstruction to waive this matter in deference to public opinion." Globe 2532.

[43] "If South Carolina persists in withholding the ballot from the colored man, then let her take the alternative we offer, of confining her to the white basis of representation . . . ." Globe 2535.

[44] Spalding's speeches are given at Globe 2509–2510. His only remarks addressed to §§1 and 2 read:

"As to the first measure proposed, a person may read it five hundred years hence without gathering from it any idea that this rebellion ever existed. The same may be said of the second proposition, for it only proposes that, the bondsmen being made free, the apportionment of Representatives in Congress shall be based upon the whole number of persons who exercise the elective franchise, instead of the population." Globe 2509.

A month later, in the debate over the Amendment when it had returned from the Senate, Spalding expressed his views more clearly:

"I say, as an individual, that I would more cheerfully give my vote if that provision allowed all men of proper age whom we have made free to join in the exercise of the right of suffrage in this country. But if I cannot obtain all that I wish, I will go heartily to secure all we can obtain." Globe 3146.

[45] Longyear's speech is published at Globe 2536–2537. He did not in terms address himself to any section except the third. However, it is not difficult to read his statement that the proposals of the Joint Committee disappointed "the expectations of the people" and his personal hopes as having reference to the absence of any provision on suffrage.

[46] Shellabarger spoke only briefly, and this in connection with the disfranchising section. In the course of his remarks he expressed the view that congressional power to regulate voter qualifications in federal elections was granted by Article I, § 4. Globe 2512.

[47] "Why is it that the gentleman from Pennsylvania [Mr. Stevens] gives up universal suffrage? Why is it that he and other gentlemen give up universal confiscation? Why is it that other gentlemen give up universal butchery of that people? It is a compromise of what they call principle for the purpose of saving their party in the next fall election." Globe 2506.

[48] "Gentlemen here admit that they desire [federal control over suffrage], but that the weak kneed of their party are not equal to the issue. Your purpose is the same, and but for that timidity you would now ingraft negro suffrage upon our Constitution and force it on the entire people of this Union." Globe 2530.

[49] "While this [second] section admits the right of the States thus to exclude negroes from voting, it says to them, if you do so exclude them they shall also be excluded from all representation; and you shall suffer the penalty by loss of representation." Globe 3145.

[50] Boyer's speech was made in opposition to a proposal to enfranchise Negroes in the District of Columbia. He then thought Negro suffrage a "monstrous proposition," Globe 176, which was incompatible with "the broad general principle that this is, and of right ought to be, a white man's Government." Globe 175. One of Rogers' harangues on the subject came in connection with the same bill. There he spoke of "the monstrous doctrine of political equality of the negro race with the white at the ballot-box," Globe 198, and launched into an attack remarkable for its vitriol.

[51] Boyer viewed § 3, which at that time would have prohibited voluntary participants in the rebellion from voting in federal elections, as "the most objectionable of all the parts," Globe 2467, as it would disfranchise nine-tenths of the voting population of the South for more than four years. The second section he found objectionable as designed "to reduce the number of southern representatives in Congress and in the Electoral College; and also to operate as standing inducement to negro suffrage." Globe 2467. These remarks indicate no awareness that the first section would increase the number of voters in the southern States and also render any "inducement" to negro suffrage unnecessary.

Rogers later in his speech asserted:

"The committee dare not submit the broad proposition to the people of the United States of negro suffrage. They dare not to-day pass the negro suffrage bill which passed this

House in the Senate of the United States because, as I have heard one honorable and leading man on the Republican side of the House say, it would sink into oblivion the party that would advocate before the American people the equal right of the negro with the white man to suffrage." Globe 2538.

When H.R. No. 127 was returned by the Senate with amendments, Rogers addressed the House and stated that when the records of the Joint Committee were made public, it would be revealed that the Committee at first agreed to recommend universal negro suffrage, but reconsidered because of the force of public opinion. Globe Appendix 230. Rogers was himself a member of the Joint Committee, and he presumably was referring to the acceptance and then rejection of Owen's plan for enfranchisement in 1876.

[52] The Amendment, however, had been released to the press on April 28. James 115.

[53] It is not amiss to point out that whatever force Phelps' and Rogers' interpretations may have in the face of the contrary authority, even they foresaw no danger from the Equal Protection Clause as a source of federal power over the suffrage.

[54] Like my colleagues, *ante* p. —, I find it difficult to understand what Bingham meant when he said that "the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States." Globe 2542. However, I do not find this mysterious sentence to mean that the exercise of the elective franchise is exclusively under the control of the States and Congress, nor do I find it to dilute the force of his explicit statements quoted above that § 1 did not reach the right to vote. The general statements by Bingham and Stevens to the effect that the Amendment was designed to achieve equality before the law, or would be effectuated by legislation in part, likewise do not weaken the force of the statements specifically addressed to the suffrage question quoted above.

[55] Fessenden, however, was present in the Senate and participated in the discussion. See Globe 2763, 2769, 2770. He was therefore in a position to correct any gross misinterpretation of his views or of those of the Committee.

[56] My colleagues, *ante* p. —, point to Howard's reference to *Corfield* v. *Coryell*, 6 Fed. Cas. 546 (No. 3230) (CCED Pa. 1823), in order to "gather some intimation of what probably will be the opinion of the judiciary" on the scope of the Privileges and Immunities Clause of § 1. Globe 2765. As the text indicates, Howard rejected Justice Washington's lengthy dictum insofar as it said that the protected privileges and immunities included "the elective franchise, as regulated and established by the laws or constitution of the State in which it is exercised." No other Senator quoted or referred to this portion of Washington's opinion during the debates over the proposed Fourteenth Amendment. *Corfield*, which held that New Jersey could constitutionally restrict access to her oyster beds to her own residents, was the leading authority on privileges and immunities in the mind of the Thirty-ninth Congress, but it was not the only one. *Campbell* v. *Morriss*, 3 H. & McH. 535 (Md. 1797) (Samuel Chase, J.), and *Abbot* v. *Bayley*, 6 Pick. 89 (Mass. 1827) (Parker, C. J.), were also cited. See Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5, 12–15 (1949). Both specifically stated that the privileges and immunities protected by Article IV, § 2, did not include the right of suffrage or the right to hold office.

[57] Howard was a very clear-spoken man. When it was suggested, during the debates over the Fifteenth Amendment, that the freedmen were entitled to the ballot by virtue of the Privileges and Immunities Clause of the Fourteenth Amendment, he recalled his role in the framing of that Amendment and said "I feel constrained to say that this is the first time it ever occurred to me that the right to vote was to be derived from the fourteenth article. I think such a construction cannot be maintained." Cong Globe, 40th Cong., 3d Sess. 1003 (1869). He then referred to the debates, § 2 of the Fourteenth Amendment, and the fact that "Nobody ever supposed that the right of voting or of holding office was guarantied by the second section of the fourth article of the old Constitution" to bolster his construction of § 1 of the Fourteenth Amendment. *Ibid.*

[58] "I think our friends, the colored people of the South, should not be excluded from the right of voting, and they shall not be if my vote and the votes of a sufficient number who agree with me in Congress shall be able to carry it. I do not agree in this particular with the Senator from Michigan [Mr. Howard]. He yields to the provision in the committee's resolution on the subject reluctantly, because he does not believe three fourths of the States can be got to ratify that proposition which is right and just in itself. My own opinion is that if you go down to the very foundation of justice, so far from weakening yourself with the people, you will strengthen yourself immensely by it; but I know that it is not the opinion of many here, and I suppose we must accommodate ourselves to the will of majorities, and if we cannot do all we would, do all we can. I propose for myself to contend for all I can get in the right direction, and finally to go with those who will give us anything that is beneficial." Globe 2769.

[59] "I should be much better satisfied if the right of suffrage had been given at once to the more intelligent of ["the colored people of the South"] and such as had served in our Army. . . . Believing that his amendment probably goes as far in favor of suffrage to the negro as is practicable to accomplish now, and hoping it may in the end accomplish all I desire in this respect, I shall vote for its adoption, although I should be glad to go further." Globe 2963–2964.

[60] "It declares that all men are entitled to life, liberty, and property, and imposes upon the Government the duty of discharging these solemn obligations, but fails to adopt the easy and direct means for the attainment of the results proposed. It refuses the aid of four million people in maintaining the Government of the people. . . . [But] it furnishes a conclusive argument in favor of universal amnesty and impartial suffrage. . . . The utter impossibility of a final solution of the difficulties by the means proposed will cause the North to clamor for suffrage." Glode 2964.

[61] "I am sorry to have to put that clause [§ 2] into our Constitution, as I am sorry for the necessity which calls upon us to put the preceding clause into the Constitution. I wish there was no community and no State in the United States that was not prepared to say with my friend from Nevada [Mr. Stewart] that all men may be represented in the Congress of the United States and shall be represented and shall choose their own representatives. That is the better doctrine; that is the true doctrine. I would much prefer, myself, to unite with the people of the United States in saying that hereafter no man shall be excluded from the right to vote, than to unite with them in saying that hereafter some men may be excluded from the right of representation." Globe Appendix 219.

[62] Henderson, who had offered a direct enfranchising provision as an alternative to the Committee's first effort in the field of representation, see Globe Appendix 115, stated that he now recognized that "the country is not yet prepared" to share political power with Negroes, and he supported the Committee plan. Globe 3035.

[63] "[A]lthough we do not obtain suffrage now, it is not far off, because the grasping desire of the South for office, that old desire to rule and reign over this Government and control its destinies, will at a very early day hasten the enfranchisement of the loyal blacks." Globe 3038.

[64] "There is no reason why the white citizens of South Carolina should vote the political power of a class of people whom they say are entirely unfit to vote for themselves. If there is any portion of the people of this country who are unfit to vote for themselves, their neighbors ought not to vote for them." Globe 2986.

There was no indication that Sherman considered South Carolina's disqualification on racial grounds any more improper than Massachusetts' limitations of the franchise to men, which he mentioned in the next breath.

[65] "If you think the negro ought to have the right of voting; if you are in favor of it, and intend it shall be given, why do you not in plain words confer it upon them? It is much fairer than to seek it by indirection, and the people will directly understand you when you propose such a change in the Constitution." Globe 2939.

[66] "What is to be the operation of this amendment? Just this: your whip is held over Pennsylvania and you say to her that she must either allow her negroes to vote or have one member of Congress less." Globe 2987.

[67] "[The second section's] true meaning was intended to be difficult to be reached, but when understood it is a measure which shrinks from the responsibility of openly forcing negro suffrage upon the late slave States, but attempts by a great penalty to coerce them to accept it." Globe Appendix 240.

[68] "It says that each of the southern States, and, of course, each other State in the Union, has a right to regulate for itself the franchise, and that consequently, as far as the Government of the United States is concerned, if the black man is not permitted the right to the franchise, it will be a wrong (if a wrong) which the Government of the United States will be impotent to redress." Globe 3027. Johnson was the only Democratic Senator on the Joint Committee.

[69] "With [the rebel States'] enlarged basis of representation, and exclusion of the loyal men of color from the ballot-box, I see no hope of safety unless in the prescription of proper enabling acts, which shall do justice to the freedmen and enjoin enfranchisement as a condition-precedent." Globe 3148.

[70] Kelly: see Globe 2469, quoted at n. 32, *supra*.

Farnsworth: see Globe 2540, quoted at n. 36, *supra*.

Eliot: see Globe 2511, quoted at n. 34, *supra*.

Higby: see Globe 3978 (debate over readmission of Tennessee despite all-white electorate).

Bingham: see Globe 2542, quoted at p. ——, *supra;* see also Globe 3979 (debate over readmission of Tennessee).

Stevens: see Globe 2459–2460, quoted at pp. ——, *supra;* Globe 3148, quoted at n. 69, *supra*.

Raymond: see Globe 2502, quoted at n. 39, *supra*.

Ashley: see Globe 2882.

Sumner: see n. 71, *infra*.

Fessenden: see H. R. Rep. No. 30, 39th Cong. 1st Sess. XIII–XIV (1866), quoted pp. ——, *infra*.

Yates: see Globe 3038, quoted at n. 63, *supra*.

Stewart: see Globe 2965, quoted at n. 60, *supra*.

Wade: see Globe 2769, quoted at n. 58, *supra*.

The exception is Senator Wilson of Massachusetts, who did not address himself to this issue. However, he participated in the de-

bates, see Globe 2770, 2986–2987, and was therefore in a position to express disagreement with the interpretation uniformly offered in the Senate.

Secondary reliance is placed on Shellabarger, Cook, Boutwell, Julian, and Lawrence of Ohio. These Representatives, with the exception of Boutwell, see n. 33, *supra*, did not participate significantly in the debates over the Fourteenth Amendment. The substance of their earlier remarks is that Congress had some power, usually by way of the Guaranty Clause, see n. 6, *supra*, to oversee state voter qualifications. Shellabarger also offered on Article I, § 4, see n. 46, *supra;* p. ——, *post;* Julian relied on the Thirteenth Amendment; and Boutwell looked to the Declaration of Independence. The relevance of these views to the scope of § 1 of the Fourteenth Amendment is not apparent.

[71] Stevens: see Globe 2459–2460, quoted at pp. ——, *supra;* Globe 3148, quoted at n. 69, *supra;* James 163 (campaign speech in fall of 1866).

Boutwell: see Globe 2508, quoted at n. 33, *supra;* Globe 3976 (debate over readmission of Tennessee).

Summer did not actually participate in the debates on H.R. No. 127. However, after the caucus of Republican Senators had agreed on the form of the Amendment, Summer gave notice that he intended to move to amend the bill accompanying the proposed Amendment. This bill, S. 292, provided that any Confederate State might be readmitted to representation in Congress once the proposed Amendment had become part of the Constitution and the particular State should have ratified it and modified its constitution and laws in conformity therewith. The bill is reprinted in H.R. Rep. No. 30, 39th Cong., 1st Sess. V–VI, and in Kendrick 117–119. Sumner's amendment would have provided that a State might be readmitted when it should have ratified the Fourteenth Amendment and modified its constitution and laws in conformity therewith "and shall have *further* provided that there shall be no denial of the elective franchise to citizens of the United States because of race or color, and that all persons shall be equal before the law." Globe 2869 (emphasis added).

Sumner also referred to Negro suffrage as unfinished business in speeches that fall. James 173, 178.

[72] For citations to the state materials, see Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5, 84–132 (1949).

[73] Fear that the Amendment would reach voting was expressed in Brevier Legis. Rep. [Indiana] 45–46, 80, 88–89 (1867); Tenn. H.R. J. 38 (Extra Sess. 1866); Fla. S.J. 102 (1866); N. C. S. J. 96–97 (1866–1867); S. C. H. R. J. 34 (1866); and Tex. S.J. 422–423 (1866). The last four States rejected the proposed Amendment. Opponents of the Amendment stated or assumed that it would not reach voting qualifications in Ark H R. J. 288—289 (1866); Fla. S.J. 8–9 (1866); Report of the Joint Committee on Federal Relations, Maryland H.R. Doc. MM at 15 (Mar. 18, 1867); Mass H.R. Doc. No. 149, at 7–9, 16–17 (1867); and Wis. S.J. 102–103 (1867). Fla. House J. 76–78 (1866); Ind. House J. 102–103 (1867); and N. H. S. J. 71–72 (1866) are equivocal.

[74] "Are not all persons born or naturalized in the United States and subject to its jurisdiction, rightfully citizens of the United States and of each State, and justly entitled to all the political and civil rights citizenship confers? And should any State possess the power to divest them of these great rights except for treason or other infamous crime?" Ill. H. R. J. 40 (1867).

[75] Ind. House J. 47–48 (1867); Kans. S. J. 45 (1867); Maine S. J. 23 (1867); Mass. H. R. Doc. No. 149, at 25–26 (1867); Nev. S. J. App. 9 (1867); Vt. S. J. 28 (1866); W. Va. S. J. 19 (1867); Wis. Assembly J. 33 (1867).

[76] H. R. Rep. No. 30, 39th Cong., 1st Sess. XIII–XIV (1866).

[77] I have found references to only two such speeches, one by Senator Hendricks and the other by one George M. Morgan, a candidate for Congress in Ohio. Cincinnati Commercial, Aug. 9, 1866, at 1, col. 4, quoted in Fairman, *supra* n. —, at 72; Cincinnati Commercial, Aug. 23, 1866, at 3, col. 2, quoted in Fairman, *supra*, at 75.

[78] See Gillette, *supra* n. 3, at 25–27.

[79] *Reynolds v. Sims*, 377 U.S. 533, 589 (1964) (dissenting opinion).

[80] Art. IV, § 4. See n. 6, *supra*, for the text.

[81] The contention that Congress has power to override state judgments as to qualifications for voting in federal elections is discussed below. Pp. —, *infra*.

[82] Amend. XV: "Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."

Amend. XIX: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account or sex.

"Congress shall have power to enforce this article by appropriate legislation."

Amend. XXIV: "Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice-President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

"Sec. 2. The Congress shall have power to enforce this article by appropriate legislation."

[83] See, *e.g. Harper* v. *Virginia Board of Elections*, 383 U.S. 663, 670 (1966): "Our conclusion, like that in *Reynolds* v. *Sims*, [373 U.S. 533 (1964),] is founded not on what we think governmental policy should be, but on what the Equal Protection Clause requires."

[84] Most of the costs in which this Court has used the Equal Protection Clause to strike down state voter qualifications have been decided since 1965. Eight such cases have been decided by opinion. *Carrington* v. *Rash*, 380 U.S. 89 (1965); *Louisiana* v. *United States*, 380 U.S. 145 (1965); *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966); *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966); *Kramer* v. *Union Free School Dist. No. 15*, 395 U.S. 621 (1969); *Cipriano* v. *City of Houma*, 395 U.S. 701 (1969); *Evans* v. *Cornman*, 398 U.S. 419 (1970); *City of Phoenix* v. *Kolodziejski*, 399 U.S. 204 (1970). Other cases have been summarily disposed of. In none of these cases did the Court advert to the argument based on the historical understanding.

Before 1965, although this Court had occasionally entertained on the merits challenges to state voter qualifications under the Equal Protection Clause, only two cases had sustained the challenges. *Nixon* v. *Herndon*, 273 U.S. 536 (1927), held that a Texas statute limiting participaton in the Democratic Party primary to whites violated the Fourteenth Amendment. *Nixon* v. *Condon*, 286 U.S. 73 (1932), held that Texas did not avoid the reach of the *Herndon* decision by transferring to the party's Executive Committee the power to set qualifications for participation in the primary. In neither of the *Nixon* cases was the history of the Fourteenth Amendment suggested to the Court. Both cases were argued on the assumption that racial prohibition on voting in state general elections would violate the Fourteenth as well as the Fifteenth Amendment. This potential line of decision proved abortive when *United States* v. *Classic*, 313 U.S. 299 (1941), laid the groundwork for holding that participation in party primaries was included within the "right . . . to vote" protected by the Fifteenth Amendment. See *Reynolds* v. *Sims*, 377 U.S. 533, 614 n. 72 (1964) (dissenting opinion). The *Nixon* opinions were not relied on by the Court in the subsequent white-primary cases, *Smith* v. *Allwright*, 321 U.S. 649 (1944), and *Terry* v. *Adams*, 345 U.S. 461 (1953), and they were not even referred to in the recent cases on voter qualifications cited above.

[85] In this particular instance the other two branches of the Government have in fact expressed conflicting views as to the validity of Title III of the Act, the voting age provision. See H.R. Doc. No. 91–326, 91st Cong., 2d Sess. (1970).

[86] In fact, however, I do not understand how the doctrine of deference to rational constitutional interpretation by Congress, espoused by the majority in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), is consistent with this statement of Chief Justice Marshall or with our reaffirmation of it in *Cooper* v. *Aaron*, 358 U.S. 1, 18 (1958):

"[*Marbury*] declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the country as a permanent and indispensable feature of our constitutional system."

[87] Contrast *Metropolitan Cas. Ins. Co.* v. *Brownell*, 294 U.S. 580 (1935), relied on by my colleagues. In that case the crucial factual issue, on which the record was silent, was whether casualty insurance companies not incorporated in Indiana, "generally keep their funds and maintain their business offices, and their agencies for the settlement of claims, outside the state." 294 U.S. at 585.

[88] It might well be asked why this standard is not equally applicable to the congressional expansion of the franchise before us. Lowering of voter qualifications dilutes the voting power of those who could meet the higher standard, and it has been held that "the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *Reynolds* v. *Sims*, 377 U.S. 533, 555 (1964) (footnote omitted). Interference with state control over qualifications for voting in presidential elections in order to encourage interstate migration appears particularly vulnerable to analysis in terms of compelling federal interests.

[89] Although MR. JUSTICE BLACK rests his decision in part on the assumption that the selection of presidential electors is a "federal" election, the Court held in *In re Green*, 134 U.S. 377, 379 (1890), and repeated in *Ray* v. *Blair*, 343 U.S. 214, 224–225 (1952), that presidential electors act by authority of the States and are not federal officials.

[90] At the time these suits were filed only two of the 50 States, Georgia and Kentucky, allowed 18-year-olds to vote, and only two other States, Hawaii and Alaska, set the voting age below 21. In subsequent referenda, voters in 10 States declined to lower the voting age; five States lowered the voting age to 19 or 20; and Alaska lowered the age from 19 to 18. See The Washington Post, Nov. 5, 1970, at A13, col. 5.

[91] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

[92] At the time the Constitution was adopted, additional restrictions based on payment of taxes and ownership of property, as well as creed and sex, were imposed, making the proposition even clearer.

[93] See Article II: "Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

[94] The legislative history of the Voting Rights Act Amendments contains sufficient evidence to this effect, if any be needed.

[95] Cf. the Voting Rights Act of 1965, 79 Stat. 438, which suspended literacy tests only in areas falling within a coverage formula and allowed reinstatement of the tests upon judicial determination that during the preceding five years no tests had been used with discriminatory purpose or effect. 42 U.S.C. (Supp. V) 1973b(a) (1970), amended by Pub. L. No. 91–285 § 3, 84 Stat. 314.

[96] I assume that reasonableness is the applicable standard, notwithstanding the fact that the instant legislation is challenged on the ground that it improperly dilutes the votes of literate Arizona citizens. But see *Kramer* v. *Union Free School Dist. No. 15*, 395 U.S. 621 (1969); n. 88 *supra*.

[Supreme Court of the United States, Nos. 43, 44, 46, 47 Orig.—October Term, 1970]

OREGON VERSUS MITCHELL

(State of Oregon, Plaintiff, *v.* John N. Mitchell, Attorney General of the United States. State of Texas, Plaintiff, *v.* John N. Mitchell, Attorney General of the United States. United States, Plaintiff, *v.* State of Arizona. United States, Plaintiff, *v.* State of Idaho on Bills of Complaint, Dec. 21, 1970)

MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL dissent from the judgment insofar as it declares § 302 unconstitutional as applied to state and local elections, and concur in the judgment in all other respects, for the following reasons.

These cases draw into question the power and judgment of Congress in enacting Titles II and III of the Voting Rights Act Amendments of 1970, 84 Stat. 314. The State of Arizona challenges the power of Congress to impose a nationwide ban, until August 6, 1975, on the use of literacy and certain other tests to limit the franchise in any election. The State of Idaho takes issue with the asserted congressional power to find that the imposition of a durational residence requirement to deny the right to vote in elections for President and Vice President imposes a burden upon the right of free interstate migration that is not necessary to further a compelling state interest.[1] Finally, the States of Oregon, Texas, Arizona, and Idaho would have us strike down as unreasonable and beyond congressional power the findings, embodied in § 301 (a) of the Amendments, that denying the vote to otherwise qualified persons 18 to 21 years of age, while granting it to those 21 years of age and older, violates the Equal Protection Clause and is, in any event, not reasonably related to any compelling state interest.[2] In Nos. 43 and 44, Oregon and Texas have invoked our original jurisdiction under Article III, § 2, of the Constitution to restrain the Attorney General of the United States, a citizen of New York, from enforcing the 18-year-old voting provisions of the Amendments. *South Carolina* v. *Katzenbach*, 383 U. S. 301, 307 (1966). In Nos. 46 and 47, the United States seeks orders enjoining Arizona from enforcing age and literacy limitations on the franchise,[3] and enjoining Idaho from enforcing age, residence, and absentee voting limitations,[4] insofar as those limitations are inconsistent with the 1970 Amendments. Original jurisdiction, again, is founded upon Article III, § 2 of the Constitution. See *United States* v. *California*, 332 U. S. 19, 22 (1947). Since, in our view, congressional power to enact the challenged Amendments is found in the enforcement clauses of the Fourteenth and Fifteenth Amendments, and since we may easily perceive a rational basis for the congressional judgments underlying each of them, we would deny relief in Nos. 43 and 44, and issue the requested orders in Nos. 46 and 47.

I

The Voting Rights Act of 1965, 79 Stat. 438, 42 U.S.C. § 1973 *et eq.* (1964 ed., Supp. V), proscribed the use of any "test or device," [5] including literacy tests, in States or their political subdivisions which fell within a coverage formula set forth in § 4(b) of the 1965 Act. 42 U.S.C. §§ 1973b (a), (b) (1964 ed., Supp. V). Although we had previously concluded that literacy tests, fairly administered, violate neither the Fourteenth nor the Fifteenth Amendments, *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45 (1959), we nevertheless upheld their selective proscription by Congress. *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966). Canvassing the "voluminous" legislative history of the 1965 Act, we found ample basis for a legislative conclusion that such a proscription was necessary to combat the "insidious and pervasive evil" of racial discrimination with regard to voting. *Id.*, at 308–315. Accordingly, we held the proscription to be well within the power of Congress granted by § 2 of the Fifteenth Amendment. *Id.*, at 327–334. Three years later, in *Gaston County* v. *United States*, 395 U.S. 285 (1969), we sustained application of the ban on literacy tests to a county where there was no evidence that the test itself was discriminatory or that—at least since 1962 [6]—it had been administered in a discriminatory manner. Notwithstanding this fact, we noted that the record did contain substantial evidence that in years past, "Gaston County [had] systematically deprived its black citizens of the educational opportunities it granted to its white citizens." *Id.*, at 297. Since this "in turn deprived them of an equal opportunity to pass the literacy test," *id.*, at 291, even impartial administration of an impartial test would inevitably result in just the discrimination that Congress and the Fifteenth Amendment had sought to proscribe. *Id.*, at 296–297; see *South Carolina* v. *Katzenbach*, 383 U.S., at 308, 333–334.

No challenge is made in the present case either to the 1965 Act or to the five-year extension of its ban on "tests or devices" embodied in Title I of the 1970 Amendments. Arizona does, however, challenge § 201 of the Amendments, which extends (until August 6, 1975) the 1965 Act's selective ban on the use of "tests or devices" to all States and political subdivisions in which it is not already in force by virtue of the 1965 Act. In substance, Arizona argues that it is and has been providing education of equal quality for all its citizens; that its literacy test is both fair and fairly administered; and that there is no evidence in the legislative record upon which Congress could have relied to reach a contrary conclusion. It urges that to the extent that any citizens of Arizona have been denied the right to vote because of illiteracy resulting from discriminatory governmental practices, the unlawful discrimination has been by governments other than the State of Arizona or its political subdivisions. Arizona, it suggests, should not have its laws overridden to cure discrimination on the part of governmental bodies elsewhere in the country.

We need not question Arizona's assertions as to the nondiscriminatory character, past and present, of its educational system. Congressional power to remedy the evils resulting from state-sponsored racial discrimination does not end when the subject of that discrimination removes himself from the jurisdiction in which the injury occurred. "The Constitution was framed under the dominion of a political philosophy less parochial in range. It was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division." *Baldwin* v. *G. A. F. Seelig, Inc.*, 294 U.S. 511, 523 (1935); see *Edwards* v. *California*, 314 U.S. 160, 173–176 (1941). In upholding the suspension of literacy tests as applied to Gaston County under the 1965 Act, we could see "no legal significance" in the possibility that adult residents of the county might have received their education "in other counties or States also maintaining segregated and unequal school systems." *Gaston County* v. *United States*, 395 U.S., at 293 n. 9.[8]

The legislative history of the 1970 Amendments contains substantial information upon which Congress could have based a finding that the use of literacy tests in Arizona and in other States where their use was not proscribed by the 1965 Act has the effect of denying the vote to racial minorities whose illiteracy is the consequence of a previous governmentally sponsored denial of equal educational opportunity. The Attorney General of Arizona told the Senate Subcommittee on Constitutional Rights that many older Indians in the State were "never privileged to attend a formal school." [9] Extensive testimony before both Houses indicated that racial minorities have long received inferior educational opportunities throughout the United States.[10] And interstate migration of such persons, particularly of Negroes from the Southern States, has long been a matter of common knowledge.[11]

Moreover, Congress was given testimony explicitly relating the denial of educational opportunity to inability to pass literacy tests in States not covered by the formula contained in the 1965 Act. The United States Commission on Civil Rights reported a survey of the Northern and Western States which concluded that literacy tests have a negative impact upon voter registration "which falls most heavily on blacks and persons of Spanish surname." [12] With regard specifically to Arizona, the Chairman of the Navajo Tribal Council testified that a greater percentage of Navajos are registered in New Mexico, which has no literacy test, than in Arizona.[13]

In short, there is no question but that Congress could legitimately have concluded that the use of literacy test anywhere within the United States has the inevitable effect of denying the vote to members of racial minorities whose inability to pass such tests is the direct consequence of previous governmental discrimination in education. Almost five years ago, we found in § 2 of the Fifteenth Amendment an ample grant of legislative power for Congress to decree a selective proscription of such tests in certain portions of the country. *South Carolina* v. *Katzenbach*, 383 U.S., at 327–334. We have since held that power ample to cover the proscription of fair literacy tests, fairly administered, which nevertheless operate to disenfranchise racial minorities because of previous governmental discrimination against them in education. *Gaston County* v. *United States*, 395 U.S., at 287, 289–293. Five years of experience with the 1965 Act persuaded Congress that a nationwide ban on literacy and other potentially discriminatory tests was necessary to prevent racial discrimination in voting throughout the country. That conclusion is amply supported in the legislative record and § 201 of the 1970 Amendments is accordingly well within the scope of congressional power.

II

Section 202 of the 1970 Amendments abolishes all durational state residence requirements restricting the right to vote in presidential elections. In their place, Congress has undertaken to prescribe a uniform nationwide system of registration and absentee voting designed to allow all otherwise qualified persons to vote in such elections regardless of the length of time they have lived in a particular jurisdiction.[14] The States are required to keep open their registration rolls for presidential elections until 30 days preceding the election. § 202 (d). Persons who have changed their residence within 30 days of the election are, if otherwise qualified, entitled to vote either in person or by absentee ballot in the State of their previous residence, § 202(e), and the States are compelled to permit the casting of absentee ballots by all properly qualified persons who

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Footnotes at end of article.

have made application not less than seven days prior to the election, and returned the ballot to the appropriate officials not later than the closing of polls on election day. §§ 202 (b), (d). Provision must also be made by the States to allow absentee registration. § 202(f).

Idaho challenges the power of Congress to enact such legislation insofar as it conflicts with Idaho's statutory and constitutional provisions regarding durational residence requirements for voting; regarding absentee voting; and regarding absentee registration.[15] The State's argument in brief is that the Constitution has left to the States the power to set qualifications for voters in both state and federal elections, subject only to certain explicit limitations such as, for example, those imposed by the Fourteenth, Nineteenth, and Twenty-fourth Amendments. Admitting that unreasonable residence requirements may not withstand judicial scrutiny, *Carrington* v. *Rash*, 380 U. S. 89 (1965), Idaho urges that its 60-day residence requirement is necessary for protection against fraud, and for administrative purposes. In consequence, § 202 of the 1970 Amendments is said to be of no weight against these compelling state interests.

Whether or not the Constitution vests Congress with particular power to set qualifications for voting in strictly federal elections,[16] we believe there is an adequate constitutional basis for § 202 in § 5 of the Fourteenth Amendment. For more than a century, this Court has recognized the constitutional right of all citizens to unhindered interstate travel and settlement. *Passenger Cases*, 7 How. 283, 492 (1849) (Taney, C. J.); *Crandall* v. *Nevada*, 6 Wall. 35, 43–44 (1868); *Paul* v. *Virginia*, 8 Wall. 168, 180 (1869); *Edwards* v. *California*, 314 U. S. 160 (1941); *United States* v. *Guest*, 383 U. S. 745, 757–758 (1966); *Shapiro* v. *Thompson*, 394 U. S. 618, 629–631, 634 (1969). From whatever constitutional provision this right may be said to flow,[17] both its existence and its fundamental importance to our Federal Union have long been established beyond question.

By definition, the imposition of a durational residence requirement operates to penalize those persons, and only those persons, who have exercised their constitutional right of interstate migration. Of course, governmental action that has the incidental effect of burdening the exercise of a constitutional right is not *ipso facto* unconstitutional. But in such a case, governmental action may withstand constitutional scrutiny only upon a clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest. *Shapiro* v. *Thompson*, 394 U.S., at 634; *United States* v. *Jackson*, 390 U.S. 570, 582–583 (1968); *Sherbert* v. *Verner*, 374 U.S. 398, 406–409 (1963). And once it be determined that a burden has been placed upon a constitutional right, the onus of demonstrating that no less intrusive means will adequately protect compelling state interests is upon the party seeking to justify the burden. See *Speiser* v. *Randall* 357 U.S. 513, 525–526 (1958).

In the present case, Congress has explicitly found both that the imposition of durational residence requirements abridges the right of free interstate migration and that such requirements are not reasonably related to any compelling state interests. 1970 Amendments, §§ 202 (a) (2), (6). The latter finding was made with full cognizance of the possibility of fraud and administrative difficulty. Senator Goldwater, testifying at Senate hearings on the bill, pointed out that 40 States presently allow registration until 30 days or less prior to the election.[18] Idaho itself allows registration by those desiring to vote as new residents in presidential elections within 10 days of balloting. Idaho Code Ann. § 34–409 (1963). And Idaho's assertion of the administrative unfeasibility of maintaining separate registration lists for fully qualified voters and for those qualified only for presidential balloting is difficult to credit in light of the fact that the Idaho Constitution, Art. 6, § 2, itself sets separate qualifications for voting in general and in presidential elections. The provisions for absentee voting, as Senator Goldwater pointed out on the floor of the Senate, were likewise "drawn from the proven practice of the States themselves."[19] Thirty-seven States allow application within a week of the election, and 40 permit the marked ballot to be returned on election day.[20] Finally, Idaho has provided no evidence beyond the mere assertion that the scheme of § 202 is inadequate to protect against fraud. But the only kind of fraud asserted is the possibility of dual voting, and Idaho has provided no explanation why the 30-day period between the closing of new registrations and the date of election would not provide, in light of modern communications, adequate time to insure against such frauds. Accordingly, we find ample justification for the congressional conclusion that § 202 is a reasonable means for eliminating an unnecessary burden on the right of interstate migration. *United States* v. *Guest*, *supra*.

III

The final question presented by these cases is the propriety of Title III of the 1970 Amendments, which forbids the States from disenfranchising persons over the age of 18 because of their age. Congress was of the view that this prohibition, embodied in § 302 of the Amendments, was necessary among other reasons in order to enforce the Equal Protection Clause of the Fourteenth Amendment. See §§ 301 (a) (2), (b). The States involved in the present litigation question the assertion of congressional power to make that judgment.

It is important at the outset to recognize what is not involved in these cases. We are not faced with an assertion of congressional power to regulate any and all aspects of state and federal elections, or even to make general rules for the determination of voter qualifications. Nor are we faced with the assertion that Congress is possessed of plenary power to set minimum ages for voting throughout the States. Every State in the Union has conceded by statute that citizens over the age of 21 are capable of intelligent and responsible exercise of the right to vote. The single, narrow question presented by these cases is whether Congress was empowered to conclude, as it did, that citizens 18 to 21 years of age are not substantially less able.

We believe there is serious question whether a statute granting the franchise to citizens over 21 while denying it to those between the ages of 18 and 21 could, in any event, withstand present scrutiny under the Equal Protection Clause. Regardless of the answer to this question, however, it is clear to us that proper regard for the special function of Congress in making determinations of legislative fact compels this Court to respect those determinations unless they are contradicted by evidence far stronger than anything that has been adduced in these cases. We would uphold § 302 as a valid exercise of congressional power under § 5 of the Fourteenth Amendment.

A

All parties to these cases are agreed that the States are given power, under the Constitution, to determine the qualifications for voting in state elections. Art. I, § 2; *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45, 50 (1959); *Carrington* v. *Rash*, 380 U.S. 89, 91 (1965). But it is now settled that exercise of this power, like all other exercises of state power, is subject to the Equal Protection Clause of the Fourteenth Amendment. *Carrington* v. *Rash*, *supra*; *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966); *Kramer* v. *Union Free School District*, 395 U.S. 621 (1969); *Evans* v. *Cornman*, 398 U.S. 419 (1970). Although it once was thought that equal protection required only that a given legislative classification, once made, be evenly applied, see *Hayes* v. *Missouri*, 120 U.S. 68, 71–72 (1887), for more than 70 years we have consistently held that the classifications embodied in a state statute must also meet the requirements of equal protection. *Gulf, Colorado & Santa Fe R. Co.* v. *Ellis*, 165 U.S. 150, 155 (1897); see *McLaughlin* v. *Florida*, 379 U.S. 184, 189–191 (1964), and cases cited.

The right to vote has long been recognized as a "fundamental political right, because preservative of all rights." *Yick Wo* v. *Hopkins*, 118 U.S. 356, 370 (1886); see *Reynolds* v. *Sims*, 377 U.S. 533, 562 (1964); *Williams* v. *Rhodes*, 393 U.S. 23, 31 (1968). "Any unjustified discrimination in determining who may participate in political affairs undermines the legitimacy of representative government." *Kramer* v. *Union Free School District*, 395 U.S., at 626. Consequently, when exclusions from the franchise are challenged as violating the Equal Protection Clause, judicial scrutiny is not confined to the question whether the exclusion may reasonably be thought to further a permissible interest of the State. Cf. *Metropolitan Co.* v. *Brownell*, 294 U.S. 580, 583–584 (1935). "A more exacting standard obtains." *Kramer* v. *Union Free School District*, 395 U.S. at 633. In such cases, "the Court must determine whether the exclusions are necessary to promote a compelling state interest." *Id.* at 627; *Cipriano* v. *City of Houma*, 395 U.S. 701, 704 (1969).

In the present cases, the States justify exclusion of 18- to 21-year-olds from the voting rolls solely on the basis of the States' interests in promoting intelligent and responsible exercise of the franchise.[21] There is no reason to question the legitimacy and importance of these interests. But standards of intelligence and responsibility, however defined, may permissibly be applied only to the means whereby a prospective voter determines how to exercise his choice, and not to the actual choice itself. Were it otherwise, such standards could all too easily serve as mere epithets designed to cloak the exclusion of a class of voters simply because of the way they might vote. Cf. *Evans* v. *Cornman*, 398 U.S., at 422–423. Such a state purpose is, of course constitutionally impermissible. *Carrington* v. *Rash*, 380 U.S., at 94. We must, therefore, examine with particular care the asserted connection between age limitations and the admittedly laudable state purpose to further intelligent and responsible voting.

We do not lack a starting point for this inquiry. Although the question has never been squarely presented, we have in the past indicated that age is a factor not necessarily irrelevant to qualifications for voting. *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. at 51; *Kramer* v. *Union Free School District*, 395 U.S., at 625–626. But recognition that age is not in all circumstances a "capricious or irrelevant factor," *Harper* v. *Virginia State Board of Elections*, 383 U.S., at 668, does not insure the validity of the particular limitation involved here. *Evans* v. *Cornman*, 398 U.S., at 425–426. Every State in the Union has concluded for itself that citizens over the age of 21 are capable of responsible and intelligent voting. Accepting this judgment, there remains the question whether citizens 18 to 21 years of age may fairly be said to be less able.

State practice itself in other areas casts doubt upon any such proposition. Each of the 50 States has provided special mechanisms for dealing with persons who are deemed insufficiently mature and intelligent to understand, and to conform their behavior to, the criminal laws of the State.[22] Forty-nine of the States have concluded that, in this regard, 18-year-olds are invariably to be dealt with according to precisely the same stand-

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ards prescribed for their elders.[25] This at the the very least is evidence of a nearly unanimous legislative judgment on the part of the States themselves that differences in maturity and intelligence between 18-year-olds and persons over the age of 21 are too trival to warrant specialized treatment for *any* of the former class in the critically important matter of criminal responsibility.[26] Similarly, every State permits 18-year-olds to marry, and 39 States do not require parental consent for such persons of one or both sexes.[27] State statutory practice in other areas follows along these lines, albeit not as consistently.[28]

Uniform state practice in the field of education points the same way. No State in the Union requires attendance at school beyond the age of 18. Of course, many 18-year-olds continue their education to 21 and beyond. But no 18-year-old who does not do so will be disenfranchised thereby once he reaches the age of 21.[27] Whether or not a State could in any circumstances condition exercise of the franchise upon educational achievements beyond the level reached by 18-year-olds today, there is no question but that no State purports to do so. Accordingly, that 18-year-olds as a class may be less educated than some of their elders[28] cannot justify restriction of the franchise, for the States themselves have determined that this incremental education is irrelevant to voting qualifications. And finally, we have been cited to no material whatsoever that would support the proposition that intelligence, as opposed to educational attainment, increases between the ages of 18 and 21.

One final point remains. No State seeking to uphold its denial of the franchise to 18-year-olds has adduced anything beyond the mere difference in age. We have already indicated that the relevance of this difference is contradicted by nearly uniform state practice in other areas. But perhaps more important is the uniform experience of those States—Georgia since 1943, and Kentucky since 1955—that have permitted 18-year-olds to vote.[29] We have not been directed to a word of testimony or other evidence that would indicate that 18-year-olds in those States have voted any less intelligently and responsibly than their elders, or that there is any reasonable grounds for belief that 18-year-olds in other States are less able than those in Georgia and Kentucky. On the other hand, every person who spoke to the issue in either House or Senate was agreed that 18-year-olds in both States were at least as interested, able, and responsible in voting as were their elders.[30]

In short, we are faced with an admitted restriction upon the franchise, supported only by bare assertions and long practice, in the face of strong indications that the States themselves do not credit the factual propositions upon which the restriction is asserted to rest. But there is no reason for us to decide whether, in a proper case, we would be compelled to hold this restriction a violation of the Equal Protection Clause. For as our decisions have long made clear, the question we face today is not one of judicial power under the Equal Protection Clause. The question is the scope of congressional power under § 5 of the Fourteenth Amendment. To that question we now turn.

B

As we have often indicated, questions of constitutional power frequently turn in the last analysis on questions of fact. This is particularly the case when an assertion of state power is challenged under the Equal Protection Clause of the Fourteenth Amendment. For although equal protection requires that all persons "under like circumstances and conditions" be treated alike, *Hayes* v. *Missouri*, 120 U.S. 68, 71–72 (1887), such a formulation merely raises, but does not answer the question whether a legislative classification has resulted in different treatment of persons who are in fact "under like circumstances and conditions."

Legislatures, as well as courts, are bound by the provisions of the Fourteenth Amendment. *Cooper* v. *Aaron*, 358 U.S. 1, 18–20 (1958). When a state legislative classification is subjected to judicial challenge as violating the Equal Protection Clause, it comes before the courts cloaked by the presumption that the legislature has, as it should, acted within constitutional limitations, *Kotch* v. *Board of River Pilot Commissioners*, 330 U.S. 552, 556, 563–564 (1947); see *Kramer* v. *Union Free School District*, 395 U.S. 621, 627–628 (1969). Accordingly, "[a] statutory discrimination will not be set aside as the denial of equal protection of the laws if any state of facts reasonably may be conceived to justify it." *Metropolitan Co.* v. *Brownell*, 294 U.S. 580, 584 (1936).[31]

But, as we have consistently held, this limitation on judicial review of state legislative classifications is a limitation stemming not from the Fourteenth Amendment itself, but from the nature of judicial review. It is simply a "salutary principle of judicial decision." *Metropolitan Co.* v. *Brownell, supra*, one of the "self-imposed restraints intended to protect [the Court] and the state against irresponsible exercises of [the Court's] and the state against irresponsible exercises of [the Court's] unappealable power." *Fay* v. *New York*, 332 U.S. 261, 282 (1947). The nature of the judicial process makes it an inappropriate forum for the determination of complex factual questions of the kind so often involved in constitutional adjudication. Courts, therefore, will overturn a legislative determination of a factual question only if the legislature's finding is so clearly wrong that it may be characterized as "arbitrary," "irrational," or "unreasonable." *Communist Party* v. *Control Board*, 367 U.S. 1, 94–95 (1961); *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152–154 (1938); *Metropolitan Co.* v. *Brownell*, 294 U.S., at 583–584.

Limitations stemming from the nature of the judicial process, however, have no application to Congress. Section 5 of the Fourteenth Amendment provides that "[t]he Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Should Congress, pursuant to that power, undertake an investigation in order to determine whether the factual basis necessary to support a state legislative discrimination actually exists, if need not stop once it determines that some reasonable men could believe the factual basis exists. Section 5 empowers Congress to make its own determination on the matter. See *Katzenbach* v. *Morgan*, 384 U.S. 641, 654–656 (1966). It should hardly be necessary to add that if the asserted factual basis necessary to support a given state discrimination does not exist, § 5 of the Fourteenth Amendment vests Congress with power to remove the discrimination by appropriate means. *Id.*, at 656–657; *Fay v. New York*, 332 U.S., at 282–283; *Ex parte Virginia*, 100 U.S. 339, 347–348 (1880).

The scope of our review in such matters has been established by a long line of consistent decisions. "It is not for the courts to re-examine the validity of these legislative findings and reject them." *Communist Party* v. *Control Board*, 367 U.S., at 94. "[W]here we find that the legislators, in light of the facts and testimony before them, have a rational basis for finding a chosen regulatory scheme necessary . . . our investigation is at an end." *Katzenbach* v. *McClung*, 379 U.S. 294, 303–304 (1964); *Katzenbach* v. *Morgan*, 384 U.S., at 653; see *Galvan* v. *Press*, 347 U.S. 522, 529 (1954).[32]

This scheme is consistent with our prior decisions in related areas. The core of dispute over the constitutionality of Title III of the 1970 Amendments is a conflict between state and federal legislative determinations of the factual issues upon which depend decision of a federal constitutional question—the legitimacy, under the Equal Protection Clause, of state discrimination against persons between the ages of 18 and 21. Our cases have repeatedly emphasized that, when state and federal claims come into conflict, the primacy of federal power requires that the federal finding of fact control. See *England* v. *Louisiana State Board of Medical Examiners*, 375 U.S. 411, 415–417 (1964); *Townsend* v. *Sain*, 372 U.S. 293, 311–312 (1963); *Tarble's Case*, 13 Wall, 397, 406–407 (1872); cf. *United States* v. *Darby*, 312 U.S. 100, 119 (1941). The Supremacy Clause requires an identical result when the conflict is one of legislative, not judicial, findings.

Finally, it is no answer to say that Title III intrudes upon a domain reserved to the States—the power to set qualifications for voting. It is no longer open to question that the Fourteenth Amendment applies to this, as to all other, exercise of state power. *Kramer* v. *Union Free School District, supra*, and cases cited. As we said in answer to a similar contention almost a century ago, "The Constitution now expressly gives authority for congressional interference and compulsion in the cases embraced within the Fourteenth Amendment. It is but a limited authority, true, extending only to a single class of cases; but within its limits it is complete." *Ex parte Virginia*, 100 U.S. 339, 347–348 (1880).

Our Brother HARLAN has set out in some detail the historical evidence which persuades him that the framers of the Fourteenth Amendment did not believe that the Equal Protection Clause, either through judicial action or through congressional enforcement under § 5 of the Amendment, could operate to enfranchise Negroes in States which denied them the vote. *Ante*, at ———. From this he has concluded "that the Fourteenth Amendment was never intended to restrict the right of the States to allocate their political power as they see fit and therefore that it does not authorize Congress to set voter qualifications in either state or federal elections." *Ante*, at ——. This conclusion, is accepted, would seem to require as a corollary that although States may not, under the Fifteenth Amendment, discriminate against Negro *voters*, they are free so far as the Federal Constitution is concerned to discriminate against Negro or unpopular *candidates* in any way they desire. Not surprisingly, our Brother HARLAN's thesis is explicitly disavowed by all the States party to the present litigation,[33] and has been presented to us only in the brief *Amici Curiae* of Virginia and, perhaps, Mississippi.[34] We could not accept in the briefs *Amici Curiae* of Virginia and, this thesis even if it were supported by historical evidence far stronger than anything adduced here today. But in our view, our Brother HARLAN's historical analysis is flawed by his ascription of 20th-century meanings to the words of 19th-century legislators. In consequence, his analysis imposes an artificial simplicity upon a complex era, and presents as universal beliefs that were held by merely one of several groups competing for political power. We can accept neither his judicial conclusion nor his historical premise that the original understanding of the Fourteenth Amendment left it within the power of the States to deny the vote of Negro citizens.

It is clear that the language of the Fourteenth Amendment, which forbids a State to "deny any person within its jurisdiction the equal protection of the laws," applies on its face to all assertions of state power, however made. More than 40 years ago, this Court faced for the first time the question whether a State could deny Negroes the right to vote in primary elections. Writing for a unanimous Court, Mr. Justice Holmes observed tartly that "[w]e find it unnecessary to consider the Fifteenth Amendment, because it seems to us hard to imagine a

Footnotes at end of article.

more direct and obvious infringement of the Fourteenth." *Nixon* v. *Herndon*, 273 U.S. 536, 540–541 (1927); see *Nixon* v. *Condon*, 286 U.S. 73, 87–89 (1932) (Cardozo, J.); *Anderson* v. *Martin*, 375 U.S. 399 (1964); cf. *Raymond* v. *Chicago Union Traction Co.*, 207 U.S. 20, 35–36 (1907). If the broad language of the Equal Protection Clause were to be read as nevertheless allowing the States to deny equal political rights to any citizens they see fit to exclude from the political process, far more is involved than merely shifting the doctrinal basis of such cases as *Nixon* v. *Herndon* from the Fourteenth to the Fifteenth Amendment. For the Fifteenth Amendment applies only to voting, not to the holding of public office; in consequence, our Brother HARLAN'S view would appear to leave the States free to encourage citizens to cast their votes solely on the basis of race (a practice found to violate the Fourteenth Amendment in *Anderson* v. *Martin*, *supra*), or even presumably to deny Negro citizens the right to run for office at all.[35] We cannot believe that the Equal Protection Clause would permit such discrimination.

In any event, it seems to us, the historical record will not bear the weight our Brother HARLAN has placed upon it. His examination of the historical background of the Fourteenth Amendment leads him to conclude that it is "clear beyond any reasonable doubt that no part of the legislation now under review can be upheld as a legitimate exercise of congressional power under that Amendment," *ante*, at—, because the Amendment was not intended "to restrict the right of the States to allocate their political power as they see fit." *Ante*, at —. Our own reading of the historical background, on the other hand, results in a somewhat imperfect picture of an era of constitutional confusion, confusion which the Amendment did little to resolve. As the leading constitutional historian of the Civil War has observed, constitutional law was characterized during the war years by "a noticeable lack of legal precision" and by "[a] tendency toward irregularity . . . in legislation, and in legal interpretation." J. Randall, Constitutional Problems under Lincoln 515–516 (rev. ed. 1951). Nor would the postwar period of Reconstruction be substantially different.

For several decades prior to the Civil War, constitutional interpretation had been a pressing concern of the Nation's leading statesmen and lawyers, whose attention focused especially on the nature of the relationship of the States to the Federal Government. The onset of the Civil War served only to raise new problems upon which the original Constitution offered, at best, only peripheral guidance. The greatest problem of all, perhaps, was the character of the civil conflict—whether it was to be treated as a rebellion, as a war with a belligerent state, or as some combination of the two. Another issue concerned the scope of federal power to emancipate the slaves; even President Lincoln doubted whether his Emancipation Proclamation would be operative when the war had ended and his special war powers had expired. This particular issue was resolved by the Thirteenth Amendment, but that Amendment only raised new issues, for some men doubted the validity of even a constitutional change upon such a fundamental matter as slavery, particularly while the status of the eleven Confederate States remained unsettled. See *id.*, at 12–24, 59–73, 342–404.

The end of the war did not bring an end to difficult constitutional questions. Two perplexing problems remained. The one was the relation of the former Confederate States to the Federal Government; to the other was the relation of the former slaves to the white citizens of the Nation. Both were intimately related to the politics of the day, an understanding of which is essential since the Fourteenth Amendment was presented to the Nation as the Republican Party's solution for these problems. See J. James, The Framing of the Fourteenth Amendment 169–173 (1956) (hereafter James).

The starting point must be the key fact that, as of 1860, the Republicans were very much the Nation's minority party. Lincoln had won the presidency that year with less than 40% of the popular vote, while the Republicans had secured control of Congress only when southern Democrats had left Washington following the secession of their States. The compromise in the original Constitution, by which only three-fifths of the slaves in southern States were computed in determining representation in the House of Representatives and votes in the Electoral College also was a matter of critical importance in 1865; with slavery abolished, southern and hence Democratic power in the House and in the Electoral College would increase. The Republicans had calculated this matter rather carefully; as the *Chicago Tribune* had demonstrated as early as the summer of 1865, the increased southern delegation would need only 29 readily obtainable Democratic votes from the North in order to dominate the House. See James 21–23. But Republicans had no intention of permitting such a Democrat resurgence to occur; in their view, as one Republican Senator observed, Republicans would be "faithless" to their "trust," if they allowed "men who have thus proven themselves faithless" to recover "the very political power which they have hitherto used for the destruction of this Government." Cong. Globe, 39th Cong., 1st Sess. 2918 (remarks of Senator Willey) (1866) (hereafter Globe). Whether one looks upon such sentiments as a grasp for partisan political power or as an idealistic determination that the gains of the Civil War not be surrendered, the central fact remains that Republicans found it essential to bar or at least to delay the return of all-white southern delegations to Congress.

Temporarily, they proposed to do so by refusing to seat Congressmen from the seceded States. They usually justified their refusal on constitutional grounds, presenting a variety of theories as to how the former Confederate States had forfeited their rights by secession. See generally E. McKitrick, Andrew Johnson and Reconstruction 93–119 (1960). But exclusion of southern representatives could not be a permanent solution, a better solution seemed to be to elect at least some Republican representatives from the South by enfranchising the only class which could be expected to vote Republican in large numbers—the freedmen.

According to the census of 1860, Negroes had constituted some 4,200,000 out of the total population of 12,200,000 in the 15 slave States. In two States—Mississippi and South Carolina—Negroes were a substantial majority of the population, while in several other States the population was at least 40% Negro. Thus, Negro suffrage would probably result in a number of Negro and presumably Republican representatives from the South. The difficulty was with the means of bringing Negro suffrage about. Some, including Chief Justice Chase, looked back toward the Emancipation Proclamation and contended that Negro suffrage could be achieved, at least in the South, by means of a presidential proclamation. See James 5–7; 1 W. Fleming, Documentary History of Reconstruction 142 (1906). Others thought congressional legislation the appropriate vehicle for granting the suffrage, see James 13, 52–53; Van Alstyne, The Fourteenth Amendment. The "Right" to Vote, and the Understanding of the Thirty-Ninth Congress, 1965 Supreme Court Review 33, 49–51, while still others argued for a constitutional amendment. See Cincinnati Commercial, Sept. 19, 1865, in James 11–12 (reporting speech of Congressman Bingham). Disagreement over means, however, was but a minor obstacle in the path of equal suffrage; racial prejudice in the North was a far more significant one. Only five New England States and New York permitted any Negroes to vote as of 1866, see Van Alstyne, *supra*, at 70, and extension of the suffrage was rejected by voters in 17 of 19 popular referenda held on the subject between 1865 and 1868. Moreover, Republicans suffered some severe election setbacks in 1867 on account of their support of Negro suffrage. See W. Gillette, The Right to Vote 25–27, 32–38 (1969).

Meeting in the winter and spring of 1866 and facing elections in the fall of the same year, the Republicans in Congress thus faced a difficult dilemma; they desperately needed Negro suffrage in order to prevent total Democratic resurgence in the South, yet they feared that by pressing for suffrage they might create a reaction among northern white voters that would lead to massive Democratic electoral gains in the North. Their task was thus to frame a policy which would prevent total southern Democratic resurgence and which simultaneously would serve as a platform upon which Republicans could go before their northern constituents in the fall. What ultimately emerged as the policy and political platform of the Republican Party was the Fourteenth Amendment.

As finally adopted, relevant portions of the Fourteenth Amendment read as follows:

"Sec. 1. . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers. But when the right to vote at any election . . . is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"Sec. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

The key provision on the suffrage question was, of course, § 2, which was to have the effect of reducing the representation of any State which did not permit Negroes to vote. Section 1 also began, however, as a provision aimed at securing equality of "political rights and privileges"—a fact hardly surprising in view of Republican concern with the question. In their earliest versions in the Joint Congressional Committee on Reconstruction, which framed the Fourteenth Amendment, §§ 1 and 2 read as follows:

"[Section 1.] Congress shall have power to make all laws necessary and proper to secure to all citizens of the United States in every State, the same political rights and privileges; and to all persons in every State equal protection in the enjoyment of life, liberty and property." B. Kendrick (ed.), The Journal of the Joint Committee of Fifteen on Reconstruction 51 (1914) (hereafter Kendrick).

"[Section 2.] Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers of persons, deducting therefrom all of any race or color, whose members or any of them are denied any of the civil or political rights or privileges." *Id.*, at 48.

Footnotes at end of article.

The question which must now be pursued is whether § 1 of the Amendment ever lost its original connection with the suffrage question.

It became evident at an early date that the Joint Committee did not wish to make congressional power over the suffrage more explicit than did the language of the original version of the future § 1. Six days after that section had been proposed by a subcommittee, the full committee refused to adopt an amendment offered by Senator Howard to make the section refer expressly to "political and *elective* rights and privileges," *id.*, at 55 (emphasis added), and refused as well to substitute for the language:

"Congress shall have power to make all laws necessary and proper to secure to all citizens of the United States in each State the same political rights and privileges; and to all persons in every State equal protection in the enjoyment of life, liberty and property."

The following language offered by Congressman Boutwell:

"Congress shall have power to abolish any distinction in the exercise of the elective franchise in any State, which by law, regulation or usage may exist therein." *Id.*, at 54–55.

The committee did agree, however, to return the proposal to a special subcommittee, chaired by Congressman John A. Bingham, which at the next meeting of the full committee reported back the following language:

"Congress shall have power to make all laws which shall be necessary and proper to secure all persons in every state full protection in the enjoyment of life, liberty and property; and to all citizens of the United States in any State the same immunities and also equal political rights and privileges." *Id.*, at 56.

This language, it seems clear, did not change the meaning of the section as originally proposed, but the next change in language, proposed several days later by Bingham, arguably did. Bingham moved the following substitute:

"The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each state all privileges and immunities of citizens in the several States equal protection in the rights of life, liberty and property (5th Amendment)." *Id.*, at 61.

This substitute was accepted by a committee vote of 7–6.

No record of the committee's debates have been preserved, and thus one can only guess whether Bingham's substitute was intended to change the meaning of the original proposal. The breakdown of the committee vote suggests, however, that no change in meaning was intended. The substitute was supported by men of all political views, ranging from Senator Howard and Congressman Boutwell, radicals who had earlier sought to make the section's coverage of suffrage explicit, to Congressman Rogers, a Democrat. Similarly, among the six voting against the substitute were a radical, Stevens; a moderate, Fessenden; and a Democrat, Grider. *Id.*, at 61. Thus, while one might continue to argue that Bingham meant his substitute to do away with congressional power to legislate for the preservation of equal rights of suffrage, one can, with at least equal plausibility, contend that Bingham sought to do no more than substitute for his earlier specific language more general language which had already appeared elsewhere in the Constitution.[37]

Bingham's proposed amendment to the Constitution, as modified, was next submitted to the House of Representatives, where Republicans joined Democrats in attacking it. Republican Representative Hale of New York, for example, thought the amendment "in effect a provision under which all State legislation, in its codes of civil and criminal jurisprudence and procedure, affecting the individual citizen, may be overridden," Globe 1063, while Representative Davis, also a New York Republican, thought it would give Congress power to establish "perfect political equality between the colored and the white race of the South." Id., at 1085. Meanwhile, the *New York Times*, edited by conservative Republican Congressman Henry J. Raymond, wondered if the proposed Amendment was "simply a preliminary to the enactment of negro suffrage." Feb. 19, 1866. Even the Amendment's supporters recognized that it would confer extensive power upon the Federal Government; Representative Kelley, a Pennsylvania radical, who supported the Amendment, concluded, after a lengthy discussion of the right of suffrage, that "the proposed amendment . . . [was] intended to secure it." Globe 1063. Its proponents, however, could not secure the necessary support for the Amendment in the House and thus were compelled to postpone the matter until a later date, when they failed to bring it again to the floor. Kendrick 215.

Meanwhile, the Joint Committee had returned to work and had begun to consider the direct antecedent of the Fourteenth Amendment, a proposal by Robert Dale Owen which Representative Stevens had placed before the committee. Its relevant provisions were as follows:

"Section 1. No discrimination shall be made by any state, nor by the United States, as to the civil rights of persons because of race, color, or previous condition of servitude.

"Sec. 2. From and after the fourth day of July, in the year one thousand eight hundred and seventy-six, no discrimination shall be made by any state, nor by the United States, as to the enjoyment by classes of persons of the right of suffrage, because of race, color, or previous condition of servitude.

"Sec. 3. Until the fourth day of July, one thousand eight hundred and seventy-six, no class of persons, as to the right of any of whom to suffrage discrimination shall be made by any state, because of race, color, or previous condition of servitude, shall be included in the basis of representation.

* * * * *

"Sec. 5. Congress shall have power to enforce by appropriate legislation, the provisions of this article," *Id.*, at 83–84.

Congressman Bingham had not, however, given up on his own favorite proposal, and he immediately moved to add the following new section to the Amendment:

"Sec. 5. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." *Id.*, at 87.

His motion was adopted on a 10-to-2 party line vote, but its adopton was only the beginning of some intricate and inexplicable maneuvering. Four days later, Senator Williams, an Oregon radical, moved to delete Bingham's section, and his motion was carried by a vote of 7 to 5, with radicals Howard and Boutwell and Democrats Grider and Johnson voting for the motion and Stevens, Bingham, and Democrat Rogers voting against.

Bingham then moved to submit his proposal as a separate amendment, but he was supported only by the three Democrats on the committee. The committee then agreed to submit the Owen proposal to Congress with only slight modifications, but postponed the submission until after one further meeting to be held three days hence. *Id.*, at 98–100.

At this meeting, the proposed Fourteenth Amendment was substantially rewritten. First, the committee, by a vote of 12 to 2, deleted § 2, which had barred States from making racial discriminations in the enjoyment of the right of suffrage after 1876, and conformed § 3, so as to insure that it would remain in effect after 1876. After making numerous other changes, the committee then concluded its deliberations by replacing Owen's ban in § 1 on discrimination "as to civil rights" with Bingham's now familiar language. Here the vote was 10 to 3, with the majority again containing a full spectrum of political views. *Id.*, at 100–106. The reasons for the rewriting are not entirely clear. The only known explanation was given by Owen in 1875, when he wrote an article recalling a contemporary conversation with Stevens; Stevens had reportedly explained that the committee's original decisions had "got noised abroad," and that, as a result, several state delegations had held caucuses which decided that the explicit references to "negro suffrage, in any shape, ought to be excluded from the platform. . . ." Quoted in *id.*, 302. Thus, the provision for suffrage after 1876 had to be eliminated, but Stevens did not explain why Bingham's version of § 1 was then substituted for Owen's version. Perhaps the changes in § 1 of the Amendment were thought by the committee to be mere linguistic improvements which did not substantially modify Owen's meaning and which did not extend its coverage to political as distinguished from civil rights. But, at the very least the committee must have realized that it was substituting for Owen's rather specific language Bingham's far more elastic language—language which, as one scholar has noted, is far more "capable of growth" and "receptive to 'latitudinarian' construction." Bickel, The Original Understanding and the Segregation Decision, 69 Harv. L. Rev. 1, 61, 63 (1955). It is, moreover, at least equally plausible that the committee meant to substitute for Owen's narrow provision dealing solely with civil rights a broader provision which had originated and been understood only two months earlier as protecting equality in the right of suffrage as well as equality of civil rights.

The purpose of § 1 in relation to the suffrage emerges out of the debates on the floor of Congress with an equal obscurity. In the search for meaning one must begin, of course, with the statements of leading men in Congress such as Bingham and Howard. Bingham, for one, stated without apparent equivocation that "[t]he amendment does not give . . . the power to Congress of regulating suffrage in the several States." Globe 2542. Similarly, Senator Howard, after noting that the Amendment would accord to Negroes the same protection in their fundamental rights as the law gave to whites, explicitly cautioned that "the first section of the proposed amendment does not give to either of these classes the right of voting." Globe 2766.[38] But such statements are not as unambiguous as they initially appear to be. Thus, Howard, with that "lack of legal precision" typical of the period, stated that the right of suffrage was not one of the privileges and immunities protected by the Constitution, Globe 2766, immediately after he had read into the record an excerpt from the case of *Corfield* v. *Coryell*, 6 F. Cas. 546 (No. 3230) (CCED Pa. 1823), an excerpt which listed the elective franchise as among the privileges and immunities. Globe 2765. Bingham was equally ambiguous, for he too thought that the elective franchise was a constitutionally protected privilege and immunity. Globe 2542. Indeed, at one point in the debates, Bingham made what is for us a completely incongruous statement:

"To be sure we all agree, and the great body of the people of this country agree, and the committee thus far in reporting measures of

Footnotes at end of article.

reconstruction agree, that the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States." Globe 2542.

Bingham that is, seemed to say in one breath first, that the franchise was a constitutionally protected privilege in support of which Congress under § 5 of the Fourteenth Amendment could legislate and then, in the next breath, that the franchise was exclusively under the control of the States.

Bingham's words make little sense to modern ears; yet, when they were uttered, his words must have made some sense, at least to Bingham and probably to many of his listeners. The search for their meaning probably ought to begin with Art. IV, § 2—the Privileges and Immunities Clause of the original Constitution. In the minds of members of the Thirty-Ninth Congress, the leading case to construe that clause was *Corfield* v. *Coryell, supra,* which had listed among a citizen's privileges and immunities "the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised." 6 F. Cas., at 552. Here again is the same apparent ambiguity that later occurred in Bingham's thought—that the franchise is a federally protected right, but only to the extent it is regulated and established by state law. The ambiguity was, however, only apparent and not real, for the Privileges and Immunities Clause of the original Constitution served a peculiar function; it did not create absolute rights but only placed a noncitizen of a State "upon a perfect equality with its own citizens" as to those fundamental rights already created by state law. *Scott* v. *Sandford,* 19 How. 393, 407 (1857). Accord. *id.,* at 584 (dissenting opinion). The Privileges and Immunities Clause, that is, was a sort of equal protection clause adopted for the benefit of out-of-state citizens; [39] it required, for example, that if a State gave its own citizens a right to enter into a lawful business, it could not arbitrarily deny the same right to out-of-state citizens solely because they came from out of State. See *Ward* v. *Maryland,* 12 Wall. 418, 430 (1871). Thus, what Bingham may have meant in indicating that the franchise was included within the scope of the Privileges and Immunities Clause of the Fourteenth Amendment while remaining entirely under the control of the States was that, although the States would be free in general to confer the franchise upon whomever they chose, Congress would have power to bar them from racial or other arbitrary discriminations in making their choices. In short, the Privileges and Immunities Clause might for Bingham have meant the same as the Equal Protection Clause; as he later explained in a campaign speech, § 1 was nothing but "a simple, strong, plain declaration that equal laws and equal and exact justice shall hereafter be secured within every State of this Union . . . ." Cincinnati Commercial, Aug. 27, 1866, quoted in James 760–161.

One way, then, to reconcile the seemingly incongruous statements of Bingham is to read him as understanding that, while the Fourteenth Amendment did not take from the States nor grant to Congress plenary power to regulate the suffrage, it did give Congress power to invalidate discriminatory state legislation. In his words, the Amendment took "from no State any right which hitherto pertained to the several States of the Union, but it impose[d] a limitation upon the States to correct their abuses of power." *Ibid.* Others had a similar understanding. Thus, for Charles Sumner, "Equality of *political rights* . . . [did] not involve necessarily what is sometimes called the 'regulation' of the suffrage by the National Government, although this would be best, . . . [but] simply require[d] the abolition of any discrimination among citizens, inconsistent with Equal Rights." C. Sumner, Are We a Nation 34 (1867). Or, as Stevens explained in presenting the Amendment to the House, it merely allowed "Congress to correct the unjust legislation of the States, so far that the law which operates upon one man shall operate *equally* upon all." Globe 2459 (emphasis in original). Clearest of all, perhaps was Thomas M. Cooley in the 1871 edition of his *Constitutional Limitations,* where he wrote:

"This amendment of the Constitution does not concentrate power in the general government for any purpose of police government within the States; its object is to preclude legislation by any State which shall 'abridge the privileges or immunities of citizens of the United States,' or 'deprive any person of life, liberty, or property without due process of law,' or 'deny to any person within its jurisdiction the equal protection of the laws'; and Congress is empowered to pass all laws necessary to render such unconstitutional State legislation ineffectual." T. Cooley, Constitutional Limitations 294 (3d ed. 1871).

There is also other evidence that at least some members of Congress and of the electorate believed that § 1 of the Fourteenth Amendment gave Congress power to invalidate discriminatory state regulations of the suffrage. Thus, Congressman Rogers, a Democrat who had served on the Joint Committee, agreed with Bingham and Howard that "[t]he right to vote is a privilege," Globe 2538, while Congressman Boyer, another Democrat, feared that § 1 was "intended to secure ultimately, and to some extent indirectly, the political equality of the negro race." Globe 2467. A third Democrat, Congressman Niblack, thought the section sufficiently ambiguous to warn that he might, although in fact he never did, offer the following addition to it:

"*Provided,* That nothing contained in this article shall be so construed as to authorize Congress to regulate or control the elective franchise within any State, or to abridge or restrict the power of any State to regulate or control the same within its own jurisdiction, except as in the third section hereof prescribed." Globe 2465.

Republicans also alluded on occasion to their belief that the Amendment might give Congress power to prevent discrimination in regard to the suffrage. Radical Senator Steware for example, while unhappy that the Amendment did not directly confer suffrage, nevertheless could "support this plan" because it did "not preclude Congress from adopting other means by a two-third vote,[40] when experience shall have demonstrated, as it certainly will, the necessity for a change of policy. In fact it furnishes a conclusive argument in favor of universal amnesty and impartial suffrage." Globe 2964. Likewise, the more conservative Congressman Raymond of New York supported the first section because he thought Congress should have the power to legislate on behalf of equal rights "in courts and elsewhere," Globe 2513, after the radical Congressman Wilson of Iowa had informed him that, "if we give a reasonable construction to the term 'elsewhere,' we may include in that the jury box and the ballot-box." Globe 2505. Congressman Stevens, meanwhile, was informing Congress that "if this amendment prevails you must legislate to carry out many parts of it," Globe 2544, and was looking forward to "further legislation; in enabling acts or other provisions," Globe 3148, while even the Joint Committee submitted the Amendment to the Nation "in the hope that its imperfections may be cured, and its deficiencies supplied, by legislative wisdom. . . ." Report of the Joint Committee on Reconstruction, H.R. Rep. No. 30, 39th Cong., 1st Sess., at xxi (1866). Nor did the radical Republican press disagree; as the Lansing State Republican argued in its editorial columns, even "[i]f impartial suffrage, the real vital question of the whole struggle . . . [was] postponed through the mulish obstinacy of Andrew Johnson," "freedom" would "triumph by the adoption of the proposed amendment" and would be followed by "equal rights to all. . . ." July 11, 1866. And, of course, once the Amendment had been ratified, Republicans in Congress began to make speeches in favor of legislation which would implement the Amendment by guaranteeing equal suffrage. See, *e.g.,* Globe, 40th Cong., 2d Sess., 1966–1967 (1868) (remarks of Congressman Stevens); 3d Sess., 1008 (1869) (remarks of Senator Sumner).

Of course, few of the above statements taken from congressional debates, campaign speeches, and the press were made with such clarity and precision that we can know with certainty that its framers intended the Fourteenth Amendment to function as we think they did. But clarity and precision are not to be expected in an age when men are confronting new problems for which old concepts do not provide ready solutions. As we have seen, the 1860's were such an age, and the men who formulated the Fourteenth Amendment were facing an especially perplexing problem—that of creating federal mechanisms to insure the fairness of state action without in the process destroying the reserved powers of the States. It would, indeed, be surprising if the men who first faced this difficult problem were possessed of such foresight that they could debate its solution with complete clarity and consistency and with uniformity of views. There is, in short, every reason to believe that different men reconciled in different and often imprecise ways the Fourteenth Amendment's broad guarantee of equal rights and the statements of some of its framers that it did not give Congress power to legislate upon the suffrage.

Some men, for example, might have reconciled the broad guarantee and the narrow language by concluding that Negroes were not yet ready to exercise the franchise and hence that a State would not act arbitrarily in denying it to them while granting it to whites. As the debates make clear, proponents of the Amendment did not understand the Equal Protection Clause to forbid States to distinguish among persons where justification for distinctions appeared. See, *e. g.,* Globe 1064 (Congressman Stevens). At the time the Fourteenth Amendment was adopted, the overwhelming majority of Negro residents of the United States were former slaves living in the Southern States. Most of them were illiterate and uneducated. Except for those few who had been kidnaped by slave traders after reaching adulthood, they had no prior experience with the responsibilities of citizenship. Given this state of affairs, it would hardly be surprising if some of the framers of the Fourteenth Amendment felt that the Equal Protection Clause would not forbid the States from classifying Negroes as a group to be denied the right to vote. Equal protection has never been thought to require identical treatment of all persons in all respects. *Metropolitan Co.* v. *Brownell,* 294 U. S. 580, 583–584 (1935), and cases cited. It requires only that the State provide adequate justification for treating one group differently from another. *Levy* v. *Louisiana,* 391 U. S. 68 (1968).

Entirely aside from any concepts of racial inequality that may have been held by some members of Congress at that time, it seems clear that many members had serious reservations about the ability of the majority of Negroes, after centuries of slavery, to cast an intelligent and responsible vote. See, for example, the debates over a proposal to enfranchise Negroes in the District of Columbia in Cong. Globe, 38th Cong., 1st Sess., 2140–2141, 2239–2243, 2248 (1864). Of course, we would not now hold that even the situa-

Footnotes at end of article.

tion existing in 1866 would justify wholesale exclusion of Negroes from the franchise: our decisions have consistently held that a particular group may not be denied the right to vote merely because many, or even most of its members could properly be excluded. *Carrington* v. *Rash*, 380 U.S. 89, 93–96 (1965); *Kramer* v. *Union Free School District*, 395 U.S. 621, 632–633 (1969); *Evans* v. *Cornman*, 398 U.S. 419, 424–426 (1970); cf. Tussman and TenBroek, The Equal Protection of the Laws, 37 Calif. L. Rev. 341, 351–352 (1949). But mere administrative convenience was once thought to be sufficient justification for an overly broad legislative classification, so long at least as the resultant discrimination could be justified as to a majority of the class affected. *Terrace* v. *Thompson*, 263 U.S. 197, 218–222 (1923); cf. *Kotch* v. *Board of River Pilot Commissioners*, 330 U.S. 552 (1947). Rejection of this approach has been the result of a judicial development that could hardly have been known to the framers of the Amendment. Cf. *Baxstrom* v. *Herold*, 383 U.S. 107, 114–115 (1966).

Of course, many Americans in the 1860's rejected imputations that Negroes were unready for the franchise and thus concluded that distinctions between the races in regard to the franchise would constitute denials of equal protection. Congressman Stevens, for one, had no doubt that to allow a State to deny the franchise to Negroes would be to allow it "to discriminate among the same class." Globe 2460. And Negroes, of course, indignantly repected such imputations, arguing that "[w]e are not all so illiterate as you suppose" and that "even if we were, our instincts have proved better than that 'educated class,' whose 'little learning' prompted them to attempt the impossible thing of destroying this great Republic. . . ." Letter to the Editor, N.Y. Times, Nov. 4, 1866.

Among the men who refused to regard Negroes as ill prepared for the exercise of the franchise, there may have been some who did not understand the subtle distinctions of constitutional lawyers such as Bingham and who thus accepted at face value assurances that the Fourteenth Amendment gave Congress no power over the suffrage. As a result, at least three identifiable groups may have existed within the Republican majorities which enacted and ratified the Amendment—those who thought that Congress would have power to insure to Negroes the same right to suffrage which the States gave to whites, those who thought that Congress would not have such power since Negroes and whites constituted distinct and dissimilar classes for voting purposes, and those who thought Congress would possess no power at all over the suffrage. Perhaps all three such groups did not exist in 1866 in Congress and in the Nation at large, but surely the evidence is not clear "beyond any reasonable doubt" that the only existent group was the last one, consisting of men who, despite the broad language of § 1 and the hints by speakers of its applicability to the suffrage, simply assumed without developing any analytical framework in support of their assumption that the section would not be so applied.

The evidence, in sum, plausibly suggests that the men who framed the Fourteenth Amendment possessed differing views as to the limits of its applicability but that they papered over their differences because those differences were not always fully apparent and because they could not foresee with precision how their amendment would operate in the future. Moreover, political considerations militated against clarification of issues and in favor of compromise. Much of the North, as already noted, opposed Negro suffrage, and many Republicans in Congress had to seek reelection from constituencies where racial prejudice remained rampant. Republicans in the forthcoming elections thus found it convenient to speak differently before different constituencies; as the Republican state chairman of Ohio wrote, in northern counties of the State "some of our Speakers have openly advocated impartial suffrage, while in other places it was thought necessary, not only to repudiate it but to oppose it." B. R. Cowan to S. P. Chase, Oct. 12, 1866, quoted in James 168. Similarly, Senator Wilson of Massachusetts, when accused shortly after the 1866 elections of misrepresenting the issues of the campaign in Delaware by saying nothing of Negro suffrage, replied that since he had been "in a State where not much progress had been made, I acted somewhat on the scriptural principle of giving 'milk to babes.'" Globe, 39th Cong., 2d Sess., 42. Apparently Congressman Ashley of Ohio acted upon similar principles, for when he was asked after the House had initially approved the Amendment whether Congress had "power to confer the right of suffrage upon negroes in the States," he responded,

"Well, sir, I do not intend to put myself on record against the right of Congress to do that. I am not prepared now to argue the point with my colleague; but I will say to him that when the time comes for the American Congress to take action on the question, I will be ready to speak. I will not say now whether I would vote for or against such a proposition." Globe 2882.

Thus, precise legal analysis and clarity of thought were both intellectually difficult and politically unwise. What Republicans needed, in the words of Wendell Phillips, the former abolitionist leader, was "a party trick to tide over the elections and save time," after which they could "float back into Congress, able to pass an act that shall give the ballot to the negro and initiate an amendment to the Constitution which shall secure it to him." Speech of Wendell Phillips, July 4, 1866, quoted in A. Harris, A Review of the Political Conflict in American, 437 (1876). Similarly, the *New York Times*, edited by Congressman Henry J. Raymond, a conservative Republican who ultimately would support the Amendment, observed that "all the excitement that had been raised about constitutional amendments . . . has been simply dust thrown in the eyes of the public to cover the approach to the grand fundamental, indispensable principle of universal negro suffrage . . ." April 27, 1866, quoted in A. Harris, *supra*, at 433.

Not surprisingly, the product of such political needs was an Amendment which contemporaries saw was vague and imprecise. Democratic Senator Hendricks, for example, protested that he had "not heard any Senator accurately define, what are the rights and immunities of citizenship," Globe 3039, while Congressman Boyer, another Democrat, found the first section "objectionable also in its phraseology, being open to ambiguity and admitting of conflicting constructions." Globe 2467. Republicans too were aware of the Amendment's vagueness. Thus, when he presented the Amendment to the Senate, Senator Howard noted that "[i]t would be a curious question to solve what are the privileges and immunities of citizens" and proposed not to consider the question at length, since "[i]t would be a somewhat barren discussion." Instead, like the pre-Civil War Supreme Court,[41] he "very modestly declined to go into a definition of them, leaving questions arising under the clause to be discussed and adjudicated when they should happen practically to arise." Globe 2765.

Thus, the historical evidence does not point to a single, clear-cut conclusion that contemporaries viewed the first section of the Fourteenth Amendment as an explicit abandonment of the radical goal of equal suffrage for Negroes. Rather the evidence suggests an alternative hypothesis: that the Amendment was framed by men who possessed differing views on the great question of the suffrage and who, partly in order to formulate some program of government and partly out of political expediency, papered over their differences with the broad, elastic language of § 1 and left to future interpreters of their Amendment the task of resolving in accordance with future vision and future needs the issues which they left unresolved. Such an hypothesis strikes us as far more consistent with the turbulent character of the times than one resting upon a belief that the broad language of the Equal Protection Clause contained a hidden limitation upon its operation that would prevent it from applying to state action regulating rights that could be characterized as "political."[42]

Nor is such an hypothesis inconsistent with the subsequent enactment of the Fifteenth, Nineteenth, and Twenty-fourth Amendments. Those who submitted the Fifteenth Amendment to the States for ratification could well have desired that any prohibition against racial discrimination in voting stand upon a firmer foundation than mere legislation action capable of repeal[43] or the vagaries of judicial decision.[44] Or they could merely have concluded that, whatever might be the case with other rights, the right to vote was too important to allow disenfranchisement of any person for no better reason than that others of the same race might not be qualified. At least some of the supporters of the Nineteenth Amendment believed that sex discrimination in voting was itself proscribed by the Fourteenth Amendment's guarantee of equal protection. 57 Cong. Rec. 3053 (February 10, 1919). And finally, the Twenty-fourth Amendment was not proposed to the States until this Court had held, in *Breedlove* v. *Suttles*, 302 U.S. 277 (1937),[45] that state laws requiring payments of a poll tax as a prerequisite to voting did not *ipso facto* violate the Equal Protection Clause. Accordingly, we see no reason that the mere enactment of these amendments can be thought to imply that their proponents believed the Fourteenth Amendment did not apply to state allocations of political power. At a dubious best, these amendments may be read as implying that their proponents felt particular state allocations of power a proper exercise of power under the Equal Protection Clause.

Nor do we find persuasive our Brother HARLAN's argument that § 2 of the Fourteenth Amendment was intended as an exclusive remedy for state restrictions on the franchise, and that therefore any such restrictions are permissible under § 1. As Congressman Bingham emphatically told the House, when the same argument was made by Congressman Bromwell,

"there has not been such a construction, in my opinion, of a law which imposes only a penalty, for centuries, if ever, in any country where the common law obtains. The construction insisted upon by the gentleman amounts to this, that a law which inflicts a penalty or works a forfeiture for doing an act, by implication authorizes the act to be done for doing which the penalty is inflicted. There cannot be such a construction of the proviso. It is a penalty. It says in terms that if any of the States of the United States shall disobey the Constitution; . . . that as a penalty such State shall lose political power in this House . . . ,

"You place upon your statute-book a law punishing the crime of murder with death. You do not thereby, by implication, say that anybody may, of right, commit murder. You but pass a penal law. You do not prohibit murder in the Constitution; you guaranty life in the Constitution. You do not prohibit that abuse of power by the majority in the Constitution in express terms, but you guaranty the equal right of all free male citizens of full age to elect Representatives; and by

Footnotes at end of article.

the proviso you inflict a penalty upon a State which denies or abridges that right on account of race or color. In doing that we are not to be told that we confer a power to override the express guarantees of the Constitution. We propose the penalty in aid of the guarantee, not in avoidance of it." Globe 431–432; see Van Alstyne, *supra*, at 48–68.

It may be conceivable that § 2 was intended to be the sole remedy available when a State deprived its citizens of their right to vote, but it is at least equally plausible that congressional legislation pursuant to §§ 1 and 5 was thought by the framers of the Amendment to be another potential remedy. Section 2, in such a scheme, is hardly superfluous: it was of critical importance in assuring that, should the Southern States deny the franchise to Negroes, the Congress called upon to remedy that discrimination would not be controlled by the beneficiaries of discrimination themselves. And it could, of course, have been expected to provide at least a limited remedy in the event that both Congress and the courts took no action under § 1. Neither logic nor historical evidence compellingly suggests that § 2 was intended to be more than a remedy supplementary, and in some conceivable circumstances indispensable, to other congressional and judicial remedies available under §§ 1 and 5. See generally, Van Alstyne, *supra*.

The historical record left by the framers of the Fourteenth Amendment, because it is a product of differing and conflicting political pressures and conceptions of federalism, is thus too vague and imprecise to provide us with sure guidance in deciding the pending cases. We must therefore conclude that its framers understood their Amendment to be a broadly worded injunction capable of being interpreted by future generations in accordance with the vision and needs of those generations. We would be remiss in our duty if, in an attempt to find certainty amidst uncertainty, we were to misread the historical record and cease to interpret the Amendment as this Court has always interpreted it.

D

There remains only the question whether Congress could rationally have concluded that denial of franchise to citizens between the ages of 18 and 21 was unnecessary to promote any legitimate interests of the States in assuring intelligent and responsible voting. There is no need to set out the legislative history of Title III at any great length here.[46] Proposals to lower the voting age to 18 had been before Congress at several times since 1942.[47] The Senate Subcommittee on Constitutional Amendments conducted extensive hearings on the matter in 1968 and again in 1970,[48] and the question was discussed at some length on the floor of both the House and the Senate.

Congress was aware, of course, of the facts and state practices already discussed.[49] It was aware of the opinion of many historians that choice of the age of 21 as the age of maturity was an outgrowth of medieval requirements of time for military training and development of a physique adequate to bear heavy armor.[50] It knew that whereas only six percent of 18-year-olds in 1900 had completed high school, 81 percent have done so today.[51] Congress was aware that 18-year-olds today make up a not insubstantial proportion of the adult work force; [52] and it was entitled to draw upon its experience in supervising the federal establishment to determine the competence and responsibility with which 18-year-olds perform their assigned tasks. As Congress recognized, its judgment that 18-year-olds are capable of voting is consistent with its practice of entrusting them with the heavy responsibilities of military service. See § 301(a)(1) of the Amendments.[53] Finally, Congress was presented with evidence that the age of social and biological maturity in modern society has been consistently decreasing. Dr. Margaret Mead, an anthropoligist, testified that in the past century, the "age of physical maturity has been dropping and has dropped over 3 years." [54] Many Senators and Representatives including several involved in national campaigns, testified from personal experience that 18-year-olds of today appeared at least as mature and intelligent as 21-year-olds in the congressmen's youth.[55]

Finally, and perhaps most important, Congress had before it information on the experience of two States, Georgia and Kentucky which have allowed 18-year-old voting since 1943 and 1955, respectively. Every elected representative from those States who spoke to the issue agreed that, as Senator Talmadge stated, "young people [in these States] have made the sophisticated decisions and have assumed the mature responsibilities of voting. Their performance has exceeded the greatest hopes and expectations." [56]

In sum, Congress had ample evidence upon which it could have based the conclusion that exclusion of citizens 18 to 21 years of age from the franchise is wholly unnecessary to promote any legitimate interest the States may have in assuring intelligent and responsible voting. See *Katzenbach* v. *Morgan*, 384 U.S., at 653–656. If discrimination is unnecessary to promote any legitimate state interest, it is plainly unconstitutional under the Equal Protection Clause, and Congress has ample power to forbid it under § 5 of the Fourteenth Amendment. We would uphold § 302 of the 1970 Amendments as a legitimate exercise of congressional power.

FOOTNOTES

[1] Section 202(a) of the Amendments embodies a congressional finding that

"the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

* * * * *

"(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

* * * * *

"(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections."

[2] Section 301(a) of the Amendments provides:

"The Congress finds and declares that the imposition and application of the requirements that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

"(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

"(2) has the effect of denying citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

"(3) does not bear a reasonable relationship to any compelling State interest."

[3] Arizona Constitution Art. 7, § 2, limits the franchise to those 21 years of age and older. Ariz. Rev. Stat. Ann. § 16–101 (Supp. 1970) requires voters to be able to read the Federal Constitution (in English), and to write their names.

[4] Idaho Constitution, Art. 6, § 2, requires all voters to be 21 years of age or older, and requires 60 days' residence within the State as a precondition to voting in presidential elections. Idaho Code Ann. § 34–408 (1963), further requires that 60-day residents have been citizens of another State prior to their removal to Idaho. Provisions for absentee balloting are contained in *id.* §§ 34–1101 to 34–1125.

[5] Section 4(c) of the 1965 Act, 42 U.S.C. § 1973b(c) (1964 ed., Supp. V), defines a "test or device" as "any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or intepret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class."

[6] *Gaston County* was a suit by the county under § 4(a) of the 1965 Act, 42 U.S.C. § 1973b(a) (1964 ed. Supp. V), to reinstate the county's literacy test. The country would have been entitled to do so upon demonstration that, for the preceding five years, no "test or device" had been there used for the purpose or with the effect of abridging the right to vote on account of race or color.

[7] No footnote in copy furnished.

[8] We there reserved only the question of the application of the 1965 Act to suspend literacy tests "in the face of racially disparate educational or literacy achievements *for which a government bore no responsibility*." *Id.*, n. 8 (emphasis supplied).

[9] Hearings on Amendments to the Voting Rights Act of 1965 before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 91st Cong., 1st and 2nd Sess. 675 (1970) (hereafter Senate Hearings). Schooling of Indians has for some time been the responsibility of the Federal Government. See *Warren Trading Post Co.* v. *Arizona Tax Commission*, 380 U. S. 685, 690–691 (1965).

[10] *E. g.*, Senate Hearings at 185–187; Hearings on the Voting Rights Act Extension before Subcommittee No. 5 of the House Judiciary Committee, 91st Cong., 1st Sess. 55–57, 223–225 (1970) (hereafter House Hearings).

[11] For example, 1960 census data indicate that from 1955 to 1960, 4,388 blacks moved from Southern States to Arizona, 74,804 to California, and 74,821 to New York. 1 Bureau of the Census, 1960 Census of the Population, pts. 4, 6, 23, 34, and Table 100.

[12] Senate Hearings, *supra* n. 9, at 399; see *id.*, at 400–407.

[13] Senate Hearings, *supra* n. 9, at 678. Tribal Chairman Nakai viewed Arizona's literacy test as the primary cause of this disparity.

[14] The States are permitted, should they desire, to adopt practices less restrictive than those prescribed by the 1970 Amendments. § 202(g).

[15] See n. 4, *supra*.

[16] See the opinion of MR. JUSTICE DOUGLAS, *ante*, at ——.

[17] See *Shapiro* v. *Thompson*, 394 U.S., at 630 and n. 8; *United States* v. *Guest*, 383 U.S., at 757–758.

[18] Senate Hearings, *supra* n. 9, at 282.

[19] 116 Cong. Rec. 3539 (daily ed., Mar. 11, 1970).

[20] *Id.* Idaho Code Ann. §§ 34–1101, 34–1102, 34–1103 appear to allow application to be made at any time. *Id.*, § 34–1121 allows application up to five days before the election for persons in United States service. The ballot may be returned any time prior to noon on election day, *id.*, § 34–1105 (Supp. 1969). Finally, effective January 1, 1971, applications may be made up to 5:00 p.m. the day before the election. *Id.*, § 34–1002 (Supp. 1970). In such circumstances, the argument of administrative impossibility from the viewpoint of Idaho seems almost chimerical.

[21] Idaho, in addition, claims that its interest in setting qualifications for voters in its own elections serves without more as a compelling state interest sufficient to justify the challenged exclusion. But there is no state interest in the mere exercise of power; the power must be exercised for some reason. The only reason asserted by Idaho for the exer-

cise of its power is that already mentioned—promotion of intelligent and responsible voting.

[22] 116 Cong. Rec. 3518 (daily ed., Mar. 11, 1970) (Library of Congress, Legislative Reference Service survey).

[23] *Ibid.*

[24] Nor does the California statute, Cal. Welf. & Inst'ns Code § 602 (West 1966), necessarily evidence a contrary conclusion. California permits its juvenile court to waive jurisdiction of persons over the age of 16 to the regular criminal courts, and state practice appears to be that very few if any felony defendants over the age of 18 are ever tried as juveniles. California Continuing Education of the Bar, California Juvenile Court Practice 35–36 (1968). This may well indicate that the California statute reflects merely a legislative conclusion that the slight burden of waiver hearings it outweighed by the possibility, however slight, that a very few individuals between the ages of 18 and 21 might in fact be more appropriately treated as juveniles.

[25] Cong. Rec. 3518 (daily ed., Mar. 11, 1970).

[26] For example, in California, any women 18 years old may marry without parental consent, and any man of that age may marry with the consent of one parent. Cal. Civ. Code § 4101 (West 1970). Any married person who has attained the age of 18 is treated in precisely the same way as all persons over the age of 21 with regard to all provisions of the Civil Code, Probate Code, and Code of Civil Procedure, as well as for the purposes of making contracts or entering into any agreement regarding property or his estate. Cal. Civ. Code § 25 (West Supp. 1970). The State Labor Department treats males over the age of 18 as adults. Cal. Labor Code §§ 1172, 3077 (West 1955). Persons over the age of 18 may serve civil process in the State. Cal. Civ. Proc. Code § 410 (West Supp. 1970).

[27] Some States, of course, do attempt to condition exercise of the franchise upon the ability to pass a literacy test. Presumably some 18-year-old illiterates will be literate at 21. But in light of the fact that 81 percent of the disenfranchised class are high school graduates, it would seem that the number of 18-year-old illiterates who are literate three years later is vanishly small. See Hearings on S. J. Res. 147 and Others before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 91st Cong., 2d Sess. 133 (1970) (Senator Goldwater). Of course, for reason that apply as well to 18-year-olds as to others, we have today upheld a nationwide suspension of all literacy tests, *Ante*, at —. But in any event, that some 18-year-olds may be illiterate is hardly sufficient reason for disenfranchising the entire class. See *Kramer* v. *Union Free School District*, 395 U.S., at 632–633.

[28] Eighteen-year-olds as a class are better educated than some of their elders. The median number of school years completed by 18- and 19-year-olds two years ago was 12.2; it was 8.8 for persons 65 to 74. Bureau of the Census, Educational Attainment, table 1 (Current Population Reports, Series P–20, No. 182) (1969).

[29] Hawaii and Alaska have (since their admission to the Union in 1959) allowed the vote to 19-year-olds (Alaska) and 20-year-olds (Hawaii).

[30] See, *e.g.*, 116 Cong. Rec. 3214–3215 (Senator Cook), 3477 (Senators Talmadge and Ervin) (daily ed., Mar. 9, 11, 1970); Senate Hearings, *supra* n. 9, at 343 (Governor Maddox).

[31] The state of facts necessary to justify a legislative discrimination will of course vary with the nature of the discrimination involved. When we have been faced with statutes involving nothing more than state regulation of business practices, we have often found mere administrative convenience sufficient to justify the discrimination. *E.g.*, *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 487, 488–489 (1955). But when a discrimination has the effect of denying or inhibiting the exercise of fundamental constitutional rights, we have required that it be not merely convenient, but necessary. *Kramer* v. *Union Free School District*, 395 U.S. at 627; *Carrington* v. *Rash*, 380 U.S. 89, 96 (1965)); see *United States* v. *O'Brien*, 391 U.S. 367, 377, (1968); *United States* v. *Jackson*, 390 U.S. 570, 582–583 (1968). And we have required as well that it be necessary to promote not merely a constitutionally permissible state interest, but a state interest of substantial importance. *Kramer* v. *Union Free School District*, *supra*; *Carrington* v. *Rash*, *supra*; *Shelton* v. *Tucker*, 364 U.S. 479, 487–490 (1960); see *United States* v. *O'Brien*, *supra*.

[32] As we emphasized in *Katzenbach* v. *Morgan*, *supra*, "§ 5 does not grant Congress power to . . . enact 'statutes so as in effect to dilute equal protection and due process decisions of this Court.'" 384 U.S., at 651 n. 10. As indicated above, a decision of this Court striking down a state statute expresses, among other things, our conclusion that the legislative findings upon which the statute is based are so far wrong as to be unreasonable. Unless Congress were to unearth new evidence in its investigation, its identical findings on the identical issue would be no more reasonable than those of the state legislature.

[33] Brief for the State of Oregon, at 10–13; Brief for the State of Texas, at 10–12; Brief for the State of Arizona, at 19; Brief for the State of Idaho, at 22, 28–30.

[34] Brief *amicus curiae* for the Commonwealth of Virginia, at 13–22; see Brief *amicus curiae* for the State of Mississippi, at 7–11.

[35] Indeed, since the First Amendment is applicable to the States only through the Fourteenth, our Brother HARLAN'S view would appear to allow a State to exclude any unpopular group from the political process solely upon the basis of its political opinions.

[36] Republicans explicitly looked upon the Fourteenth Amendment as a political platform. See 2 F. Fessenden, Life and Public Services of William Pitt Fessenden 62 (1907); B. Kedrick (ed.), The Journal of the Joint Committee of Fifteen on Reconstruction 302 (1914). See also *post*, pp. —— ——.

[37] The language appears earlier in Art. IV, § 2.

[38] As the statements of Bingham and Howard in the text indicate, the framers of the Amendment were not always clear whether they understood it merely as a grant of power to Congress or whether they thought, in addition, that it would confer power upon the courts, which the courts would use to achieve equality of rights. Since § 5 is clear in its grant of power to Congress and we have consistently held that the Amendment grants power to the courts, this issue is of academic interest only.

[39] According to *Paul* v. *Virginia*, 8 Wall. 168, 180 (1869), the Privileges and Immunities Clause in Art. 4, § 2, secured to citizens "in other States the equal protection of their laws."

[40] Senator Stewart's statement regarding the two-thirds requirement appears to refer to § 3 of the Fourteenth Amendment, which requires such a majority for legislation granting amnesty to former Confederate leaders.

[41] This Court had taken such an approach in *Conner* v. *Elliott*, 18 How. 591 (1856).

[42] Ironically, the same distincion between "political" and other rights was drawn by this Court in *Plessy* v. *Ferguson*, 163 U.S. 537, 545–546 (1896). But the Court there concluded, directly contrary to our Brother HARLAN'S position, that the Fourteenth Amendment applied to "political" rights and to those rights only.

[43] As Thaddeus Stevens had pointed out in urging passage of the Fourteenth Amendment despite the fact that, he felt, some of its guarantees could be enforced by mere legislative enactment, "a law is repealable by a majority." Globe 2549.

[44] Radical disenchantment with decisions of this Court had led, prior to the Fifteenth Amendment, to the Act of March 27, 1868, 15 Stat. 44, withdrawing our appellate jurisdiction over certain habeas corpus cases. See *Ex parte McCardle*, 7 Wall, 506, 508, 514–515 (1868).

[45] *Breedlove* has been overruled by *Harper* v. *Virginia Board of Elections*, 383 U.S. 663, 669 (1966).

[46] For a full collection of the relevant materials, see Note, Legislative History of Title III of the Voting Rights Act of 1970, 8 Harv. J. Legis. — (1970).

[47] See 88 Cong. Rec. 8312, 8316 (1942).

[48] Hearings on S. J. Res. 8, 14, and 78 before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 90th Cong. 2d Sess. (1968); Hearings on S. J. Res. 147 and Others before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 91st Con., 2d Sess. (1970) (hereafter 1970 Hearings).

[49] *Ante*, at—

[50] See 116 Cong. Rec. 3503 (daily ed., Mar. 11, 1970); James, The Age of Majority, 4 Am. J. Legal History 22 (1960); Report of the Committee on the Age of Majority Presented to the English Parliament, p. 21 (1967).

[51] 116 Cong. Rec. 3216 (daily ed., Mar. 9, 1970).

[52] 16 Department of Labor, Bureau of Labor Statistics, Employment and Earnings, table A–3 (June 1970).

[53] See also Senate Hearings, *supra* n. 9, at 323 (Senator Kennedy), 116 Cong. Rec. 2938-2939 (daily ed., March 4, 1970) (Senator Mansfield); 3214 (daily ed., March 9, 1970) (Senator Cook). See generally Note, *supra*, n. 46, at —— ——

[54] 1970 Hearings at 223. Dr. W. Walter Menninger, a psychiatrist, and Dr. S. I. Hayakawa, agreed. *Id.*, at 23, 36.

[55] *E. g.*, 116 Cong. Rec. 2939 (daily ed., Mar. 4, 1970) (Senator Mansfield); 3214-3215 (daily ed., Mar. 9, 1970) (Senator Cook); 3216–3219 (daily ed., Mar. 9, 1970) (Senator Goldwater); 3477 (daily ed., Mar. 11, 1970) (Senator Talmadge, joined by Senator Ervin); 3497–3498 (daily ed., Mar. 11, 1970) (Senator Tydings).

[56] 116 Cong. Rec. 3477 (daily ed., Mar. 11, 1970).

[Supreme Court of the United States, Nos. 43, 44, 46 Orig.—OCTOBER TERM, 1970]

OREGON VERSUS MITCHELL

(State of Oregon, plaintiff *v.* John N. Mitchell, Attorney General of the United States. State of Texas, plaintiff, *v.* John N. Mitchell, Attorney General of the United States, United States, plaintiff, *v.* State of Arizona, United States, plaintiff, *v.* State of Idaho, on Bills of Complaint, Dec. 21, 1970)

MR. JUSTICE STEWART, with whom THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN join, concurring in part and dissenting in part.

In these cases we deal with the constitutional validity of three provisions of the Voting Rights Act Amendments of 1970. Congress undertook in these provisions: (a) to abolish for a five-year period all literacy tests and similar voting eligibility requirements imposed by any State in the Union (§ 201); (b) to remove the restrictions imposed by state durational residency requirements upon voters in presidential elections (§ 202); and (c) to reduce the voting age to a maximum of 18 years for all voters in all elections throughout the Nation (§ 302). The Court today upholds § 201's nationwide literacy test ban and § 202's elimination of state durational residency restrictions in presidential elections. Section 302's extension of the franchise to 18-year-old voters is, by virtue of the prevailing opinion of MR. JUSTICE BLACK, upheld as applied to federal elec-

tions. I agree with the Court in sustaining the congressional ban on state literacy tests, for substantially the same reasons relied upon by MR. JUSTICE BLACK. I also agree that the action of Congress in removing the restrictions of state residency requirements in presidential elections is constitutionally valid, but I base this judgment upon grounds quite different from those relied upon by MR. JUSTICE BLACK. And finally, I disagree with the Court's conclusion that Congress could constitutionally reduce the voting age to 18 for federal elections, since I am convinced that Congress was wholly without constitutional power to alter—for the purpose of *any* elections—the voting age qualifications now determined by the several States.

Before turning to a discussion of my views, it seems appropriate to state that we are not called upon in these cases to evaluate or appraise the wisdom of abolishing literacy tests, of altering state residency requirements, or of reducing the voting age to 18. Whatever we may think as citizens, our single duty as judges is to determine whether the legislation before us was within the constitutional power of Congress to enact. I find it necessary to state so elementary a proposition only because certain of the separate opinions filed today contain many pages devoted to a demonstration of how beneficent are the goals of this legislation, particularly the extension of the electoral franchise to young men and women of 18. A casual reader could easily get the impression that what we are being asked in these cases is whether or not we think allowing people 18 years old to vote is a good idea. Nothing could be wider of the mark. My Brothers to the contrary, there is no question here as to the "judgment" of Congress; there are questions only of Congress' constitutional power.

I

I concur in Part II of MR. JUSTICE BLACK'S opinion, which holds that the literacy test ban of § 201 of the 1970 Amendments is constitutional under the Enforcement Clause of the Fifteenth Amendment. Our decisions establish that the Fifteenth Amendment "nullifies sophisticated as well as simple-minded modes of discrimination. It is onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." *Lane* v. *Wilson*, 307 U.S. 268, 275; cf. *Gomillion* v. *Lightfoot*, 364 U.S. 339. Because literacy and illiteracy are seemingly neutral with respect to race, creed, color, and sex, we upheld a literacy requirement against a claim that it was invalid on its face under the Fifteenth Amendment. *Lassiter* v. *Northhampton Election Board*, 360 U.S. 45. But in *Gaston County* v. *United States*, 395 U.S. 285, we made it clear that Congress has ample authority under § 2 of the Fifteenth Amendment to determine that literacy requirements work unfairly against Negroes in practice because they handicap those Negroes who have been deprived of the educational opportunities available to white citizens. We construed the 1965 Voting Rights Act in light of the Report of the Senate Judiciary Committee that said, "[T]he educational differences between whites and Negroes in the areas to be covered by the prohibitions—differences which are reflected in the record before the committee—would mean that equal application of the tests would abridge 15th amendment rights." S. Rep. No. 162, pt. 3, 89th Cong., 1st Sess., 16. See also *South Carolina* v. *Katzenbach*, 383 U.S. 308–315.

Congress has now undertaken to extend the ban on literacy tests to the whole Nation. I see no constitutional impediment to its doing so. Nationwide application reduces the danger that federal intervention will be perceived as unreasonable discrimination against particular States or particular regions of the country. This in turn increases the likelihood of voluntary compliance with the letter and spirit of federal law. Nationwide application facilitates the free movement of citizens from one State to another, since it eliminates the prospect that a change in residence will mean the loss of a federally protected right. Nationwide application avoids the often difficult task of drawing a line between those States where a problem is pressing enough to warrant federal intervention and those where it is not. Such a line may well appear discriminatory to those who think themselves on the wrong side of it. Moreover the application of the line to particular States can entail a substantial burden on administrative and judicial machinery and a diversion of enforcement resources. Finally, nationwide application may be reasonably thought appropriate when Congress acts against an evil such as racial discrimination which in varying degrees manifests itself in every part of the country. A remedy for racial discrimination which applies in all the States underlines an awareness that the problem is a national one and reflects a national commitment to its solution.

Because the justification for extending the ban on literacy tests to the entire Nation need not turn on whether literacy tests unfairly discriminate against Negroes in every State in the Union, Congress was not required to make state-by-state findings concerning either the equality of educational opportunity or actual impact of literacy requirements on the Negro citizen's access to the ballot box. In the interests of uniformity, Congress may paint with a much broader brush than may this Court, which must confine itself to the judicial function of deciding individual cases and controversies upon individual records. Cf. *Lassiter* v. *Northampton Election Board*, *supra*. The findings that Congress made when it enacted the Voting Rights Act of 1965 would have supported a nationwide ban on literacy tests. Instead, at that time Congress chose to limit its attention to the geographic areas where immediate action seemed necessary." *South Carolina* v. *Katzenbach*, 383 U.S. 301, 328. Experience gained under the 1965 Act has now led Congress to conclude that it should go the whole distance. This approach to the problem is a rational one; consequently it is within the constitutional power of Congress under § 2 of the Fifteenth Amendment.

II

Section 202 of the Voting Rights Act Amendments of 1970 is a comprehensive provision aimed at insuring that a citizen will not be deprived of the opportunity to vote for the offices of President and Vice President because of a change of residence. Those who take up a new residence more than 30 days before a presidential election are guaranteed the right to register and vote in the State to which they have moved not withstanding any durational residency requirement imposed by state law, provided, of course, that they are otherwise qualified to vote. Those who take up a new residence less than 30 days before a presidential election are guaranteed the right to vote, either in person or by absentee ballot, in the State from which they have moved, provided that they satisfied, as of the date of their change of residence, the requirements to vote in that State.

A. Congress, in my view, has the power under the Constitution to eradicate political and civil disabilities which arise by operation of state law following a change in residence from one State to another. Freedom to travel from State to State—freedom to enter and abide in any State in the Union—is a privilege of United States citizenship. *Shapiro* v. *Thompson*, 394 U.S. 618; *United States* v. *Guest*, 383 U.S. 745, 757–760; *Truax* v. *Raich*, 239 U.S. 33, 39; *Twining* v. *New Jersey*, 211 U.S. 78, 97; *Crandall* v. *Nevada*, 6 Wall. 35. Section 1 of the Fourteenth Amendment provides: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . ." In discussing the privileges of citizens of the United States within the meaning of § 1, Mr. Justice Miller wrote for the Court in the *Slaughter-House Cases:*

"One of these privileges is conferred by the very article under consideration. It is that a citizen of the United States can, of his own volition, become a citizen of any State of the Union by a bona fide residence therein, with the same rights as other citizens of that State." 16 Wall. 36, 80.

Although § 5 of the Fourteenth Amendment confers on Congress the "power to enforce, by appropriate legislation, the provisions of this article," this Court has sustained the power of Congress to protect and facilitate the exercise of privileges of United States citizenship without reference to § 5. *United States* v. *Guest*, 383 U.S. at 757–760; *United States* v. *Classic*, 313 U.S. 299; *Burroughs* v. *United States*, 290 U.S. 534. These cases and others establish that Congress brings to the protection and facilitation of the exercise of privileges of United States citizenship all of its power under the Necessary and Proper Clause. Consequently, as against the reserved power of the States, it is enough that the end to which Congress has acted be one legitimately within its power and that there be a rational basis for the measures chosen to achieve that end. *McCulloch* v. *Maryland*, 4 Wheat. 316, 421.

In the light of these considerations, § 202 presents no difficulty. Congress could rationally conclude that the imposition of durational residency requirements unreasonably burdens and sanctions the privilege of taking up residence in another State. The objective of § 202 is clearly a legitimate one. Federal action is required if the privilege to change residence is not to be undercut by parochial local sanctions. No State could undertake to guarantee this privilege to its citizens. At most a single State could take steps to resolve that its own laws would not unreasonably discriminate against the newly arrived resident. Even this resolve might not remain firm in the face of discriminations perceived as unfair against those of its own citizens who moved to other States. Thus, the problem could not be wholly solved by a single State, or even by several States, since every State of new residence and every State of prior residence would have a necessary role to play. In the absence of a unanimous interstate compact, the problem could only be solved by Congress. Quite clearly, then, Congress has acted to protect a constitutional privilege which finds its protection in the Federal Government and is national in character. *Slaughter-House Cases*, 16 Wall., at 79.

B. But even though general constitutional power clearly exists, Congress may not overstep the letter or spirit of any constitutional restriction in the exercise of that power. For example, Congress clearly has power to regulate interstate commerce, but it may not, in the exercise of that power, impinge upon the guarantees of the Bill of Rights. I have concluded that, while § 202 applies only to presidential elections, nothing in the Constitution prevents Congress from protecting those who have moved from one State to another from disenfranchisement in any federal election, whether congressional or presidential.

The Constitution withholds from Congress any general authority to change by legislation the qualifications for voters in federal elections. The meaning of the applicable constitutional provisions is perfectly

plain. Article I, § 2, and the Seventeenth Amendment prescribe the qualifications for voters in elections to choose Senators and Representatives: they "shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." The Constitution thus adopts as the federal standard the standard which each State has chosen for itself. *Ex parte Yarborough*, 110 U.S. 651, 663; *Wiley* v. *Sinkler*, 179 U.S. 61, 64. Accordingly, a state law which purported to establish distinct qualifications for congressional elections would be invalid as repugnant to Article I, § 2, and the Seventeenth Amendment. By the same token, it cannot be gainsaid that federal legislation which had no objective other than to alter the qualifications to vote in congressional elections would be invalid for the same reasons. What the Constitution has fixed may not be changed except by constitutional amendment.

Contrary to the submission of my Brother BLACK, Article I, § 4 does not create in the federal legislature the power to alter the constitutionally established qualifications to vote in congressional elections. That section provides that the legislatures in each State shall prescribe the "times, places and manner of holding elections for Senators and Representatives," but reserves in Congress the power to "make or alter such regulations, except as to the place of choosing Senators." The "manner" of holding elections can hardly be read to mean the *qualifications* for voters, when it is remembered that § 2 of the same Article I explicitly speaks of the "qualifications" for voters in elections to choose Representatives. It is plain, in short, that when the Framers meant qualifications they said "qualifications." That word does not appear in Article I, § 4. Moreover, § 4 does not give Congress the power to do anything that a State might not have done, and, as pointed out above, no State may establish distinct qualifications for congressional elections. The States, of course, are free to pass such laws as are necessary to assure fair elections. Congressional power under § 4 is equally broad with respect to congressional elections. *United States* v. *Classic*, 313 U.S. 299. But the States are not free to prescribe qualifications for voters in federal elections which differ from those prescribed for the most numerous branch of the state legislature. And the power of Congress to do so cannot, therefore, be found in Article I, § 4.

This view is confirmed by extrinsic evidence of the intent of the Framers of the Constitution. An early draft of the Constitution provided that the States should fix the qualifications of voters in congressional elections subject to the proviso that these qualifications might "at any time be altered and superseded by the Legislature of the United States."[1] The records of the Committee on Detail show that it was decided to strike the provision granting to Congress the authority to set voting qualifications and to add in its stead a clause making the qualifications "the same from Time to Time as those of the electors in the several States, of the most numerous Branch of their own Legislatures."[2] The proposed draft reported by the Committee on Detail to the Convention included the following:

"The qualifications of the electors shall be the same from time to time, as those of the electors in the several States, of the most numerous branch of their own Legislatures." Art. IV, § 1.

"The times and places and manner of holding the elections of the members of each House shall be prescribed by the Legislature of each State; but their provisions concerning them may, at any time, be altered by the Legislature of the United States."[3] Ar. VI, § 1.

On August 7, Gouverneur Morris moved to strike the last clause of the proposed Article IV, § 1 and either to provide a freehold limitation on sufferage or to add a clause permitting Congress to procede to alter the electoral qualifications.[4] This motion was opposed by Oliver Ellsworth, George Mason, Madison, and Franklin. Ellsworth protested that the proposal favored artistocracy. If the legislature could alter qualifications, it could disqualify a great proportion of the electorate.[5] George Mason voiced a similar objection. "A power to alter the qualifications would be a dangerous power in the hands of the legislature."[6] To the same effect Madison said:

"The right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature."[7]

The proposed motion was defeated by a seven-to-one vote,[8] and no substantive change in Article I, §2 was proposed or made thereafter.

Thus, Alexander Hamilton accurately reported the intent of the Convention when he wrote in The Federalist No. 60 that the authority of the national government "would be expressly restricted to the regulation of the *times, the places* and the *manner* of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution and are unalterable by the legislature [i.e. Congress]." (Emphasis in original.)

Different provisions of Constitution govern the selection of the President and the Vice President. Article II and the Twelfth Amendment provide for election by Electors. Article II specifies that each State shall appoint Electors "in such manner as the legislature thereof may direct." Because the Constitution dose not require the popular election of members of the Electoral College, it does not specify the qualification which voters must have when the selection of Electors is by popular election. This is left to the States in the exercise of their power to "direct" the manner of choosing Presidential Electors. *Williams* v. *Rhodes*, 393 U.S. 23, 29. When Electors are chosen by popular election, the Federal Government has the power to assure that such elections are orderly and free from corruption. *Burroughs* v. *United States*, 290 U.S. 534. But in *Burroughs* the Court noted of the Act under review: "Neither in purpose nor in effect does it interfere with the power of a state to appoint electors or the manner in which their appointment shall be made." 290 U.S., at 254. The Court quoted with approval the following passage from *Ex parte Yarbrough*, 110 U.S. 651: "[T]he importance to the general government of having the actual election—the voting for those members—free from force and fraud is not diminished by the circumstances that the qualification of the voter is determined by the law of the State where he votes." 290 U.S., at 546. And in *United States* v. *Classic*, 313 U.S. 299, the Court was careful to point out that it is the "right of *qualified* voters within a state to cast their ballots and have them counted" which is a privilege of United States citizenship amenable to congressional protection. *Id.*, at 315 (emphasis added). See also *Corfield* v. *Coryell*, 6 Fed. Cas. 546, 552, (No. 3230) (CCED Pa.).

The issue then is whether, despite the intentional withholding from the Federal Government of a general authority to establish qualifications to vote in either congressional or presidential elections, there exists congressional power to do so when Congress acts with the objective of protecting a citizen's privilege to move his residence from one State to another. Although the matter is not entirely free from doubt, I am persuaded that the constitutional provisions discussed above are not sufficient to prevent Congress from protecting a person who exercises his constitutional right to enter and abide in any State in the Union from losing his opportunity to vote, when Congress may protect the right of interstate travel from other less fundamental disabilities. The power of the States with regard to the franchise is subject to the power of the Federal Government to vindicate the unconditional personal rights secured to the citizen by the Federal Constitution. *Williams* v. *Rhodes, supra;* cf. *Shapiro* v. *Thompson, supra.* The power which Congress has exercised in enacting § 202 is not a general power to prescribe qualifications for voters in either federal or state elections. It is confined to federal action against a particular problem clearly within the purview of congressional authority. Finally, the power to facilitate the citizen's exercise of his constitutional privilege to change residence is one which cannot be left for exercise by the individual States without seriously diminishing the level of protection available. As I have sought to show above, federal action is required if this privilege is to be effectively maintained. We should strive to avoid an interpretation of the Constitution that would withhold from Congress the power to legislate for the protection of those constitutional rights which the States are unable effectively to secure. For all these reasons, I conclude that it was within the power of Congress to enact § 202.[9]

III

Section 302 of the Voting Rights Act Amendments of 1970 undertakes to enfranchise in all federal, state, and local elections those citizens 18 years of age or older who are now denied the right to vote by state law because they have not reached the age of 21. Althought it was found necessary to amend the Constitution in order to confer a federal right to vote upon Negroes[10] and upon females,[11] the Government asserts that a federal right to vote can be conferred upon people between 18 and 21 years of age simply by this Act of Congress. Our decision in *Katzenbach* v. *Morgan*, 379 U. S. 294, it is said, established the power of Congress, under § 5 of the Fourteenth Amendment, to nullify state laws requiring voters to be 21 years of age or older if Congress could rationally have concluded that such laws are not supported by a "compelling state interest."

In my view, neither the *Morgan* case, nor any other case upon which the Government relies, establishes such congressional power, even assuming that all those cases were rightly decided.[12] MR. JUSTICE BLACK is surely correct when he writes, "It is a plain fact of history that the Framers never imagined that the national Congress would set the qualifications for voters in every election from President to local constable or village alderman. It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendments have specifically narrowed the powers of the States." *Supra*, p. ——. For the reasons which I have set out in Part II of this opinion, it is equally plain to me that the Constitution just as completely withholds from Congress the power to alter by legislation qualifications for voters in federal elections, in view of the explicit provisions of Article I, Article II, and the Seventeenth Amendment.

To be sure, recent decisions have established that state action regulating suffrage is not immune from the impact of the Equal Protection Clause.[13] But we have been careful in those decisions to note the undoubted power of a State to establish a qualification for voting based on age. See, *e. g., Kramer* v. *Union School District*, 395 U.S. 621, 625; *Lassiter* v. *Northamption Election Board*, 360 U.S. 45, 51. Indeed, none of the opinions filed today suggest that the States having anything but a constitutionally unimpeachable

Footnotes at end of article.

interest in establishing some age qualification as such. Yet to test the power to establish an age qualification by the "compelling interest" standard is really to deny a State any choice at all, because no State could demonstrate a "compelling interest" in drawing the line with respect to age at one point rather than another. Obviously, the power to establish an age qualification must carry with it the power to choose 21 as a reasonable voting age, as the vast majority of the States have done.[14]

Katzenbach v. *Morgan*, supra, does not hold that Congress has the power to determine what are and what are not "compelling state interests" for equal protection purposes. In *Morgan* the Court considered the power of Congress to enact a statute whose principal effect was to enfranchise Puerto Ricans who had moved to New York after receiving their education in Spanish-language Puerto Rican schools and who were denied the right to vote in New York because they were unable to read or write English. The Court upheld the statute on two grounds: that Congress could conclude that enhancing the political power of the Puerto Rican community by conferring the right to vote was an appropriate means or remedying discriminatory treatment in public services; and that Congress could conclude that the New York statute was tainted by the impermissible purpose of denying the right to vote to Puerto Ricans, an undoubted invidious discrimination under the Equal Protection Clause. Both of these decisional grounds were far-reaching. The Court's opinion made clear that Congress Could impose on the States a remedy for the denial of equal protection which elaborated upon the direct command of the Constitution, and that it could override state laws on the ground that they were in fact used as instruments of invidious discrimination even though a court in an individual lawsuit might not have reached that factual conclusion. Cf. *Swain* v. *Alabama*, 380 U.S. 202.

But it is necessary to go much further to sustain § 302. The state laws which it invalidates do not invidiously discriminate against any discrete and insular minority. Unlike the statute considered in *Morgan*, § 302 is valid only if Congress has the power not only to provide the means of eradicating situations which amount to a violation of the Equal Protection Clause, but also to determine as a matter of substantive constitutional law what situations fall within the ambit of the clause, and what state interests are "compelling." I concurred in MR. JUSTICE HARLAN'S dissent in *Morgan*. That case, as I now read it, gave congressional power under § 5 the furthest possible legitimate reach. Yet to sustain the constitutionality of § 302 would require an enormous extension of that decision's rationale. I cannot but conclude that § 302 was beyond the constitutional power of Congress to enact.

FOOTNOTES

[1] 2 M. Farrand, The Records of the Federal Convention (1911) 153.

[2] *Id.*, at 163–164.

[3] *Id.*, at 178–179.

[4] *Id.*, at 201, 207.

[5] *Id.*, at 201.

[6] *Id.*, at 201–202.

[7] *Id.*, at 203.

[8] *Id.*, at 206.

[9] Whether a particular State's durational residency requirement for voters may violate the Equal Protection Clause of the Fourteenth Amendment presents questions which are for me quite different from those attending the constitutionality of § 202. See *Strak* v. *Brown*,—F. 2d—(CA6 1970); *Cocanower* v. *Marston*,—F. Supp.—(D Ariz. 1970); *Burg* v. *Canniffee*,—F. Supp.—(D Mass. 1970); *Ellington* v. *Blumstein*,—F. Supp.—(MD Tenn. 1970); *Hadnott* v. *Amos*,—F. Supp.—(MD Ala. 1970); *Bufford* v. *Holton*,—F. Supp.—(ED Va. 1970); *Lester* v. *Board of Elections*,—F. Supp.—(DC 1970).

[10] U.S. Const., Amendment XV.

[11] U.S. Const., Amendment XIX; see also *Minor* v. *Happersett*, 21 Wall. 162.

[12] *Carrington* v. *Rash*, 380 U.S. 89 (1965); *Louisiana* v. *United States*, 380 U.S. 145 (1965); *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966); *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966); *Kramer* v. *Union Free School Dist.* No. 15, 395 U.S. 621 (1969); *Cipriano* v. *City of Houma*, 395 U.S. 701 (1969); *Evans* v. *Cornman*, 398 U.S. 419 (1970); City *of Phoenix* v. *Kolodziejski*, 399 U.S. 204 (1970).

[13] See, *e.g.*, cases cited *supra*, n. 12.

[14] If the Government is correct in its submission that a particular age requirement must meet the "compelling interest" standard, then, of course, a substantial question would exist whether a 21-year-old voter qualification is constitutional even in the absence of congressional action, as my Brothers point out. *Ante*, p. —. Yet it is inconceivable to me that this Court would ever hold that the denial of the vote to those between the ages of 18 and 21 constitutes such an invidious discrimnation as to be a denial of the equal protection of the laws. The establishment of an age qualification is not state action aimed at any discrete and insular minority. *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152 n. 4. Moreover, so long as a State does not set the voting age higher than 21, the reasonableness of its choice is confirmed by the very Fourteenth Amendment upon which the Government relies. Section 2 of that Amendment provides for sanctions when the right to vote "is denied to any of the male inhabitants of such State, *being twenty-one years of age*, and citizens of the United States. . . ." (Emphasis added.)

SENATE JOINT RESOLUTION 251—INTRODUCTION OF A JOINT RESOLUTION TO PROVIDE FOR THE FRANCHISE FOR 18-YEAR-OLD CITIZENS IN STATE ELECTIONS

Mr. KENNEDY. Mr. President, I send to the desk a joint resolution providing for an amendment to the Constitution of the United States to lower the voting age in State elections to 18. Today's decision by the Supreme Court, to which I have previously referred, means that 18-year-olds may vote in all Federal elections, beginning next January 1. As the Court has made clear, however, the reduction of the voting age to 18 in State elections will have to be accomplished by constitutional amendment.

I ask unanimous consent that the joint resolution may be held at the desk. Since we are in the final days of this session, it is unlikely that Congress can approve this resolution before our adjournment. Nevertheless, I believe that today's decision by the Supreme Court gives us a strong incentive for prompt action. By holding the resolution at the desk at this time, I am hopeful that we can explore the possibility of rapid Senate action. I also ask unanimous consent that the joint resolution may be printed in the RECORD at this point.

The PRESIDING OFFICER. The joint resolution will be received; and, without objection, the joint resolution will be held at the desk, and printed in the RECORD.

The joint resolution (S.J. Res. 251) to provide for the franchise for 18-year-old citizens, introduced by Mr. KENNEDY, was received, read twice by its title, and ordered held at the desk.

The joint resolution is as follows:

S.J. RES. 251

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote in any State election shall not be denied or abridged by any State on account of age. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

Mr. PERCY. Mr. President, to complete this subject—and I am very pleased with the comments that have been on this very important subject; I also have long advocated that 18-year-olds be allowed to vote. Today young people are better informed than ever before. Political decisions made here in Washington affect them directly—everything from the Vietnam war to income tax rates.

Giving 18-year-olds the right to vote will enable them to participate actively within the political system and work from within to reform the system rather than feel they have to seek to destroy it from without. Young people now have a strong incentive for greater political involvement and understanding of the political processes.

I am sorry that Illinois last week rejected the right of 18-year-olds to vote in State elections. Hopefully the good experiences we will have with 18-year-olds voting in Federal elections will encourage our States to allow 18-year-olds to vote in State elections in the future.

Finally, Mr. President, I think it is very significant that we have just finished a conference on children in Washington; and following this will be a conference on youth, one of the conferences held every 10 years in the United States.

For the first time, these young people are going to participate, knowing they will have the opportunity to vote for President, for Vice President, for Representative, and for Senator in the next election. If I am any judge of human nature and political figures, I would judge that, beginning today, young people's voices will be listened to with greater attention. They will not have the difficulty many of them had in getting audiences when they came down to talk about Cambodia with some of their Senators and Representatives who were too busy to see them. A Senator and a Representative cannot be too busy to see any group of voters.

The Supreme Court of the United States has now determined, and the Con-

gress of the United States has decided, that the 18-year-olds today, in the year 1970. in the United States of America, have the capability to reason and to see through problems and to reach decisions and to find answers for problems that will affect their lives.

I would simply say woe be to the public officeholder who today, December 21, is too busy to have the time to listen to the voice of young people. Those young people now will be voting in the next election. It is good for those young people to engage in the process and good for the country to have them engage in that process.

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

Mr. PERCY. I am happy to yield.

Mr. MAGNUSON. I would like to add something further to this. I have found in my State, and I am sure it would be true nationally that younger citizens have not voted in as great a percentage as have older citizens. There is a 21- to 30-year-old bracket, and a certain percentage of these younger citizens vote; but the 30- to 40-year-old group has a greater percentage voting. It will be found that as the age bracket gets lower that younger people have not exercised their franchise as much as they should. I believe that younger Americans should reverse this trend.

It seems to me that now they will get the signal—and I hope they will take up this challenge and begin voting in much higher percentage when compared to the total number of eligible young voters. I believe that younger Americans must participate fully in our greatest of institutions—the electoral process.

Mr. PERCY. I think that is an exceedingly good point. I think we can do something about it in the States.

I have spoken with the young people about why they do not vote in the same proportion that older citizens do, and they point out to me the fact that better than half of them are away at college, a situation which causes difficulty and complexity because of the absentee ballot. They might miss the date, they may not fill it out just exactly right, or they may not even hear about the fact that they have to apply for it.

So I think we have a responsibility now to say to these young people, "We are going to try to make it as easy as we possibly can for you to vote. Now you exercise the franchise."

We have waged the fight to get that vote for them, on both sides of the aisle, supported by the President of the United States. President Nixon has been very forthright on this, and I commend the Attorney General for the vigorous case he made. No one could question the fact that he pursued the matter with diligence and with enthusiasm, to insure that the 18-year-olds' voice could be counted now. With that backing and support, I would join with the distinguished Senator from Washington in urging the young people to use the franchise.

Mr. MAGNUSON. I would hope that the States would make a review of the voting laws—they now have adequate laws for absentee voting by citizens serving in the Armed Forces. We must make it as simple as possible for younger Americans to register and vote in all elections. In some States it is a very difficult and technical process. I hope we can convince all States to review their statutes in order to be certain that technicalities and arbitrary processes do not now exist that will discriminate against younger citizens. The right to exercise the franchise is basic to our free society and is a corner stone of the democratic process.

Mr. MANSFIELD. Mr. President, the Supreme Court has just ruled constitutional—at least in part—the action taken by Congress to extend the vote in national elections to all citizens 18, 19, and 20 years old. In my judgment, that opinion will live as one of the most—if not most—significant decisions the High Court has handed down in its long history.

There is no doubt that when Congress voted to extend the franchise of the ballot there were legitimate questions raised about the constitutionality of such action. Those questions have now been resolved. There was never any question, however, about the importance of the action in bringing young people into the "system." That is where they belong.

Up to now the youth of today had a legitimate grievance. For all their interest, for all their work and effort, for all the opinions they expressed; nothing counted. Nothing they did or could do for that matter made much difference. They were denied the ballot. They could not vote. They could not directly influence policy decisions at the polls.

Up to now those 18, 19, and 20 were told to fight our wars even though they themselves had no right to choose the officials who made the decisions that led to war.

Up to now, at 18, a young adult was treated by our courts as fully responsible for his legal actions—both civil and criminal—and were made to suffer the full penalties of the law. Yet they could not pass judgment on the men chosen to enact those laws. They got married. They paid taxes, too, but had no real voice in the imposition of those taxes. In short, up to now the full responsibility has been on us, the other generation. We have borne the full burden of our actions as they have affected young people. And our actions affected young people to a great extent.

Now much of that has changed. With this opinion, the Supreme Court has opened the way for joining the youth of today with the youth of yesterday. With this opinion, the Supreme Court has shifted the burden and placed it where it belongs—on the young people themselves—on those who have raised their voices and pointed their fingers, on those who decried and criticized for being saddled with responsibilities and obligations that in many cases they neither sought nor sanctioned.

I welcome their fresh approaches; their criticisms; their interest and concern. The fact that some young people exhibit disdain for certain of our institutions should in no way reflect upon the great majority of our youth. With the vote they will establish themselves quickly for what they are: Alert, interested, mature, and concerned. Henceforth their judgments cannot be ignored. Given the vote, these young people have been challenged to prove their worth and the value of their contributions to our system. I am confident that they will meet that challenge. On their behalf, I welcome it.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on December 17, 1970 the President had approved and signed the following act and joint resolution:

S. 4536. An act to amend the Small Business Act; and

S. J. Res. 230. Joint resolution extending the duration of copyright protection in certain cases.

REPORT ON SPECIAL INTERNATIONAL EXHIBITIONS, U.S. INFORMATION AGENCY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As required by law, I transmit to the Congress the Eighth Annual Report on Special International Exhibitions conducted during Fiscal Year 1970 under the authority of the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87-256).

This report covers exhibits presented abroad by the U.S. Information Agency at international fairs and under East-West Cultural Exchange agreements, exhibits and labor missions presented abroad by the Department of Labor, and trade missions organized and sent overseas by the Department of Commerce.

RICHARD NIXON.

THE WHITE HOUSE, *December 21, 1970.*

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

Mr. PERCY. Mr. President, I yield to the distinguished Senator from North Dakota, and I ask unanimous consent that in yielding, I do not lose my right to the floor and that when I resume speaking, it not be counted as a second speech.

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

Mr. YOUNG of North Dakota. I thank the Senator.

THE CLOTURE MOTION

Mr. YOUNG of North Dakota. Mr. President, in the nearly 26 years I have served in the U.S. Senate I have only voted for cloture once. That was on August 14, 1962. Before casting that vote I stated:

> It is with great reluctance that I will for the first time vote for cloture; and I hope it will be the last time.

Mr. President, the U.S. Senate is the only legislative body in the world which permits unlimited debate by its Members. This is a unique hallmark of our democracy and one I have always been proud of and have felt should be retained. The only parliamentary limitation on debate is through invoking cloture by a two-thirds vote.

We have had an entirely different situation during this session of the Senate than perhaps any time in our history. There has been long and extended debate on many subjects, all of which could well be characterized as filibusters. Among them were the nomination of Judge G. Harrold Carswell as an Associate Justice of the Supreme Court of the United States; the Cooper-Church amendment; and the McGovern-Hatfield amendment. Debate on these issues consumed at least 2 months of this session.

We have had a filibuster for several days on the Department of Transportation appropriations bill, and a threatened lengthy debate or filibuster on at least four other measures. We find ourselves in an intolerable and indefensible situation in which the Senate cannot pass some important and very necessary legislation by the constitutional adjournment deadline.

Mr. President, in the past when we were a much smaller Nation and the issues before Congress were not as complex or as many, one or two filibusters a year did not unduly disrupt the business of the Senate. In fact, many of them resulted in preventing the passage of bad legislation.

We are faced now with chaos and a real legislative crisis which cries out for a solution. There is an old saying that "Only a fool never changes his mind." I will abandon the strong position I have maintained over the years and vote for cloture. I will do so in the hope that it will help bring this session to a respectable and satisfactory conclusion by January 3, the date required by the Constitution, thus making possible the passage of at least some of the most necessary legislation.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill—H.R. 17755—making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

Mr. PERCY. Mr. President, I yield the floor to my distinguished colleague, the Senator from New York.

Mr. GOODELL. Mr. President, in a statement I made to the Senate prior to the vote on the question of cutting $290 million from our continued Government spending on the SST, I warned that the outcome of the vote would have significant impact on the goal of reordering priorities.

We talk a great deal today about reordering priorities. We have to put some substance behind that phraseology. We must signal a promise of change and guard against the relegation of the phrase of new priorities to the dismal category of a convenient cliche.

The Senate vote of 52 to 41 on December 3, denying funds for the SST, indicated truly a promise of change. But the action of the House-Senate conferees in accepting $210 million in Department of Transportation appropriations for the SST raises the unwelcome specter that the business of budgeting will continue as usual. The budgeting of tax dollars already reflects the sad flight of revenue to misplaced priorities.

As we consider SST trips, it may be useful to recall that this year's Federal budget requests projected that out of every $100 of tax revenue, income tax paid to the Federal Government by individuals, more than $48 was planned for defense and military spending—$48.37, to be exact, of every $100 paid in Federal taxes by individuals. Contrast that $48.37 planned for military expenditures with approximately $5 for education and job training, a little more than $1 for a clean and healthy environment. This disproportionate allocation of tax dollars is what we are talking about, among other things, when we use the phrase "reordering priorities," and when we move to redirect Government spending.

It has been said that jobs alone justify continued Government funding of the SST. Maintaining jobs and creating job opportunities are high priorities before Congress. I have been deeply concerned with unemployment in New York and across the Nation resulting from cutbacks in Government contracts in space and defense programs. I do not think that the funding of wasteful contracts is the answer to our present and future unemployment problems. There does exist, however, the need for new contracts and additional jobs for work in areas of pressing unmet needs of our people in mass transit, urban and rural housing, hospital construction, and a whole range of consumer protections.

I do not believe that I could ever justify voting for a multimillion dollar program simply to make jobs—jobs in New York or jobs elsewhere. If the program is justified on its merits, then I would want to get as many of those jobs for New York as we could get legitimately. If it is not justified, then it is a waste of the taxpayers' money. There are better ways to employ our people—one way is with priority programs and by contracts reflecting them. So I dismiss the argument completely that the SST is necessary to create jobs.

It is useful at this point to recall many of the warnings made against this year's additional Government spending on the SST.

I would like to note the warning which appears in this morning's Washington Post in an article entitled "Start of SST Fleet Figured at $5 Billion," written by George Lardner, Jr. It reports that Dr. Garwin, chairman of a special White House Advisory Committee on the SST, has estimated that another $5 billion may be needed to certify the jetliner and launch production of a commercial SST fleet.

Mr. MAGNUSON. Mr. President, will the Senator from New York yield at that point?

Mr. GOODELL. I yield.

Mr. MAGNUSON. I do not want to belabor this issue, but this is the testimony of one man that we have heard at least 10 different times. Now someone is starting to recite it again.

Mr. President, I ask unanimous consent to have printed in the RECORD, when the Senator has completed his remarks, the testimony of other experts, beside Dr. Garwin, who completely refutes his testimony. The committee has listened to him over and over again for a long time now, and has rejected his conclusions. I think he is dedicated, and I do not question his honesty, but there are literally scores of other experts in this field who have refuted his testimony but no one seems to mention them. I am going to mention them just to keep the record straight.

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

DR. DUBRIDGE LETTER TO SENATOR PROXMIRE

(In his letter to Senator Proxmire on April 22, 1970 responding to his request for comments on the SST program, Dr. DuBridge strongly recommended proceeding with the SST program. His position was made after securing more information on technical aspects of the SST and also on a personal appraisal of the Concorde program.)

(As is clearly indicated in this letter, Dr. DuBridge does not agree with Dr. Garwin's recent testimony, and Dr. DuBridge, not Dr. Garwin, was the Science Advisor to President Nixon.)

APRIL 22, 1970.

HON. WILLIAM PROXMIRE,
Washington, D.C.

DEAR SENATOR PROXMIRE: This is in response to your inquiry in regard to the views of the Office of Science and Technology with regard to the matter of the Supersonic Transport.

As you know, when the President establishes a committee or task force to make recommendations to him on matters such as this, he purposely selects representatives having a broad range of interest and competence in various fields encompassed by the overall program. In the case of the SST, this involved a number of areas of concern: economics, international trade, return to the federal investment, technological fallout, unsolved technological problems, environmental problems, and the overall technological strength of the United States and its position among the nations.

The various representatives on this committee examined the areas within their own fields of competence and submitted recom-

mendations which emerged from their specific studies. It was then the task of the President to put all these matters in perspective and to take a long-range view of the overall best interests of the United States. Needless to say, the President has a broader view of the whole problem after he has studied all of the facts and opinions which have been brought together for his attention. Thus, while each of several of us may have, from our own restricted points of view, recommended against further federal involvement in the SST project. I, for one, believe that the President, is taking a more comprehensive view than any of us could have, came to a sound decision.

My office now stands ready to assist the Department of Transportation in every possible way in trying to implement the President's decision and bring the best technological expertise we can command to bear on the problem of the successful development of this very important project.

On the basis of the knowledge then available to us, we would not change the statements which we submitted to the SST committee. However, I have since had the opportunity of securing more information on the technological problems, and I have also inspected the French Concorde and have been impressed by its promise. I now see more clearly than before the wisdom of the President's conclusion that the United States should not be without its own supersonic transport which, in the long run, will no doubt be superior to the French/British Concorde.

The President recognizes, as we pointed out, that there are still technological and environmental problems to be solved. But he has the faith, which I now share, that the ingenuity of the American industrial system can eventually solve these problems satisfactorily. It was naturally our duty to point up some of these technological difficulties so that we should all be aware of them. Surely these problems will never be solved if we stop our development work at this stage. Even more stupendous problems than those that lie ahead in the SST were solved in the space program.

Thus, on the whole, I would strongly recommend that your Committee endorse the President's proposal that the United States proceed with the SST project.

Very truly yours,

LEE A. DUBRIDGE,
Director.

SATURDAY REVIEW ARTICLE "IS THE SST REALLY NECESSARY?"

(An excellent article *Is the SST Really Necessary?* written by an unbiased reporter appeared in the August 15, 1970 issue of *Saturday Review*. Mr. Horace Sutton took the time to look at both sides of the issues and reported what Dr. Garwin said about sideline noise. He also reported what other people in responsible positions that deal with the noise issue have to say about Garwin's claims. The article includes the following section on SST noise that clearly shows that Garwin's statement on the 50 to 1 noise ratio of an SST vs. a subsonic jet is misleading and is a "propaganda-type" statement.)

NOISE

The most effective argument being used against the SST in this Year of the Environment, as it is being called, is noise. A popular term of reference that has beeen given wide display is that an American SST would, on the runway, sound like fifty subsonic jets taking off at the same time. This comparison, which was devised by Dr. Garwin, has been both supported and hotly contested by scientists and aeronautical engineers in and out of the SST program. It has become the touchstone of the great supersonic debate, a passionate dialogue that has inspired lay persons to learn the language of the scientists, and engineers to reduce their heady techniques to the sill of common understanding. One must first understand, for example, that noise is energy or pressure waves in the air, and a decibel is a unit of its measure. The decibel, as a unit for measuring sound pressure level, was named for Alexander Graham Bell, and was established soon after 1900.

But it was reasoned, half a century later, that some kinds of noise can be more annoying than others. A fingernail running down a blackboard does not create many decibels, but it sends shivers down the backs of some people. Hi-fi sets, turned up loud, register many decibels, but young people find that sound enjoyable. In 1959, Dr. Karl Kryter of the Stanford Research Institute created a new measurement that included sound pressure level as well as frequency. A measure of both noise and annoyance, it is called Perceived Noise-level in decibels, or PNdB. Acoustic engineers realized that high tones or, more particularly, the high whines of certain aircraft engines, for example, persisting for longer or shorter periods, can alter the PNdB. Therefore, in 1966, a new measure, EPNdB or Effective Perceived Noise-level, was created by the Aircraft Exterior Noise Engineers. The Federal Aviation Agency, in order to denote the annoyance factor, has adopted EPNdB, and uses it to measure the noise of all subsonic airplanes.

Airplane noise is measured at three places: one mile from the threshold of the runway; about three-and-a-half miles from the start of the take-off run (for climb-out noise); and about 1,500 feet from the side of the runway. Experiments on the American SST engine, which is to be built by General Electric, indicate that the airplane is already within the FAA's acceptable noise limits when landing and on takeoff. Indeed, since an SST takes off at a higher and faster climb-out rate, it is more quiet than existing jets when flying over the community. On sideline noise—at the runway—it registers about 124 PNdB, whereas present jets register 108 PNdB. William Magruder, the forty-seven-year-old former test pilot who designed Lockheed's new jumbo, the L-1011, and who is in charge of the SST project for the Department of Transportation, concedes that the sideline noise of the SST is now three to four times as annoying as the noise produced by current jets. But there are still eight years to go in which to correct the sideline noise, he adds, before a production model of the American SST might appear.

"People like Garwin," says Magruder, "are creating technical mischief. He is playing on the difference between sound and annoyance." Garwin is quick with an answer. In his cluttered office on West 115th Street in New York City between Columbia University and the Hudson River, he told me, "When Magruder says I am in error in equating fifty subsonic jets taking off simultaneously with one SST, he is absolutely wrong. Whether disingenuous or ignorant is hard to tell, but I'm sure it's ignorant. All I want him to do is get the Department of Transportation to get one of their consultants, or Karl Kryter at Stanford Research Institute, who invented PNdB, to say I'm wrong, and I will be satisfied, but they don't."

Confronted with this challenge, the Department of Transportation, at *SR*'s request, convened a panel of consultants. They included Dr. John Powers, director of the Office of Noise Abatement, Federal Aviation Administration; Harvey Hubbard, director, Acoustics Branch, NASA Langley Research Center, Virginia; Charles Foster, director, Office of Noise Abatement, Office of the Secretary, Department of Transportation; Newton Lieurance, director of Aviation Affairs, Environmental Sciences Services Administration, Department of Commerce; and George Chatham, aeronautics and space specialist, Legislative Reference Service, Library of Congress, who was formerly with NASA's Office of Advanced Research Technology.

Referring to Dr. Garwin's widely quoted statement that one SST sounds like fifty subsonic jets at take-off, the panel members concerned with sound had the following comments:

Dr. Powers: "Technically, it is an accurate statement. It is a logarithmic ratio, but obviously you can't put fifty aircraft together, because the sound sources would cancel. The thing that is important is the manner in which the airport neighbor perceives the noise."

Mr. Chatham: "The statement from a technical point of view is correct. I've had to explain that statement many times, but it is a propaganda-type statement because it has a direct interpretation in terms of annoyance or perceived level. While it is technically correct, and the Bureau of Standards will say that it is correct, it is very misleading. It sounds as though an SST is fifty times as loud. That is the interpretation that everyone gives that statement. But it doesn't mean that at all. It appears as if you'll hear something with fifty times the loudness and you don't."

Mr. Hubbard: "Say you had a four-engine airplane and you were running just one engine. There is a certain loudness associated with that one engine. Then you turn on the second engine. With two engines running it isn't twice as loud on any scale. If you turn all four engines on, it isn't four times as loud. Four engines make four times as much acoustic power, but the sound is not four times as loud to a person."

Mr. Chatham: "If you had an airplane with ten engines and you were to overfly with one engine going and hear that noise, and then overfly again with all ten engines going, the effect you would perceive would be double."

Pursuing Garwin's suggestion further, SR reached Dr. Karl Kryter, director of the Sensory Sciences Research Center at Stanford Research Institute. Dr. Kryter cautions that decibel measurements are preferred by engineers, but the "annoyance scale in your head doesn't go up as the physical noise increases in the air." Both Garwin and Magruder, as they state their respective cases, are correct, according to Kryter. However, says he, "I don't think Garwin needs to use this example of one to fifty, because it overstates the case. While Garwin is absolutely correct, I think he is overkilling by using a technical fact that would mislead some people. On the other hand, I think a three hundred to four hundred per cent increase in noisiness to something that is already intolerable to some people is beyond acceptable limits."

As an experiment, Kryter says, a person might put his hand on a counter and put a one-ounce weight on it. By adding another ounce does he feel twice the amount of pressure? If four more ounces are added, does it feel like six times as much pressure? Kryter thinks not. The same is true in noise. As you increase the noise level measured in EPNdB, the subjective scale grows in such a way that every time ten EPNdB is added, it seems twice as bad as before.

LETTER FROM ROBERT L. PAULLIN

(The attached letter from Robert L. Paullin, Chief of the Standards Division, Department of Transportation, dated August 17, 1970 to the Director, SST Development clarifies the misinterpretations of Effective Perceived Noisiness raised by Dr. Garwin.)

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
August 17, 1970.

Subject: Clarification of Misinterpretation of Effective Perceived Noisiness.
From: Chief, Standards Division.
To: Director, Supersonic Transport Development.

The following discussion may clarify an interpretation of effective perceived noisiness.

The psychophysical unit EPNdB is particularly well suited for the evaluation and control of airplane noise, as it takes into account the subjective response of people to airplane sound. Effective perceived noisiness, or annoyance value as it is sometimes called, increases by two or decreases by one-half with a change of 10 EPNdB. For example, 100 EPNdB is perceived to be twice as noisy as 90 EPNdB; 125 EPNdB is judged to be about 3 times as noisy as 108 EPNdB.

The energy of sound, on the other hand, is summed logarithmically. Because of the logarithmic transformation, doubling the number of the same type of noise sources doubles the amount of energy, adding 3db or 3 EPNdB. For example, two aircraft of exactly the same type would add 3 EPNdB to the noise level of one aircraft, four aircraft would add 3 EPNdB to the noise level of two aircraft and so on.

In summary, if one aircraft produces 10 EPNdB more than another at the same point of measurement, then it is judged to be twice as noisy or annoying as the other. Confusion is introduced if it is implied that the value obtained through the measurement of sound energy, or the number of sources, is representative of the noisiness (annoyance) of the sound.

ROBERT L. PAULLIN.

ADDITIONAL LETTERS

(The attached letters from Dr. Branscomb, Director, Bureau of Standards, in answer to requests from Senators Proxmire and Magnuson (letter attached) show that Dr. Garwin's 50 to 1 noise statement is misleading. It appears that opponents of the SST program, such as Dr. Garwin, have chosen to ignore this expert advice from a top-level Government authority which was sought by Senator Proxmire. The opponents continue to use the 50 to 1 noise ratio statement in spite of Dr. Branscomb's expert statement.)

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., July 29, 1970.

Dr. LEWIS M. BRANSCOMB,
Director, National Bureau of Standards, Washington, D.C.

DEAR DR BRANSCOMB: I would appreciate the National Bureau of Standards' recommendation as concerns the following:

(1) What unit of measure or measurement technique should be employed for the determination of public annoyance or the "noisiness" factor associated with aircraft noise?

(2) Based on the latest manufacturers' data, the SST is predicted to be about 16 PNdB higher in noise level than that produced by the 707 during takeoff roll when measured at the loudest point, .35 nautical miles from runway centerline. Conversely, the SST is predicted to be approximately 16 PNdb quieter than the 707 when the noise is measured 3.5 nautical miles from brake release during takeoff climb and after power reduction. Also the production model SST is estimated to be about 14 PNdb quieter than the 707 on approach to landing measured one nautical mile out from runway threshold. From an annoyance or noisiness viewpoint, what is the relationship or comparison between these two aircraft? Further, what is their relationship or comparison when isolating consideration to sound energy or intensity?

(3) On May 7, 1970, Dr. Richard Garwin testified before the Senate Joint Economics Committee:

"It should be emphasized that at 125 PNdB of airport noise, the SST will produce as much noise as the simultaneous takeoff of 50 jumbo jets satisfying the 108 PNdB subsonic requirement."

Several acoustical experts find fault with this statement as they believe it to be misleading when considering the areas of primary interest such as public annoyance or noisiness. There is agreement with the statement as concerns the measurement of the physical aspects of energy or intensity of sound. The statement apparently ignores the important psychoacoustic aspect of the PNdB unit of measure. What are your comments as concerns Dr. Garwin's statement?

Your early reply will be much appreciated.

Sincerely,

WARREN G. MAGNUSON,
U.S. Senator.

NATIONAL BUREAU OF STANDARDS,
OFFICE OF THE DIRECTOR,
Washington, D.C., August 4, 1970.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am happy to reply to the questions raised in your letter of July 29. The numbered paragraphs below correspond to those in your letter.

(1) Methods of predicting "public annoyance", or even of measuring it, are not well developed as yet. This problem has a strong sociological component and to that extent lies outside the province of NBS. The psychophysical measure "noisiness", which applies to individuals, is better understood. Measurements of the physical attributes of sound, upon which the other two estimates are often based, are best understood of all. While techniques for physical measurements are well in hand, psychophysical measurements are variable from person to person, from sounds of one character to sounds of another, and from investigator to investigator. Several methods of estimating the noisiness of aircraft sounds are in general use. These methods apply weighting factors, derived from the subjective judgments of many individuals, to physical measurements of sound, in an attempt to predict the average person's response. Any of these methods might serve until a better solution, to which we hope to contribute, is devised. Among those most firmly entrenched in aviation circles are the psychophysical quantities, "perceived noise level" (PNL), expressed in PNdB and "effective perceived noise level" (EPNL), expressed in EPNdB. According to a formula which is part of these methods, if the perceived noise level of one sound is 10 PNdB higher than that of another, an average observer will judge the first to be about twice as noisy as the second. This rule should be applied with caution, however, to the very high levels mentioned in your letter for which it has not been adequately tested.

(2) The conversions requested are as follows:

16 PNdB higher corresponds to about three times as noisy and to about 40 times the sound intensity;

16 PNdB lower, about 0.33 as noisy and about 0.025 times the intensity;

14 PNdB lower, about 0.38 times as noisy and about 0.040 times the intensity.

(3) The paragraph you quote from Dr. Garwin's testimony is, as you point out, technically correct in that 50 times the sound intensity corresponds to an increase in perceived noise level of 17 PNdB. It might mislead the non-specialist into the notion that the SST will be 50 times as noisy as a jumbo jet. On the other hand, the same non-specialist might erroneously conclude, given the figures 125 and 108 PNdB, that the SST will be 125/108-1.16 times as noisy as the jumbo jet, that is, only 16 percent noisier. According to the rule mentioned above, the 17 PNdB difference corresponds to 3.25 times as noisy. Although this figure conveys a more accurate impression to the non-specialist, even this information may not be too helpful, as most people have no notion of what is meant by one sound being two or three times as noisy as another.

I hope the above information meets your needs.

Sincerely,

LEWIS M. BRANSCOMB,
Director.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: I am very happy to try to clarify for you the testimony covered in your letter of June 29.

Before doing that, let me say that this subject is complicated because we are dealing with a human response to a physical phenomenon. Instruments are available to measure quite accurately the physical phenomenon of sound (rapid fluctuations in air pressure), but such instruments do not "hear" the way an ear does. Further, different people will "hear" the same physical phenomenon differently. Therefore, scientists have agreed to measure the human response to "sound" by means of the averaged responses of many people. Although scientists do not agree on precisely how to measure the average human response, one measure has been developed to scale a person's estimation of the noisiness of aircraft sounds. This measure is called the Perceived Noise Level and is measured in PNdB. On this scale, when one sound is perceived to be twice as noisy as another, that is equivalent to an increase of 10 PNdB.

When one is interested in comparing the *physical* effect of two different sounds, it is appropriate to express the measurement in physical units such as "sound pressure level" or "intensity". When the subjective reaction of people to the "loudness," "noisiness," or "annoyance" of the sounds is of primary interest, a psychophysical unit should be employed. Mr. Magruder is correct in emphasizing the importance of these subjective factors. The psychophysical unit used in your letter, PNdB, is one of several such units in general use and is the unit contained in the S.A.E. Aerospace Recommended Practice 865A, "Definitions and Procedures for Computing the Perceived Noise Level of Aircraft Noise," dated August 15, 1969.

Based on the perceived noisiness scale, 125 PNdB would be judged to be 3.25 times as noisy as 108 PNdB. It should be emphasized, however, that this figure is an extrapolation from data collected at lower levels.

Therefore, the actual subjective estimation might be somewhat different from the factor of 3.25. In view of this uncertainty, further research is needed, and we are presently re-evaluating the various subjective measurements in order to develop techniques that would permit us to answer questions such as yours more definitively.

In terms of pressure or sound power, Dr. Garwin is technically correct since it takes 50 times as much sound power to produce the perceived noise level of 125 PNdB as it takes to produce the perceived noise level of 108 PNdB. However, this comparison may be misleading—not only because the hypothetical situation envisioned by Dr. Garwin lies outside human experience but because an average person would *not* judge 125 PNdB to be 50 times as noisy as 108 PNdB.

Further clarification of this issue might be achieved through the noise demonstration that you requested. We will need about two days notice to set up the equipment. We would be pleased to invite your committee to our Gaithersburg laboratories in suburban Maryland for this demonstration. However, if a suitable small committee room is available for several hours in advance, we can bring the equipment to you. We could at the same time use our equipment to demonstrate the principles involved in this

problem. In addition, in cooperation with the Department of Transportation, we will investigate the possibility of simulating both the outside sideline noise and the inside cabin noise of the SST and then compare these levels with those produced by present-day jet aircraft.

Sincerely,

LEWIS M. BRANSCOMB,
Director.

STATEMENTS BY RICHARD L. GARWIN WITH COMMENTS BY DOT

(Statements by Richard L. Garwin in testimony to the Transportation Subcommittee of the Senate Appropriations Committee on August 28, 1970, with comments prepared by the Department of Transportation.)

STATEMENT

In his May 7, 1970, testimony before the Senate Subcommittee on Economy in Government, Dr. Garwin stated that, "It should be emphasized that at 125 PNdB of airport noise, the SST will produce as much noise as the simultaneous takeoff of 50 Jumbo jets satisfying the 108 PNdB subsonic requirement."

COMMENT

Mr. Magruder's comments during testimony this past summer were directed to our then demonstrated capability of reducing the SST's sideline noise level to 124 EPNdB. That noise level would be as annoying as about 3 subsonic jets and not 50 as claimed by Dr. Garwin. Mr. Magruder also stated during his testimony that the sideline noise objective for the production supersonic transport which will start into operation during 1978 is 112 EPNdB. Results of tests conducted subsequent to Mr. Magruder's testimony by Boeing, General Electric and NASA indicate that we can now demonstrate a capability of reducing the SST's sideline noise to about 119.5 EPNdB, further reducing annoyance to about 2.5 times that of current subsonic jets. At a sideline noise level of 112 EPNdB, the production SST will be essentially as quiet as current subsonic jets and the new wide body jets. A tape recording comparing the SST's 112 EPNdB production objective sideline noise with the 108 EPNdB level of FAR 36 has been demonstrated to a number of U.S. senators, various airport authorities including New York, Los Angeles, San Francisco, Honolulu, Seattle, Boston and Anchorage, and various acoustics experts including Dr. Leo L. Beranek of Bolt, Beranek and Newman. As to be expected, all of these people considered the 112 EPNdB noise level to be essentially as quiet as the 108 EPNdB level. The National Bureau of Standards tested and validated the correctness of the noise levels recorded on the tape and heard by the listeners.

STATEMENT

"Further, in regard to the argument that the Government will get back its money invested in the prototype, plus a billion dollars extra, the expected return (only in case of success and only in case the program moves without any further expenditure by the Government to completely private financing) is 4.3%."

COMMENT

Based on the conservative market of 500 aircraft, the Government should recover its original investment plus about $1 billion in interest. Depending on the timing of production sales, this results in a 4–6% compounded interest. If one considers the bigger returns to the economy, such as $6–7 billion in added taxes, and a healthy engine/airframe industry, the return is several times this amount. On a primitive basis of just adding the tax return to the direct royalty return, this could approximate 17% return on the investment.

STATEMENT

Garwin says, "There is some confusion about the purpose of the prototypes. These prototypes do not have the purpose of exploring the Mach 2.7 flight regime and the altitude regime of 60 to 70,000 feet. . . ."

COMMENT

There is no confusion within the program about the purpose of these aircraft and it has been fully publicized that the prototype will fly at Mach 2.7 and at altitudes beyond 60 to 70,000 feet.

STATEMENT

Garwin says, ". . . of the total 100 hours flight testing some 7 hours might be at maximum speed of Mach 2.7.

COMMENT

This is pure assumption. The flight test schedule has no firm plans at this point; it will necessarily be highly elastic depending on test experience. Testing could be significantly more than 7 hours at Mach 2.7 or it could be less than 7 hours. Perhaps he is attempting to establish credibility by being positive and "accurate" about information which is in the purely formative stages.

STATEMENT

Garwin says, "The SST prototypes are *manufacturing* prototypes . . ." (emphasis from Garwin).

COMMENT

It is not clear what he means by manufacturing prototypes but they serve a wide variety of other purposes of which manufacturing is a relatively minor consideration.

STATEMENT

Garwn says, ". . . prototypes will be of little value in determining production costs on the actual SST, since that is likely to be manufactured by different processes."

COMMENT

Garwin either has information or has made assumptions that are not available to the Program Office or The Boeing Company. It is expected that the prototype and first production airplanes will be fabricated by essentially the same processes. It has not been proposed that the prototype would be used to investigate sulfur content of fuel; on the other hand, there is no reason why the prototype could not be used for that purpose. Since the petroleum industry indicates that fuel sulfur content can be reduced by a factor of 10 with moderate effort it does not appear to be a significant factor.

STATEMENT

There is some confusion about the purpose of the prototypes. ". . . they serve only to confirm the designs of Boeing and General Electric."

COMMENT

There is no confusion by persons knowledgeable about the SST program as to the purpose of prototypes. Although conformation of design is one objective of any development program, there are many more reasons for this program.

The SST represents a significant advance in its combination of size and performance beyond any existing aircraft. The associated environmental effects of such an advanced aircraft are of natural concern also. Although a firm engineering and scientific background exists in all these areas for the actual design, building, and flying of the SST, as in all man's advanced endeavors, "the proof of the pudding is in the eating." Much will be learned about the technical and environmental aspects of the SST during the development phase.

In the technical design area, the major item of proof during the prototype flight test phase of the program is the actual attainment of the projected range/payload performance characteristics. Without this achievement, an SST is of little practical interest. The key parameters here, of course, are the aerodynamic lift-drag ratio, the propulsion system performance (engine, inlet, and exhaust system), and the weight of the aircraft. The prototype must demonstrate also the attainment of good flying qualities. It must show that it is easy and safe for the airline pilots to fly, operating from the regular international airports.

In the environmental area, a key task of the prototype will be to demonstrate that it will not generate excessive noise on and in the vicinity of the airports. Further, it must show that pollution effects both in the lower and upper atmospheres are within acceptable limits. Passenger comfort and safety and the operational suitability of the environmental control system will be thoroughly tested and proven out. Likewise, the advanced navigational and control systems of the aircraft will be evaluated and modified as found desirable.

All of these factors, both technical and environmental, susceptible to analysis, but many unknowns, too, are involved which can only be finally resolved by actual flight tests and associated developments.

STATEMENT

Garwin states, "The FAA in its Notice of Proposed Rule Making indicates that a restriction of SSTs from flying supersonically over U.S. territory is based on the continued profitability of SSTs thus restricted, thereby leaving the distinct impression that SSTs will indeed fly supersonic over U.S. territory if they cannot be profitable otherwise."

COMMENT

No responsible individual has inferred that conclusion. The statement has been unqualified that SSTs will not be permitted to create sonic booms over populated territory. The Senate has recently passed a bill prohibiting commercial flights at boom producing speeds over U.S. territory.

STATEMENT

Garwin says, "Modification 15 of the contract required that the contractor . . . submit a design which would meet the original contract requirements of January 1, 1967."

COMMENT

Perhaps it is on this statement that Garwin seems to involve himself in many problems. Modification 15 did not require that The Boeing Company would meet the original contract requirements because those requirements applied solely to the specific variable-sweep design which had been placed under contract at that time. Modification 15 did require that Boeing submit a design which would fully meet all of the objectives and their original general requirements as laid down by the Government prior to selection of the Boeing variable-sweep design as the winner of the competition.

STATEMENT

Garwin states that, ". . . the technical risk would be far greater than that associated with, say, the 747, because of the possibility of very costly grounding of production SST aircraft after introduction into service."

COMMENT

At that point in the program, the technical risk should not be significantly greater than in the 747 program. The entire purpose of the prototype phase is to reduce the technical risk to normal levels. The 747 fleet did not have the benefit of 10 years prior development and testing such as in the SST.

STATEMENT

"The AOCI makes clear in a very forceful statement that the continued operation of subsonic aircraft and the continued profitability of our entire airplane and airline industry depends on improving the noise environment about airports. Not only does the

high expected sideline noise level of the SST jeopardize the obtaining of private financing for the SST development and production and imperil the SST purchases by airlines, but it also threatens the continued existence of the air travel industry in the United States."

COMMENT

The AOCI has been concerned about the misinterpretation of their position on the SST program. Recently, to set the record straight Mr. Homer B. Anderson, President, AOCI, wrote the following letter to President Nixon:

AIRPORT OPERATORS COUNCIL INTERNATIONAL, INC.,
December 7, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The General Board of Directors of the Airport Operators Council International (AOCI) is shocked by the recent action of the Senate in declining further funding for the supersonic transport (SST) development program.

In light of the approval by the Senate of subsection (i) of S. 4547 on Wednesday, December 2, 1970, AOCI fully supported the continuation of the development of the SST prototype. We urge the pending House/Senate conference to fully restore the level of funding needed for the successful completion of the U.S. civil supersonic transport.

For a variety of reasons, AOCI feels that it is of utmost importance that the United States maintain its leadership in world aviation and satisfy its obligations of socio-economic balance to the people of our country. There are literally thousands of jobs at stake, not to mention the enormous costs involved if cancellation of the SST is upheld due to lack of funds. The overall defense posture of the United States, by virtue of the loss of skills, equipment and further development of technology through peace time activities, is also in jeopardy.

We have been looking forward to a well-planned and orderly program for the next generation of commercial aviation. We now find to our amazement that the Senate has proposed to abandon the program, a few years short of flight-testing, after twelve years of development and $700 million invested.

In reviewing the record, we note there have been many allegations by program critics that relate to the airport operator's domain. These critics show little understanding of the airport operator's real-world problem nor the manner in which real airport progress is accomplished.

In the specific area of environmental quality, these critics claim the SST will contribute to the problems of community noise, air pollution, and congestion. These are problems we have today that can be minimized in the future with proper planning and coordination. We see the SST program as a *unique opportunity* to *reduce* community noise, air pollution, and congestion while improving air transportation service through an orderly well-planned program involving international coordination between airport and airline operators, manufacturers and governments.

It is difficult to believe that the Congress of the United States would be responsible for cancelling this international cooperative effort based upon the unsubstantiated allegations of ill-advised critics.

Respectfully yours,

HOMER B. ANDERSON,
President.

STATEMENT

"All available money is being spent on the SST rather than on development of needed, productive, and useful aircraft which would have an assured large market abroad. . . ."

COMMENT

Money is made available only on the merits of individual programs. There has been no establishment of "all available money" relative to either the SST or any other "competitive" programs. The SST program is based on a loan rather than a subsidy.

STATEMENT

Garwin says, "My understanding of the airline views on the SST is that a fare differential will be necessary and that with a fare differential the SST will be a business traveler's aircraft."

COMMENT

A fare differential is not required for economic success of the SST. It is expected that the airlines will charge a fare differential in early SST operations in order to preserve reasonable load factors on their remaining subsonic fleet. In the early days of jet operation the jets were no more a business traveler's aircraft than they were for the general public.

STATEMENT

The sales price of the SST is likely to be 20 percent higher and the number sold only two-thirds as many as claimed.

COMMENT

The material he offers following this statement simply points out that his statement is a matter of conjecture and that there is no factual substantiation available. He has made assumptions on possible airplane prices and when without doing a sales elasticity analysis, he has simply made his own conclusions about what sales results would be. He is either ignorant of the facts or he has completely ignored the fact that FAA and IDA market estimates have been conservative and that Charles River Associates estimates for the market have been more favorable.

STATEMENT

Garwin says, "The Department of Transportation has variously estimated (sideline noise) at 124 and 129 PNdB."

COMMENT

Although the SST contract originally called out PNdB noise values, the Department of Transportation since 1969 has been using EPNdB units to facilitate comparison with the rule for new subsonic jets. Dr. Garwin should be well aware not only of this change, but also the fact that the 129 EPNdB sideline level applies to an unsuppressed airplane and that 124 EPNdB applies to a minimally suppressed airplane. Results of recent tests by Boeing, General Electric and NASA permit us to now cite a sideline noise level of 119.5 EPNdB as demonstrated available technology rather than 124 EPNdB previously cited.

Mr. GOODELL. I certainly would want the RECORD to be kept straight. I do not think the Senator from Washington would imply that he is the only expert on this question. He does not work alone. There are many other experts who testified on this subject. The matter is divided. This is one talented and highly reputed scientist.

Mr. MAGNUSON. I merely state that Dr. DuBridge took this statement, and I will put that in the RECORD, and mentioned that although he respected this one man's testimony that he rejected it and said that the SST should be built. Those are the facts. Dr. DuBridge said that. I shall place all this material in the RECORD without taking any more of the Senator's time; but, I have listened to that other fellow so many times now. This testimony is repeated over and over but Dr. DuBridge refuted it along with the National Academy of Sciences.

Mr. GOODELL. I appreciate the comments of the Senator from Washington. I realize that he may have gotten a little bit tired of listening to experts voicing views contrary to the views of the Senator from Washington. But I might say to the Senator from Washington that Dr. Garwin is a member of the President's Science Advisory Committee and has served as Chairman of the Special White House Committee on the SST. He was chosen because he was a very highly respected scientist in his field and I think his testimony deserves to be heard. Certainly anyone who disagrees with him should also be heard so that we can find the truth.

The awful thing about this whole question is that increasingly as the days go by, we debate less and less the merits of the SST and more and more the merits of spending more money so that we do not waste the money we have already spent.

After a while, the momentum becomes so great that those who discuss the merits find themselves overwhelmed by the simple argument:

We have spent $700 million. We had better spend the other $400 or $500 million and find out whether it works, otherwise the $700 million will have been wasted.

The point being made by Dr. Garwin is an excellent one and it is essentially that there will be more than the $400 million needed in addition to the $700 million already spent. In all likelihood, it will be a sizable sum. Dr. Garwin said he was convinced that it would take much more Government financing than the Nixon administration has suggested to make the SST a commercial success. He pointed out that the builders of the controversial supersonic jet have been repeatedly allowed to hold back proposals for financing the project beyond the production and testing of the two SST prototypes.

Up to now, we have been talking about a total of between $1 billion and $1.5 billion to get the two prototypes. What happens after we do get them, assuming they work, and assuming that they do not jeopardize our whole ecology through the impact on the upper stratosphere.

The Boeing Co., which is building the SST, and General Electric which is making the engines, were originally supposed to submit plans for financing certification and production costs and those plans would be submitted by June 30, 1968. The deadline has been postponed until 1972.

Mr. President, I do not blame the companies. I do not think it is their fault. There have been all sorts of difficulties in this particular program. I am sure that there were good reasons why they could not project, but I think the suspicion clearly must be recognized here that perhaps, if that projection were carried forward, we would find no private profitmaking company will be able to carry on the financing of the production costs even after we get two prototypes.

I think we are all aware of the economic problem today with the 747. So far as I am aware, every company employing the 747 is losing money on it right now. There may be a few exceptions. Many 747's are flying virtually empty compared to their capacity. I am not at all sure that the airlines will be ready to put several billion dollars into the financing of the SST in view of their experience with the 747.

Dr. Garwin has said that the FAA has estimated it would cost $600 million to certify plans and another $3.2 billion to finance the initial production of commercial models for the SST.

Both calculations were made in terms of 1967 dollars. Inflation, he estimates, will send these costs up to $5 billion by 1976.

Many of us have been insisting that private financing cannot take over once the two SST prototypes have been built.

Proponents of the SST and the administration itself have been insisting that private financing can and will take over once they get these prototypes and they are flight tested with the $1.3 billion expenditure by the Federal Government.

Dr. Garwin has repeatedly recommended that the Government abandon the SST. He feels that the 1,800-mile-an-hour jetliner will remain too shaky a project to get along without additional Federal funds over and above the $1.3 billion.

Mr. President, Dr. Garwin testified before the Transportation Subcommittee of the Senate Appropriations Committee. At that time he indicated that in his opinion after the expenditure of the $1.3 billion and the production of two prototypes, we will not have demonstrated an actual capability of the production of the aircraft and we will not have reached a plateau from which private enterprise can take off and bear the cost of further development on their own.

The FAA's initial contract with Boeing Company would have required the prototypes to have the same dynamic configuration as a safe and economically profitable production model.

But under contract changes adopted last year, Garwin said, the production models can be different and the prototypes need only show that a successful SST program—financed either publicly or privately—"could emerge" from their performance.

In other words, we have changed it from a demonstration of a safe and economically profitable production model to the production of a prototype indicative that a successful SST program, private or public, could emerge.

Let us recall again that Dr. Garwin is an industrial physicist with the IBM Corp. He headed an ad hoc scientific advisory panel whose findings on the SST were submitted last year to Mr. Nixon's science advisor, Dr. Lee A. DuBridge, and to the White House.

I think we should look very closely at the report of Dr. Garwin.

I would like to read briefly a portion of Dr. Garwin's testimony of last August before the Transportation Subcommittee of the Senate Appropriations Committee.

He points out that the $290 million budget item relates to further work on a contract between the Department of Transportation and the Boeing and General Electric companies on the development and manufacture of two prototype supersonic transports and their testing for a total of 100 hours of flight test, of which some 7 hours might be at maximum speed of mach 2.7. Probably only one of the aircraft will actually be flown. There is some confusion about the purpose of the prototypes. These prototypes do not have the purpose of exploring the Mach 2.7 flight regime and the altitude regime of 60 to 70,000 feet—this is already far better explored by the years of experience with an operational fleet of SR–71 reconnaissance aircraft which fly at mach 3 plus at this altitude and higher. The SST prototypes do not fill the function of determining passenger response to the provision of SST travel, since in the planned flight-test period, they will make only two or three oceanic crossings, if any, and without passengers. The SST prototypes are manufacturing prototypes, which serve only to confirm the designs of the Boeing and the General Electric Co. There are few pleasant surprises in testing of this type of prototype—there are many unpleasant surprises. The knowledge of manufacturing cost of the prototypes will be of little value in determining production cost on the actual SST, since that is likely to be manufactured by different processes. Nor will the prototype serve to alleviate any environmental concerns, since the production of sulfur-bearing particulate matter, the influence of water vapor in the stratosphere, and so forth, can never be determined by a brief flight test of one or two aircraft, but must be investigated by real research not involving high-speed aircraft. Further, the sonic boom on the ground beneath the aircraft which is predicted by Boeing to exceed 2.5 pounds per square foot during cruise and 3.5 pounds per square foot during acceleration, and which will be felt along a swath more than 50 miles wide below the aircraft track, has no chance in the production aircraft of being weaker than the predicted figures. Finally, the airport noise, which is such a tremendous problem with the SST, can be perfectly well determined without a prototype aircraft in hand, since it is a function of the engine design and of the aircraft characteristics which are determined by the design and not by the building of the aircraft.

TERMINATE THE PROGRAM NOW

Enough information is available right now for the Senate to cancel the SST. The testing of the prototypes may provide additional negative information—it will not provide any more encouragement to the program. It is fundamental that if a program is to be terminated, it should be terminated as soon as possible. The information now in hand justifies terminating this program.

In addition to these general points made by Dr. Garwin in his testimony, he explores a little further this problem of the noise of the SST prototype:

The SST prototype development contract was represented to the Congress (like all contracts) as a model instrument. We have seen how the absolute requirement for submission of a financing plan has been bypassed. In regard to the contract we have also the testimony by the Under Secretary of Transportation on April 14, 1970, that "The SST contracts were the first to be awarded by the government to include aircraft noise requirements." In actual fact, the contract requirements are shown in the first column of Table I.

TABLE I.—CHANGE WITH TIME OF PERFORMANCE REQUIREMENTS

Characteristics	Jan. 1, 1967 [1]	Apr. 14, 1970 [2]
Takeoff field length (feet)	6,800+700	10,500
Liftoff speed (knots)	162	197
Approach speed (knots)	135	153
Landing field length (feet)	6,200+600	8,250
Sideline noise (PNdB)	116	124
Takeoff noise (PNdB)	93←	108←
Approach noise (PNdB)	109	108

[1] FAA contract with the Boeing Co., Contract Number FA-SS-67-3 (Jan. 1, 1967), page A-6, "Minimum Production Airplane Performance Objectives."

[2] DOT testimony to Transportation Subcommittee of House Appropriations Committee, Apr. 14, 1970.

The noise under the takeoff flight path you will note has been specified as 93 PNdB. The Department of Transportation in its testimony on April 14, 1970, sees no inconsistency in taking credit for specifying noise requirements and at the same time stating that the takeoff noise will be 108 PNdB rather than 93 PNdB. This is no minor difference. It would take thirty 93 PNdB aircraft all flying together to produce the 108 PNdB takeoff noise expected from the SST. Further, for purposes of noise exposure forecast and compatible land use, the FAA and Department of Transportation, together with airport operators of the world, use a formula which indicates that thirty separate takeoffs of individual 93 PNdB aircraft spread out over the day would produce the same total annoyance as a single 108 PNdB takeoff. I discuss this question of takeoff noise, not because the SST is so much louder than current aircraft, but to show how meaningless is any provision of the contract, since the contract specifically states that any provision may be waived by the contracting officer, and experience shows that such waivers do occur.

One other very important point made by Dr. Garwin in his testimony concerns the eventual sales price of the SST. It is not going to be at a level which would permit private industry to finance it and make a profit. I quote from Dr. Garwin again:

My comments on the contract indicate that it is certainly no guarantee of performance Nor are the analyses submitted by the Department of Transportation to be taken literally. For instance, the Department of Transportation assumes that the Boeing sales price for a successful SST will be some $40 million (inflated to an estimated $52 million by 1978). As confirmed by the Report of the Panel on "Balance of Payments and International Relations" of the Ad Hoc Interagency Committee appointed February 1969 by President Nixon to review the supersonic transport program, every indication is that Boeing could and would maximize its profits by charging more for the aircraft than the DoT estimated $40 million. In that Report, representatives from the Departments of the Treasury, Commerce, and State said "In fact, Boeing could maximize its profits if it charged about $48 million. Such a price would reduce sales of planes to something under 350. This would in turn reduce government royalties to the point that the gov-

ernment barely got its money back." There is no reason to doubt that Boeing, as a responsible corporation with obligations to its stockholders, etc., would indeed charge a price which maximized its profits, and which would then come out to be some $48 million (1967 dollars) which would be some $58 million in 1978.

Mr. President, these are very serious matters. I call into question virtually all of the arguments that have been made by proponents of the SST. I know they are sincere supporters of this project, but to me it is ghastly and incredible that this country is spending and going to continue to spend, perhaps, millions and millions of dollars for a project such as SST. The notion has been advanced that we need to continue SST development because of our prestige. It seems to be a sort of "follow on" to the moon walk to guarantee this country will stand first in major new developments.

Mr. President, if all the assumptions about the SST made by its supporters are correct: That the SST works; that SST's will not significantly vomit pollutants into the environment; that we will not have a significant problem with sonic boom; that we will not have a significant problem with airport noise; that we will have a number of passengers who will want to utilize such a supersonic jet plane; and that the aircraft companies will be able to sell enough of them so that the Federal Government will eventually make all the money we put in—if one makes all of those assumptions and more I still do not believe that the project is justified.

If the French and the British want to go ahead, or if the Russians or any other country want to go ahead, let them go ahead. Are we really going to be in such sad shape if the French, the British, the Russians, Germans, Japanese, or any other country comes forward with the fastest and biggest passenger aircraft in the world?

We may find we will not let it land in the United States anyway unless a great many of these environmental problems are worked out.

I do not think it makes any difference at all in terms of the prestige of this country. I certainly do not think it makes any difference at all in terms of our national security.

I have heard no one indicate that the SST is related to our national security; that this will somehow guarantee that we can protect ourselves. Certainly it is not justified on the basis of producing jobs.

I am deeply concerned about those workers whose job security is now threatened and have urged ways to minimize their personal hardships. In perspective, Mr. President, let us remember that many of our people are ill fed and ill housed, unemployed, and in desperate need of assistance; and let us remember that we may spend $1.3 billion to build a supersonic jet airplane that may end up in the museum the way the XB–70 did.

When I first announced my opposition to the ABM, I took the trouble to go out to Dayton, Ohio, where, at the Air Museum, there is on display the one extant XB–70 bomber. The Air Force produced two prototypes of that bomber. One of them crashed and the other went into the air museum. It is probably the most expensive museum piece in the history of the world. It cost $1.4 billion to produce that XB–70 bomber.

I went out there and I must say that the Department of Defense and the Air Force were very good hosts. They did not approve particularly of my purpose, but I did so to demonstrate that I thought the ABM was going to be a tremendous waste of the money of our taxpayers and that eventually it would be comparable to a museum piece in the air museum at Dayton, Ohio.

Mr. President, I wish to read a rather amusing account that was published in the New Yorker on June 20, 1970. Painful and tragic decisions made by well-intentioned people always have their ironic and humorous sides, and some people say the only sane and rational way to live with them is to see the amusing aspect of them and to appreciate the absurd.

I will now read the comments which were published in the New Yorker of June 20, 1970:

A friend of ours who was in Washington not long ago phoned a number at the Department of Transportation and was interested to be answered by a recording on which a woman declared that the SST—the proposed American supersonic transport—wasn't going to be as noisy as a lot of people were making out. The recorded lady said that the noise problems would be minimized by the time the SST went into commercial service, in 1978, and that, furthermore, the SST would make jobs and assist the balance of payments. This was two days before the House of Representatives voted on the transportation budget for fiscal 1971—a budget that included two hundred and ninety million dollars for the superjet. Calling back two evenings later, our friend heard a recorded man express Transportation Secretary John Volpe's pleasure that the House had approved funds for the SST (the man neglected to mention that the vote was a close shave, 176 for, 163 against), and add that Mr. Volpe intended to make sure the SST was "environmentally acceptable." Our friend says he is now working on a recording that interested parties will be able to hear by dailing his number. First of all, there will be three minutes of Muzak interspersed with snatches of Hollywood recommended-for-general-audiences dialogue, to give some idea of what the two hundred or so SST passengers will be hearing as they flash across the Atlantic at 1,800 m.p.h. After this will come a five-minute medley: first, the sounds (recorded within five inches of the mike) of forty-three Waring Blendors working at maximum revs, to approximate the lift-off noise of the SST within five hundred feet of the runway; next, the splintering of wood, the tearing of canvas, the rupturing of aluminum, and the rending of wire, to suggest the effect of the SST's sonic boom on a yacht engaged in an arduous solo crossing of the Atlantic; then a wild 145-dbA scream, which can be taken for the shriek of a demented single-handed yachtsman jumping overboard, or for the wail of a school of Icelandic cod driven berserk by the fifty-mile-wide boom. There will follow the shattering of a giant panel of glass, representing the windows on the promenade deck of the Queen Elizabeth 2; a downpour of rain, symbolizing the continuous monsoon that will probably affect the belt of earth bounded by Washington, Boston, London, and Rome as soon as its ordinary cloud cover is sufficiently intensified by SST vapor trails; the shredding of a quarto of onionskin stationery, to stimulate the tearing up of a billion dollars, figured to be the taxpayers' contribution to the design of the SST so far; the honking of several thousand car horns, to give some idea of the three-hour trip into town from the special, "compatible" airport that the Federal Aviation Administration says the SST will use, far away from residential communities; and, finally, a weird, apocalyptic note, reminiscent of the last trump, which our friend says he has contrived by recording the phrase "environmentally acceptable" a hundred and seventy-six times and playing it back at 1,800 r.p.m.

Mr. President, humorous though this story may be, there is a sad and tragic irony in it. Too much of it may well turn out to be the truth.

How do you stop the funding of a program of questionable utility, such as the SST? How do you stop something such as this with the momentum it has? We are not going to stop it by continuing resolutions. Continuing resolutions simply increase the momentum for the project itself. They spend more money. They get closer to that total of $1.3 billion, with the argument made with increasing force:

We have wasted this much of the taxpayers' money. Let us finish the job, anyway, even if the prototypes end up in an air museum. Somehow we ought to give it a chance.

I suppose I myself would be influenced by that argument after a while. I certainly do not see it at $700 million, where we are now. I say, at $700 million, we have made a $700 million mistake. Now let us quit it. Get out. Spend that money for something more useful. Spend it for some houses. Spend it for some mass transit. Spend it for meaningful jobs with benefits for not just a few of our people, but for many of our people.

It is unbelievable to me that we may spend $1.3 billion and more on an SST monster and we will not spend any significant funds on mass transit for our people—for millions of our people.

How can we justify that to the taxpayers? Is it really that important to the people who are living in our cities and our suburbs that they have the fastest and biggest airplane in the world, which can get people overseas and shave off 2 or 3 hours at a time? We have beautiful planes to get us over there now, in comfort, and in probably a great deal more comfort than the SST would be able to do. There is no military significance. What is the significance? To be out in front in terms of scientific development? Would not you far prefer to be out in front in terms of spending this money in a sensible way to conquer cancer or heart disease? To pay for our people's health bills? To provide delivery of medical services? To educate the doctors and nurses we need, who are in such desperate shortage? To devise schemes to get them into the rural areas and ghetto areas, where there is a such a tremendous shortage for people who are sick unto death and who cannot get help?

Now it is said: "Let us compromise at $210 million for the SST." What kind of a compromise is that?

Frankly, Mr. President, I think I would prefer the $290 million to the $210 mil-

lion, because the main difference between the two is that if we accept only $210 million now, we are going to have to guarantee that we are going to spend more before we get through. Most agree that if we slow down the rate of expenditure at this point to $210 million, it is going to add substantially to the cost at the end of the line.

So why do it? Let us make the decision one way or the other. Are we going to have the SST or are we not? The U.S. Senate voted by a surprisingly large margin that we were not going to have it, that we were going to cut out the funding completely for the SST. It is said that the House is adamant. Let them be adamant. Let us be adamant, too.

I do not think the problem should be resolved with continuing authorizations.

Mr. President, I believe very deeply that the SST is not only ill-advised, not only wrong, but it is a symbol of what is so wrong in our society today, a symbol of the misplaced priorities, a symbol of why our young are so disenchanted, why our middle-income suburbanites are so disenchanted, why the so-called "hardheads" are so disenchanted. This is a symbol of one of the things that is wrong in our society: that we cannot, when the arguments are so clear, place our priorities where they belong, to help our people and stop wasting money.

The arguments for the SST are so weak that it becomes a symbol.

I do not see one argument made for the SST which justifies spending one more dollar for it. And yet here we are, about to spend $210 million or more, which will bring us up nearer to that billion dollar level, and then, once we have spent a billion, I think that is probably where the scale tips—once you have spent the billion dollars, you might just as well accept that Congress will finish the job, and spend that other $300 million or more to try to justify the waste of the billion dollars that has already taken place.

So, Mr. President, I plead with my colleagues: Let us stand firm on this issue. Let us make this decision now, in the interests of the taxpayers and of our Nation. It will be a great symbolic victory if we defeat the SST in this Congress, or if we make a decision to hold off the SST, so that it can be defeated early in the next Congress. It will be symbolic that we in the Congress of the United States do understand the problems of our people, that we are sensitive to the sufferings and injustices going on in our society, and that we recognize the tremendous contradiction involved in sponsoring programs such as the SST while our taxpayers are overburdened and while our people suffer.

Mr. President, does the Senator from Virginia wish me to yield?

Mr. SPONG. I was waiting for the floor. If the Senator will yield, I would appreciate it.

Mr. GOODELL. Mr. President, I yield to the Senator from Virginia at this time. I ask unanimous consent that when I resume at a later time, it will not be counted as a second speech.

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

Mr. SPONG. Mr. President, I have grave reservations over the wisdom of the $210 million appropriation recommended for SST prototype development in the conference report on the Department of Transportation appropriations bill for fiscal 1971.

The environmental problems associated with the SST are acknowledged in the environmental impact statement of the Department of Transportation and in the comments of other agencies on the statement. I recognize that they support development of the two prototypes whose future is at stake in the conference report, but I do not share that conclusion. I cannot support further development until the questions raised in the impact statement and in the comments have been answered.

For example, in discussing airport and community noise, the Department of Transportation said:

> The airport sideline noise generated during takeoff roll and measured 2100 feet to the side of the runway is greater than the sideline noise generated by presently operating four-engine subsonic jet transport aircraft. These SST sideline noise levels are higher than desired; therefore, sideline noise is the area of prime and major action by both the airplane and engine manufacturers and government SST noise reduction research.

Russell E. Train, the distinguished Chairman of the Council on Environmental Quality, was more explicit about sideline noise in his testimony last May before the Subcommittee on Economy in Government of the Joint Economic Committee. Mr. Train said:

> In terms of the measures used by the Federal Aviation Administration to assess annoyance, the SST would be 3–4 times louder than current FAA sideline noise standards and 4–5 times louder than the 747.
>
> In terms of noise pressure, the sideline noise level would also be substantially higher than that of subsonic jets meeting the FAA requirements. I doubt that communities adjacent to our large international airports will accept this added noise burden if it should extend beyond airport boundaries—a circumstance which seems likely in the case of most existing airport facilities. This is a view that I believe is shared by a majority of those responsible for the operation of airports. Furthermore, the discomfort and hazard to those actually on the airport site—both passengers and service personnel—will require careful attention. It has been suggested that the sideline noise problem can be solved by: (1) Technical improvements to the airplane, (2) confining noise to the airport, (3) converting communities near airports into industrial or commercial areas, and (4) developing new airports.
>
> With regard to technical improvements, it is doubtful that current technology can produce the required lowering of noise levels and still carry a viable payload. If indeed new technology is to be the solution of the future, then there should be greater emphasis on research and development of a quieter engine.
>
> As to the other possible solutions, I do not think it is practicable to confine the noise projected by the SST to the airport. Most airports were designed many years ago and were not built in such a way as to minimize the effetcs of sideline noise.
>
> Redevelopment of areas near airports would require an investment on the order of billions of dollars; it seems unrealistic to assume that the country would undertake investment of such magnitude simply to provide for the supersonic transport . . .

I suppose and hope that the SST prototypes, if developed, would be tested at airports away from population centers. But the point is that research on resolving the engine noise problem ought to be completed before we proceed to a full-blown prototype. DOT concedes in its impact statement that there are practical problems to be solved.

Moreover, J. F. MacDonald, a member of the Council on Environmental Quality, testified before the Subcommittee on Economy in Government that research on the Concorde and supersonic military aircraft could provide information on which to evaluate environmental problems. Mr. MacDonald said:

> Both the experience with the Concorde and the experience with the supersonic military aircraft could provide many of the data that would be required to make an assessment of the environmental problems.

Dr. Richard L. Garwin, a member of a Presidential SST panel, was more blunt about it in testimony last August. Dr. Garwin is a physicist, a former member of the President's Science Advisory Committee, and a consultant to the Defense Department. I quote from an exchange between the Senator from Rhode Island (Mr. PASTORE) and Dr. Garwin:

> Senator PASTORE. What you are actually saying here now, and I want to get this on the record, is we can resolve these problems that have come to the fore with reference to the SST, with reference to the pollution of the ecology; we can resolve these problems even before we build the prototype.
>
> Dr. GARWIN. Yes. I say we can resolve the questions without building the prototype, and I go further and say building the prototype does not help significantly to resolving the questions; yes.
>
> Senator PASTORE. And it is your recommendation that we suspend going forward with the prototype at this time and devote ourselves to the research as to the noise and the ecology?
>
> Dr. GARWIN. My recommendation is that we terminate the program and not suspend it. To suspend might involve all kinds of continuing costs.

There are other aspects of the problem, not the least of which is the argument that if we do not proceed, the British-French Concorde will preempt the field, and thereby damage our domestic aircraft industry. In response to that, I would cite the December 15 announcement by the British and French ministers responsible for the Concorde project that production of four new aircraft will be deferred pending an assessment of the future commercial prospects of the venture.

Mr. President, our domestic airlines have expressed dismay over the earlier Senate vote to strike SST development funds from the Department of Transportation appropriations bill, but I have seen no convincing evidence that they are particularly anxious to buy production models. The reluctance of the carriers to commit themselves was ably pointed out in an article published September 9, 1970, in the Wall Street Journal. The article, by Albert R. Karr, was headlined, "For the SST, a Case of Oversell?" I should like to read a portion of the article:

> In past years, responding to pleas from the Federal Aviation Administration that

they show Congress that the SST would sell, the airlines took $22 million in options on the plane and paid $59 million for development—so-called "earnest money." Senator Clifford P. Case, the New Jersey Republican, likens this process to a man's being asked repeatedly to assure his wife that he loves her. In recent Senate subcommittee hearings, Senator Case questioned Stuart G. Tipton, president of the Air Transport Association, the airline trade group, on whether the carriers would like to be asked again, "if you love her"—that is, to put up more cash. Mr. Tipton replied, "The answer has to be different;" putting up more "earnest money" would be financial hardship. "I would hope the government wouldn't do that, (ask for more)," he said.

As Mr. Karr pointed out in a separate story, the airlines are not sure they will want to buy the SST, but they would like to see it developed at public expense. It has been said that the taxpayers eventually will get back their money—when 300 to 500 SST's have been bought—but there is serious doubt whether that number of aircraft ever will be sold.

Mr. President, as I said during the earlier Senate debate on this issue, the necessary research ought to be completed and evaluated before we consider investing any additional public funds in SST development. Even then, I would suggest there is a serious question whether the SST should be given priority over the many other programs which are competing for scarce funds.

We took a step forward earlier this month when we unanimously approved a bill to prohibit boom-producing flights over land areas of the United States, and to require the SST to meet sideline noise standards in effect for subsonic jets. That measure is now pending before the House Commerce Committee, but no hearings are scheduled on it. I cannot accede to additional appropriations for the SST until the bill is enacted and until the facts on the environmental impact of the SST are fully known.

The SST project is another manifestation of the fact that our technology is developing at such a rapid pace that new products are being manufactured and marketed with little or no consideration to their impact upon man and his surroundings.

Mr. James Jackson Kilpatrick, whose columns are published in the Washington Evening Star, described the earlier Senate action on the SST as a "small step for mankind." I agree with that description, as well as with his comments that for years Americans have been "running up the escalator, frantically seeking more speed, more power, more noise, more trash, more smog—and—more gadgets."

A decision to proceed with SST development would simply be an extension of the false premise that new things automatically are better because they are bigger or operate faster. As Mr. Kilpatrick observed:

> We don't have to go back to the horse and buggy, but surely we can get along for a while with the jumbo jet.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McGOVERN. Mr. President, the administration and other proponents of the SST have cited the long-term economic advantages that the building of this plane with Government support would bring to the United States, including a favorable impact on the balance of payments. As a matter of fact, that has been one of the principal justifications offered in going ahead with the plane at this time, in spite of the serious questions raised about it by many Members of Congress and by knowledgeable people elsewhere in our country.

It is my own view that, far from aiding our balance of payments, the development of this plane might very well have the opposite effect. The SST could well prove to be one of the biggest business misadventures in our national experience.

This project has been referred to on a number of occasions by its critics as an Edsel of the airways, but that really does not describe its nature. The Ford Motor Co. built the Edsel without asking for any Federal funds. The taxpayers had nothing to do with that mistaken venture. In that particular instance, the loss was borne by the Ford Motor Co. and its stockholders, not by the taxpayers, as would be the case with the SST. In this case we have the U.S. Government being asked to encourage private business to put up a lion's share of the development money and to do this in a questionable project which could easily lead to the economic ruination of the companies involved. There might be some short-term gain in terms of supply of jobs for the employees of these companies over the next few months. But the long-term impact could be the ruination of those companies and the loss of jobs on a permanent basis of those employed in the various plants.

The Federal Aviation Administration claims that the supersonic transport would be purchased eagerly by foreign airlines, thus improving our balance-of-payments position.

It is argued, for example, that we would realize about $8 billion if 200 of these airplanes were sold at $40 million apiece in the foreign market.

But the net effect could actually be a negative one. First of all, the SST sales would cut into the sales of other aircraft to foreign airlines, including the big jumbo jets we are now attempting to sell in the foreign markets as well as here in the United States.

There is no question that if we move ahead now with an aggressive sales campaign on the SST, it might prompt the known potential buyers of the big jumbo jets to postpone or cancel those orders, holding off for the possibility of later purchases of the SST. That, of course, would have a temporary, if not permanent, impact on our balance-of-payments situation.

Second, foreign airlines might prefer subsonic aircraft and refuse to purchase the SST at all. There is no assurance at this point of ready orders for the SST.

Third, if foreign buyers were to see some advantage in supersonic flight, they might very well purchase some or all of their aircraft from the competitor, the British and French Concorde that is expected to be in service in 1974. There is no guarantee that even if we go ahead with this airplane and everything works out as anticipated, we could look forward to anything like an $8 billion market abroad. That market at best would be divided among the possible suppliers of supersonic planes.

Mr. RANDOLPH. Mr. President, will my able colleague yield for a question?

Mr. McGOVERN. I yield to the Senator from West Virginia with the understanding that I not lose my right to the floor.

SENATOR RANDOLPH URGES ACTION

Mr. RANDOLPH. Mr. President, aside from the validity of the further funding of the SST at the agreed on conference figure of $210 million as against the earlier action in the House of $290 million and the opposition in the Senate to that House action, what is the amount, I ask my friend, is provided in the pending appropriations conference report for mass transportation in the United States?

Mr. McGOVERN. Mr. President, I am sorry. I cannot answer the Senator's question.

Mr. RANDOLPH. Is it not $600 million in contract authority.

Mr. McGOVERN. I think that figure is substantially right. But I do not have the exact amount at hand.

Mr. RANDOLPH. Mr. President, $600 million is, I believe the amount. The Senator from South Dakota is a man who is interested in many forms of transportation in the United States of America, as he is, of course, concerned in the travel of people between this country and other parts of the world. I am sure that he is giving careful consideration—as are others who take the position he takes—that to continue the fight against SST, in a sense, could lose for us funds urgently needed now for the development of mass transportation in the United States.

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

Mr. McGOVERN. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wonder, since the Senator from West Virginia brought up the question of mass transportation, how many people would benefit from mass transportation as against the number of people who are expected to benefit from the SST.

Mr. RANDOLPH. Mr. President, more people would, of course, benefit from mass transportation. That is why I am concerned. We are strangling people in the choked and congested metropolitan area traffic patterns that need modernization.

Mr. KENNEDY. It is my understanding that by 1980 close to 80 percent of the people will be living within the major cities of this Nation.

Mr. RANDOLPH. I would hope this would not become a fact. We need to disperse our population in overcrowded cities to less urban areas.

Mr. KENNEDY. I would hope also that that would not be the case. But the best estimates I have seen, made by various population studies, show that.

I agree with the Senator. We hope that we will be able to develop the kinds of programs that would make living in rural America much more appealing and rewarding and satisfactory and afford greater opportunities.

I would think that if there has been one area of shortcoming, it has been in mass transportation and in the public transportation areas.

I am somewhat distressed that there would be any kind of suggestion made whatsoever in trying to compare the kind of need in the field of mass transportation versus that would benefit only a very infinitesimal part of our traveling public. Even though the number is infinitesimal, it will probably benefit a small percentage of an economic group that will be able to take advantage of that form of transportation versus the overwhelming need and demand for the kind of investment of public funds in the area of public transportation that has such a wide variety of needs in terms of many of our cities and the interconnecting parts of our cities and the country today.

Mr. RANDOLPH. Mr. President, I appreciate what the Senator from Massachusetts has just said. Yet I come back to the point that there are other items in the appropriations bill above and beyond the amount funded for the SST. I wonder how long it will seem advisable to fail to give the Senate an opportunity, as we had an opportunity on a prior occasion, to come to grips with the matter of voting on the SST and/or the appropriations in total.

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

Mr. McGOVERN. I yield.

Mr. PROXMIRE. Mr. President, first I would like to say to the distinguished Senator from West Virginia that it is $214 million that is requested for mass transportation and not $800 million. It is interesting that the administration has $214 million for mass transportation and $290 million for the SST.

I think the Senator from Massachusetts dealt very well with the priority implications of that. That is one of the principal reasons why, along with the environmental control matters, that we are so determined to do our best with the enormous expenditure proposed for the SST to hold this up.

I may say to the distinguished Senator that those who are opposed to the SST are very anxious to compromise. We have made proposals that I think are very fair.

We have discussed those with the people who favor the SST. We think the suggestions we made have been very fair. We have not been able to meet with any kind of attitude or compromise on the part of some of those who favor the supersonic transport.

We do not want to hold this up in any way. We would be willing to let the matter go through. We would be very anxious to get the Department of Transportation appropriations bill passed. If this were dropped out of the bill, it would go through in a matter of 2 minutes and would run through the other body in no time at all.

It is the advocates of the SST, in my opinion, who constitute the minority of this body, who want to hold up the Department of Transportation appropriations. It is not those in the majority who think it ought to be deleted.

Mr. McGOVERN. Mr. President, I thank the Senator from Wisconsin. He is suggesting a possible way of resolving what, I think, is an unfortunate dilemma, and that is the delay of these other items in the transportation bill because of one controversial item.

I would hope the Senator from West Virginia and other Senators who are concerned, as I think we are all concerned, about moving ahead, the noncontroversial items in the transportation bill, would consider carefully what the Senator from Wisconsin just suggested because I see there the basis for resolving this matter quickly if we could take the SST item out of the bill, lay it aside temporarily, and move on to the rest of that legislation. I think the Senator from Wisconsin is correct when he said we could then act on the measure and dispose of it with little controversy about the other sections of the bill.

Does not the Senator think that is a possibility?

Mr. RANDOLPH. I certainly would like to see a plan agreed to or adopted whereby we could come to an agreement on this vital appropriations bill.

I fully understand, and I have noted heretofore in this Chamber, the effort of the Senator from Wisconsin as an ardent advocate of his case. Yet, he realizes, that the wheels, which are not only creaking but are not turning in the Senate in reference to the business of this body, has stopped our process. We are a legislative body. I do not use that merely as an expression. I think it is recognized throughout the country, although sometimes it may not be recognized in this body, that our impasse is something which does this body no credit. However, as I said, I understand the advocacy a person has for or against a program or a project; and I understand the depth of determination a person may have, as in this case with respect to the funding of the SST.

I understand this very much. Yet I also realize that mass transportation, as I brought to the attention of the Senator from South Dakota, is a part of this bill with an amount of $600 million. This is an important issue in which we are all interested. Public transportation for an expanding nation of people, on the move, in mass numbers is a challenge to our legislative purpose in funds actually made available.

When I sought to come to this body in 1958, as I said on Saturday afternoon in this Chamber, one of the planks of my platform was that the rules be revised so that a majority of Senators present and voting could limit debate on a subject. We have finally come to two-thirds rather than three-fourths. I am a firm believer that we need only a majority of Senators present and voting to determine whether we may come to limit debate before a vote. Not a Senator in this Chamber was required to receive more than a majority of the votes of his State for his election. He did not need two-thirds or three-fourths of those present and voting in his State to serve in this body.

I am wondering if the Senator from South Dakota or the Senator from Wisconsin are in agreement with me that one of the priorities of the 92d Congress must be, if possible, to bring about a majority rather than a two-thirds vote in order to invoke cloture—the limitation of debate, wherein each Senator would still have 1 hour's time to debate an issue if he so chose.

Mr. McGOVERN. I have long advocated modifying the rules in that direction. But I do think one of the unfair implications that has been leveled against the Senate in the last week or so is that we are solely responsible for the legislative impasse that faces Congress in the closing days of this session.

My interpretation of what happened on one important legislative matter after another is that our colleagues in the other body have refused to compromise or have insisted on compromises that were 90 percent in their direction, whether one is talking about the supersonic transport, legislation on the defense appropriation, or the Cambodian matter that was brought into the discussion last week by the Senator from Alaska.

I have just returned from a 2-day conference with Members of the other body on food stamp legislation. We started off by identifying 26 differences between the House bill and the Senate bill. Reluctantly, we yielded on 22 of those 26 differences. Four items, we felt, were so funded that we could not yield. Because of the integrity of the Senate conferees who held firm on those four points, the conference split up and we could not get any concession at all. In the face of that, in the closing days of the session it is the responsibility of Members of the Senate to stand up and protect the convictions of the Senate on these important matters. I think we would be sharply criticized in the months and years ahead, if we capitulated on most questions. We tried to be reasonable in conference, but there does come a time when a Senator must stand on his convictions. I know the Senator from West Virginia feels that way.

I do not think there has been sufficient discussion and debate on the items we have had under consideration the past week. What is so regrettable is that many of these major proposals have come to us in the closing days of the session, and under conditions where Senate conferees were forced to capitulate to return a report.

I think the suggestion of the Senator from Wisconsin to leave out the SST and

move ahead on other items is a practical solution.

Mr. RANDOLPH. It may be the practical solution. I want a workable solution and I am continuing to do what I can toward that end.

Mr. PROXMIRE. Mr. President, the Senator addressed a question to both the Senator from South Dakota and the Senator from Wisconsin. Will the Senator yield?

Mr. RANDOLPH. I shall yield in just a moment.

The Senator mentioned conference disagreements. I have had a happier result than the Senator. I have been a conferee on the air pollution legislation, highway legislation, rivers and harbors-flood control legislation, and other measures including health and safety. We have solved complex matters and we have brought in conference reports which have been approved both in the House and in the Senate.

I am not attempting to draw comparisons in connection with the importance of the subject matter in conference reports, but those I have referred to were highly important and they were resolved.

I am glad we were able to do that, and I do not reflect on any Senator in any way. I only reemphasize the need somehow or other for a spirit of compromise, a spirit of compassion, in a sense, to bring about the settlement of these matters, keeping in mind that the conviction of any Senator is foremost and understandably so. But there is also to be considered what all the people want.

But I appreciate what has been said by the Senator from South Dakota, the Senator from Wisconsin, and the Senator from Massachusetts.

I am not a carping critic. I do not propose to go further than what I have said, and that is to indicate that we have in this appropriations bill $600 million for mass transportation which is urgently needed for the people of the United States. This also must be considered, as must the item of $210 million for the SST.

Mr. McGOVERN. I would urge the Senator to use his great influence—and he does have great influence—to discuss with other Members of the Senate who are interested in this issue the possibility of this kind of settlement, because I would think it would be in the best interests of the country and of us all. Let us move ahead on the defense appropriation and clear the other items that are not in controversy, and then come back next year and take another look at the supersonic transport issue.

Mr. RANDOLPH. I have been doing what the Senator has suggested we should do. I am sure other Senators have been. It is not a matter of a Senator accommodating himself to plans for Christmas or the New Year. Senators realize that we do not, in a sense, punch a time clock as to a day or week or month. We are certainly on call and should be about the business of the public and Government at any time. I am not thinking of that. I am not so much interested in the question of imagery that we hear so much about these days. We frequently talk about the image of the Senate or the image of the House. I am thinking in terms of the actual functioning of the legislative body in concert with the responsibilities of the executive branch. Often I will agree with the Senator that the fault can be placed at doors other than just our own.

Mr. McGOVERN. I resent strongly the repetition we have had in the last few days in the press about the Senate being irresponsible when it questions for a day or two some particular item. There is a column in this morning's Washington Post, written by two distinguished and respected columnists who happen to be personal friends of mine. I do not welcome getting into a quarrel with them, but the thrust of that article is that it was somewhat irresponsible for the Senator from Alaska (Mr. GRAVEL) to spend a few hours last week questioning an item that was not in our national interest. He questioned what he termed was a blank check in advance that could be a surrender of the powers of the Senate in the field of foreign policy, and he raised some thoughtful questions about it, and I thought he raised them very well. I happen to have been absent from the Senate at that time, and I would have been embarrassed had I been gone and no Senator had raised a question and let it be a matter of record. I think we came close to passing another Tonkin Gulf Resolution through this body without debate. The columnist challenged the leadership and wrote that—

> At no time did the Senate Democratic leadership make a serious effort to shut him off. This gap helps explain the miserable record of Congress in 1970.

I do not think it was a failure on the part of the leadership to permit the Senator from Alaska (Mr. GRAVEL), who was joined by the Senator from Arkansas (Mr. FULBRIGHT) and other Senators, to make the point that they do not want to be committed again to a blank check surrender, in which we surrender our powers in the foreign policy field. In my opinion, he deserves the commendation, not the censorship, of the press or his colleagues. Frankly, I think the Senator from Montana (Mr. MANSFIELD) and the leadership on the other side were respecting what we all respect, and that is to stand up and question thoughtfully—and I think at not unreasonable length—a very controversial item.

Mr. RANDOLPH. There was a vote, if I may interject.

Mr. McGOVERN. Yes.

Mr. RANDOLPH. I supported the Senator from Alaska (Mr. GRAVEL).

Mr. McGOVERN. Yes.

Mr. RANDOLPH. We did not win. I am sure that our position was right. I studied the problem. Even though we did not prevail, we came to a vote on it. That is what I want here.

Mr. McGOVERN. I agree. I think that if we could work out an arrangement on the transportation appropriation bill to vote on those sections other than the SST, we could dispose of them in 10 minutes. Then, if the Members of the Senate want to vote on the SST, I am sure the Senator from Wisconsin (Mr. PROXMIRE) and other Senators will want it to come to a vote without further debate and discussion. I am sure the Senator realizes that.

Mr. RANDOLPH. I hope my colloquy with the Senator and other Senators who have been a part of our discussion—although it settles nothing—is an indication of concern of those who have varying viewpoints. I trust we can perhaps enter into such an understanding or agreement as has been suggested. I am not sure that it would be the best one, but I would be for such an agreement if there were no other way to resolve this issue.

Mr. McGOVERN. I thank the Senator.

Mr. President, to resume my remarks on that portion of the SST issue that relates to the balance-of-payments problem, I think it should be pointed out that even if the best estimates are true and that there is a substantial sale of this aircraft in foreign markets, what that means in effect is that more and more Americans will be flying in aircraft that had gone into foreign markets, and under the licensing of foreign companies, so that in a few years we would have exported as many dollars in fares as we would have imported through the sale of the planes themselves. I find it very hard to understand how that represents an improvement in our balance-of-payments position.

So it seems doubtful to me that the builders will realize anything substantial from the SST sales in foreign markets, and what is realized would possibly be offset by the increase in the use of that aircraft by American passengers spending both their fares and their purchases abroad.

Of even greater significance, since we are concerned with Government investment here, is that even if Boeing could make substantial sales and private profits abroad, there is unlikely to be any public purpose which would even remotely justify pouring some $1.3 billion of the taxpayers' dollars into this project.

The outlook in the domestic market is not much brighter. Our airlines are already in financial trouble. Airports are congested and unsafe. The number of empty seats has been growing and costs have been rising sharply. If there is one thing they do not need it is a demand that they purchase large quantities of enormously expensive new aircraft.

If they do they might find that they have made a tragic mistake. They will have invested some $50 to $60 million apiece in aircraft of doubtful utility. Perhaps some businessmen and diplomats will see enough value in supersonic flight abroad to pay the extra fares, up to 30 percent more than present rates, which will be required to make the SST commercially viable.

In that connection, as one who has done a considerable amount of international travel, as have other Members of the Senate, I question how many people who are traveling today are really that interested in reducing by 2 to 3 hours the amount of time it takes to fly from here to cities in western Europe. A trip of this kind is often the only time in the life of a busy person when he can get away from the pressures of the tele-

phone and everyday life. I think the number of people who are all that anxious to cut by 2 or 3 hours the airtime it takes to cross from the United States to Europe has been exaggerated.

Perhaps there are people who are willing to accept the additional hazards that may be associated with the SST, and perhaps they will find the added advantages of SST travel sufficiently attractive so that they are willing to make that payment, but I suspect that very few travelers will feel that those advantages are sufficiently strong to overcome many of the questions that have been raised about this airplane.

It is important to point out that the amount of time with which the traveler is concerned is not simply flight time but the time required from the door of his home or office to the door of his destination. When the total is considered, the SST may reduce the transatlantic traveler's time from the present 11 hours to about 8 hours, hardly a remarkable achievement, worth this kind of investment and possible damage to our environment.

In that connection, I recall a humorous and yet, I think, serious article written a couple of years ago by the columnist, Art Buchwald, in which he described an imaginary first flight of the supersonic transport.

He began by describing a delay of a couple of hours lost in traffic by the pilot in trying to reach the airport, because of the congested traffic. Then after that, there was a couple of hours delay while the plane was waiting for other aircraft, in order to get lined up for takeoff. After they got in the air, there were further delays because of congestion over the airport, and the airplane was asked to assume a holding pattern some distance away before it climbed and moved out on course.

Then, when the plane gets over the intended airport of its destination, there are further delays in landing, and then delays getting from the runway to a place to park the aircraft. Finally, after a lot of other delays such as all of us are familiar with in air travel, the pilot announces to the passengers very proudly that they have just clipped 4 minutes off the record of the *Queen Mary*.

I think that story makes, in a humorous way, the serious point that all of us are aware of, that there are a good many delays in connection with travel that have nothing to do with the size of the engine or the speed of the aircraft, and that we ought to think seriously about attacking some of those other problems on the ground that have to do with traffic, airport management, and the supplying of more FAA personnel, who are badly overworked, before we move further into this doubtful project.

But we must add to this the probability that because of its environmental impact, the countries to which supersonic flight might be economically attractive from the standpoint of the airlines might prohibit it. We have been assured that the two prototypes will not damage the environment. We have no such assurance concerning the eventual commercial use of this aircraft in large numbers, and we certainly have ample warning to the opposite effect.

The Senator from Wisconsin (Mr. NELSON) has introduced legislation to prohibit the use of American airports and American airways for supersonic craft of this kind. Senator NELSON'S bill seems quite reasonable under the circumstances. Whether or not it is adopted, it is possible that other countries might incorporate such legislation and leave the SST with no place to go.

Such considerations leave us little reason to wonder why only about 122 copies of the Boeing SST have been ordered, or why the orders stopped coming in many months ago. They also lend credence to the following statement by K. M. Ruppenthal, director of the transportation management program at Stanford University:

> Any major U.S. airline will have to dedicate its entire net profits for at least a decade to the purchase of SSTs, unless profit margins can be improved, the tax burden reduced, or substantial funds made available from other sources.

In short, the SST could well be an economic disaster for Boeing, for the airlines, and for the Government. And if that does occur, it will have been the sweet attraction of Government money which distorted the judgment of the private aircraft and air transport industries, luring them to the precipice of economic ruination and then standing back as they topple over—taking some $1.3 billion of tax dollars with them.

I think in this connection, Mr. President, we should be reminded that in the 1950's we had heard the same type of arguments made in behalf of Federal building of the jets that were built in the fifties and sixties. We were told that without that kind of Federal assistance, the commercial companies could not move ahead with the delivery of jet aircraft that would keep the United States in the forefront. But that money request was rejected by Congress, and the commercial companies did go ahead, they developed the best jets in the world, and the United States clearly dominates that market at the present time.

But I am deeply troubled as well about what this project says about the kind of national priorities we seek to establish through the use of Federal resources.

The Senator from West Virginia asked me a while ago about the mass transit funds that are in the transportation appropriation bill. Of course, like other Senators, I am concerned that we do allocate sufficient funds to deal with our mass transit problems in this country. In addition to that, there is a whole range of programs that we ought to be funding that we are postponing because of the budget pressures that remind us, every day, that there are limits to the resources we have, and we have to choose very carefully how those resources are spent.

The President saw fit, a few days ago, to veto the manpower training and public service employment bill—I suppose primarily on the grounds that it was money we do not have in the budget at the present time. But one wonders how we can deny programs of that kind on budgetary and fiscal grounds, and then argue for moving ahead on an expensive and highly doubtful project such as this.

Who is the SST for?

Certainly it is not designed for the millions of Americans who, for want of advanced ground transportation systems, waste billions of hours each year going to and from their jobs. Some 90 percent of our people will have contact with the SST in only two forms—part of their tax dollars will have paid for it, and they will hear its booms and suffer its environmental impacts as they sit in long lines of automobiles or on railroad waiting platforms struggling to get where they want to go.

Advocates of this program cite the prestige and the prominence we can derive from it. They tell us how important it is for the United States to be "first" in aviation technology, and how valuable it is to have other nations look up to us. The President summed it up in his statement after the Senate vote against SST funding:

> Throughout the history of aviation, the United States has been first in this field. If the action of the Senate is not reversed, our country will be relegated to second place in an area of technological capability vital to our economy and of profound importance in the future.

Mr. President, I view such statements with much dismay. They belie a seriously distorted vision of what makes a nation great and wins for it the respect of other peoples around the globe. It professes the same sort of false and costly pride which refuses to let go of a mistaken foreign policy objective because of the notion that somehow this would embarrass us in the eyes of the rest of the world.

It would be a much greater measure of our wisdom and our leadership as a country if we would take pride in answering the crushing needs of this country that plague us on every side. Certainly, mass transit is one upon which we ought to be able to agree. It is one where we have the expertise and where we have a clear-felt public need. It is a program that would benefit most of our citizens at some time or other in the course of their lives. But the list is endless—housing, schools, food and nutrition, prevention and treatment of disease, generation and distribution of fuels and power, the environment, and a host of others.

I can see no cause for pride for us to aim for a tiny capsule, with perhaps a hundred international travelers inside, streaking upward at 1,800 miles per hour to escape choking air, over a landscape strewn with waste, watched by millions of people who do not even have enough food for their tables.

But the President also said that the SST will provide jobs. He said that the Senate's action means the loss of at least 150,000 jobs in aerospace and other industries. Most of those jobs would, of course, be a number of years in the future, since at this point we are merely considering prototypes, not production. But, in any case, I do not see how we can avoid seeing this as a phony issue.

Shortly after making that statement, the President vetoed the Employment

and Manpower Act of 1970, which included $200 million for public service employment—for jobs for people who need them most desperately, performing work that needs to be done in every State in the Union.

If the President was deeply concerned about jobs on December 5, it appears that he lost that concern by December 16.

But whatever the President's feelings, I suggest that there are much better ways to deal with the severe problems faced by workers in aerospace and defense industries. Construction of an unnecessary and costly new airplane is not the answer. We should, instead, be developing the means to convert those men and those facilities to constructive uses where they can make a positive contribution to our society.

Mr. President, during the course of this discussion on the supersonic transport, a number of thoughtful editorials have been published in various newspapers around the country, and I should like to call particular attention to the editorial in Saturday's New York Times entitled "The Senate Squeeze." I ask unanimous consent to have the editorial printed at this point in the RECORD.

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

THE SENATE SQUEEZE

There is a game being played in Washington these days called the Senate squeeze. Advocates of the supersonic transport plane have moved to shut off debate today, two days after it began, on the appropriation bill which includes money for the SST. With Christmas and final adjournment just around the corner and with the Senate burdened with a hopelessly crowded calendar, the pro-SST forces are counting on the impatience of their colleagues to switch votes in their favor.

This is low-grade gamesmanship. It is not new. The SST issue could have been brought to a vote months ago, but its supporters deliberately held it back until the election. They thought—mistakenly—that some wavering Senators, who were feeling the heat of public opinion, would be willing to vote for the plane once the election was safely past. The Administration cooperated by suppressing reports from its own agencies, which were distinctly unenthusiastic about the plane, until the Senate had voted.

When the Senate still voted decisively—52 to 41—against any further money for the SST, its supporters did not give up. They went into the House-Senate conference determined to sell out the Senate position, and they did.

Against this background, the Senate is under no obligation to impose cloture and hasten to another vote. This is not a case of a willful minority blocking the judgment of the majority. On the contrary, a minority is trying to extract by maneuver and pressure what it lost on a roll-call vote.

Senator Mansfield, the majority leader, has cogently defined the issue. Although he is opposed in principle to any filibuster—as is The Times—Senator Mansfield believes that since the Senate conferees deliberately "capitulated" to the House, the filibusterers in this instance are actually defending the will of the majority by preventing a vote on a sham compromise.

The Senate can readily dispose of this problem and turn to other business. It has only to table the conference report and pass a resolution to continue funds for the Department of Transportation and minus the SST money. Then the next Congress when it meets in January can reconsider the SST question without haste or strain.

It is not so easy to see a forthright solution to the deadlock which has been created by the omnibus trade-health-welfare-Social Security bill. Senator Long and his Finance Committee colleagues played the same waiting game as the SST supporters and with the same awkward results.

There is just not time enough for the Senate to take the omnibus bill apart, vote on its separate components, send them back to the House for a conference and get them settled before time runs out on Jan. 3. In this squeeze, President Nixon and the Senate Republican leadership will have to make a choice, unattractive as that painful responsibility is. They can probably get through the Social Security bill with either import quotas or the President's Family Assistance Plan tied to it.

Does the President care more about appeasing his Southern supporters with textile quotas or more about reforming the welfare program? He professes to want both, but he cannot get both. The choice he should make in the national interest is clear but his preference is not. If he refuses to choose, the whole omnibus bill will die in the Senate squeeze.

Mr. McGOVERN. I also ask unanimous consent to have printed at this point in the RECORD an article by Mr. George Lardner, Jr., with the headline "Start of SST Fleet Figure at $5 billion," published in today's Washington Post.

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

START OF SST FLEET FIGURED AT $5 BILLION

(By George Lardner, Jr.)

The chairman of a special White House advisory committee on the supersonic transport (SST) has warned that another $5 billion may be needed to certify the jetliner and launch production of a commercial SST fleet.

Dr. Richard L. Garwin, a member of the President's Science Advisory Committee, said he was convinced that it will take much more government financing than the Nixon administration has suggested to make the SST a commercial success.

He pointed out that the builders of the controversial superjet have been repeatedly allowed to hold back proposals for financing the project beyond the production and testing of two SST prototypes.

The Boeing Co., which is building the SST, and General Electric, which is making the engines, were originally supposed to submit plans for financing certification and production costs by June 30, 1968. The deadline, Garwin said, has now been postponed until 1972.

Meanwhile, Garwin said, the FAA has estimated that it will cost $600 million to certify plans and another $3.2 billion to finance initial production of commercial models. Both calculations, he added in a phone interview, were put in terms of 1967 dollars. Inflation, he estimated, will send these costs up to $5 billion by 1976.

Supporters of the SST in Congress and within the Nixon administration have steadily insisted that private financing can and will take over once the two SST prototypes have been built and flight-tested, with an estimated $1.3 billion in government support.

But Garwin, who has repeatedly recommended the government's abandonment of the SST, said he still feels that the 1,800-mile-an-hour jetliner will remain too shaky a project to get along with fresh federal funds, over and above the $1.3 billion.

"After all," he told a Senate subcommittee earlier this year, "the prototype will not have demonstrated the actual capability of the production aircraft, nor does it need to any more."

The FAA's initial contract with the Boeing Co., would have required the prototypes to have had the same aerodynamic configuration as a "safe and economically profitable" production model.

But under contract changes adopted last year, Garwin said, the production models can be different and the prototypes need only show that a successful SST program—financed either publicly or privately—"could emerge" from their performance.

Garwin is an industrial physicist with the IBM Corp. He headed an ad hoc scientific advisory panel whose findings on the SST were submitted last year to Mr. Nixon's science advisor, Dr. Lee A. DuBridge, and to the White House.

Rep. Henry S. Reuss (D-Wis.) has said he was told the report labeled the SST "an economic fiasco, an environmental disaster and a social outrage," but the White House refused to release the study on the grounds that it was "prepared for the advice of the President."

Two conservationists subsequently filed suit for the report under the Freedom of Information Act, but the issue is still in the courts. At his recent news conference, Mr. Nixon said he felt such reports "should be held in confidence," although he had "no objection to the substance of the reports being made public." Garwin said he still did not feel free to discuss the study itself, but he emphasized that he "said everything I have to say" about the SST in the course of critical testimony this year before three congressional committees.

The Senate voted earleir this month to end the SST program, but Mr. Nixon, who asked for a $290-million appropriation this year, urged that it be kept alive. House-Senate conferees agreed to support $210 million for the project, of which half has already been spent. The conference report ran into a Senate filibuster and is now tied up in the end-of-session jam.

The government, Garwin has maintained, should have held Boeing in default of its initial contract because of its failure to meet original specifications for the SST. Instead, he says, so many changes have been approved that "it is problematical whether the SST will fit on existing airfields." The commercial SST, Garwin has also protested, will produce as much "sideline noise" on airport runways as 50 Boeing 747 "jumbo jets" taking off at once.

Reiterating that "very major uncertainties" about the SST will remain even after the prototypes are built and tested, Garwin said he thinks it very likely, as he told one congressional hearing, that "much more government money will be necessary."

If the half-completed prototype program is so promising, he said, Boeing ought to jump at the chance to drop further federal funding. "Congress has already appropriated $700 million," he said. If the government dropped the program now, he said, Boeing would be free of any obligation to pay the money back.

"If this were such a good commercial deal," Garwin said, "I would expect they would be anxious to do this."

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

Mr. McGOVERN. I yield to the Senator from Kansas, with the understanding that I will not lose my right to the floor.

Mr. DOLE. I appreciate the Senator from South Dakota yielding.

I have just reread a letter sent to the President of the Senate and Speaker of the House, dated June 14, 1963, signed by then President Kennedy, with reference to the SST.

At that time, of course, President Kennedy initiated the development of the SST and outlined some of the reasons he indicated:

It will maintain the historic United States leadership in aircraft development.

It will enable this country to demonstrate the technological accomplishments which can be achieved under a democratic, free enterprise system.

Its manufacture and operation will expand our international trade.

It will strengthen the United States aircraft manufacturing industry . . .

President Kennedy went on to say that, of course, it would cost money. But he also stated:

We cannot, however, permit this high cost, nor the difficulties and risks of such an ambitious program to preclude this country from participating in the logical next development of a commercial aircraft.

The question I have for the Senator from South Dakota is this: Has there been such change, now that we have invested some $700 million, such a change since 1963, in a program initiated by the late President Kennedy, that we should now turn our back on the program? What change has been brought about? Why should we not finish the program initiated by President Kennedy?

Mr. McGOVERN. I think that at least two things have happened in the intervening years.

First, we have at least 7 years of perspective that President Kennedy did not have at the time his life was brought to an end. I think that if he were here and able to speak for himself he would express the hope that we would have learned more not only about this project but also about a number of other recommendations that were made with whatever vision he had at that time. I suspect he would see the issue of national priorities in a different light.

Second, we know a great deal more about the problems of the environment today than we did early in the 1960's, when President Kennedy was first recommending this airplane. I doubt very much that the environmental impact of the aircraft entered into the late President Kennedy's thinking at that time. The environment and the problems of air pollution are matters that have come into national focus, as the Senator from Kansas knows, more in recent years than they did at the beginning of the 1960's. At that time, the overriding considerations were gross national product, matters associated with balance of payments, and so forth. But now we have come to understand that there are other factors of equal if not greater importance, and one of those is the overriding importance of protecting the environment.

I do not want to suggest here that for all time we ought to dismiss the possibility of building a supersonic transport. I do think that we ought to slow down this project, postpone it for the time being, until we have more answers to these environmental concerns.

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

Mr. McGOVERN. I yield.

Mr. DOLE. It has been suggested, not by the Senator from Kansas but by some who are very knowledgeable insofar as the SST is concerned, that one way to find the answers to some of the environmental questions—and they are very serious questions—is to proceed with the prototype program.

Why not let the Americans determine the environmental aspects? Why wait for the British, the French, or the Russians? Why should not we determine the answers? And how can we determine the answers without a prototype?

Mr. McGOVERN. I am not sure that the progress the French, the British, and the Russians are supposedly making in this field justifies our making the same mistake.

Mr. DOLE. How will we ever find the answers unless someone proceeds?

Mr. McGOVERN. To say that they are going ahead does not carry very much weight with me. As a matter of fact, I have heard reports from a number of people—particularly in Britain—since the Senate action in delaying this program, to the effect that they thought it was a wise judgment on our part, indicating that the British, as a matter of fact, might like to get out of their contract on this aircraft and take another look at it.

But if the United States aspires to a role of intelligent international leadership, we should not plunge into these projects merely because other countries have decided to go ahead. I think the environmental questions and the question about national priorities, which were not in as sharp focus in 1962 and 1963 as they are today, are the real considerations that justify delaying this program.

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

Mr. McGOVERN. I yield.

Mr. PROXMIRE. The Senator from Kansas asked, "Why should not we produce the prototype so that we can find out the effect of the supersonic transport on the environment?"

The answer to that is that the scientists say overwhelmingly that there is nothing—but nothing—that these two prototypes can contribute to this question. What we need in order to find out what effect hundreds of SST's flying in the same corridor at 65,000 to 70,000 feet will have on the ozone is to have planes fly at that height. What we need in order to determine the sound problem is to have the engines. We do not have to produce the prototypes in order to answer a single question about the environment. We have military planes that are supersonic. We have the engines available now. So we do not need to spend this additional money to get answers as to the environment. To the extent that we can get them at all on the prototypes, we can get them with the military plane.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from President Kennedy to the President of the Senate and the Speaker of the House dated June 14, 1963, with reference to the development of the SST.

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

LETTER TO THE PRESIDENT OF THE SENATE AND TO THE SPEAKER OF THE HOUSE ON DEVELOPMENT OF A CIVIL SUPERSONIC AIR TRANSPORT

JUNE 14, 1963.

DEAR MR. ————: The Congress has laid down national aviation objectives in the Federal Aviation Act of 1958. These include the development of an air transportation system which will further our domestic and international commerce and the national defense. These objectives, when viewed in the light of today's aviation challenges, clearly requires the commencement of a national program to support the development of a commercial supersonic transport aircraft which is safe for the passenger, economically sound for the world's airlines, and whose operating performance is superior to that of any comparable aircraft.

Our determination that the national interest requires such a program is based on a number of factors of varying weight and importance:

A successful supersonic transport can be an efficient, productive commercial vehicle which provides swift travel for the passenger and shows promise of developing a market which will prove profitable to the manufacturer and operator.

It will advance the frontiers of technical knowledge—not as a byproduct of military procurement, but in the pursuit of commercial objectives.

It will maintain the historic United States leadership in aircraft development.

It will enable this country to demonstrate the technical accomplishments which can be achieved under a democratic, free enterprise system.

Its manufacture and operation will expand our international trade.

It will strengthen the United States aircraft manufacturing industry—a valuable national asset—and provide employment to thousands of Americans.

The cost of such a program is large—it could be as great as one billion dollars for a development program of about six years. This is beyond the financial capability of our aircraft manufacturers. We cannot, however, permit this high cost, nor the difficulties and risks of such an ambitious program to preclude this country from participating in the logical next development of a commercial aircraft. In order to permit this participation, the United States, through the Federal Aviation Agency, must proceed at once with a program of assistance to industry to develop an aircraft.

The proposed program, though it will yield much technological knowledge, is principally a commercial venture. Its aim is to serve, in competition with others, a substantial segment of the world market for such an aircraft. While the magnitude of the development task requires substantial Government financial participation, it is unwise and unnecessary for the Government to bear all of the costs and risks. Consequently, I propose a program in which (1) manufacturers of the aircraft will be expected to pay a mimmum of 25% of the development costs, and, in addition, (2) airlines that purchase the aircraft will be expected to pay a further portion of the Government's development costs through royalty payments.

The requirement for cost sharing by the manufacturers will assure that the cost of the program will be held to the absolute minimum. In no event will the Government investment be permitted to exceed $750 million. Moreover, the Government does not intend to pay any production, purchase, or operating subsidies to manufacturers or airlines. On the other hand, this will not exclude consideration by the Government of credit assistance to manufacturers during the production process.

Although the Government will initially bear the principal financial burden in the de-

velopment phase, participation by industry as a risk-taking partner is an essential of this undertaking. First, the development of civil aircraft should be a private enterprise effort, a product of the interaction of aircraft manufacturers and their prospective customers. We wish to change this relationship as little as possible, and then only temporarily. If the Government were the full risk-taker, the degree of control and direction which it would have to give to the program, to the expenditure of funds, to the selection of designs, to the making of technical decision, would of necessity be too great. If however, private industry bears a substantial portion of the risk, the degree of Government control and the size of the Government staff required to monitor the program can be held to a minimum.

Second, our objective is to build a commercially sound aircraft, as well, as one with superior performance characteristics. This will require, at a relatively early stage, a determination whether the aircraft's cost and characteristics are such that it will find a commercial market. This is a difficult task, and our decision that we have succeeded in developing such a commercially sound aircraft will, in large measure, be attested to by industry's willingness to participate in the risk-taking.

If at any point in the development program, it appears that the aircraft will not be economically sound, or if there is not adequate financial participation by industry in this venture, we must be prepared to postpone, terminate, or substantially redirect this program.

Our first concern, however, must be to get the program launched. I am convinced that our national interest requires that we move ahead in this vital area with a sound program which will develop this aircraft in an efficient manner. For that reason I commend this proposal to your early attention.

I will shortly submit to the Congress a request for funds to meet the immediate requirements of this program, such as the detailed design competition. Then we will be started on the task of marshalling the funds of Government and the ingenuity and management skills, as well as funds, of American industry to usher in a new era of commercial flight.

Sincerely,

JOHN F. KENNEDY.

Mr. McGOVERN. Mr. President, I yield the floor.

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, without amendment, the joint resolution (S.J. Res. 249) to extend the time for the proclamation of marketing quotas for burley tobacco for the 3 marketing years beginning October 1, 1971.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 14645) to amend title 18 of the United States Code to prohibit certain uses of likenesses of the great seal of the United States, and of the seals of the President and Vice President.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 19333) to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19885) to provide additional revenue for the District of Columbia, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 956. An act to rename a lock of the Cross-Florida Barge Canal the "Henry Holland Buckman lock";

H.R. 3107. An act to officially designate the Totten Trail Pumping Station;

H.R. 4982. An act for the relief of Thomas J. Back;

H.R. 6100. An act for the relief of Hershel Smith, publisher of the Lindsay News, of Lindsay, Okla.;

H.R. 6854. An act to provide for the free entry of a peal of eight bells and fittings for use of Smith College, Northhampton, Mass.;

H.R. 7264. An act for the relief of Mrs. Pearl C. Davis;

H.R. 7334. An act to designate the lake formed by the waters impounded by the Libby Dam, Montana, as "Lake Koocanusa";

H.R. 11547. An act to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to increase the loan limitation on certain loans;

H.R. 12128. An act for the relief of William Heidman, Junior;

H.R. 12564. An act to rename a pool of the Cross Florida Barge Canal "Lake Ocklawaha";

H.R. 13182. An act for the relief of Frank E. Dart;

H.R. 14683. An act to designate as the John H. Overton Lock and Dam the lock and dam authorized to be constructed on the Red River near Alexandria, Louisiana;

H.R. 15270. An act for the relief of Thaddeus J. Pawlak;

H.R. 15272. An act for the relief of David L. Kennison;

H.R. 15505. An act for the relief of Jack B. Smith and Charles N. Martin Junior;

H.R. 16502. An act for the relief of Gary W. Stewart;

H.R. 16965. An act for the relief of Richard N. Stanford;

H.R. 17750. An act to grant the consent of Congress to the city of Boston to construct, maintain, and operate a causeway and fixed-span bridge in Fort Point Channel, Boston, Massachusetts;

H.R. 18858. An act to change the name of the West Branch Dam and Reservoir, Mahoning River, Ohio, to the Michael J. Kirwan Dam and Reservoir;

H.R. 19855. An act to designate the lake formed by the waters impounded by the Butler Valley Dam, California, as "Blue Lake"; and

H.R. 19890. An act to name a Federal building in Memphis, Tennessee, for the late Clifford Davis.

H.R. 17853—AN ACT FOR THE RELIEF OF CARLO BIANCHI & CO., INC.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 17853, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered and the Senate will proceed to its immediate consideration.

The bill, H.R. 17853, for the relief of Carlo Bianchi & Co., Inc., was considered, read the third time, and passed.

EMERGENCY HEALTH PERSONNEL ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 4106.

The PRESIDING OFFICER (Mr. DOLE) laid before the Senate the amendments of the House of Representatives to the bill (S. 4106) to amend the Public Health Service Act in order to provide for the establishment of a "National Health Service Corps," which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Emergency Health Personnel Act of 1970".

SEC. 2. Part C of title III of the Public Health Service Act is amended by adding after section 328 the following new section:

"ASSIGNMENT OF MEDICAL AND OTHER HEALTH PERSONNEL TO CRITICAL AREAS

"SEC. 329. (a) It shall be the function of an identifiable administrative unit within the Service to improve the delivery of health services to persons living in communities and areas of the United States where health personnel and services are inadequate to meet the health needs of the residents of such communities and areas.

"(b) Upon request of a State or local health agency or other public or nonprofit private organization, in an area designated by the Secretary as an area with a critical health manpower shortage, to have health personnel of the Service assigned to such area, and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary is authorized, whenever he deems such action appropriate, to assign commissioned officers and other personnel of the Service to provide, under regulations prescribed by the Secretary, health care and services for persons residing in such areas. Such care and services shall be provided in connection with (1) direct health care programs carried out by the Service; (2) any direct care program carried out in whole or in part with Federal financial assistance; or (3) any other health care activity which is in furtherance of the purposes of this section. Any person who receives a service provided under this section shall be charged for such service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary may provide for the furnishing of such service at a reduced rate or without charge. If a Federal agency or a State or local government agency or other third party would be responsible for all or part of the cost of the service provided under this section if such service had not been provided under this section, the Secretary shall collect from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(c) Commissioned officers and other personnel of the Service assigned to areas designated under subsection (b) shall not be

included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded.

"(d) Notwithstanding any other provision of law, the Secretary, to the extent feasible, may make such arrangements as he determines necessary to enable officers and other personnel of the Service in providing care and services under subsection (b) to utilize the health facilities of the area to be served. If there are no such facilities in such area, the Secretary may arrange to have such care and services provided in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of such care and services.

"(e) (1) There is established a council to be known as the National Advisory Council on Health Manpower Shortage Areas (hereinafter in this section referred to as the 'Council'). The Council shall be composed of fifteen members appointed by the Secretary as follows:

"(A) Four members shall be appointed from the general public, representing the consumers' of health care.

"(B) Three members shall be appointed from the medical, dental, and other health professions and health teaching professions.

"(C) Three members shall be appointed from State health or health planning agencies.

"(D) Three members shall be appointed from the Service, at least two of whom shall be commissioned officers of the Service.

"(E) One member shall be appointed from the National Advisory Council on Comprehensive Health Planning.

"(F) One member shall be appointed from the National Advisory Council on Regional Medical Programs. The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this section.

"(2) Members of the Council shall be appointed for a term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

"(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

"(f) It shall be the function of the Secretary—

"(1) to establish guidelines with respect to how the Service shall be utilized in areas designated under this section;

"(2) to select commissioned officers of the Service and other personnel for assignment to the areas designated under this section; and

"(3) to determine which communities or areas may receive assistance under this section taking into consideration—

"(A) the need of the community or area for health services provided under this section;

"(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Service in providing effective health services to residents of the community or area;

"(C) the recommendations of any agency or organization which may be responsible for the development, under section 314 (b), of a comprehensive plan covering all or any part of the area or community involved; and

"(D) recommendations from the State medical, dental, and other health associations and from other medical personnel of the community or area considered for assistance under this section.

"(g) To carry out the purposes of this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $20,000,000 for the fiscal year ending June 30, 1972; and $30,000,000 for the fiscal year ending June 30, 1973."

SEC. 4. Title II of the Public Health Service Act is amended by adding after section 223 the following new section:

"DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

"SEC. 223. (a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

"(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided*, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"(d) The Attorney General may comprise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

"(f) The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a nonprofit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury."

And, amend the title so as to read: "An Act to amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes."

Mr. JAVITS. Mr. President, could I ask the distinguished majority leader what this is?

Mr. MANSFIELD. Yes, of course. Mr. President, will the clerk please state the title?

The legislative clerk read as follows:

S. 4106, to amend the Public Health Services Act in order to provide for the establishment of a national health service corps.

Mr. JAVITS. I thank the Senator very much.

Mr. YARBOROUGH. Mr. President, I hope that the Senate agrees to the amendment of the House of Representatives to S. 4106.

The purpose of this bill, of which I am a cosponsor, is to authorize the use of commissioned officers of the Public Health Service in providing health services to persons living in communities and areas of the United States where health personnel and services are inadequate. There are rural areas in America containing as many as 12,000 persons without a single medical doctor available to treat them. Wrangel Island, Alaska, with 3,000 people, does not have one doctor.

There are 134 counties in the United States, a number in my own State, without a medical doctor in any one of them. There are large areas in America, with thousands of people living there, but with no medical doctor among them.

The Nation is facing a crisis in the delivery of health care to our citizens. One of the most important ingredients in that crisis is the tremendous shortage of doctors in this Nation. We presently have a shortage of 50,000 doctors in the United States, but that is only part of the problem.

Of the doctors that we do have, an ever-decreasing proportion go into general practice or family medicine so that the odds that a rural or remote area will have a doctor are compounded by the incentives for doctors to specialize.

In 1931, over 75 percent of the physicians in this country were engaged in general practice; by 1949 less than 50

percent were in general practice; and now there are only 20 percent in general practice. The figure promises to go even lower, since less than 15 percent of recent medical school graduates have indicated an intention of going into general practice. In other words, while there was one family doctor for every 1,000 persons in 1931, this figure is one for every 3,000 persons.

To alleviate this problem, Congress has already made a start. At the present time, the President has on his desk ready to be signed into law, my bill, S. 3418, to promote the family practice of medicine by giving emphasis and prestige to family medicine in our medical schools. The bill will provide $225 million for medical schools and hospitals for this purpose over the next 3 years.

But, the problem is now. Many rural areas, as well as urban centers, simply do not have available doctors to provide good health care to people. For that reason, this National Health Service Corps bill will utilize the fine doctors in our Public Health Service to go into such areas and provide needed health care.

At this point, Mr. President, I should point out that there are a few differences in the Senate-passed bill and the bill that passed the House and is presently before us.

While the Senate bill established a National Health Service Corps under a Director, the House bill refers to an identifiable administrative unit within the Public Health Service to assign health personnel in needed areas.

The House-passed bill also includes a provision that a request from a State or local health agency is a prerequisite to assigning health personnel to an area. This was not in the Senate bill.

While the Senate bill provided for $42 million funded over a 4-year period, the House bill is for $60 million over a 3-year period.

Although it may be desirable to go to conference over some of these differences, it is the feeling of the committee and of the author of the bill, Mr. MAGNUSON, that the bill is so essential that we should accept the House amendments in order that we may give the President an opportunity to sign the bill into law as soon as possible.

We are passing a significant bill amid reliable rumors and press reports that the administration is considering a recommendation that eight Public Health Service hospitals be closed along with 30 clinics. This legislation will serve to put the administration on notice that it is the intent of Congress that we will respond to the health crisis of the Nation by providing better health care, not by dismantling our health care system.

Mr. KENNEDY. Mr. President, before the Senate acts on the House amendment, I have a statement on this matter prepared by the distinguished senior Senator from Washington (Mr. MAGNUSON). I ask unanimous consent that his statement be printed at this point in the RECORD.

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

STATEMENT OF SENATOR MAGNUSON

Mr. President, the Senate will send to the President today for his signature S. 4106, the "Emergency Health Personnel Act of 1970." This bill, which now includes some minor amendments made by the House of Representatives, is virtually identical to the "National Health Service Corps Act of 1970" that the Senate passed unanimously on a 66–0 vote on September 21 of this year.

My junior colleague from Washington, Senator JACKSON, and I had the privilege of being the original authors of this legislation. But the fact that this vitally important bill is now ready for the President to sign into law is a tribute to the leadership and vision of many members of the Senate and the House, and a testament to the broad bi-partisan support and cooperation that urgently-needed legislation can elicit.

A total of 27 Senators from both parties, including 14 members of the Committee on Labor and Public Welfare and 11 members of the Subcommittee on Health, co-sponsored the bill. The distinguished Chairman of the Committee, the Senator from Texas (Mr. YARBOROUGH) held hearings on the bill in the midst of an almost crushing legislative schedule before the Committee, and he promptly secured the approval of Democrats and Republicans alike to report the bill for floor action. The floor manager of the bill, as the Senate will remember, was the able Senator from Colorado (Mr. DOMINICK), whose persuasiveness and knowledge of the legislation was responsible for the 66–0 vote by which it passed the Senate.

The House of Representatives then began to consider the Senate-passed version of S. 4106, and several other very similar bills introduced by Members of the House. The Committee on Interstate and Foreign Commerce of the House held two days of hearings on the bill on November 24 and 25, under the leadership of the distinguished Chairman of that Committee, the gentleman from West Virginia (Mr. STAGGERS). The Committee finally reported a bill introduced by the gentleman from Florida (Mr. ROGERS), to which many helpful amendments and minor changes had been made by Republican and Democratic members of the Committee. On December 18, the House considered and passed by a voice vote the slightly altered version of S. 4106.

Mr. President, I cannot of course speak for the Committee on Labor and Public Welfare, but I personally feel as the original author of this bill that the changes in it made by the House are not so great as to require a conference between the House and Senate, especially at this late date in the session. Nonetheless, some members of the Senate may wonder about the changes made by the House, and it is perhaps worthwhile for me to discuss some of them briefly, with the aim of clarifying the legislative intent of the changes themselves.

Under both the House- and Senate-passed versions of S. 4106, the doctors and other health professionals in question are to be commissioned officers or civil servants of the Public Health Service of the United States. In the Senate bill, we established a new unit in the PHS to be known as the "National Health Service Corps," but the House considered this title either unweildy or suggestive of something other than the true purpose and nature of the program contemplated by the legislation. The House committee therefore eliminated the name "National Health Service Corps" and simply said that the functions to be performed in the legislation be those of "an identifiable administrative unit" of the PHS. This change is not of major consequence, since the purpose of the legislation is not in any way affected by it, and since an administrative unit, in order to be identifiable, will have to have some name by which Congress and the public can know it. It is entirely conceivable that the Department of Health, Education, and Welfare can come up with a more appropriate name than the "National Health Service Corps," and in fact, I hope they will.

Throughout the consideration of this legislation, a great effort has been made to insure that the health personnel involved in this act would not end up working at cross purposes with doctors and other health professionals already serving communities to which personnel might be sent under this act. If these young health professionals are to have a salutory impact on health conditions in any community, it is obvious that they will have to work in concert with the doctors already established there. In fact, one of the chief purposes—if not in fact the chief purpose—of the bill is to encourage young health professionals who serve in this PHS program to establish themselves permanently in physician-deficient areas following their service in the program. The bill aims to strengthen private practice, therefore, and certainly not to weaken it or supplant it with "government doctors."

In order to insure that personnel under this act would be assigned only to areas where the local medical community would be receptive to their presence, a number of safeguards were written into the Senate bill. These may be found in Section 399(1)(3) of the Senate-passed bill, where the criteria for determining which communities or areas will receive assistance from the personnel to be utilized under this legislation. We made it quite clear in that section that the recommendations from the "medical, dental, and other medical personnel of any community or area considered for assistance" were to be taken into account before any assistance was rendered, and also that the recommendations of the State and local health agencies were to receive consideration as well. We thought we had done a good job in insuring compatibility between these PHS personnel and the local medical community in any area to which the PHS personnel might be sent. We did not, however, give a "veto power" to any group, medical or otherwise, in determining how personnel should be utilized.

The House of Representatives apparently felt our safeguards were inadequate, and altered the bill to grant a "veto power" over personnel assignments to certain medical groups. Under the language of the House bill, the Secretary of State and the district medical societies (or other valid health professional societies as appropriate), as well as the local government for the area in question, must *certify* that health personnel available under the terms of the act are needed for that area. Unless the need is so certified, the Secretary of HEW has no authority to send in the health professional who will serve in the PHS under the terms of this act.

Mr. President, it is clear to me from conversations with Members of the House and from following closely the debate on this bill in the House Commerce Committee, the House Rules Committee, and on the floor of the House, that the House will not compromise on this provision they have added to the bill. An amendment to restore the Senate language relevant to this matter and to delete the "veto power" given to the medical societies was defeated on the floor of the House. From a personal point of view, I consider the House position somewhat unfortunate. But it is a price that I am willing to pay—and that I hope all Americans concerned with the physician-maldistribution problem are willing to pay—in order to reassure the medical profession that this bill is not designed to upset any aspect of private practice or the current system of providing health care. As I pointed out repeatedly in introducing this legislation, we wanted to insure that personnel under this act would be sent to the places where they could do

the most good—and they certainly can do no good, or very little, in areas where local doctors are for some reason hostile to their presence. There are enough areas of the country where doctors are clamoring for assistance that there is no prospect of the personnel under this act being underutilized. It is important to remember that this legislation really only provides for pilot projects, for experimental projects, and that there will be, in any event, few enough doctors to send even to the most needy areas that actively desire assistance. So while the principle of giving a veto power to local medical societies may not sit easily with many people, in practice I do not believe it will compromise the effectiveness of this legislation, and may in fact contribute to greater effectiveness by clarifying that personnel under this act should be assigned to areas where their assistance is actively sought by the medical community as well as by State and local authorities. Accordingly, I see no purpose in refusing to accept this House provision.

The House also restored a provision of the original Senate bill that the Senate itself struck from the version of S. 4106 that was passed here, namely, the establishment of an advisory council on how the health professional under this act should be utilized. The version of the bill I introduced provided for a "National Health Service Corps Advisory Council" of twelve members to work with the Director of the Corps in all matters affecting the operations of the Corps. This provision was struck in the Labor and Public Welfare Committee, on the legitimate grounds that the Director of the Corps should be capable of performing these functions himself, and that the Council would therefore be irrelevant at best or a drain on the financial resources of the Corps at worst.

In the House, however, the Director of the Corps was eliminated, and the need for some coordination of the personnel to be assigned under the act was therefore felt to require a council of some sort. The House therefore provided for a "National Advisory Council on Health Manpower Shortage Areas" of similar composition to the original council provided in my bill. The job of the Council is to advise the Secretary of HEW, and to consult with him, concerning his responsibilities under this act.

There has been some concern, Mr. President, here in the Senate that the reasons for eliminating the council are still valid, and that the Senate should perhaps not accede to the re-inclusion of the Council in this bill. I would therefore like to make it quite clear that in making appropriations for this act, care will be taken to emphasize that the Council is intended merely to advise in the operations of this new PHS function, and that the vast bulk of funds provided for the act are not to be used for the Council itself. The funds in this act are intended to increase the health care available to those in need—not to undertake studies, etc., by the Council. I think this is implicit in the House action, but it does not hurt to make it explicit here, as part of the legislative history of the bill. As Chairman of the Appropriations Subcommittee on the Departments of Labor, Health Education and Welfare, and Related Agencies, I intend to earmark funds under this act for the operations of the new PHS unit and for the Advisory Council, and I wish to assure all members of the Senate that the Council will not receive, nor be eligible to utilize, an amount of funds disproportionate with its responsibilities.

There are, Mr. President, several other minor changes in the House bill that should cause no problems for us here today, and I will not take up the time of the Senate to comment on them further. We will have ample opportunity to clarify whatever provisions still need clarification during the appropriations process next year.

In sum, Mr. President, this is a remarkable bill that has passed both the House and Senate with such a broad range of bipartisan support. It will not solve the problem of physician maldistribution in the United States nor is it the final solution to this problem. It will, however, provide valuable experience in the field on which to build other, more comprehensive programs. The Administration has indicated that it may propose such a comprehensive program in the future, and I for one will support such a program if it holds promise of solving these problems of physician maldistribution and the lack of health services in isolated areas and communities where urban and rural poverty persist. But there is absolutely no reason why this program provided for in this legislation should be delayed—the wholehearted and speedy action of both Houses of Congress is clear testament to this fact.

I am hopeful, therefore, that we can send this bill to the President today, and that he will sign it immediately. I know I am joined in this hope by many members of both parties who have worked hard for this legislation and actively contributed to it, and by the countless persons outside of Congress who have supported this legislation since the time of its introduction.

Mr. JAVITS. Mr. President, I support the passage of S. 4106 as amended by the House. This legislation authored by the distinguished Senator from Washington, Mr. MAGNUSON, marks an important step forward toward alleviating the critical health manpower shortage, a shortage compounded by a severe geographic and social maldistribution of doctors.

It is the health manpower maldistribution problem upon which this bill would make its greatest impact. For the first time we authorize the Secretary of Health, Education, and Welfare to utilize Public Health Service commissioned officers and other health personnel to provide medical assistance in areas of critical need.

For the payment of the costs of the program the bill would authorize $60 million over a 3-year period. This is an increase over the original Senate bill authorizations but still at a sufficiently low level so that it is apparent that these are demonstration and pilot projects.

The assignment of PHS commissioned officers and other health personnel to areas of the country which have severe shortages of medical manpower would only be undertaken upon request by the State or other appropriate local health agency or organization and upon certification of the area need for such health care personnel.

I also concur with the House modification which provides that in lieu of a National Health Service Corps we establish an identifiable administrative unit within the Public Health Service to administer a program to improve the delivery of health care in areas of critical health manpower shortages.

I am pleased to note that at Senator DOMINICK'S urging the author of the legislation, Senator MAGNUSON, as chairman of the Appropriations Subcommittee on the Departments of Labor and Health, Education, and Welfare has indicated that an inordinate amount of funding would not be available for the newly established National Advisory Council on Health Manpower Shortage Areas.

Another House amendment which I am pleased to support is the provision for the defense of certain malpractices and negligence suits by the Attorney General. This provision was recommended by the Surgeon General in recognition of the low pay that so many of those who work in the Public Health Service receive. They just could not afford to take out the customary liability insurance. Thus, in the event there is a suit against a PHS doctor alleging malpractice, the Attorney General of the United States would defend them in whatever suit might arise.

Mr. President, this legislation provides for desperately needed demonstration and pilot programs in delivering health care to areas in dire need of health manpower and I urge its enactment.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House, and the title thereafter.

The motion was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Nebraska (Mr. CURTIS) be recognized when I have finished with these brief unanimous-consent requests.

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

GRANTING AND CEDING TO ALEXANDRIA, VA., CERTAIN WATERFRONT LAND ALONG THE VIRGINIA SHORELINE OF THE POTOMAC RIVER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1517, S. 4481.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. S. 4481, granting and ceding to the city of Alexandria, in the State of Virginia, certain waterfront land along the Virginia shoreline of the Potomac River, and for other purposes.

The PRESIDING OFFICER. Is there objection to consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States of America in and to that portion of land along the waterfront of the city of Alexandria, in the State of Virginia, as described in section 2 hereof, is ceded and granted to the said city of Alexandria.

SEC. 2. The land ceded and granted is adjacent to the shoreline of the Potomac River at Alexandria, Virginia, bounded on the west by the mean high-water mark as it existed on January 24, 1791, and a boundary line beginning at the center line of Second Street as now located, at its point of intersection with the mean high-water mark as it existed on January 24, 1791, on the Virginia side of the Potomac River, thence to the es-

tablished bulkhead line, at its closest point to the northerly end of the Alexandria pierhead line as described in section 101 of the Act of October 31, 1945, which established the boundary line of the District of Columbia and the Commonwealth of Virginia (ch. 443, title I, 59 Stat. 552), thence in a southerly direction along the said bulkhead line to its intersection with the extension of the center line of Gibson Street as now located, thence in a westerly direction along the said center line of said Gibson Street to the aforesaid January 24, 1791, high-water mark line.

SEC. 3. As to the property described in section 2 only, section 102 of the Act of October 31, 1945, is amended by striking out the colon and inserting a period in lieu thereof and by striking out the words "*Provided, however*, That concurrent jurisdiction over the said area is hereby reserved to the United States".

SEC. 4. That portion of the Potomac River lying between the bulkhead line and the Virginia shore as described in section 2 is hereby declared to be deemed nonnavigable both in fact and in law within the meaning of the Constitution and laws of the United States, and nothing in such Constitution and laws as now in force and effect or as hereafter amended shall be deemed to prevent the erection and maintenance of permanent improvements from the shore to the established bulkhead line, in the bed of the hereinafter described portion of the river or on land filled thereon or recovered therefrom, provided such filling shall be approved by the Department of the Army before any such filling is begun.

SEC. 5. The aforesaid grant shall not become effective unless and until the city of Alexandria accepts the provisions thereof.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-506), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to grant and cede to the city of Alexandria, in the State of Virginia, certain waterfront land along the Virginia shoreline of the Potomac River.

STATEMENT

In a statement to the committee, the Honorable William B. Spong, Jr., said:

"All this bill seeks to do is to clear title to a small parcel of waterfront property in Alexandria (a strip of filled land about 100 feet in depth and about a mile in length) so that title insurance may be obtained for developments in Alexandria's waterfront development plan (adopted by the city in 1968).

"Without a bill of this kind, the title insurance companies will refuse to write policies, and without title insurance, the only kind of developments willing to locate on the property are those of a marginal nature. For instance, the property now hosts a rendering plant, an asbestos processing plant, several warehouses, and a coal dump. It has been described as one of the worst eyesores in the Washington metropolitan area. We showed the staff of the committee a 90-foot composite picture of the waterfront and they can testify to the accuracy of that statement.

"Title to this property was clouded by the inability to determine the exact location of the high water mark of 1791 which serves as the boundary between Alexandria and the District of Columbia. A boundary commission in 1934 concluded that the 1791 line could never be determined and recommended that the property in question be given over to the city of Alexandria and the private holders then occupying it. In so legislating, however, the Congress (in 1945) added a reservation that the United States would not relinquish any title claim it may have.

"This bill attempts to correct that impossible legal tangle.

"The Interior Department opposed enactment because it wanted to control the kind of developments that take place along the Potomac. But, by continuing to cloud title to the property, it has in fact encouraged the deterioration of the shoreline. It has no development plan of its own and there are no prospects of its having one any time in the foreseeable future.

"In contrast, the city of Alexandria is ready and anxious to proceed with its waterfront plan. The project which gave rise to the urgent need for this bill now is a watergate development.

"In sum, the U.S. Government is giving up no property which is owned either by Alexandria or private holders. All that it would give up is a *right* to make a legal claim for title and even that right seems nebulous given the conclusion of the 1934 boundary commission. This bill would simply transfer any right the United States has reserved to the city of Alexandria so that it may clear title to property in accordance with its waterfront development plan."

ADJOURNMENT OF CONGRESS FROM TUESDAY, DECEMBER 22, TO MONDAY, DECEMBER 28, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 87.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That when the two Houses adjourn on Tuesday, December 22, 1970, they stand adjourned until 12 o'clock meridian on Monday, December 28, 1970.

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

There being no objection, the resolution (S. Con. Res. 87) was considered and agreed to.

Mr. MANSFIELD. Mr. President, if there are any questions as to why this resolution is being offered at this time, I shall do my best to answer them.

SOCIAL SECURITY AMENDMENTS OF 1970

Mr. MANSFIELD. Mr. President, under the usual agreement, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 1443, H.R. 17550.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 17550, to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes.

The Senate resumed the consideration of the bill.

NOTICE OF CONSIDERATION OF PRESIDENT'S VETO OF THE MANPOWER BILL THIS EVENING

Mr. MANSFIELD. Mr. President, if the Senator from Nebraska will yield further, let me reiterate for the information of the Senate that beginning at 6 p.m. this afternoon, and not exceeding 1½ hours, debate will be held on the manpower bill, which the President vetoed last week. On that basis, also, it is understood that the time will be under the control of the majority and minority leaders, or whomever they may designate.

I designate the distinguished Senator from Wisconsin (Mr. NELSON) to take care of my share of the time.

Mr. SCOTT. Mr. President, if the Senator from Nebraska will yield for a short unanimous-consent request, I ask unanimous consent that I may yield the time allowed to me for discussion of the veto message to the distinguished Senator from New York (Mr. JAVITS), and he will dispose of the time for those for and against the matter when it becomes pending.

Mr. MANSFIELD. Mr. President, I would assume that the Senator from Wisconsin (Mr. NELSON) will do the same.

Mr. JAVITS. Mr. President, I am sure that we will be fair in allowing equal time.

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

SOCIAL SECURITY AMENDMENTS OF 1970

The Senate continued with the consideration of the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes.

Mr. CURTIS. Mr. President, a previous order was entered into which granted to the distinguished senior Senator from Delaware (Mr. WILLIAMS) the right to the floor. I ask unanimous consent that prior to the recognition of the Senator from Delaware, notwithstanding that order, that I might be recognized and that later, when the Senator from Delaware is recognized, he be recognized under the terms of the order as set forth in Saturday's session.

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

Mr. CURTIS. Mr. President, President Nixon is to be commended for his statements and his position in favor of welfare reform.

For about 2 years now and prior thereto, President Nixon has called the attention of the country to our welfare program which has grown up over a period of some three decades. He has pointed out its problems. He has called for a reform of our welfare program.

As I have listened to his speeches and read them, I have been impressed by the statement that he made, over and over again, that he wanted to give the people the opportunity to transfer from the welfare rolls to payrolls.

Mr. President, President Nixon, I believe, was speaking for a great many people in this country when he pointed out that our welfare program needed a complete overhauling. That implies that there are abuses, that there are practices that have sprung up that are not desirable. The demand for reform implies that some changes should be made for the benefit of the recipients and for future recipients. It also implies that we should do a better job in spending the public's money for welfare.

It is not surprising that throughout the length and breadth of this land, thoughtful people have joined the President in a request and a demand for welfare reform. As a matter of fact, the committees of this Congress for several years have felt the need for reform of our welfare laws.

Some new provisions have been written. Some of them have worked out the way we expected. Some of them have not. Some other provisions were worked out in the current bill. There is no opposition to genuine welfare reform.

Mr. President, the issue before us is not welfare reform. The choice that the Senate faces is the acceptance or rejection of the Ribicoff-Bennett amendment. I submit there is not one iota of reform in that amendment. I submit that it freezes into the law all of the abuses that have sprung up over the last 30 years. I submit that the amendment is not drawn to deal with the problems that the average citizen would describe as problems needing attention for welfare reform.

I am aware that welfare reform is defined differently by different people. Were we to go to a county seat in my native State of Nebraska and stop a farmer on the street and ask him, "Do you favor welfare reform and if so, what is welfare reform and what would you like to have changed?" he would have an answer dealing with some of the changes he thinks ought to be made in our welfare program.

As a taxpayer he perhaps has tried to hire help at times. I think also that he is a humanitarian. He perhaps knows some families that are on welfare. He will have some ideas.

Mr. President, if we were to go to some of our colleges and universities and seek out an educator who had specialized in the field of social sciences and social welfare and ask him what welfare reform is, we would get another answer.

Mr. President, were we to approach some of our older citizens who are living on a very meager amount of money and who have worked hard all of their lives and ask them what welfare reform is and what they would like to have changed, we would get another answer.

It is true that there has not been agreement on just what welfare reform means.

I think we must all agree, however, it means that we put more justice into the program. I think it means that if there is an individual who is suffering from misfortune, who has had no opportunities and his need is desperate, that he should be treated in a humane and a generous way. But, by the same token, I think it means that if there is someone who has not tried very hard, who is brazen and greedy and is studying the loopholes to see how he can get more, that it means justice for that person also.

Mr. President, I am willing to admit that the abuses are few in number numerically, but there is a grave issue involving the abuse of the welfare procedure. It is not only the savings in dollars and cents. It is something else.

If a welfare program is improperly drawn, if individuals who should not be on welfare are on welfare, even though they are few in number, it tends to polarize the population, it tends to create an animosity and resentment against the recipients of welfare. That is most unfair to the unfortunate person who is on welfare because of no choice of his own. Therefore it is in the interest of the poor, it is in the interest of the unfortunate, that we have welfare reform. That includes the removal from the rolls of those few cases that should not be on there or who are included on the rolls for an excessive amount because of some loophole in the law.

Mr. President, I am willing to say without contradiction that there is no basic welfare reform whatever in the Ribicoff-Bennett amendment.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. CURTIS. Mr. President, I am happy to yield to the Senator from Georgia and ask unanimous consent that I may yield to the distinguished Senator from Georgia without losing my right to the floor and without having my resumption count as a second speech.

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

Mr. TALMADGE. Mr. President, is it not a fact that rather than reform the program, the Ribicoff-Bennett amendment actually compounds the errors of the existing programs and extends welfare benefits and increases them from 11 million citizens to 24 million the first year?

Mr. CURTIS. The Senator is correct.

Mr. TALMADGE. Is it not a fact, also, that there would be an additional cost of about $4 billion a year or perhaps more.

Mr. CURTIS. That is the first estimate. And if our experience under this proposal is anything like the experience with medicaid, it may be much more than that.

Mr. TALMADGE. Mr. President, did we not find that the estimates of the Department of Health, Education, and Welfare with respect to medicaid were exactly 1,000 percent in error?

Mr. CURTIS. Mr. President, I think that is an understatement.

Mr. TALMADGE. And if that would be true in this instance and if the estimates were as wrong with respect to the guaranteed income bill as they were with respect to the medicaid bill, then the cost would be in excess of $40 billion extra a year.

Mr. CURTIS. As a matter of fact, amendments have been proposed and printed to the Ribicoff-Bennett amendment that admittedly would raise the cost up to $40 billion to $50 billion. It is not unrealistic to believe that if this is ever to become a law, suggestions like that will be made.

Mr. TALMADGE. Is it not true that if this amendment were to become law, 12 percent of the citizens of the United States of America would immediately become eligible for welfare?

Mr. CURTIS. The Senator is correct. In my own State of Nebraska, 3 percent of the population now draw welfare payments that are financed in part by the Federal Government. It is estimated that should this proposal become law, instead of 3 percent, it will then be 11.8 percent or an increase of almost fourfold.

Mr. TALMADGE. I have the figures on the estimates for Nebraska, if the Senator will permit me to read them.

The recipients as of January 1970 in Nebraska numbered 43,550.

Under the proposed amendment it would become 167,700 which would be an increase of 285 percent in 1 year's time.

Mr. CURTIS. That is correct. I thank the distinguished Senator for his contribution.

Mr. TALMADGE. In my State of Georgia, if the Senator will permit me to read the figures there, we have 328,400 people on welfare. Under the proposed amendment it would immediately become 1,025,500, or an increase of 212 percent in the State of Georgia. According to the estimates of the department, 22.5 percent of the people of my State would immediately become eligible for welfare. But is it not true that some States' eligibility would be as high as 35 percent?

Mr. CURTIS. The Senator is correct.

Mr. TALMADGE. Does the Senator believe it is in the national interest to have 12 percent of the American people on public welfare and in some States as high as 35 percent?

Mr. CURTIS. I do not believe it is. To do so would constitute a disservice to the poor of the country. Right now, because of abuses, and through no fault of the poor—the honest poor, and that includes most of them, the vast majority of

them—there is a polarization, there is a resentment, and there is a criticism of it, and if we adopt a program that increases the rolls by great numbers it is going to create a public sentiment in this country that would make it difficult for the people on welfare and it would make it difficult for the children who are attending school. It may cause a wave of public sentiment that would end up in some laws that might be a bit harsh.

Mr. TALMADGE. Is it not true that at present many honorable, hard-working, and God-fearing people, through no fault of their own, are earning low wages, and they see other families on welfare not doing any work whatever, where that person on welfare may be able-bodied and could but will not work. Does not that create a great deal of dissatisfaction among the American people at the present time?

Mr. CURTIS. The Senator is correct. If that number that may become recipients is increased, by the same token there will be an increase in the number of cases where there might be a serious question.

Mr. TALMADGE. I thank the Senator for yielding.

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

Mr. President, it would be my hope that every Senator in the Chamber would read four lines of this bill. I call attention to the very first section in the bill, page 4, entitled "Declaration of Goal." Listen to the language:

> The Congress hereby establishes a national goal of assuring all citizens, through work or assistance, in this decade, an income adequate to sustain a decent level of life and to eliminate poverty among our people.

There is not one word in there about welfare reform. There is not the slightest suggestion that this proposal is intended to bring about any reform. There is not the slightest suggestion in that language that there is anything wrong with our welfare program.

It is a declaration for a national minimum income. Probably many people in and out of Congress support that goal. I say to them, "Let us debate that on its merits, but do not bring it in under the guise of welfare reform when there is no welfare reform provision in it."

The country has been aroused in favor of welfare reform. They have agreed with the President when he has urged that we have a program that will lead to payrolls instead of welfare rolls.

I contend that that great body of public sentiment that has hoped for welfare reform should not be deceived and another proposal enacted which deals with something else.

Mr. HANSEN. Mr. President, will the Senator yield at this point?

Mr. CURTIS. I am happy to yield. Mr. President, I ask unanimous consent that I might yield to the distinguished Senator from Wyoming, without losing my right to the floor and without my subsequent remarks being counted as a second speech.

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

Mr. HANSEN. Mr. President, I wish to compliment the distinguished Senator from Nebraska for the contribution he is making toward a better understanding of this bill and what we might expect will be accomplished by it, where hope is held out and promises made for goals and objectives that seem very far removed from the act accomplished.

One of the concerns of the Committee on Finance as they undertook an examination of the legislation was what might be done in order to encourage able-bodied people, people who had no physical or mental impairment, people who did not have the burden of the responsibility of young children, to accept employment offered them—how we could take this big group and insure that this new law would put them to work if work were indeed offered to them.

As I recall, the House proposed in H.R. 16811 that a person who was qualified in every respect and who was offered a job and refused to take such a job, or who failed to register for a training program, would be penalized $300.

I wish to ask the Senator from Nebraska if that is correct.

Mr. CURTIS. I assume it is. I am not sure, but I assume it is.

Mr. HANSEN. I think that under the October revised revision the administration proposed that that penalty be increased from $300 to $500. I believe the testimony that was developed during hearings on the bill showed that a $500 reduction in family assistance would actually result in a reduction of only $241 in family income since benefits under other kinds of welfare-type programs increase as family income decreases.

Does that square with the Senator's recollection?

Mr. CURTIS. That is my recollection. Yes.

Mr. HANSEN. I think it is important to note what the net effect of this penalty would be because as I recall earlier in the hearings when representatives of the Department of Health, Education, and Welfare were testifying it was developed and brought out that under the old WIN program—the work incentive program—some 8,100 persons having been screened in every respect, were certified by the Department of Labor to Health, Education, and Welfare with a recommendation that they be required either to take a job which had in each case been offered to them or to face termination of the support that they were receiving from welfare.

As I further recall, of this number of some 8,100 persons referred by the Department of Labor to Health, Education, and Welfare, only 200 were actually terminated from the rolls.

Does the Senator recall if that was essentially the situation brought out in that testimony?

Mr. CURTIS. That is essentially what the Senator from Nebraska recalls.

Mr. HANSEN. I think it should be noted, as was brought out in the hearings before the Finance Committee repeatedly, and I know the distinguished chairman of the committee probed hard on this point, that we were trying to find out what new steps, what new laws, if any, might be in the minds of the administration, in order better to assure that this very miserable record might be improved upon.

Does the Senator from Nebraska recall that the administration's representatives were able to come forward with any specific plan or new law that they felt would markedly change this situation?

Mr. CURTIS. I believe that an examination of the existing law, and the facts in this case will reveal, that there is nothing in the Ribicoff-Bennett amendment that in any way strengthens the work requirement provisions of the law.

As a matter of fact, in a moment or two I expect to refer to some facts that indicate clearly that the work requirement provision of the Ribicoff-Bennett amendment is weaker than existing law.

Mr. HANSEN. The Senator from Wyoming will be very interested in the Senator's presentation as he goes into those facts.

Mr. CURTIS. Mr. President, I want to repeat my admiration for President Nixon in arousing the country to the need for welfare reform. I am thoroughly convinced, after listening to months of hearings, that the technicians who took over to translate the President's stated objective into legislative language have miserably failed the President of the United States.

I want to say something about the work requirement.

Present law requires that an appropriate welfare recipient must accept "employment in which he is able to engage" subject to ultimate loss of his welfare payment. Under amendment 1097, a welfare recipient would face loss of welfare only if he refused to accept "suitable" employment.

A big difference.

For instance, amendment No. 1097 would require that in addition to physical fitness for the work, evaluation of a job's "suitability" take into account a welfare recipient's "prior training and experience, his prior earnings, the length of his unemployment, his prospects for obtaining work based on his potential and the availability of training opportunities, and the distance of available work from his residence."

In other words, what is suitable employment? To answer that question, we have to take into account his prior earnings. So if someone has been earning high wages or a high salary and he becomes a welfare recipient, one of the factors in determining whether or not he should take a job, if a job is suitable, is that it has some resemblance to his prior earnings.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. CURTIS. I am happy to yield to my distinguished chairman, and I ask unanimous consent that I may do so without losing my right to the floor and

with the understanding that it shall not count as an extra speech on my part.

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

Mr. LONG. I would submit that the next item the Senator is coming to would offer an even better opportunity for a person to refuse to go to work, because it would require that his prior experience be taken into consideration in determining whether work was suitable. This would mean that a man could refuse to go to work either because he had no training or experience for the job he is offered or because he had experience doing something else. He could refuse to go to work on either ground, either because he had no experience in the type of work offered or he could decline to take the job because he thought he was qualified to do something else that would pay him more.

I am sure the Senator intends to point out further in his statement that the amendment as it is proposed here would provide that a job was unsuitable unless it paid the prevailing wage rate. I can understand how we might insist that someone get the prevailing wage as a condition to going to work if he has earned the right to draw benefits under unemployment insurance. But when we are talking about a person who has not done any work before and knows nothing about the kind of work required for a particular job, that is something else.

Let us take the situation of a person who is offered a job as a domestic. If that person has not done any work, even domestic work, is it not asking too much that the person be paid the prevailing wage rate of someone who has had experience in doing the work and has a reputation for honesty and for not picking up everything that is not nailed down and for not prying loose everything that is nailed down in that household?

When one combines all the conditions spelled out in the amendment in order for a job to be considered suitable, a person has every way under the sun to avoid taking a job on the grounds that it is unsuitable.

As if that was not bad enough, we have the record referred to by the Senator from Wyoming, where, out of 8,100 persons who refused without good cause to participate in a work program, only 200, or about 3 percent, were actually taken off welfare, because of their refusal to take work.

With all these other conditions of job suitability, it is clear that the only person who will go to work is one person who voluntarily wants to go to work.

The provision we are talking about does not relate to other benefits that are available from other Federal and State sources, or the fact that a person might be getting income that we do not know about, such as income from illicit conduct, income from criminal conduct. This is a pretty big idea nowadays, with thefts running about 3 percent of the gross operations of the average department store and with the big problem we have in dope today. It is very difficult to see how one in any seriousness could expect that this work requirement means anything whatever.

Mr. CURTIS. My distinguished chairman is correct. I think the language clearly points out that the work requirement provisions of the Ribicoff-Bennett amendment are weaker than existing law.

In speaking of abuses in the welfare program, I do not think we can repeat too often the fact that the vast majority of our welfare recipients are honest people. They are good people. They long for something better. But whenever we permit abuses, we are treating those conscientious people unfairly, because the abuses will stand out in the public mind, and will constitute a stigma upon the unfortunate people who are anxious to do the very best they can for themselves, but still find it necessary to be on welfare.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. CURTIS. I am happy to yield.

Mr. LONG. Is it not correct that by permitting the kinds of abuses to which the Senator is directing himself, we tend to discourage, demoralize, and disillusion those honorable people who are trying to earn their own way, and who apply for welfare assistance only because they have no choice about the matter?

Mr. CURTIS. That is correct.

I continue, now, about the work requirement in this Ribicoff-Bennett amendment.

Amendment No. 1097 would define as "unsuitable" any job that pays less than $1.20 per hour.

Mr. President, I would like to see every person earn just as much money as he can, and as much as the traffic will bear. But what are we going to do if there is a community in the country where labor is being performed for a dollar an hour, or $1.10? I do not say that that situation is desirable, but it exists. If we adopt this proposal, it will be unlawful for a welfare recipient to go to work at less than $1.20, even though other individuals situated in the same community, facing similar circumstances, are working for less than that amount.

I am willing to admit that welfare reform is defined differently by different people. But can any of us eliminate simple justice as an important ingredient in welfare reform?

If the prevailing wage in the area for the type of work is more than $1.20, then that becomes the minimum wage for a welfare recipient. This would be true even though people in the locality not on welfare were working on jobs for less than $1.20 which may be the prevailing rate for this type of work—and even though jobs at these rates may be the only jobs available in the area.

In addition, amendment 1097 would set the following order of priority in providing work and training for welfare recipients who register with the Labor Department.

First. Unemployed fathers and mothers who volunteer;

Second. Family members 16 or over not employed, in school, or in training;

Third. Persons already employed full time; and

Fourth. All other persons registered.

With this order of priority, it is highly unlikely that any mother would ever be required to accept employment.

Mr. President, I hold in my hand a newspaper clipping bearing the date of November 29, 1970. The heading of this clipping says, "$12,000 Families Getting Foot in the ADC Door." The subhead quotes the welfare director for Douglas County, Nebraska—where Omaha is located—a Mr. Healey, as saying:

Rule sets welfare up for a kill.

Then the story goes on and tells how, because of a loophole in the law, individuals are drawing welfare under the AFDC program when they do not need it.

It just happens, Mr. President, that that story was based upon 10 cases taken from the welfare rolls in the State of Nebraska which were selected at my request. I did not request those specific cases, but I asked for 10 cases that illustrated the problem; and I think it is important that we observe what the problem is, and then consider it in the light of the Ribicoff-Bennett amendment.

I turn, for example, to case No. 5. This illustrates the need for reform. This case comes from Sarpy County, Nebr. There are two parents and three children. They are on AFDC. The gross wages per month that the man draws amount to $799.85—it lacks 15 cents of being $800 a month.

But in order to see if having someone on welfare and still having him work would encourage him to work more and get off of welfare, Congress passed some amendments in 1967 which permitted certain disregarding of income in order to encourage individuals to work. Those disregardings included his taxes, his social security taxes, his union dues, and his transportation expenses.

So this family, after you disregard all those expenses, has take-home pay of $612.33 a month.

Now, when someone applies for welfare, the caseworker sits down with them, ascertains what their rent is, their food needs, utilities, child care, care of an ill person in the home, or whatever it is, and adds that up. In this particular case, the budgetary need of this family was $503.50. The take-home pay was $612.33. They were actually earning $108.83 more than their budgetary needs. But because existing law permitted them to disregard their expenses of working, which in this case ran over $187, to disregard $30, and then to disregard one-third of the rest of their earnings, this family was drawing welfare of $170 a month.

I submit to the Senate: Is that fair to the rest of the people of the country?

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. WILLIAMS of Delaware. This is one of the same examples, as I under-

stand it, that the Senator called to the attention of the Finance Committee, and the Department admitted that the bill which is now before the Senate would not correct this situation but would perpetuate it.

Mr. CURTIS. That is correct.

Mr. President, I want to invite attention to a very startling thing. When these 10 cases were laid before the Finance Committee, there were other facts which were sent in from other States, particularly California. Our staff had done some work on it, and an amendment was adopted dealing with this loop hole. A member of the staff took each one of the 10 cases I am talking about, applied the new formula to them, and it closed the loophole. That is in the Finance Committee bill. Do Senators know what will happen if we pass the Ribicoff-Bennett amendment? It will strike this reform out.

There is another provision in the Ribicoff-Bennett amendment that not many people realize is there, and that is a provision that a present welfare recipient is guaranteed by law that he will not be taken off the rolls nor will his welfare be reduced.

Mr. President, not only does this proposal fail to bring about any reform; its very provisions prevent any reform in welfare law.

It is not easy for me to stand here and oppose a proposal instigated by my President. I am a partisan. I plead guilty to it. But I say that the President of the United States is not to blame. I say that the technicians who took over, whether they be close to him or in the bureaucracy, utterly failed the President of the United States. They have not come up with a legislative proposal that would deal with the abuses and shortcomings of our present welfare law. They have not brought in a proposal that would do as the President wants done—have individuals go from welfare rolls to payrolls. The President of the United States has been failed miserably.

Mr. President, if we adopt the Ribicoff-Bennett amendment, the provision worked out to prevent abuses such as I have referred to is out.

The State of Nebraska is not one of the most wealthy States. The citizens there have to work hard for their money. We are not blessed with precious minerals, coal or an abundance of oil or any other great source of wealth. Our people work hard and our population is small. But if the Ribicoff-Bennett amendment prevails, it will eliminate a savings to that State of $1,800,000 annually. I have received an estimate that that is what the State would save by the committee's language which would take care of these abuses. And if the Senate adopts the Ribicoff-Bennett amendment, that is out. Not only is the language repealed, but, also, as I have said, it contains other language that guarantees that no welfare recipient will be taken from the rolls or have his welfare cut.

How on earth can anybody suggest that that is welfare reform? Well, they cannot. It just is not.

Mr. President, much has been said that the adoption of this proposal would save money for the States. I suggest that the Governors and the members of the State legislatures take that with a grain of salt. They had better read the bill. It was not such a bad idea when the clerk was required to read the Ribicoff-Bennett amendment in total. It was not a bad idea at all. Frankly, I think it should be read some place, and at least should be read by those who advocate it.

I am going to say something about the saving provisions in this bill. The savings provision in section 542 of amendment 1097 is designed to replace the Federal-State matching provisions applicable to cash public assistance programs for families with children, and for the aged, blind, and disabled. Under this savings clause, States would generally be required to spend 90 percent of their 1971 State costs for welfare payments.

That has been repeated over and over again. The fine print has not been repealed. Starting in 1973, this State share would be increased each year according to a formula based on the Consumer Price Index. Thus, for example, if that index rises by 5 percent per year, after a period of 10 years, States would be required to expend for cash public assistance an amount equal to more than 140 percent of their costs in 1971. Has any Governor been told of that possibility? Oh, he was told only about the 90 percent provision.

I contend that perhaps the President of the United States is not the only person who has been deserted in reference to this proposition. The individuals responsible for this bill, in my opinion, have been unfair to the President of the United States. They have not delivered a proposal that he discussed in the public forum for months and months, and they have not delivered a proposal that has been fully presented to our Governors and the members of the State legislatures.

In addition to the possibility of an increase in what the State has to pay in the cash amounts, there is something else.

In addition, any liberalizations of welfare programs which are not required by Federal law but result from optional State action would not be covered by this savings clause, but would come under the regular matching provision. Thus, if the cost of living increases and a State decides to provide its welfare recipients an increase in assistance to meet the rise in living costs, the State will have to pay twice: once to meet its share of the increased assistance, and once more because the rise in the cost of living will trigger an increase in the State's mandatory level of payments subject to the saving clause.

It should also be pointed out that the savings clause in amendment 1097 covers expenditures for cash public assistance only and not expenditures under related programs which might be expected to increase substantially if the amendment became law.

Medicaid is a good example of that. In many of the States an individual is eligible for medicaid if he is a recipient of welfare. It was pointed out awhile ago that an estimate of the increase of the number of welfare recipents in my State of Nebraska would be almost fourfold, so that there would be almost four times as many people eligible for medicaid, and under the law they have to treat them all alike, but the medicaid expenditures do not come within this 90 percent savings cost.

State expenditures not covered by the amendment include those for administrative costs, the cost of job training and referral of welfare recipients, and medicaid costs. These expenditures should increase substantially because of the increase in the number of recipients. For example, the State of Oregon has estimated that under a proposal similar to amendment 1097, the State would in the 1971–73 biennium incur increased medicaid costs of $9.9 million, and increased employment program costs of $3.7 million. All of these costs would have to be paid by the State over and above the amounts for which it would be responsible under the saving clause.

Mr. President, it seems to me that the proponents of this measure should get out some telegrams to the Governors and give them the full story of what this bill will do to their State budgets. I think they should include in the telegrams the statement of the declaration of goals found on page 4 which does not have the slightest hint of welfare reform.

Another feature of the savings clause which should be noted is that it provides an absolutely fixed State cost for cash public assistance programs in a given year—if the State does not decide to adopt a more liberal program than is required by Federal law. There would be little incentive for State officials administering such programs to strive for effective administration since the Federal Government and not the budget of that State agency would have to bear any increased costs resulting from administrative lapses in such areas as determining the proper amount of assistance, preventing ineligible individuals from coming on the rolls, and promptly removing recipients from the rolls when they are no longer eligible.

Mr. President, while there are new provisions in this present draft known as the Ribicoff-Bennett amendment, it is agreed that the basic program is the program that they have advocated all along.

A table has been prepared showing the proportion of the population of federally aided welfare under present law. In this table it is referred to as the administration's revision. I do not want to offer it as being identical with the pending amendment but I do believe it is substantially the same, so far as the figures are concerned.

I ask unanimous consent to have the table printed in the RECORD.

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

TABLE 1.—PROPORTION OF POPULATION ON FEDERALLY AIDED WELFARE UNDER PRESENT LAW AND ADMINISTRATION REVISION

	Civilian resident population	Federally aided welfare recipients, January 1970		Welfare recipients under administration revision	
		Number	Percent of population	Number	Percent of population
Total United States	203,796,700	10,436,197	5.1	23,784,300	11.7
Alabama	3,505,000	255,400	7.3	665,800	19.0
Alaska	252,000	10,274	4.1	25,100	10.0
Arizona	1,685,000	72,440	4.3	204,600	12.2
Arkansas	1,996,000	115,000	5.8	369,700	18.5
California	19,213,000	1,655,400	8.6	2,323,400	12.1
Colorado	2,065,000	114,110	5.5	368,000	17.8
Connecticut	3,009,000	97,140	3.2	187,900	6.2
Delaware	537,000	23,860	4.4	55,000	10.2
District of Columbia	783,000	47,490	6.1	65,900	8.4
Florida	6,332,000	295,900	4.7	683,600	10.8
Georgia	4,565,000	328,400	7.2	1,025,500	22.5
Hawaii	747,000	29,072	3.9	62,700	8.4
Idaho	717,000	22,100	3.1	54,400	7.6
Illinois	11,031,000	446,100	4.0	806,300	7.3
Indiana	5,136,000	98,100	1.9	879,900	17.1
Iowa	2,785,000	92,300	3.3	235,700	8.5
Kansas	2,288,000	73,940	3.2	158,600	6.9
Kentucky	2,192,000	211,200	9.6	523,500	23.9
Louisiana	3,724,000	346,500	9.3	934,200	25.1
Maine	967,000	48,920	5.1	145,400	15.0
Maryland	3,732,000	157,850	4.2	262,800	7.0
Massachusetts	5,475,000	282,500	5.2	438,500	8.0
Michigan	8,798,000	316,200	3.6	646,400	7.3
Minnesota	3,714,000	108,120	2.9	320,300	8.6
Mississippi	2,336,000	211,000	9.0	806,600	34.5
Missouri	4,637,000	255,200	5.5	443,100	9.6
Montana	688,000	18,880	2.7	52,200	7.6
Nebraska	1,437,000	43,550	3.0	167,700	11.7
Nevada	452,000	15,570	3.4	37,000	8.2
New Hampshire	720,000	14,260	2.0	39,800	5.5
New Jersey	7,128,000	318,720	4.5	508,800	7.1
New Mexico	976,000	69,260	7.1	194,400	19.9
New York	18,369,000	1,227,400	6.7	1,979,300	10.8
North Carolina	5,110,000	194,600	3.8	960,600	18.9
North Dakota	600,000	16,583	2.8	96,900	16.2
Ohio	10,786,000	355,400	3.3	799,800	7.4
Oklahoma	2,545,000	188,700	7.4	366,200	14.4
Oregon	2,044,000	93,800	4.6	143,500	7.0
Pennsylvania	11,797,000	511,800	4.3	634,800	5.4
Rhode Island	886,000	45,810	5.2	67,200	7.6
South Carolina	2,636,000	83,900	3.2	490,800	18.6
South Dakota	650,000	22,110	3.4	107,400	16.5
Tennessee	3,971,000	205,400	5.2	741,800	18.7
Texas	11,097,000	478,800	4.3	1,521,500	13.7
Utah	1,049,000	42,760	4.1	55,100	5.7
Vermont	444,000	18,000	4.1	46,800	10.3
Virginia	4,514,000	109,400	2.4	431,300	9.5
Washington	3,386,000	153,450	4.5	312,300	9.2
West Virginia	1,819,000	115,580	6.4	275,300	15.1
Wisconsin	4,242,000	101,180	2.4	238,400	5.6
Wyoming	317,000	7,447	2.3	20,000	6.3
Puerto Rico	2,763,000	264,930	9.6	800,000	29.0
Guam	87,700	2,072	2.4	3,400	3.9
Virgin Islands	59,000	2,319	3.9	2,100	3.6

Mr. MILLER. Mr. President, will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. MILLER. Do I understand correctly that the table which the Senator just placed in the RECORD might not be quite applicable to a table similarly prepared with respect to the pending amendment?

Mr. CURTIS. My point is that I think it is substantially descriptive of the pending amendment.

Mr. MILLER. I was wondering whether the distinguished manager of the amendment, the Senator from Connecticut (Mr. RIBICOFF), could tell us whether the table that the Senator from Nebraska has referred to does differ at all from the impact of the pending amendment.

Mr. CURTIS. I might say, first, that I have not had the opportunity to show it to the Senator from Connecticut, but will do so now.

Mr. MILLER. May I say to the Senator from Nebraska that I have assumed, up until now, that the amendment before us would result in substantially the same if not the identically same results as the table which the Senator from Nebraska has placed in the RECORD.

Mr. CURTIS. I think that is correct.

Mr. MILLER. I do not know. That is why I thought perhaps the Senator from Connecticut, one of the cosponsors of the pending amendment, could tell us.

Mr. RIBICOFF. Will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. RIBICOFF. I would say that the table being offered by the Senator from Nebraska is substantially correct. There may be a slight variation of a percentage point, but for the purpose of the argument that the Senator from Nebraska is making, there is a very substantial rise and there would be some variations in the fact that we are paying, under my amendment, a couple $230 instead of $210—it might vary it a little bit. But for the purposes of the argument that is being made, the tabulation is very substantially similar, the Senator is correct.

Mr. CURTIS. Mr. President, I thank the Senator and I thank my distinguished friend, the Senator from Iowa.

Mr. President, this tabulation shows, for instance, that as of last January, 7.3 percent of the population of Alabama were drawing federally financed welfare payments and that if the program is enacted into law, this 7.3 percent will increase to 19 percent. In the State of Georgia, 7.2 percent of the population are now drawing such welfare payments, and if this proposal becomes law, it will then be 22.5 percent of the people that will be eligible to draw welfare payments.

I have already pointed out that in the State of Nebraska 3 percent of the population as of last January were drawing federally financed welfare payments of some kind, and that if this proposal were to become law the number eligible is estimated to be 11.7 percent of the population. That is an increase of almost fourfold.

Last January the number of recipients in Nebraska were 43,550. This proposal, if it were enacted into law, would make eligible an estimated 167,700.

On page 6, it provides for a determination of eligibility and, among other things, it says:

> Such determination shall be made on the basis of the Secretary's estimate of the family's income for such quarter, and such estimate shall in turn be based on income for a preceding period unless he has reason to believe that modifications in income have or are likely to occur on the basis of changes in conditions and circumstances.

The Secretary will have to estimate in advance the income. What will they do about overpayments? I know what will be done. The conscientious people will refund overpayments. The others will not. We will have trouble.

Mr. President, there are Senators who say that the bill does not provide enough. If we adopt the philosophy of this bill I do not know that I am in a position to argue the point. But I think it is well that we determine who would be eligible, even though they are fully employed, for cash benefits if this bill passes.

On page 5 we find how much income a family can have and still be eligible for benefits.

It says it will be $500 per year for each of the first two members of the family, plus $300 per year for each additional member.

That amounts to $1,600. If they have income of $1,599 for a family of four, they are eligible. However, there are certain items excluded from income.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. CURTIS. I will yield in a moment.

Mr. President, $720 is excluded. Then I return to page 9. It provides:

> Subject to limitations as to amount or otherwise, prescribed by the Secretary, the earned income of each child in the family who is, as determined by the Secretary under regulations, a student regularly attending a school, college or university, or a course of vocational or technical training designed to prepare him for gainful employment;
>
> (2) (A) the total unearned income of all members of a family in a calendar quarter . . .

which is a small amount.

It further provides:

> (3) An amount of earned income of a member of the family equal to the cost incurred by such member for child care which the Secretary deems necessary to securing or continuing in manpower training, vocational rehabilitation, employment, or self-employment . . .
>
> (4) The first $720 per year of income is excluded.

Fifth, food stamps are excluded.

Sixth, training allowances are excluded.

Seventh, scholarships are excluded.

Eighth, home produce is excluded.

Ninth, any amounts received for the foster care of a child living in the same home as the family but not a member of the family.

Those are specifically mentioned. However, other things must be taken into account.

Many of these potential recipients will be subsidized with respect to housing. They will be living in premises where the Government pays part of the rent. That is not included in the test for eligibility.

They will be eligible in many instances, perhaps all, for free medical care. That is not included.

Some of them may buy a home under the 235 program where the payments to carry their loan might be $180 and the Government might pay $100 or half of it. All of these subsidies are cash out of the Treasury to such families.

That is why, when one adds up all the possible benefits that in many instances can and will be paid, he arrives at the figures that appear on charts such as the distinguished Senator from Delaware presented to the Senate last week, and no doubt more of those charts will be presented.

I yield to the senior Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, we were speaking a moment ago about the Governors' conference endorsing this bill. Is it not true that the five Governors representing the Governors' Conference, when they testified before the committee pointed out that originally the Governors had endorsed the bill based on press releases from Washington describing the purpose of the bill and what the bill would achieve, but they said that after they read the bill they decided it was more or less a monstrosity and should not pass?

If the Senator will yield further I would like to read the testimony of Governor Hearnes in that connection.

Mr. CURTIS. I am happy to yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. There has been so much misunderstanding about this matter. Last Saturday, I stated that when the President outlined his work program and said he wanted to reform the welfare system I hailed it as a great step forward. I agree that the No. 1 job in the country is to reform the welfare system. There has to be reform but a bonafide reform would not perpetuate the abuses.

I quote from Governor Hearnes' testimony before the Finance Committee.

Governor Hearnes testified:

> I would like to make one observation regarding this bill to the Committee. I make this observation as the Governor of Missouri and not as Chairman of the National Governors' Conference, since it is quite possible I may not reflect the views of some of my gubernatorial colleagues.
>
> It occurs to me that the Administration has simply picked a figure out of the air—some $4.1 billion—and attempts to compress too many major and costly reforms into this figure. I would suggest that the Committee delay the adoption of legislation at this time which would draw into the welfare system some 14 million citizens now in the ranks of the working poor or under-employed. I believe the money could be used to better advantage in shoring up other aspects of this bill.

At another point he said:

> Granting that attention should be given later to the working poor, it seems to me that welfare reform for the benefit of the present assistance recipients should be established and working before adding this vast new segment of the population to the welfare system.
>
> Finally, the workability of the entire new welfare program is still to be proved. I agree with Senator RIBICOFF's suggestion that the reform measure be thoroughly tested prior to placing it into effect. I understand the HEW is funding experimental projects in Seattle, Washington, and Gary, Indiana, and another one on a statewide basis in Vermont.

Continuing he states:

> Certainly, we could create staggering disorder if we would move into a program as vast as that encompassed by H.R. 16311, until a thorough trial period has proved its value.

With testimony such as that and with similar testimony from four of the five Governors along similar lines I think Congress would do well to weigh the advice of these Governors who have had experience in administering this program.

I now quote Governor Hearnes' answer to a question by the distinguished Senator from Idaho (Mr. JORDAN):

> Senator JORDAN. Governor Hearnes, could you tell me how many of your Governors would vote if they sat up on this side of the table for the House-passed legislation with full implementation now?
>
> Governor HEARNES. Well, Senator, I think those who would read the bill would not be for it in its entirety.

As he and other Governors pointed out in their testimony, after they read the bill they saw that it did not achieve the purpose for which it had been outlined.

Congress made a great mistake a few years back when it adopted the medicaid program proposed by the Department of Health, Education, and Welfare on the premise that it would cost only $238 million more than the then existing Kerr-Mills bill, which at that time was around $350 million to $400 million. Today we are spending over $4 billion on that medicaid program.

It would be a great disservice to the country and to the States to put an entirely new welfare program of this size into effect when we have had no testimony or any evidence presented by the Department or the administration as to how it would work.

I shall not take the time of the Senate now to put in the testimony of the other Governors. I shall do that when I am speaking in my own right. But every Senator should read the testimony of these Governors who testified before our committee on what they thought of the measure after they read it. These Governors had endorsed it before they read it, but after they had read it four out of five did not endorse it. The fifth admitted he had not read it.

Mr. CURTIS. I thank the distinguished Senator. What the Senator has said is highly important. Earlier today I pointed out that there were many items that constitute costs of welfare for a State that are not included in the savings clause, whereby the Federal Government guarantees that their expenses will not exceed 90 percent of the base year. That representation has, in my opinion, failed to provide the full story to the Governors and other State officials on what they will face if the Ribicoff-Bennett amendment is agreed to.

Mr. WILLIAMS of Delaware. The Senator is correct. I talked with some of the Governors. They recognize and they do not dispute the fact that this measure does not provide any reform, as they had been led to believe they would get. But most of them are desperately hoping they can unload the cost of the existing programs on the Federal Government. They are buying this measure on the promise that it will solve their State budgetary problem.

The misunderstanding that develops from the administration's promise that the increased costs of adults over 65, the blind, and the disabled will not exceed 90 percent of their costs for calendar year 1970.

On that basis it means that the costs of that particular program will not exceed 90 percent of last year's cost, and that they will save 10 percent. But that is only a small fraction of the total program. Federal cost in all welfare programs, medicaid, food stamps, and so forth, was $6,200,574,000. That is the figure for calendar year 1969. For the States the annual cost was $4,260,128,000, and for local governments it was an additional $1,284,779,000, for a total of about $11.5 billion.

Now, the welfare cost of the program for adults, the blind, and the disabled is about 20 percent of that total annual cost. The States will save 10 percent on this 20 percent, which means they save 2 percent of the overall annual costs. The 10 percent savings is on only 20 percent of the total cost. States would not get that windfall, as many Governors think they will.

Furthermore, nothing is being said about who pays for the 14 million welfare recipients that will be added to the rolls.

Mr. CURTIS. I thank the Senator. I mentioned a provision that increased costs by reason of inflation, the rise in the consumer index, must be borne by the State. If the index goes up 5 percent a year at the end of 10 years, the cost instead of being 90 percent carried by the State would be 140 percent of the base period.

Mr. WILLIAMS of Delaware. Yes. Another point that should not be overlooked is that, regardless of how this bill may be modified or amended to achieve transfer of the cost from the States to the Federal Government, the ultimate cost of the program is going to be paid by the same people, the American taxpayers. As far as dollars of the American taxpayers are concerned, it is immaterial whether the taxes are levied at the State level and spent at the State level or levied at the Federal level and then sent back to the States, perhaps adding to it the cost of a bureaucracy in Washington. So there is not going to be any saving to the taxpayer in transferring the cost from the State to the Federal Government. All the cost of the program

could be transferred to the Federal Government and relieve the States and cities of a lot of money, but the taxpayer would not be saved a dime.

Mr. CURTIS. That is correct. I would also like to point out that an expenditure by an individual State or an individual locality does not have a great impact on inflation, but centralized expenditures in the Federal Government under deficit financing have a tremendous impact upon the rate of inflation. Therefore, we are not helping the people of the United States, whether they be taxpayers or nontaxpayers, by merely transferring expenditures from the State and local level to the Federal level.

Mr. WILLIAMS of Delaware. Mr. President, if the Senator will yield.

Mr. CURTIS. We are taking money right out of their paycheck through inflation.

Mr. WILLIAMS of Delaware. But I think the main point we should never lose sight of is that while we are talking about reforming the existing welfare system, there actually is no reform in this bill. The Department officials repeatedly told us that not one welfare recipient will be getting 1 cent less than he got this last year.

Mr. CURTIS. And there can be no reform in those cases where there is an abuse.

Mr. WILLIAMS of Delaware. That is correct. Those who advocate reform have been going around the country calling attention to the glaring examples of abuse under our existing welfare system. I agree that we need reform, but the point is that this bill does not reform it. The only way to reform the welfare law is by taking away or reducing payments to persons who are not entitled to those payments. This bill does not correct a single abuse in the existing program.

Mr. CURTIS. The Senator is correct.

I would like to call attention to four lines in the bill, which appear on page 28, lines 4 to 7, inclusive. They read as follows:

(1) the provisions of, and the rules and regulations under, sections 442 (a)(2), (c) and (d), 443(a), 444, 445, 446 (to the extent the Secretary deems appropriate), 447, and 448 shall be applied.

Mr. President, it is interesting to note what that means. That means that the States' welfare programs must comply with the Federal rules for eligibility. That exists even though a State is paying a supplement and is bound to continue that supplement. It means that the right to say who is eligible to receive is taken away from the States. It is placed in Federal hands. The States must comply with it, and if they have been paying a supplement, of it they have been paying more than the Federal share, they are obliged to continue that supplement not only for the present recipients but for those who will be added to the rolls under rules of eligibility over which the State has no control at all.

A while ago I called attention to one abuse that existed under existing law in the State of Nebraska, and that, if the committee version is adopted, that abuse will be corrected. I want to call attention to some more cases that fall in that category.

This case involves a mother and two children under the ADC program. The mother has gross wages of $455 a month. Under existing law, she is allowed to deduct the taxes, transportation expense, union dues, and so on, and child care expenses. So after all of those disregards, she has an income of $301.43.

Under the law and under the rules, an estimate is made as to what her budget needs are, taking into account all the necessary items of expenditure. Those budget needs are determined to be $259. She earns $42.43 more than her budget needs, excluding the $153.50 that is considered an expense of work.

But because of present law, $175 of the income is presently disregarded, making her eligible for a welfare payment of $132.57, even though her net earnings exceed her budgetary needs.

That is corrected in the committee bill. That language is stricken out if we pass the Ribicoff-Bennett amendment.

What is more, if the Ribicoff-Bennett amendment becomes law, there is a provision in it that no recipient shall receive less than he is drawing now—an absolute bar to any welfare reform so far as eliminating abuses is concerned.

The case that I have just been talking about is not what might be called the case of a culturally deprived person. She has a high school education and is employed as a presser in a cleaning establishment. Yet we are asked to pass a bill that would perpetuate that abuse.

Here is another case of a mother and two children under ADC. The mother's gross wages are $565.32. After deducting taxes, social security taxes, transportation, child care, and union dues, her take-home pay is $361.90. Her budgetary needs are $269. Her earnings exceed her budgetary needs by $92.90.

But because all of the expense of going to work is disregarded, and $30 is disregarded, and one-third of the balance, she is entitled to an ADC payment of $118.87.

This individual has had 1 year of college and is employed by a packing company. Her gross wage is $50 a month in excess of the beginning caseworker in the welfare program in that country.

The committee dealt with these problems and agreed on some language in the committee bill that would bring reform in situations like this. The Ribicoff-Bennett amendment strikes out that reform and carries a provision which amounts to the fact that you cannot do anything about it.

Let me tell about another case, of a mother with two children on AFDC. Her gross wages are $618.15 a month. The take-home pay, after subtracting child care, transportation, taxes, union dues, and social security, is $304.98. Child care is deducted, so she is only being charged with $304.98, when her gross wages are actually $618.

Her budgetary needs are determined to be $277. She is earning $27.98 each month more than her budget needs—earning that in counted income, which, because it is under $30, is disregarded. She draws an AFDC benefit of $140 a month.

This lady is employed by Western Electric Co., and her gross pay exceeds that of many of the welfare workers who administer the program.

Here is a case where the gross wages of the mother with 5 children are $399.10—almost $400 a month. Her take-home pay, after she pays her transportation, is $339.17. Her former husband pays her $130 child support.

So after the expense of earnings, she has an income of $469.17 a month. Her budgetary need is fixed at $423.50. Thus she has counted income of $45 a month over her budgetary needs, but, because of the formula for disregardings, she draws an AFDC payment of $110.70. She has a high school education, and works with a research organization. One of her daughters earns approximately $300 a month during the summer. Because she is in college, her income is disregarded also.

Here is another case: A mother and three children on AFDC. This mother has gross wages of $569.22 a month. Her take-home pay, less transportation, amounts to $435.88. Her budgetary need is determined to be $338.35. Thus her take-home pay amounts to $97.53 more than her budgetary needs. But, because of the formula that calls for disregarding certain of her earnings, she draws an AFDC payments of $115.54. The budget includes board and room expenses for one child in college.

Mr. President, the State of Nebraska has one of the most generous welfare programs. I think we are exceeded in the amount that we pay by only one State. The program is carefully administered. People are not put on welfare, ordinarily, unless there is need. But if they are placed on the rolls, the State and local units of government pay an amount that is adequate.

So when the State of Nebraska comes in and points out abuses, and points out situations where the operation of the program is not only unfair to those who pay, but also casts a stigma upon all those who are on welfare, it is not a matter of penny pinching; it is a matter of sound government operation.

Here is another case: A mother with one preschool child on AFDC has gross wages of $309.05. But her take-home pay, less transportation and other work expenses, is $202.90. Her budgetary monthly need is fixed at $171.34. So her take-home pay, after disregarding transportation and work expenses, is $31.56 more than her budgetary need. But because the law says that the first $30 shall be disregarded, plus one-third of the earnings thereafter, she draws an AFDC payment of $94.79. This lady has a high school education and attended airlines school.

Here is another case, of a mother and four children on AFDC. She has gross wages of $115.20. The take-home pay less transportation expenses leaves her $96.72 but she is receiving child support from a former husband of $315 a month. So she has a net income—not a gross income—$411.72 a month. Her budgetary needs are estimated to be $375, so the income in

excess of need, is $36.72. But because $30 and one-third of the balance of the earnings is disregarded, she is on the rolls. The payment is small, but she is there for $25.01.

Mr. President, the existence of such abuses is a bad thing in any community. It creates discontent. It creates ill will. It puts a stigma not only on adults, but on children. And that is what we were hoping would be cured in a welfare reform bill. That is what the Committee on Finance worked out, and that is what would be stricken from their bill if the Ribicoff-Bennett amendment is adopted. All recipients are guaranteed that they will be kept on the rolls and that their welfare will not be diminished.

I will cite one more case. This is a mother and two children on AFDC. The gross wages amount to $468. The take-home pay, less child care and transportation, amounts to $253.29. She receives child support of $53.33. She has a net income of $306.62. The budgetary need is estimated to be $287. So her net income is $19.62 more than her budgetary need. But because the law provides that certain income shall be disregarded, she draws an AFDC payment of $140 a month and receives food stamps.

Mr. President, I am an optimist. I actually hope that by the time this bill is exposed on the Senate floor, just as the previous proposals failed to get a majority of the votes in the Committee on Finance, when the features of this proposal become known, it will be withdrawn by the proponents. It certainly should not be adopted and carried along by the momentum created in the country for welfare reform, because it is not that.

I again invite attention to the declaration of goal, and this is what it says, lines 2 to 5, page 4:

> The Congress hereby establishes a national goal of assuring all citizens through work or assistance in this decade an income adequate to sustain a decent level of life and to eliminate poverty among our people.

I am not going to debate that goal. But I merely point out that that does not suggest welfare reform, that that is another proposition, and the Nation has been led to believe that we had a welfare reform bill here.

Mr. President, one big, central issue is involved in this controversy: Shall we increase the number of eligible recipients for welfare—the heads of families—by some 12 million? How would we increase them? By adopting a new provision that one can be fully employed and be eligible for welfare. It is argued that that will be a good thing, that if someone works full time and his income is low, he should be put on welfare; that somehow that will be an inducement for others, as well as himself, to go from welfare rolls to payrolls.

In miniature form, that is what Congress undertook in the 1967 amendments to the welfare law, in a hope that, by letting people work and keep their money, or some of it, and still get a welfare payment, it would be an inducement to go out and work more and get off welfare.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. CURTIS. I will yield in a moment.

The experience in Nebraska, and I am sure in every other State, is the contrary—that the provision of the 1967 law, permitting people to be employed and then disregard the first $30 of their monthly income and one-third thereafter, has led to a situation in which they are not closing any cases because one could have his wages and also get welfare. Yet, the staff people who took over a sound proposal of the President to reform welfare latched onto the principle that the way to reform welfare is to permit people to have their wages and welfare, also.

They should have examined the record as to what is happening when that principal has been in operation.

I yield to the distinguished Senator from Georgia.

Mr. TALMADGE. The distinguished Senator pointed out that this was sold as a work of incentive program, and he stated that, of course, all of us on the Finance Committee know that the very opposite is true.

I hold in my hand page A–25 from the data that the Finance Committee staff developed on this bill:

> Diminished incentive for low-income work under administration provisions. For a family of four headed by a woman, the net value of each dollar if she moves from unemployment with no income to fulltime at the minimum wage.

We have the illustrations cited—Phoenix, Ariz.; Wilmington, Del.; Chicago, Ill.; New York, N.Y.

Under existing law, she would retain 62 cents of each dollar she earned. Under the pending amendment, she would retain only 28 cents—less than half under existing law.

In Wilmington, Del., she would retain under existing law, 71 cents of each dollar; under the administration provision, only 23 cents of each dollar, which is diminished by almost two-thirds.

In Chicago, Ill., under existing law, she would retain 54 cents of each dollar she earned; under the administration revision, only 27 cents, which is exactly half of the present law.

In New York., N.Y., she would retain, under existing law, 60 cents of each dollar she earned; whereas, under the pending amendment that would amount to 30 cents.

Does the Senator share my view that that is work disincentive rather than a work incentive?

Mr. CURTIS. That is correct; it certainly is.

Mr. TALMADGE. Would the Senator yield in order for me to ask unanimous consent to insert these figures in the RECORD at this point?

Mr. CURTIS. I so yield.

Mr. TALMADGE. Mr. President, I ask unanimous consent to have page A–25 printed at this point in the RECORD.

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

DIMINISHED INCENTIVE FOR LOW-INCOME WORK UNDER ADMINISTRATION REVISIONS

For family of 4 headed by a woman, the net value of each dollar if she moves from unemployment with no income to full-time work at the minimum wage:

	Cents
Phoenix, Ariz.:	
Present law	62
H.R. 16311	60
Administration revisions	28
Wilmington, Del.:	
Present law	71
H.R. 16311	67
Administration revisions	23
Chicago, Ill.:	
Present law	54
H.R. 16311	38
Administration revisions	27
New York, N.Y.:	
Present law	60
H.R. 16311	44
Administration revisions	30

(Note: value of public housing excluded)

Mr. TALMADGE. I thank the Senator for yielding, and I compliment him on the great speech he is making.

If the American people realize what this bill purports to do, in my judgment, it will be overwhelmingly defeated. The Finance Committee studied it carefully in hearing after hearing, and the first vote got only one out of 17 affirmative. They finally managed to work around to get seven affirmative votes out of 17, and that is the best they ever obtained in the Finance Committee. Is that not the Senator's recollection?

Mr. CURTIS. That is my recollection, yes.

Mr. WILLIAMS of Delaware. In connection with the points that the Senator from Georgia made about this not being a work incentive, I call the attention of the Senator to the fact that tables presented to the committee and the analysis of the bill as it passed the House, which I mentioned the other day they have been changed somewhat by a revised bill that came back in October, but still the principles are there. For example, if a female head of a family of four, had $1,600, with the food stamp and other benefits she would get in State supplementals, it would amount to $3,366; and where that is increased by earnings to $4,180, if she makes $1,000; but if they worked twice as hard and made overtime, they go down to $3,100 or $360 less than if left to the one that makes a thousand.

If that same person works harder and increases his earnings to $3,000, that drops back to $3,766. In other words, the more they earn the less they have. They lose more than 100 percent of their increased earnings. It is not an incentive to increase earnings. It is quite the opposite. It is an incentive that if one earns money, he drops back closer to welfare because they are more than the earnings would be after taxes.

Mr. CURTIS. I thank the distinguished Senator. It is true that the provisions of this measure constitute a disincentive to work.

Mr. TALMADGE. If the Senator will yield further on that point, I hold in my hand the hearings before the Committee on Finance of April 29, 30, and May 1, 1970. I quote from page 230 thereof, as follows:

> Senator TALMADGE. How many people on aid for dependent children have benefited from the earned-income disregard provision and to what extent have earnings increased as a result of this provision?
>
> Mr. HAWKINS. The number is quite substantial. May we submit actual figures on it for the record?

The proportion of women with some earnings within that program is relatively high; maybe the magnitude of a third or something, and I think we can——

Senator TALMADGE. Will you submit the full details for the record, please?

Mr. HAWKINS. Yes, sir?*

Those details have not been submitted to date.

That is one illustration of what the Finance Committee had to contend with, time after time. We found in different areas where delegations were made to the Department of Health, Education, and Welfare, and we asked time after time what action or what decisions they would make on that delegated power. What it was was the power to write law and we asked them to submit that for the record, and they never have. That is what we had to contend with in the hearings. We asked for the information. They would state a conclusion. We would ask for the information to back up that conclusion, and it has not been submitted as yet. That is the tenor of this whole legislation. It is a conclusion, some economic theory, that more people will work if we make welfare more attractive, whereas the figures show the exact opposite is true; is that not correct?

Mr. CURTIS. That is correct.

Mr. President, I have stressed the point that the individuals at the staff level, charged with taking over the President's objective for welfare reform, and the technicians in the bureaucracy, have rendered him a disservice. I believe that they have. Some of them have not done their homework. When the Finance Committee started holding hearings on the proposal, witness after witness from the Government gave as one of the reasons for making welfare available to the fully employed, that it would stop the breakup of homes, that it would bring an end to the breakup of family life.

Mr. President, every time I was in that committee and someone stated that, I challenged them, because it just is not so. The breakup of families in the United States is due to many causes, not the least of which is the moral breakdown throughout the country. But, furthermore, their argument was several years late. It used to be that on aid to dependent children, we would pay aid to the head of the family, usually the mother, if the father was dead or if he was disabled, or away from home, and that is all.

So there was a father up against it, but if he left or absconded, his family could get on AFDC. Congress met that problem several years ago. It included an additional category in the AFDC program. That is why we call it aid to families with dependent children. They provided in the Federal law that the program was extended not alone to where the father was dead, disabled, or absent, but if he was unemployed. Consequently, it is not necessary, so far as the Federal law is concerned, for a jobless person to desert his family in order to get that family on the AFDC program. Also, the figures show that those States that run their program that way, where unemployed fathers can get on an AFDC program, the percentage of family breakups was as high as any other place.

The State of New York offers more assistance to families than any other State in the Union, yet it leads the Nation in family breakups.

I hold in my hand an article entitled "The Crisis in Welfare," written by Daniel P. Moynihan, and here is what he says.

It must be remembered that the United States now has a family allowance for *broken families* and that it is widely argued (although typically there are not five cents worth of research findings on the subject) that the availability of AFDC payments does lead to family break up.

In other words, Mr. Moynihan says there is not 5 cents worth of research to support the contention that by paying welfare to the fully employed will prevent family breakups.

Incidentally, I want to read again from Mr. Moynihan. This was in a letter to the Washington Post on Thursday, November 25, 1970.

I read just part of it:

By and large the attacks on the proposal from ultraconservatives have been factually accurate.

I think they have. I do not know what a ultraconservative is.

The statement there that the attacks have been factually accurate is correct.

It states further:

They understand well enough the basic principles of the legislation, and the essential details of its operation, and they oppose them.

This, at least, is a credible position. On those points I agree with this distinguished professor. It is based upon facts that are accurate. We understand what is in the bill and we opposed it.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. WILLIAMS of Delaware. Mr. President, the Senator from Georgia referred to the fact that this did not correct the problem dealing with the family breaking up. The Senator from Nebraska pointed out that the city of New York, which has the highest welfare rates, also has the highest record of split families. We asked the staff when we were analyzing the bill to check the revised bill—and I am speaking of the administration's last revised bill in October, as I recall the date—to see what would happen under this bill if it became law in the cases of split families.

The following example is given of the incentive for a family to split up under the administration bill. This concerns a welfare family with an unemployed mother and father with four children and no other income.

In the city of New York if this family were to split and the father take two children and the mother keep two children they will increase their combined income $2,508 under the bill. They could get $2,508 premium for splitting the family.

In Chicago a similar family could collect $2,064 more by splitting the family than if they were to live in the same family unit.

In Wilmington, Del., they could get $1,104 more premium by splitting the family.

In Phoenix, Ariz., they could receive $936 more.

These are bonuses that they could get by splitting and calling themselves two welfare families rather than a single family unit.

I cannot conceive of Congress approving a social program which actually pays these bonuses to a family to split and divide the family unit. It is indefensible. It is directly opposite to what we have been told it would do.

Mr. TALMADGE. Mr. President, would that be considered the antiwedlock provision of the bill?

Mr. WILLIAMS of Delaware. It could be considered as one of them. I pointed out an example the other day concerning a young couple. This example was prepared by the staff, and I think it should be used again.

Family A consists of a boy 17, a girl 12, and a girl of 6. Family B has a girl 16, a boy 11, and a girl of 8.

If this boy and girl decide to get married each family thereby loses a dependency under this bill. They lose a $300 Federal bonus, the State supplement, the food stamps, medical care, and the extra housing unit they get as a result of the extra dependent.

If the young boy and girl get married they are off the welfare rolls since this is called aid for dependent children; they are left out until after the first year or until they can produce the first child.

However, under the Ribicoff-Bennett amendment if the girl gets pregnant and the boy does not marry her until after the baby is born, the families continue to collect welfare on them as dependents, and they end up with a cash bonus of $1,300. Think of it—the Federal Government paying $1,300 as an inducement for them to have this child out of wedlock.

I mentioned this example last week. I cannot conceive of Congress approving a bill which would pay $1,300 more to a couple that has a child out of wedlock than they would to the family that has a child after they are married.

As was pointed out a moment ago, a family of four children receive a premium of $2,500 if they split the family. That is directly opposite to the objectives the President has said he wants to achieve and what the Secretary of Health, Education, and Welfare has said he wants to achieve.

We can agree on what they say they want to achieve; however, this bill does not do it. For this reason the bill should be rejected. The committee by a vote of 14 to 1 and by a vote of 10 to 6 on another occasion rejected the bill's being considered in this session.

I agree with the Governors that we should have tests of some of these plans to see how they would work before they are enacted.

By all means the department should have set down a figure on what John Doe could have gotten under the bill, rather than writing up a lot of flowery language. These are the mathematical results that were furnished to the committee by HEW after we began to analyze the bill.

Mr. President, it is very evident that those charged with working out the de-

tails of this proposal have fallen far short of the President's goals.

Mr. CURTIS. I submit the matter can be brought to a vote. I do not desire to take more time on the matter.

Mr. President, I yield the floor.

DISTRICT OF COLUMBIA REVENUE ACT OF 1970—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19885) to provide additional revenue for the District of Columbia, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. GRAVEL). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of December 19, 1970, pp. 42660–42666, CONGRESSIONAL RECORD.)

Mr. EAGLETON. Mr. President, the approval of this conference report by the Senate will send to the President for his signature legislation that will provide much needed additional revenue for the District of Columbia and meet other important needs of the citizens of the District.

The House in its version of the bill authorized an increase in the Federal payment from $105 million to $120 million—an increase of $15 million. The Senate provided that such payment would be equal to 30 percent of the District of Columbia general fund revenues which would provide an increase of approximately $27 million in the Federal payment. The conference substitute provides for an increase in the annual Federal payment authorization level to $126 million—an increase of $21 million. I believe that the conference agreement is a fair compromise that will allow the District of Columbia to meet emergency costs of $13 million and provide additional funds for vital programs in the areas of education, public safety, human resources and drug rehabilitation.

The conference bill increases the borrowing authority of the District of Columbia for capital improvement programs to levels adequate to meet the needs of the District for the next 2 years.

Also, H.R. 19885 provides for increases in District revenues through increased fees for the operation of certain trucks, a sales and use tax on the rental of textiles, and authority of the District of Columbia Council to set water and sewer fees.

This legislation amends the District of Columbia Minimum Wage Act to exempt from the overtime compensation provision of that act certain employees—drivers, drivers' helpers, loaders, or mechanics—employed by employers subject to regulation by the Interstate Commerce Commission under section 204(a)(3a) of part II of the Interstate Commerce Act, providing the employees spend no more than one-half of their workweek in the Washington metropolitan region. The amendment retains overtime compensation coverage for drivers, drivers' helpers, loaders, or mechanics who spend more than one-half of their workweek in the Washington metropolitan region. This amendment is retroactive to February 1967, the effective date of the District of Columbia Minimum Wage Act.

The conference bill includes a number of minor amendments affecting the District's minimum wage law but does not include the House proposal to prohibit the establishment by the Wage Board of a minimum wage exceeding by more than 10 percent the Federal minimum of $1.60. The amendments provide that a wage rate once set in a wage order could not be changed until effective for 1 year and that an order increasing by stages a minimum wage to achieve a target level could not be accomplished in a single wage order. This limitation is not to be read to preclude the Board from setting different rates for separate classifications of employees within the same industry.

The section also changes the composition of the advisory committees to the Wage Board more accurately to reflect a precise balance between labor, employer, and public representatives. Board members themselves may no longer serve as advisory committee members, however the chairman of the Wage Board will serve in the capacity of an ex officio member. Finally, in considering proposed wage rates the advisory committees are directed to consider applicable wage rates in the Washington metropolitan area as well as in the District of Columbia.

The conference agreed to include Washington Technical Institute with Federal City College for purposes of receiving land-grant college funds in the District. The conferees agreed that the provision was a revenue sharing arrangement only and that the amendment was not to confer generally land-grant status upon Washington Technical Institute. The provision is not to be construed as a precedent for opening land-grant membership to other nondegree institutions. Moreover, the extension services funds must be administered by one director and the programs of the extension service must be conducted by the two institutions on a nonduplicative and mutually cooperative basis.

I feel that this conference report is a fair compromise between the House and Senate versions of H.R. 19885 and that it is a reasonable and positive response to the needs of the people of the District of Columbia.

Mr. President, I move that the Senate agree to the conference report.

The motion was agreed to.

SOCIAL SECURITY AMENDMENTS OF 1970

The Senate continued with the consideration of the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. WILLIAMS of Delaware. Mr. President, under the previous order I was to be recognized; however, the Senator from Connecticut suggested that he has a statement to make. I would like to yield to the Senator from Missouri and others. The Senator from Pennsylvania has a statement to make also. I ask unanimous consent that rather than my holding the floor and yielding to them I be recognized and regain the floor under the previous order when the consideration of the bill is resumed.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAMS of Delaware. Mr. President, I think the Senator from Connecticut wanted to proceed next. I will reserve my remarks until tomorrow.

Mr. RIBICOFF. Mr. President, arguments against the family assistance plan have been made in the last few days.

A number of these arguments were illustrated by the use of charts and statistics. These arguments and figures have been used to suggest that serious work disincentives are created or worsened by family assistance. This is not the case.

The Ribicoff-Bennett proposal authorizes the most significant step forward in 30 years to develop work incentives within the welfare program. This step is the inclusion of the working poor within the welfare system.

Over 1.8 million American families encompassing 10.5 million persons are headed by full-time workers with income at or below the poverty line. These families are not now eligible for Federal welfare assistance. Yet, under existing law, other families which might live in the same neighborhood or even next door, are better off on welfare without working. For the millions of working families, family assistance is the first welfare program which makes it worthwhile. Under family assistance, eligibility will no longer be confined to those who do not or cannot work. The elimination of the present discrimination against working families is a major work incentive.

In New York City, which has administered a working poor program for 20 years, a 13-month study found that over 97 percent of working families remained working families after receipt of welfare benefits. Many of the remaining families changed their status only because of illness or death of the father.

I ask unanimous consent that a short table showing how family assistance will help the working poor be included at this point in the RECORD.

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

FAMILY OF FOUR WITH FATHER WORKING FULL-TIME AT $1.00/HOUR

	Present law	Family assistance
Earnings	$2,000	$2,000
Assistance	0	960
Total income	2,000	2,960

Mr. RIBICOFF. Mr. President, the Ribicoff-Bennett amendment also proposes an expansion of Federal work training and child care programs. Three hundred eighty-six million dollars would be spent in the first year of the program for expanded day-care opportunities. More than $200 million will be spent to provide work training and upgrading program.

In addition, through an amendment proposed by Senator HARRIS and I, a strong public service job program for welfare recipients will be initiated.

The greatest impediment to moving welfare recipients from relief to work is the lack of actual jobs at the end of the work training programs. The Ribicoff-Harris proposal takes a small but important step to remedy this problem.

Under the family assistance program, every able-bodied welfare recipient will be required to register for these work and work training programs. Failure to so register will mean an immediate loss of $500 of FAP benefits.

The charge has also been made that family assistance would further encourage break up of families and illegitimacy.

Mr. President, those problems are precisely what family assistance is designed to end—not encourage. By providing assistance to all families—not merely broken families, as is now the case—the program eliminates the incentive for low-income families to separate.

Mr. HANSEN. Mr. President, will the Senator yield at that point?

Mr. RIBICOFF. I am pleased to yield.

Mr. HANSEN. According to the information I have, the October revised revision would retain the $500 penalty provision, as the distinguished Senator has pointed out, but would delete the provision for disregarding income tax payments. Testimony developed at the hearings on the bill showed that the $500 reduction in family assistance would actually result in reduction of only $241 in family income since benefits under other kinds of welfare type programs increase as family income decreases.

May I ask the distinguished Senator from Connecticut if that checks with his understanding of the bill?

Mr. RIBICOFF. May I say that I do not have that information. It would depend on what the total amount was that a person was receiving. I do not imagine that a person with a family of four receiving $1,600 would be involved much by way of income tax. I do not have the figures. I shall supply them for the RECORD, if I can, before the night is over.

Mr. HANSEN. I thank my friend.

There being no objection the figures were as follows:

A family of four with no other income would lose $500 of family assistance if a member of that family refused to register for work. In addition, State supplementary payments would be reduced by one-fourth. Thus if the State supplement were $1,500 the total loss to the family would be $875. This loss might be reduced by anywhere from $0 to $225 if food stamps and other programs increased the benefits to the family because of its income reduction.

Mr. RIBICOFF. In addition, the most scientific methods now in existence will be employed to provide a continuing evaluation and investigation to prevent fraud in this program.

It has also been mentioned that the family assistance plan provides a $1,300 incentive for couples to have children. This so-called incentive is also present in existing programs. The defect could be easily remedied by providing welfare eligibility for childless couples, which is a step I have advocated for sometime and even proposed to the Finance Committee in the form of an amendment to H.R. 16311. This, of course, would be a further expansion of family assistance.

Reliance has been placed on charts which attempt to set forth the "notch" effect of family assistance by which, it is explained, the programs will encourage welfare recipients not to work.

These charts, which are confined to examples of families headed by mothers, show the cumulative dollar totals of welfare, food stamps, medicaid, and housing programs.

It is my opinion, which is shared by many, that these tables do not show the true effect of family assistance or reflect its impact on most welfare recipients.

First, over 90 percent of all welfare recipients cannot accumulate all the benefits which are shown on these charts. Slightly over a third are eligible for food stamps, less than 10 percent are in public housing. Furthermore, these charts are exclusively used to show the circumstances of female-headed families which will comprise less than half of the eligible recipients under family assistance. Families headed by a working male will not be eligible for medicaid, or State supplements.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. WILLIAMS of Delaware. It is true that the charts refer to female-headed families, but that form was selected by the Department itself. We asked if a different picture would be shown if the Department had provided different charts for male-headed families, and the answer was "No." If they would provide different charts we would be glad to display them. They did not submit any, so I assume that while the picture would be slightly different the patterns would be the same. If the patterns were not the same it is the Department itself that is at fault for not advising us. I repeat, these are the charts they sent to the committee, and they selected the type we were going to use.

Mr. RIBICOFF. May I say to the Senator that I share some of the frustration mentioned by other members of the Finance Committee who are on the other side of the issue. It is absolutely true that the committee, collectively and individually, asked for information time and time again, and this information has not been forthcoming, I, as well as they, decry the failure to have the cooperation which the committee was entitled to have. It would have made the job of all of us that much easier if the information had been forthcoming.

Mr. WILLIAMS of Delaware. That is correct.

If the Senator will yield further, another point to be made on these charts is that they tried to point out that there would be a minimal effect by saying that less than 8 percent of the people were in public housing. That included farm areas and rural areas, where there is no public housing. Those figures are misleading because in the city of Wilmington in my own State, the figure representing those under public housing, is not 8 percent but 28 percent, while in New York State the figure is a much lower one. But in New York State and in some other States they use rent supplements instead of public housing. So when they talk about public housing, they do not include rent supplements or various other programs which should be included.

I think all those programs must be related. I know the Senator from Connecticut would insist on getting all that information.

If we take an area where public housing is not used and that item of the program is eliminated but if there is another program which is substituted for it that particular program should be substituted. Unfortunately we have not had any cooperation from the Department in getting a real breakdown.

This is not a criticism of the Senator from Connecticut because he has been as frustrated as the rest of us in getting information. It has been impossible in our case in view of this complete lack of cooperation from the Department.

I thank the Senator for yielding.

Mr. RIBICOFF. I thank the Senator.

Second, few, if any, welfare recipients are encouraged to work or not to work by eligibility for medicaid. This is not a cash program, but a health program. Sickness is unpredictable. When no illness is incurred no medicaid benefits are received. It is unlikely that loss of medicaid coverage would deter anyone from working particularly when other, private health plans would be available.

Third, the family assistance plan actually corrects the many additional "notches" which the present program perpetuates. Those few that remain are not the result of family assistance but of other programs. As pointed out above, many of these "notches" are illusory and most are corrected by family assistance.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield at that point? I dislike interrupting him.

Mr. RIBICOFF. I yield.

Mr. WILLIAMS of Delaware. The Senator is correct. In one city the average medicaid benefit was calculated at $1,100 per family. It is true that family A may not have benefited from any medicaid at all and another family may have benefited to the extent of $2,500. There is this other factor to consider, however. While it is true that a family may or may not benefit under medicaid, depending on the health of the family, if one goes on the labor force and is no longer on welfare he has to pay for the health insurance. So that is a deduction from pay because he has to pay for that health insurance. That is what creates this notch plus the fact that money earned is taxable while welfare payments are tax-exempt.

Mr. RIBICOFF. I think that point will be touched upon by the next point, that the family assistance program actually corrects the many additional notches

which the plan perpetuates. It is true that taken alone, the result of the family assistance plan is that most of these notches are illusory and most are corrected by the family assistance plan.

I can understand what the Senator from Delaware was trying to do in committee, and I can understand his continued frustration when we talk about the family assistance plan and when the medicaid and housing and other programs have not been drawn together to make a whole. But when we talk of the family assistance plan, many of the notches as a result of other programs Congress has adopted, including the administration of those programs, are eliminated.

Mr. WILLIAMS of Delaware. I agree completely on that point. I said the other day that if we forgot momentarily the other programs related to welfare and looked at nothing but the charts presented on the family assistance program one could have a picture of a progressive incentive to work. It is when we start considering the other programs that notches are developed. I was disappointed that since the other agencies are still a part of the Government these plans had not been put together and considered as a whole.

There is no excuse for their not having been considered together.

Mr. RIBICOFF. That is one reason why I have been so insistent on having pilot programs, because the family assistance plan goes into effect in July of 1972. It would be my hope that, in the trial period, we in the Finance Committee would monitor it very closely and get an overall picture of all the other programs working together with family assistance, and we would have an opportunity between March 1, 1972, and July 1, 1972, to correct any inequities.

This is a monumental program, and I have tried to the best of my ability, on this floor and in committee, to point out that we do not know all the answers, and that I share many doubts of other Senators; but I do believe in the basic philosophy, and that the program is worth trying.

STATE SAVINGS

A point has been made that the State fiscal savings clause in the Ribicoff-Bennett amendment only applies to the expenses of the adult categories. In fact the 90-percent-freeze clause applies to families as well as aged, blind, and disabled recipients.

Under present law welfare costs under AFDC—both State and Federal—are increasing at the rate of 30 percent annually. At this rate, with no change in the law, costs will more than double in 3 years. The fiscal savings provision in the Ribicoff-Bennett amendment is vitally necessary to save the States from financial catastrophe.

REPUBLICAN GOVERNORS

Mr. President, there has been some misunderstanding regarding the position of the Republican Governors on the Ribicoff-Bennett amendment. I ask unanimous consent that a copy of a telegram responding that the Republican Governors' Association favors the amendment by 14 to 2 be printed in the RECORD at this point.

The telegram is dated December 16, and was sent from Sun Valley to Secretary Elliot Richardson.

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

Secretary ELLIOT L. RICHARDSON,
Department of Health, Education, and Welfare, Washington, D.C.:

At an executive session of the Republican Governors Association this noon, I presented the matter of the family assistance plan and the Ribicoff-Bennett amendment. The RGA voted to support the President's family assistance plan with 14 in favor, 2 opposed and 3 abstentions

RUSSELL W. PETERSON,
Governor of Delaware.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. RIBICOFF. I am glad to yield to the Senator from Georgia.

Mr. TALMADGE. If the Senator will refer to his amendment, on page 9, line 10, appears the heading "Exclusions From Income."

Then on page 10, beginning on line 16, it reads:

(5) food stamps or any other assistance (except veterans' pensions) which is based on need and furnished by any State or political subdivision of a State or any Federal agency, or by any private agency or organization exempt from taxation under section 501

And so forth.

Would that not make it possible for a foundation which is a tax-exempt organization to make grants to individuals in any amount, any sums of money annually, and those individuals would still be eligible for welfare at the same time?

Mr. RIBICOFF. That is correct. This would allow a foundation which would like to supplement and even raise above the poverty level recipients of grants to make such grants to individuals. The Senator is correct in his statement.

Mr. TALMADGE. Let me give the Senator a hypothetical case. Many foundations do outstanding jobs in cancer research, tuberculosis research, and other health matters. Suppose they take some eminent doctor, and give him a grant of $100,000 a year to do research on a cure for cancer. Under that provision, would he not be eligible for welfare at the same time?

Mr. RIBICOFF. I think that is farfetched. While it could be possible, I cannot imagine an eminent doctor who was doing cancer research with a $100,000 a year grant who would not have income from a hospital or university upon which he would have to pay taxes, but would rely upon himself and his family living on $1,600 ayear.

Mr. TALMADGE. I am asking whether the Senator's amendment would not authorize his eligibility for welfare.

Mr. RIBICOFF. Yes; it might authorize his eligibility, but as a realist—and I know the Senator from Georgia is a realist, too—I have no fear of that taking place.

Mr. TALMADGE. Mr. President, we are dealing with a law now, and not a theory. The Senator admits that his amendment would authorize such an individual to be eligible for welfare if he were living on a grant of $100,000 a year.

Mr. RIBICOFF. Yes; but while this could happen, I do not think the law is that much of an ass.

Mr. TALMADGE. That is what the Senator wrote into the amendment, and I am asking him to explain it, and he admits that what I say is true. That is just one of the many imperfections in this amendment that I think ought to be clarified.

Mr. WILLIAMS of Delaware. Mr. President, while, as the Senator suggests, that might be a far-fetched example of what could happen. I point out that when we were considering the Tax Reform Act and that section dealing with foundations we had an example where a foundation had taken practically the entire staff of the late Senator Kennedy and given them for 2 years a grant of approximately $25,000 a year with travel expenses. They were going to take care of those individuals, the excuse being that they had no other source of income.

On that basis, if this bill had been in effect, all the members of the staff of that Senator would not only have their grants from that foundation but would be eligible for welfare payments under this bill because we were told in the committee that they had no other source of income.

Mr. RIBICOFF. Mr. President, I would like to add that on page 10, line 17, the amendment refers to "food stamps or any other assistance—'which is based on need.'"

I do not imagine that a research chemist doing research under a foundation grant would be in need. The amendment also contains an assets test.

Mr. TALMADGE. Will the Senator yield further?

Mr. RIBICOFF. I yield.

Mr. TALMADGE. In line 19, the word "or" appears, so it is in the alternative.

Mr. RIBICOFF. Mr. President, I would like to pursue this matter further, but the minority leader must make a statement by 6 o'clock or be taken off the floor.

As the Senator from Delaware knows from our colloquy on his unanimous-consent request of a few days ago, I was most anxious not to have this amendment in the second degree. I was very hopeful to be able to afford every Member of this body a chance to put in perfecting amendments, whether it be the Senator from Iowa, the Senator from Oklahoma, or the Senator from Georgia. I would have been the first to try to correct the point that the Senator from Georgia has made, but we were put in the position that we had no alternative but to make this amendment in the second degree.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. WILLIAMS of Delaware. The Senator is correct on that point. Both he and I tried on two or three occasions to get this bill into a posture where it could be amended and voted on on its merits, but neither of us were able to get it into that posture.

Mr. JAVITS subsequently said: Mr. President, on Saturday, certain analyses were made by the distinguished Senator from Delaware respecting the effect of the family assistance plan contained in the Ribicoff-Bennett proposal upon my State of New York. I asked the Department of Health, Education, and Welfare to analyze those analyses made by Senator WILLIAMS. They do not agree with him, Mr. President, as to their effect and the alleged inequities which would result. I shall discuss these in detail at an appropriate time, but I did feel that at the earliest moment they should stand in the RECORD, so that anyone who wishes may read these replies.

So I ask unanimous consent that the letter of the Department of Health, Education, and Welfare, signed by the Honorable John G. Veneman, Under Secretary, be printed in the RECORD.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 21, 1970.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: The following is in response to your request for comment on certain statements made by Senator Williams (Delaware) in the Congressional Record of December 19, relating to the effect of the Ribicoff-Bennett proposal upon the State of New York.

On page S20807, Senator Williams cites an example that leaves the impression that the Ribicoff-Bennett proposal would pay a $1300 bonus for an illegitimate child.

He states that "this bill actually provides a $1300 bonus from the Federal Government to a mother to have an illegitimate baby over and above what would be paid if the baby were born in wedlock."

Under the existing AFDC program, a childless couple is not eligible for benefits—nor would they be under the Family Assistance Plan. The presence of children is required for eligibility.

In fact, it is the present program which rewards illegitimacy. Currently, families in which the father is married and working full time are not eligible for any federally assisted welfare. But if the father were not married to the mother, she and her children would be eligible. FAP, would for the first time make the intact family eligible thus reducing the financial reward for illegitimacy.

The Bill also mandates State supplementation to families in which the father is unemployed. This is now done in New York on an optional basis but it not done in 25 states. In these latter states, an intact family may now receive no assistance even though it has no income. In contrast, families where the father has deserted or in which the child is illegitimate would be eligible. Thus, the Ribicoff-Bennett proposal is a step toward reducing illegitimacy and desertion.

In Senator Williams comments he left another distorted impression regarding benefits available in New York.

In the chart published on page S 20810, an impression is left that a family of four in New York without any earnings would receive money and benefits totaling $6210.

The following facts must be considered:

(a) probably no more than 1 or 2% of the families on public assistance in New York have available to them all of the benefits listed on the chart.

(b) only 7½% of the welfare recipients in New York City live in public housing, which is worth $989 to a family without income. Ninety-two and a half percent of the families do not receive this $989.

(c) The impression is also left that all recipients receive food stamps valued at $312 annually. The fact is that 60% of the welfare recipients in New York do not participate in the food stamp program.

(d) The impression is left that every family on public assistance receives $1153 in medical benefits. This is the average expenditure in New York and is available only if there is illness. The payments are made directly to the providers of the medical services for an illness incurred by the family.

Another issue was raised by Senator Williams on page 20807 where he stated that "in New York, a welfare family will collect a higher premium on family splitting. They collect $2508 more as two families than if they live as one family. They can collect that every year under this bill, if they will just separate—the husband taking part of the children and the wife taking the other children."

This is highly distorted. In this respect the Bill does not change the present law. In New York, under law, a family of six, husband, wife and four children receive a total of $329 per month, plus rent. A family of three receives a cash payment of $179 per month plus rent. Thus, the total of two families of three would be $358 per month plus rent. This means that the net cash differences between one family of six and two families of three is $29 per month or $348 per year rather than $2508 stated by Senator Williams. The family situation with respect to rent, Medicaid, and food stamps would be the same in both cases.

If I can be of further assistance, please do not hesitate to let me know.

Sincerely,

JOHN G. VENEMAN,
Under Secretary.

Mr. JAVITS. Mr. President, I have shown a copy of this letter to Senator WILLIAMS, who desires me to yield on this matter.

Mr. WILLIAMS of Delaware. Mr. President, I appreciate the Senator from New York putting this letter in the RECORD, and I note it is signed by Mr. Veneman.

I only point out that the charts I used in my statement of last Saturday and the figures I quoted were also presented to the committee by Mr. Veneman, the same Mr. Veneman. This is the first time I have heard of an administration contradicting his own figures by claiming he gave false information to a congressional committee.

This only shows the confusion and that they cannot even agree 2 days at a time, because all the figures I used were over the signature and finished by HEW. Let them decide which time they are telling the truth.

It further supports my position that we should reject this bill, and I think we need some new men in the Department of Health, Education, and Welfare who at least can stay on the same side of a question 24 hours.

I shall discuss this letter later. Perhaps the committee erred in not placing the Government witnesses under oath.

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, without amendment, the bill (S. 4571) to amend the Central Intelligence Retirement Act of 1964 for Certain Employees, as amended, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H.J. Res. 1162) to amend Public Law 403, 80th Congress, of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

S. 578. An act to include firefighters within the provisions of sections 8336(c) of title 5, United Sates Code, relating to the retirement of Government employees engaged in hazardout occupations;

S. 3835. An act to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism; and

S. 4106. An act to amend the Public Health Service to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes.

AUTHORITY TO PRINT REPORT OF THE MINORITY LEADER ENTITLED "WAR TO PEACE: SOCIAL REGENERATION" AS A SENATE DOCUMENT

Mr. SCOTT. Mr. President, Benjamin Disraeli, a liberal Tory, once said that decision destroys suspense, and suspense is the charm of existence.

We have had, in this session, more suspense than decision, and I must add that I am far from charmed.

Mr. President, I am about to submit the minority leader's annual report, and I ask unanimous consent to have this annual report of the minority leader for the second session of the 91st Congress, entitled "War to Peace: Social Regeneration," printed as a Senate document.

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

Mr. SCOTT. I shall not attempt to read the entire report at this time, but I ask to have it printed in full. I want to extend to my many colleagues, because I do not listen to them all the time, the recognition that they do not have to listen to me, either.

The report opens with a quotation from Vergil and a quotation from Homer, and then begins in earnest as follows:

In our youth-oriented society, it may be somewhat rash to indulge in reminiscences of the good old days. But as this 91st Congress creeps and crawls toward adjournment, I cannot help but recall another and Golden Age.

Time was when Congress actually finished its legislative business before Americans congregated to sing Auld Lang Syne to the departing year; in fact, even before Santa Claus began his annual goodwill run.

Yes, it is a fact, Virginia, there was once an era when Congress sniffed the fall air and took the turning leaves as a signal to close its books. Traditionally, the last appropriation bill to be considered was for foreign aid monies. Once passed, adjournment came mercifully and swiftly.

Nor did it mean Congress had neglected current problems of great import. The record of these earlier Congresses is a good one in terms of legislation enacted.

For two years, however, Congress has dawdled, postured, delayed. Indeed, this year even a matter of such moment as the general election could not stir Congress from its lethargy and we have endured the first lame duck session of Congress in two decades—and with equally negative results.

That the public business has suffered is incontrovertible. But my concern is that Congress itself will be the great loser, should this pattern continue.

Not just impatient youth, but an impatient America could well lose confidence in the First Branch of Government.

Who bears responsibility for this? Certainly not the Majority Leader, Mike Mansfield. I have watched with admiration his unceasing efforts to keep the Senate on the track, that this session might come to a dignified and timely close. Because of him, the competition so necessary to our two-party system has been keen, realistic, but always gentlemanly. For this I personally owe him a great debt of gratitude, and so do all of us, whether Republican or Democrat.

Nevertheless, the question persists as to why this unbelievable delay in carrying out the fundamental, inescapable duties of Congress. In the Senate, at least, I think it has come about because of a confusion between targets of opportunity and targets of necessity. In the field of new legislation to control crime, the Senate indeed led the way, but in other ways our penchant for talk often delayed action beyond sufferable limits.

Given the diversity of America, its boiling energy, its native zeal for problem-solving by legislative fiat, there are an unending array of targets of opportunity for Senators—especially if their ambitions go beyond the Chambers of Congress.

It is good at times to remind ourselves that all problems are not of the same order, to be legislated on at the same time by the U.S. Senate; that ours is indeed a Federal system of government, with many problems handled more effectively, more rapidly, and thereby more equitably, at the State and local levels.

There is a failure, a refusal to recognize that by putting aside the targets of necessity, by failing to do what must be done first, the Senate is adding to the Nation's sense of confusion and loss of confidence. By rushing for targets of opportunity, by seeking to gain recognition as the most avant of the avant-garde, Senators are contributing to a horrendous legislative quagmire; one which cannot fail to have damaging repercussions throughout the rest of government.

Mr. President, my previous report, my first as Minority Leader, was clouded with sorrow because of the unexpected and untimely death of our beloved Minority Leader, Senator Everett McKinley Dirksen. We all felt keenly the loss of his guidance and steady counsel. We knew we would have to carry on, and we strove, each of us in his own way, to follow the path he had marked for us.

As in all things, however, those of us who survive must shoulder our own burdens. The Republic continues to exist. We in the Senate must go on to deal with the problems confronting us today.

The real re-ordering of those priorities, about which so much is said, not already re-ordered by the Executive shift toward social needs, must begin with a candid appraisal by each of us in the Senate as to what must be done in what order and what can be done well, if we are to contribute legislative thrust to genuine progress in America. In making this evaluation, I must acknowledge the unflagging assistance and thoughtful leadership of the assistant floor leader, Senator Robert P. Griffin of Michigan; the chairman of the Republican Conference, Senator Margaret Chase Smith of Maine; the chairman of the Republican Policy Committee, Senator Gordon Allot of Colorado; and the Secretary of the Republican Conference, Senator Milton R. Young of North Dakota.

I am particularly mindful of and grateful for the thoughtful cooperation of my political colleagues, and especially for the assistance of the Regional Whips who have made possible steady monitoring of the proceedings of this Body.

Mr. President, with these thoughts in mind I offer this Republican Report for the Second Session of the 91st Congress.

Mr. President, the guts of my Minority Report boil down to a consideration of these facts: That this Congress has quite literally dawdled for two full years; that this is not the fault of, nor should blame be attached to, the distinguished Majority Leader of the Senate; this laxity has added to the Nation's confusion and loss of confidence in government; the worsening delay in the appropriations process is an unprecedented embarrassment to Congress; that President Nixon has succeeded in greatly cutting troop strength in Asia, winding down the war, taking the initiative in cutting defense spending, and at the same time has in large measure succeeded in effecting a transformation of the Nation from a wartime to a peacetime economy; that he has inherited the inflationary crop which was sown in the credit-card 1960's, yet managed to cool down a white-hot economy without throwing the Nation into depression; and that America is on the verge of an unprecedented period of social renewal and regeneration.

In effect, the overall policy of the Nixon Administration has been to restore our confidence in our own country. To call attention to the resources of talent, of technique, of experience still so abundantly available throughout America. To remind us that we are magnificently experienced practitioners of democracy under our Federal system.

A reading of the Nixon messages to Congress makes this quite clear. We see honest appraisals of what has been tried and found wanting—to name but a few programs—in education, welfare, manpower training and urban restoration. Thereafter have come proposals to move away from what was possibly the worst of two worlds insofar as public administration goes: far too many categories of aid programs, with an overcentralized bureaucracy administering each of them.

In a sense this was a hangover from the 1930's. In those days, state and local governments were in the main badly equipped to handle the new type aid and welfare programs established by Federal enactment.

Not so in 1970. But a mentality has been created, a habit of administering most difficult to change in a bureacracy, and apparently, among many members of Congress as well. But change will come, and Republicans seek to provide the leadership for it.

We have not lost our way; there is no doubt in my mind that America is on the verge of a great period of social renewal, of regeneration. It will not be easy, and here perhaps, is the time to ask ourselves whether we may not have made a serious mistake in the past.

We have tried to justify our American democracy in terms of affluence, of statistics indicating world leadership in automobile, television, bathtub and telephone ownership. We have made it appear to promise a life of ease and safety.

Democracy is really the most dangerous and the riskiest form of political society. Even so, it works. Great trust, responsibility and power is put into the hands of great numbers of people. Particularly is this true under the American Federal system.

To reinvigorate Federalism is to very clearly vote for this "dangerous" dispersion of power, in the firm belief that we will better respond to the challenge to renew our America.

What has been lost in American life must be found.

What doesn't work must be discarded.
What works, must be made to work better.
There are mountains ahead.
But there are men beyond the mountains.
The strength of our land lies in ourselves.
We Americans must make tomorrow better.

INTRODUCTION

For a decade, while American eyes were turned moonward and American blood drained in Southeast Asia, a multitude of problems—domestic and foreign—were allowed to mount; Nostrums were offered but few real solutions appeared. Now the Republic is awash with unsolved problems in three basic categories:

From War to Peace
The Economic Effects
Social Renewal

In each of these areas the 91st congress has been called upon to chart a crucial course in the search for solutions. The degree as to which the Senate discharged its responsibility was not so much due to the Senate itself as to an aroused public, and elections just past.

For much of the first 20 months of the 91st Congress, the Senate seemed more impressed with the need to posture, to pose in grand debate, than to seek answers. The General Election of November 3 was but weeks away when the Senate finally abandoned its rhetoric and began to act on a wide field of issues.

It is not unfair to say that this Congress has been painfully lacking in a sense of responsibility. Nearly a full six months of Fiscal 1971 went by before the final appropriations bill for the fiscal year was passed. This laxity has cost the taxpayers billions of dollars that could have been saved had the 91st Congress acted in proper time. It is not fiscally responsible to let half a year go by, to be paid for under continuing resolutions, while mandatory fiscal legislation languishes in a logjam of verbiage.

In both 1969 and 1970, months were devoted to debating issues already decided.

To change direction after eight years of experimentation without positive result, President Nixon called upon the Congress for action on a wide front. He sent no fewer than 82 messages to the Congress requesting specific legislative action.

Moving a Nation from a wartime, forced-draft, economy to peacetime productivity is an enormous task. Congress was presented an outline on how best this could be done. Congress dragged its heels, put off action, and delayed.

It would appear on the surface the membership of the Senate Majority Policy Committe of this Congress has insisted on the right of *jus primae noctis* on every measure presented by the President to meet pressing national and international commitments.

Typical of this delay, and of the insistence by the majority that their own special stamp be placed on all legislation, is the recent over-hasty, last-minute action on the national railroad labor dispute.

On February 27, 1970, President Nixon proposed to Congress enactment of the Emergency Public Interest Protection Act of 1970. That proposal was designed to prevent exactly what did happen—a railroad tieup caused by a labor dispute. Eight months later no action had been taken; the proposal lay dormant in the womb of Congress.

Not until the night of December 9 did Congress hastily put together a law designed to postpone the railroad strike.

Severe warnings had long been posted that a strike was on its way. For months the strike had been delayed and postponed, and there had been some short rail stoppages. All this was faithfully and accurately reported in the press. Even after renewed pleas by President Nixon, Congress continued to delay. When the bill finally passed it was too late. The rail strike took effect. The President was not able to sign the measure until well past the midnight deadline.

Secretary of Transportation Volpe, warning Congress of the predictable effects of the anticipated rail strike, stated a stoppage would cost a 5 percent decline in the GNP during the first week and a 22 percent decline if it lasted four weeks. Even such grim warnings, at a time when our economy was still depressed from the General Motors strike, failed to nudge Congress into speedier, more adequate action.

Mishandling of railroad emergency legislation is not a unique example of the disregard for the public interest evidenced by this Congress. Every sector of the Republic has been affected.

This report will detail both the accomplishments of the 91st Congress and its failures. This is done not so much to excoriate Congress, as to remind us all that we are but one branch of Government, not an island of power. Where Government succeeds we cannot claim the success as ours alone; where Government fails, we must share the fault.

LEGISLATIVE TIME LAG

Much of the Nixon Administration's program has never been enacted by the 91st Congress. Others of his proposals were held back for weeks and months by the majority of both Houses, controlled and managed at all times by the party in opposition to the President.

Following is a chart showing the time lag between proposal by the President and disposal by Congress on 34 of the measures the President considered to be most important:

MAJOR LEGISLATIVE MESSAGE

Title, message date and bill No.	Senate		House		Conference Report agreed to in—		Date approved	Public Law No.
	Reported	Passed	Reported	Passed	Senate	House		
Electoral Reform, Feb. 20, 1969:								
S.J. Res. 1	Aug. 14, 1970							
H.J. Res. 681			May 16, 1969	Sept. 18, 1960				
Federal Coal Mine Health and Safety Act, Mar. 3, 1969: S. 2917	Sept. 17, 1969	Oct. 2, 1969		Oct. 29, 1969	Dec. 18, 1969	Dec. 17, 1969	Dec. 30, 1969	91-173
Bank Holding Company Act, Mar. 24, 1969:								
S. 1664								
H.R. 6778	Aug. 10, 1970	Sept. 16, 1970	July 23, 1969	Nov. 5, 1969	Dec. 18, 1970	Dec. 16, 1970		
Federal Immunity of Witnesses, Apr. 23, 1969:								
S. 2122								
H.R. 1157			June 15, 1970					
Organized Crime Control Act, Apr. 23, 1969: S. 30	Dec. 18, 1969	Jan. 23, 1970	Sept. 30, 1970	Oct. 7, 1970	Oct. 12, 1970 [1]		Oct. 15, 1970	91-452
Obscenity, May 2, 1969:								
S. 2073								
H.R. 11031								
Prurient Advertising, May 2, 1969:								
S. 2074								
H.R. 11032			July 29, 1970	Aug. 3, 1970				
Food Stamp Program, May 6, 1969:								
S. 2547	July 7, 1969	Sept. 24, 1969	Sept. 25, 1969					
H.R. 18582			Aug. 10, 1970	Dec. 16, 1970				
Selective Service Amendments, May 13, 1969: H.R. 14001	Nov. 14, 1969	Nov. 19, 1969	Oct. 16, 1969	Oct. 30, 1969			Nov. 26, 1969	91-124
Postal Reorganization and Salary Adjustment Act, May 27, 1969:								
S. 3842	June 3, 1970							
H.R. 17070		June 30, 1970	May 19, 1970	June 18, 1970	Aug. 3, 1970	Aug. 6, 1970	Aug. 12, 1970	91-375
Foreign Military Sales Act Authorization, June 30, 1969: H.R. 15628	May 12, 1970	June 30, 1970	Mar. 5, 1970	Mar. 24, 1970				
Unemployment Compensation Amendments, July 8, 1969: H.R. 14705	Mar. 26, 1970	Apr. 7, 1970	Nov. 10, 1969	Nov. 13, 1969	Aug. 4, 1970	July 23, 1970	Aug. 10, 1970	91-373
Controlled Dangerous Substances Act, July 14, 1969:								
S. 3246	Dec. 16, 1969	Jan. 28, 1970						
H.R. 18583		Oct. 7, 1970	Sept. 10, 1970	Sept. 24, 1970	Oct. 14, 1970	Oct. 14, 1970	Oct. 27, 1970	91-513
Family Planning, July 14, 1969:								
S. 2108	July 7, 1970	July 14, 1970		Nov. 16, 1970	Dec. 10, 1970	Dec. 8, 1970		
H.R. 19318			Sept. 26, 1970	do				
Occupational Safety and Health Act, Aug. 6, 1969:								
S. 2193	Oct. 6, 1970	Nov. 17, 1970		Nov. 24, 1970	Dec. 16, 1970	Dec. 17, 1970		
H.R. 16785			July 9, 1970	do				
Railroad Passenger Service Act, Aug. 6, 1969:								
S. 3706	Apr. 9, 1970	May 6, 1970						
H.R. 17849		Oct. 14, 1970	Oct. 7, 1970	Oct. 14, 1970			Oct. 30, 1970	91-518
Urban Mass Transportation Assistance Act, Aug. 7, 1969:								
S. 3154	Dec. 22, 1969	Feb. 3, 1970		Sept. 29, 1970	[2] Oct. 5, 1970		Oct. 15, 1970	91-453
H.R. 18185			Jun. 30, 1970					
Family Assistance Plan, Aug. 11, 1969:								
S. 2986		[3]						
H.R. 16311			Mar. 11, 1970	Apr. 16, 1970				
Manpower Training Act, Aug. 12, 1969:								
S. 3867	Aug. 20, 1970	Sept. 17, 1970		Nov. 17, 1970	Dec. 10, 1970	Dec. 10, 1970	[4] Dec. 16, 1970	
H.R. 19519			Oct. 5, 1970					
Revenue Sharing Act, Aug. 13, 1969:								
S. 2948								
H.R. 13982								
Social Security Amendments, Sept. 25, 1969:								
S. 2973								
H.R. 17550	Dec. 11, 1970		May 14, 1970	May 21, 1970				
Food Stamp Program, October 7, 1969: H.J. Res. 934		Nov. 6, 1969	Oct. 14, 1969	Nov. 5, 1969			Nov. 13, 1969	91-161
Consumer Protection Act, Oct. 30, 1969:								
S. 4459	Nov. 25, 1970	Dec. 1, 1970						
H.R. 18214			July 30, 1970					
Drug Identification, Dec. 18, 1969:								
S. 3297								
H.R. 15450								
Military Procurement Authorization, Feb. 2, 1970:								
S. 3367								
H.R. 17123	July 14, 1970	Sept. 1, 1970	Apr. 24, 1970	May 6, 1970	Oct. 1, 1970	Sept. 29, 1970	Oct. 7, 1970	91-441
Environmental Quality Act, Feb. 10, 1970:								
S. 1075	July 9, 1969	July 10, 1969		Sept. 23, 1969	Dec. 20, 1969	Dec. 22, 1969	Jan. 1, 1970	91-190
H.R. 12549			July 19, 1969					
Clean Air Amendments, Feb. 10, 1970:								
S. 4358	July 17, 1970							
H.R. 17255		Sept. 22, 1970	June 3, 1970	June 10, 1970	Dec. 18, 1970	Dec. 18, 1970		
Environmental Financing Act, Feb. 10, 1970:								
S. 3468								
H.R. 15903								
Waste Treatment Facilities, Feb. 10, 1970:								
S. 3472								
H.R. 15904								
Higher Education Opportunity Act, Mar. 19, 1970:								
S. 3636								
H.R. 16621								
Housing and Urban Development Act, Mar. 19, 1970:								
S. 4368	Sept. 21, 1970	Sept. 23, 1970						
H.R. 19436			Oct. 5, 1970	Dec. 3, 1970	Dec. 18, 1970	Dec. 19, 1970		
Selective Service Amendments, Apr. 23, 1970: H.R. 17314								
Emergency School Aid Act, May 21, 1970:								
S. 3883								
H.R. 19446			Nov. 30, 1970					
Emergency Transportation Assistance Act, June 16, 1970:								
S. 4595	Dec. 19, 1970							
H.R. 19953			Dec. 16, 1970					

[1] Agreed to House amendment.
[2] House amendment.
[3] Combined with social security amendment, H.R. 17550.
[4] Vetoed.

FROM WAR TO PEACE

For most of the 20th Century, mankind has lived with the rumble of guns. For a quarter of a century threat of nuclear destruction has clouded Earth's skies.

An entire generation of Americans has known naught but war or the threat of war. Eighteen of the years since 1940 have found Americans fighting, bleeding, dying, in wars ranging across the globe, spanning oceans and continents. Our Nation has been drained of its finest men, its treasure, and its productivity.

In 1969 Richard Nixon inherited with the Presidency a seemingly interminable war in Vietnam, while elsewhere in the world tensions had developed threatening a final confrontation betweeen the world's giant nuclear powers.

The thrust of his administration since January 20, 1969, has been to extricate the United States from the quagmire of Asia without leaving a vacuum which could result in an even wider spread of battle.

Our President has succeeded remarkably.

When he took office some 540,000 American servicemen were stationed in Vietnam. Today there are only three-fifths that number, 340,000. Our casualty rate was running at better than 100 men killed a week; today it is less than 30. South Vietnam was a victimized country, lacking the means to defend itself; today it is a viable State with a proud and competent military force of its own.

America's numerical strength in South Vietnam has been drastically reduced without resorting to the enclave theory so popular a few years ago. Had this theory prevailed, how could there have been a withdrawal from these Dien Bien Phu enclaves?

The South Vietnamese are increasingly capable today of purging their own land of the Viet Cong; were it not for the continued presence of large North Vietnamese regular forces in the south the fighting would have come virtually to a standstill.

That the President was able thus to reduce our profile in Vietnam without at the same time endangering those Americans still there is due to largely to the daring and successful effort last Spring to destroy the Communist sanctuaries just across the Vietnamese border in Cambodia.

The Senate was not overly helpful to the President in this effort at cutting American participation, and thereby American losses, in Southeast Asia.

For two months the Senate debated a proposal which would have cut to shreds the President's ability to wage a successful campaign of attack and withdrawal from Cambodia. Although the President had explicitly promised to pull American forces out of Cambodia within two months, there were those in the Senate who sought to impose a more precipitous timetable of retreat. The President kept his promise; American forces were withdrawn on schedule; and the Communist ability to wage terrorist war from the Cambodian strongholds was blunted.

Later in the summer there was an effort in the Senate to turn the phased American withdrawal from Vietnam into a Congress-directed rout. For weeks that proposal was debated, then finally defeated.

Both proposals would have limited the President's options in successfully disengaging from the Vietmanese war. To confine the President within such artificial lines would have destroyed his credibility with the enemy and with world opinion.

Three times the President warned North Vietnam that to protect American lives he would take decisive action to block a further enemy buildup. When the enemy disregarded these warnings and increased aggressive activity in defiance thereof, President Nixon acted directly and where it would protect our forces best—in Cambodia.

Troop withdrawals

This phobia for setting hard and fast dates for U.S. troop withdrawal is hard to comprehend: It flies in the fact of uncertainties always accompanying withdrawal operations in a combat area; it ignores the fact that the President has in fact generally reduced troop levels at a rate faster than his announced schedules; finally, it ill behooves the Senate to talk of fixed military timetables, when it cannot even enact its own appropriations bills within timetables written into law by the Congress itself. In short, it appears easier to get troops out of Vietnam than Congress out of the trenches.

In the conduct of even a limited war, the Chief Magistrate must be provided command flexibility; to do otherwise is to court disaster.

American troop withdrawals in Vietnam will continue on schedule and virtually all American combat forces will be out of that country in 1972. The program of Vietnamization has gone well and shows promise of continuing on the upswing throughout the months ahead.

The American responsibility in Southeast Asia is no longer primarily a combat mission. In the future those Americans remaining will be primarily in a support role, while actual combat will be the responsibility of the Vietnamese themselves.

There have been encouraging signs in recent months that the Vietnamese Government has become a viable institution through which the will of the people can be expressed. Elections were held this year in which the people voted in large numbers; further, candidates not friendly to the Thieu Government made substantial gains. Equally important, the elections were held without fear in areas where only a few years ago the people were in dread of expressing themselves because of the strong, silent and deadly forces of the Viet Cong which held nightly sway over their villages and hamlets.

These advances within Vietnam are significant in that they point to a continuing success of the Nixon Doctrine for Asia. That is, the United States will help when a deserving people help themselves, but we have no intention of being the world policeman.

The Middle East

Since June of 1967 the Middle East has been a fast-burning fuse that threatened to ignite an explosion of far greater dimensions than the small area directly involved. There was daily bloodshed on both sides of the Suez and the Jordan and the skies over Sinai and Egypt were criss-crossed with the plumes of warring jets.

The tense Middle East threatened to consume much more than the handful of countries involved in day-to-day fighting. The Soviet Union had undertaken to rearm the desicated United Arab Republic after the debacle of 1967. Egyptian troops were not only being rearmed and retrained by the Russians, but ample evidence existed that Soviet pilots were in the cockpits of some of the MIGSs involved in combat.

To counter this direct and growing threat to Israel the United States began supplying larger amounts of war materiel—but no troops, no advisers—to that beleaguered land.

Thus, the two nuclear giants were drawn into a situation that could easily have developed into a major confrontation.

The Nixon Administration undertook long and delicate negotiations involving all parties to the dispute, but particularly the Soviets. These negotiations resulted last August in a cease-fire along the battle lines; that cease-fire has been renewed and is still in effect.

The Middle East crisis remains, but a Middle Eastern catastrophe has been—for the time being—avoided. There are grounds for hope that peace talks can be held, and that success may attend them.

Defense posture

Only six times in the past 30 years has a President submitted a Defense budget that was less than half of the total Federal outlay. President Nixon proposed such a budget this year. In the Defense portion, less than half the total, were expenditures involved in the wind-down of the war in Vietnam and the expansion of our missile defense system.

Even so, the Defense budget contained what both the House and Senate considered "fat." Congress trimmed over $2 billion from that budget.

The need for tough and careful scrutiny of this enormous expenditure is obvious. But Senate debate on defense spending, first in the authorization and then in the appropriations bill has become so repetitive for both 1969 and 1970, e.g., over the ABM program, as to make one believe he was listening to rebroadcast. There seems to be a sort of simplistic, even touching, faith among many of my colleagues that budgets can be balanced, increased in domestic spending financed, almost entirely from meat-ax reductions in military appropriations already greatly reduced proportionate to other budget items.

The Nixon Administration has taken the initiative in reducing military spending, someting the two previous Administrations failed to do, But it recognizes the world we live in is not made peaceful, nor is the danger of Communist imperialism eliminated, simply because the United States spends less on military hardware. There is a minimum point beyond which further reductions become reckless and shortsighted. The other "super power" is steadily pushing ahead in building up its advanced missile capacities, as well as an all-ocean navy.

Arms limitation

The United States is currently involved in what may be very promising negotiations with the Soviet Union on limitation of strategic arms. Experience teaches that no serious negotiations with the Soviets can be conducted unless from a position of strength.

For Congress deliberately to impose weakness on U.S. negotiators by limiting potential weapons development makes any position they take unpersuasive if not actually meaningless. It is the most solemn desire of the United States that we will never be called upon to use such weapons. It is equally our hope that through negotiations we can eliminate such awesome destructive power as the Soviet SS–9, our own MIRV, and other intercontinental carriers of death from all the arsenals of the world.

This cannot be done if the United States unilaterally determines not to undertake research and development in the field, and particularly this cannot be done if it is proscribed by law.

We must accept our responsibility in providing military flexibility, in terms both of defense and what can be presented at the negotiating table. It has become obvious, in the past 25 years of dealing with the Soviet Union, that they cannot be bluffed; if our Nation is to negotiate from strength we must—as a Congress—provide that sternght. We must also face the possibility of the failure of negotiations; if that happens, strength will be needed to protect ourselves. Twice in this century, unilateral unarmament has led to worldwide armament in awesome strength and tragic denouement.

THE ECONOMIC EFFECTS

Not everyone likes formulas, having been scared to death by them during tender years. Yet formulas are not only a shorthand way of expressing much of human experience. They can be fun as well. They are like jigsaw puzzles; you can form all sorts of things out of them, providing you abide by the simple rule that certain things fit together only in certain ways.

When it comes to the American economy, a formula that seems particularly pertinent is: C+I+G+(X−M)=GNP.

Here "C" represents all the things people *consume;* "I" represents all the things people *invest* in; "G" represents all the goods and services bought by *government;* and "(X=M)" represents what's left over, if anything, after *imports* are subtracted from *exports.* The total, "GNP" is, of course, *Gross National Product,* and frankly, it hasn't been doing too well lately. A great deal of what on the surface looked like progress has been eaten up by inflation.

Yet a living economy is not a fixed *thing* but a flowing *event,* like a flame or a whirlpool: only the rough outline is stable. The substance is a stream of energy going in at one end and out at the other. Our GNP is a particular wiggle, temporarily identifiable, in a chart that enters the yearly statistics in the form of manpower, machinery, buyers, sellers, exporters—and union contracts that sometimes call for a 30 percent pay increase. It is said to be *bad* (meaning not going up very much) or *good* (meaning, usually, twice whatever the Russians' GNP happens to be.)

Just as the Yin and Yang of Asian philosophy are the reverse counterparts of each other, just as good and evil in Western religions are opposite faces of the same coin in that each defines the other, so, in this century, have prosperity and war been the twin brothers of full employment.

Transition from wartime to peacetime economy

Almost two years ago (February 10, 1969) economist Milton Friedman said, "The Johnson Administration left a heritage of entering wedges: programs that were started small but with large increases in spending already legislated for the future." Why is this so?

An organism faced with two irreconcilable choices (as, when confronted with an antagonist, whether to flee or fight) is in a conflict situation. A non-Aristotelian "way out" is to do neither. This has been observed in birds; when faced with conflicting alternatives, they may peck as if hunting food, preen themselves, pretend to be nest building, or go into a courtship dance.

Humans also do this. Faced with contradictory alternatives (such as halting inflation by reducing the budget, or catering to demands of pressure groups and columnists) a Senator can engage, instead, in a displacement or preening activity such as a speech on a Great Issue.

This occurred with distressing frequency during 1970, as Members of the House of Representatives went busily about their business of authorizing and appropriating necessary funds for transaction of the public business, while the Senate—with the drama of an ancient Kabuki production—dealt portentously with yesterday's events.

Result?

A lame duck session of Congress, first since 1950, with fully eight appropriations bills still to enact: (1) Agriculture, (2) Defense, (3) Foreign Assistance, (4) Independent Offices and HUD, (5) Labor-HEW-OEO, (6) Military Construction, (7) Transportation, and (8) the 1971 Supplemental.

Almost a half-century ago, Walter Lippmann penned some comments in his book *Public Opinion* that shed light on a phenomenon much in evidence today: that continuing efficiency goes unreported, while uproar and breakdown seize the headlines. Journalist Bernard Roshco, discussing this point in Interplay magazine, took note that this grievance is nonpartisan. Vice President Humphrey made the point during his 1968 election campaign, in the course of promoting the "politics of happiness." Vice President Agnew made the same point in his charge that "normality has become the nemesis of the network news." Even Pope Paul, shortly before last Christmas, complained that "today's facile publicity and the curiosity of public opinion" emphasized priestly defections rather than "more generous and comforting phenomena."

The same curious effect would appear to be happening today, as regards the success of President Nixon's anti-inflationary program and the corollary debate on unemployment.

The game plan

Early this year, Paul McCracken, Chairman of the Council of Economic Advisers, told an assemblage of University of Michigan alumni that he was not abandoning the "game plan." Gradual economic slowdown would subdue inflation and pave the way for renewed growth.

Agreement is virtually unanimous among responsible economists that the two major weapons to fight inflation are:

1. Tightening monetary policy by clamping down on both money supply and credit. The purpose is to curb inflationary borrowing, building, investing, and spending.

2. Tightening fiscal policy by restraining increases in inflationary government spending, or by raising taxes sufficiently to cover the increases in inflationary government spending.

The Nixon "game plan" included elements of both. Nor was the importance of the economy underestimated. Former Vice President Humphrey, back in Washington for a meeting of the Democratic Policy Council, said in February, "The issue that is going to determine the elections in 1970 is the economy." And the Gallup Poll rated the cost of living second only to the war as a national problem, ahead of such concerns as race relations and crime.

But the rule in the world of Wonderland, as the White Queen told Alice, is jam tomorrow and jam yesterday, but never jam today. The same rule applies in Congress whenever it is proposed to restrain Federal spending. The day for economy is never today.

The President had, admittedly, been cautious about fighting inflation in 1969. So cautious, in fact, that at times it appeared neither business nor labor took him very seriously. Unions went in for big wage hikes, particularly in construction. Companies kept investment high, and prices moved upward briskly.

Speaking before a business outlook conference at the University of Maryland, McCracken referred to the same point when he predicted a future of more stable growth now that "another doctrine of inevitability"—the feeling that the Government didn't mean what it said about halting inflation—had been defeated.

The President was trying to stop inflation without subjecting the country to a lengthy spell of high unemployment. Gradualism was the keynote of the original administration approach. There was to be a gradual, painless slowdown. Inflation was to be halted without an excessive rise in unemployment, without anyone being badly hurt. And the game plan was to slow the wage price spiral without putting the American people through an unemployment wringer.

Not one, but two adjustments

To understand what is now going on in our economy, it is important that we realize our economic system is making not one, but two major adjustments simultaneously. As the Vice President noted last August, we are adjusting to a major decline in defense spending while we are also cooling off from a long inflationary overheating that has become increasingly dangerous. The adjustment in defense spending is a far greater force on the economy than many people realize. From 1968 to mid-1970, defense spending has been reduced over $12 billion. By mid-1971, the reductions will approach $20 billion.

The economy has also had to face the transition from complex and tangled problems created by the unrestrained inflation that got out of control in 1965.

Over the years we have discovered nothing is easier to produce than government deficits. We had three years of such deficits on a vastly increasing scale under President Johnson, culminating in a $25 billion deficit in 1968. It is apparent we are reaping the harvest now for what was done then—inflation we are now trying to reverse.

When spending for the sake of spending becomes policy, usually insufficient effort is made to determine *how* the money is spent; most energy is devoted to *spending* it. This locks programs that cannot be abolished into future budgets and appropriations bills. It has been estimated that a pilot project normally turns into an essential program in three years; in another three it becomes a matter of urgent priority; five years later it becomes an untouchable sacred cow, belching inflated gases.

Does the President lack necessary tools?

The President has a responsibility under the Employment Act to promote maximum production, employment, and purchasing power, but doesn't have under his control one of the most potent weapons to achieve these goals—the management of monetary policy. The Federal Reserve system—run by the chairman, six other governors, and the 12 presidents of the district Federal Reserve banks—is firmly and independently in control of monetary policy.

Yet even the Federal Reserve Board may find itself balked in attempts to restrict the money supply. Credit controls imposed by the Fed to curb inflation have not always worked. Some big banks have been able to avoid restrictions by tapping the Eurodollar market, or by selling commercial paper. As a result, commercial bank business loans increased nearly as much in 1969 as in 1968.

"Personal freedom," President Nixon observed in his Economic Report last winter, "will be increased when there is more economy in Government and less Government in the economy. Economic domination, like any other Government domination, is dangerous to a free society, no matter how benevolent its aims."

With that passage, the President underlined what is perhaps his deepest disagreement in economic philosophy with his predecessor.

Dimensions of disagreement

The origins of the current inflation, and the economic slowdown which is the other end of the cycle, are in the irresponsible economic record of the final Johnson years. The blame is shared by a Democratic Congress that voted for appropriations for an escalated war, but not for the matching taxes. In short, we were fighting a growing war on the cuff.

The cost is measured in loss of output, income and jobs. This is the price that must be paid for long years of easy living under the Democrats, those guns-and-butter years with inadequate levels of taxation.

Guns, in fact, seem to bear a considerably larger share of the blame for Democratic economic ills than one would suppose. In an interview on Boston's TV station WKBG, on June 1, 1970, economist Paul Samuelson said, "The single greatest specter hanging over the economy is what is now called the war in Indochina. The greatest blessing that could affect the pocketbook of the American public would be for us to get right out of Southeast Asia and cut our losses."

He said that if former President Johnson had presented "the bill to the American public he might not have gotten the backing at that time," Samuelson remarked.

Next day, Thomas J. Watson Jr., board chairman of IBM Corp., called the Vietnam war the major factor that has turned a

healthy United States economy into an unhealthy one.

Marquis Childs was more direct:

"Original sin in these matters goes back without doubt to Lyndon Johnson. More than a half-million ground troops were poured into Vietnam and yet the Johnson administration persisted in the belief that $25 billion a year could be absorbed by the slack in the economy. There were no new taxes to pay for the war. But for the voters that is ancient history. The party gets the blame."

Added the Baltimore Sun:

"To be fair about it, Mr. Nixon did not get us into this mess that Otto Eckstein, the economist, aptly calls a 'stretched recession.' We got into it because Lyndon Johnson did not want to admit that Vietnam could not be handled without raising taxes. He delayed raising taxes, contrary to the advice of his unhappy team of economists, and when he did raise them it was too late. Inflation was loose.

"Too many war dollars were chasing too few civilian goods and bid up the price. Of course there were war goods—guns and bombs and defoliating gases—but these have limited consumers' conceptual utility under the family Christmas tree."

It was the late British economist, Sir Dennis Robertson, who first gave the name "money illusion" to the tendency of people to confuse the pieces of money they receive, which are nothing more than certificates to draw goods, with the goods themselves; and so to "lay up all sorts of trouble and disillusion for themselves."

Economic debate

That this happened in the spendthrift 1960's is obvious. That President Nixon is attempting to repair the damage is equally obvious. If the champagne of thrills is to offer economic advice to the leader of the world's greatest economic machine, then surely a substantial body of Washington's notable Democrats are imbibing freely.

Committees have urged the administration to adopt voluntary wage and price guidelines. Substantially the same recommendation has come from the Democratic Study Group within the House of Representatives. My colleagues in the Senate have weighed plans for credit rationing, for postponing the scheduled Social Security tax increases, for instituting wage and price controls, and for attempting some form of incomes policy.

Unfortunately, this debate has been as wide and deep as a demitasse spoon.

We have serious problems, yes—but the most astonishing part of all is that we have succeeded in slowing economic growth after an entire decade in which a high rate of growth, high employment, ever higher prices and a spurious expansion of the economic balloon have been taken for granted as processes that would—and could—continue forever. The chief economic adviser of the Kennedy-Johnson administration, Walter W. Heller, now regents' professor of economics at the University of Minnesota, has it right: "Whether you call it the 'new economics' or 'Nixonomics'—is now a bipartisan fact of life."

Columnist Richard Wilson said, "Heller is right because the Nixon administration has had the political fortitude to contract the economy and thus demonstrate that it is politically possible to do so. In all previous exercises in the 'new economics' expansion was the goal. Now it has been demonstrated that it is politically feasible to use monetary and fiscal policies to achieve balance." I may add that it is as courageous as it is also wise.

Presidential progress

When all is said and done, President Nixon has, in terms of real dollars, slowed the dizzy rise of federal expenditures. Taxes have been reduced and pensions have been increased. These are tools of economic revival once counted on to increase the country's sense of wellbeing, but they did not have a very exciting effect in either the Roosevelt or Eisenhower administrations.

Discussing the debate over whether the cost of curing inflation will be higher than President Nixon supposes, The Washington Post editorialized early in the year:

"But no one has come forth with a less risky remedy, and many reports indicate that businessmen are plunging ahead with ambitious expansion plans regardless of cost, and labor unions are pressing still more exorbitant demands than were realized in the inflationary year of 1969. In these circumstances there is not the slightest ground for hope that inflation would fade away if the restrictions were lifted before the fever has been broken. A few people with short memories are talking about price and wage controls, but only in a detached and academic fashion. Presumably the country will have to face the "painful adjustment," trying to even out the burden as much as possible and to relieve the distress of those who have no cushioning of their own, for the simple reason that there is no other known remedy at hand for the kind of economic spree that the country indulged in for a number of years."

In June, the President delivered an economic address to the Nation. He emphasized that the United States is definitely moving into a peacetime economy. The announcement that the national government is, for the first time in 20 years, spending more on human-resource programs than on defense reveals a significant step, even though the result is that roughly half-a-million military and civilian employees have been released from the armed forces, and over 350,000 have lost jobs in defense plants, and are surely entitled to priority in the allocation of public jobs as they become available.

As the President sees it, the transition from a war economy to a peace economy makes it possible to build what he describes as a "much more enduring prosperity in this country."

The President pointed out that in the decade of the 1960's Federal deficits totaled $57 billion, and the American consumer had to pay for much of it in terms of a rising spiral of prices. Said Mr. Nixon, "In the three years before this administration took office, Federal spending rose an average of 15 percent a year—the sharpest rate of increase since the Korean war. In the current fiscal year, we slashed that rate of increase in half, to 7 percent, and in the coming year, we intend to cut that rate of increase in spending by half again."

True, he said, "the momentum of four years of inflation was stronger than had been anticipated. The effect on unemployment (of the policy of economic slowdown to check inflation) is greater than we foresaw. The pace of our progress toward price stability and high unemployment has not been quick enough."

But, "The American economy is the strongest in the world. This year, the number of Americans who have jobs is the highest in our history. Even allowing for taxes and inflation, the average real income of Americans is higher this year than ever before, in part because of the increase in social security benefits and the reduction of the tax surcharge . . ."

"We are trying," Mr. Nixon said, "to do something that has never been done before: To avoid a recession while we bring a major inflation to an end . . . I am convinced that the basic economic road we have taken is the right road, the responsible road, the road that will curb the cost of living and lead us to orderly expansion."

Postelection economy

Serious discussions of economic issues deteriorated sharply in the months prior to the election, moving economic columnist Hobart Rowen to write:

"Another unhappy episode just before Election Day was Paul Samuelson's failure to live up to the dignity of his Nobel award for economics. On the day he received it, the MIT professor launched into a critique of Mr. Nixon's economic policy, and suggested that he 're-join the human race.' Other Democratic economists winced."

By November 3rd, chances of rational economic discussion were about as great as the chance of my suffering the same fate as Aeschylus, the ancient Greek playwright who died when a passing eagle dropped a turtle on his head—although this report will surely tempt those not in agreement with it to reach for the same effect.

Within a month after the elections, in five brief passages of his address to the National Association of Manufacturers President Nixon reasserted the rational premises of administration economic policy:

First: "The most basic of (economic) facts is that we cannot receive more real income than we turn out in real goods and services."

Hence, Second: "Any wage or price decision that makes the flat and irreversible assumption of a high rate of inflation ahead is against the public interest and against the real interest of the workingman."

But, Third: "This is the moment, with productivity newly on the rise, for business to take a hard look at its pricing policies, and to pass along to consumers its savings in production costs."

Therefore, Fourth: "What can be done about it? For one thing the structure of (collective) bargaining must be changed. . . . What is needed is a new bargaining process that . . . provides a new base for fairness and (price) stability."

Nonetheless, and point Five: "The government has done its part to hold the line. This is the critical moment, then, for business and labor to make a special effort to exercise restraint in price and wage decisions."

As a result, the President has taken significant steps to roll back the recently increased price of crude oil, to check the rash of excessive wage hikes in the construction industry, and to expand the country's money supply in line with the upturn in industrial activity which he is determined to bring about.

Testifying on the international economic picture, Paul Volcker, Undersecretary of the Treasury for monetary affairs has observed that "the dollar has been demonstrably strong" and "the atmosphere in world currency markets is happily free of the strains and tensions that characterized much of the late 1960's."

On December 4, 1970, the International Monetary Fund reported, "The U.S. balance of payments on a liquidity basis . . . indicated a substantial improvement in the liquidity balance against both the position for the same period last year and comparable figures for April-June 1970. . . .

"The favorable shift from the second quarter this year was more than $500 million and after adjustment for a large swing in special financial transactions the improvement was almost $1.3 billion. . . .

"For the fifth consecutive quarter the merchandise trade account showed a surplus. . . .

"Exports of agricultural products rose by $70 million. . . ."

Statistics such as these, good and bad, can be gleaned by anyone from the mountain of financial data that gushes forth daily from the statistical mills of government, institution, foundation and bank. Yet if nothing else, they do prove progress exists in overcoming the disasterous economic legacy of the Democratic 1960's.

The Democratic Administration's deficits piled atop deficits was an effort comparable

to the Titans of Greek mythology attempting to overthrow the Gods of Mount Olympus by piling mountain upon mountain, as described in the words of Homer:

"They were setting Ossa upon Olympus, and upon
Steep Ossa leafy Pelion."
In short, they blew it.

SOCIAL RENEWAL

There is always a process of deterioration in any society, and, if it is healthy, a more vigorous regeneration. Certainly this has been true of American society. The question raised today is whether deterioration has now gained momentum at the expense of the regeneration we took for granted in the past.

It may appear imprudent to discuss the deterioration of America's social fabric almost two years after my Party won the Presidency. However, social deterioration does not come about overnight; it must have a deep seated, lengthy incubation period.

In America, the great diversity of talents, the solid tradition of innovation by public and private groups at the local level, have always provided the best resources for healthy reform or needed restoration. Much of the land-mark reform legislation enacted by Congress, has been first conceived, and tried, at the state or local level.

There must always be one more ingredient: a sense of confidence, of destiny, a realization that such reform legislation is but part of a wider, conscious desire for regeneration.

The confidence and the depth of that desire are far more important than any particular legislative enactment.

As Lord Moulton said, "True civilization is measured by the extent of Obedience to the Unenforceable."

But no one can deny that the development of the concept of government-enunciated "national goals", the glamorous publicity given to national leadership, added to the enormously superior tax-gathering powers of the Federal Government, created an illusion that Federal Government is responsible for all society's ills, as well as for the cure thereof.

There were so many Washington "spectaculars" developed in the past decade as to make everything seem possible, if only we gathered all the brains into the District of Columbia.

Fantastic technological achievements in flight and space exploration, in health research, even in weapons development all under the spur of Federal money and leadership—all publicized, glamorized, emphasized, especially by television—distracted us from some serious ruptures in America's social fabric. The fierce, almost-endless debate over Vietnam war led many to believe that it alone was the cause for whatever ailments were cropping up alongside the giant leaps in technology.

In fact, we were distracted from problems that had always been with us, but in the past were considered *the* major social challenges to be met by major efforts of both private and public groups. Thus, the large metropolitan areas growing at the expense of the countryside have always meant a wonderful concentration of human talent for technological, educational, and artistic purposes, but accompanied by serious social and environmental problems. In the 1960's, physical and mental health, public safety, decent education, transportation, environment—all seemed to suffer from a type of decay far more rapid than anticipated or experienced in the past.

Perhaps it was because this decay suddenly became so terribly *visible* through television to so many of America's 205 million people. The birth of the all-news radio stations, the plethora of documentaries, the hour-and-a-half nightly banquet of news programs all served to bring every gyration of the stock market, every drop of dirty water, every decaying tenement, every bleeding casualty from eacn of earth's 152 nations and territories into nearly everyone's living-room at suppertime, without really explaining any of it.

People suddenly became aware in a very personal, intimate way, of the multitude of rents and tears in a social fabric which, at a casual glance, they had thought well-woven.

The new teaching techniques designed to get youngsters "involved" in what happens in the world around them have borne their share of bitter fruit.

To many of our young, America is a hopeless morass of pollution, bigotry, social strain and mass hunger, they have been taught so in school. They develop either a numb acceptance or a fiercely rebellious approach to the world into which they emerge. This country has accomplished much good in the world. True regeneration builds on the great accomplishments of the past. We need dissent, but not destruction; peaceful change, not violence.

There is the seemingly irresistible tendency on the part of much of the information media, and the teaching profession, to overrespond to the ills of the time. Is the utopian streak especially strong in those professions? Perhaps.

It is as if they are so offended at its sores, and blemishes, as to conclude society must be one badly rotting mess.

More likely it is following the lines of least resistance. It is easier to describe what is wrong, than to explain what is working; what makes it possible for 205 million Americans to live in reasonable harmony. It is easier to demand an instant solution by one person—the President—or one body—the Congress—than to explore, understand and agree as to how problems can only be solved or ameliorated through a patient combination of work, sacrifice and innovation by the thousands of private and public groups really responsible for day-to-day decisions all over America.

So many social problems were taken up and "solved" by glamorous-sounding legislative enactments in the past decade as to make the above approach seem the only one possible. Then the roof fell in; expectations raised high by shallow rhetoric were dashed.

Time-lags created by unprepared bureaucracies, lack of proper funding, lack of coordination led to a disillusionment going to the other extreme. The new social critics said these had become insoluble problems, and America was indeed unravelling.

Nevertheless, the revelations of ills may be essential to greater recognition of the necessity to solve them.

In effect, the overall policy of the Nixon Administration has been to restore our confidence in our own country. To call attention to the resources of talent, of technique, of experience still so abundantly available throughout America. To remind us that we are magnificently experienced practitioners of democracy under our Federal system.

A reading of the Nixon message to Congress makes this quite clear. We see honest appraisals of what has been tried and found wanting—to name but a few programs—in education, welfare, manpower training and urban restoration. Thereafter have come proposals to move away from what was possibly the worst of two worlds insofar as public administration goes: far too many categories of aid programs, with an overcentralized bureaucracy administering each of them.

In a sense this was a hangover from the 1930's. In those days, state and local governments were in the main badly equipped to handle the new type aid and welfare programs established by Federal enactment.

Not so in 1970. But a mentality has been created, a habit of administering most difficult to change in a bureaucracy, and apparently, among many members of Congress as well. But change will come, and Republicans seek to provide the leadership for it.

We have not lost our way; there is no doubt in my mind that America is on the verge of a great period of social renewal, of regeneration. It will not be easy, and here perhaps, is the time to ask ourselves whether we may not have made a serious mistake in the past.

We have tried to justify our American democracy in terms of affluence, of statistics indicating world leadership in automobile, television, bathtub and telephone ownership. We have made it appear to promise a life of ease and safety.

Democracy is really the most dangerous and the riskiest form of political society. Even so, it works. Great trust, responsibility and power is put into the hands of great numbers of people. Particularly is this true under the American Federal system.

To reinvigorate Federalism is to very clearly vote for this "dangerous" dispersion of power, in the firm belief that we will better respond to the challenge to renew our America.

What has been lost in American life must be found.

What doesn't work must be discarded.
What works, must be made to work better
There are mountains ahead.
But there are men beyond the mountains
The strength of our land lies in ourselves.
We Americans must make tomorrow better.

APPENDIX I

Following is a chart of legislation as it stands in Congress. It was prepared by the Legislative Reference Service of the Library of Congress. It was brought up to date—through Friday, December 18, 1970—by the staff of the Senate Republican Policy Committee.

LEGISLATIVE CHECKLIST

Status report page No.	Bill title and number	House			Senate			Conference	Public Law No.
		Hearings	Reported	Passed	Hearings	Reported	Passed		
	Agriculture:								
1	Agricultural Act of 1970, H.R. 18546	X	X	X	X	X	X	X	91-524
2	Federal Meat Inspection Act amendments, S. 3592		X	X		X	X		91-342
2	Research on production of commodities, H.R. 14810	X	X	X	X	X	X		91-292
3	Loan limitations, H.R. 11547	X	X	X					
4	Wheat program, H.R. 13543	X	X	X		X	X		91-430
	Civil rights:								
4	Voting Rights Act of 1965 amendments, H.R. 4249	X	X	X	X	X	X		91-285
5	Equal Employment Opportunities Enforcement Act, S. 2453, H.R. 17555	X	X		X	X	X		
6	Equal rights amendment, S.J. Res. 231, H.J. Res. 264			X	X				

Footnotes at end of table.

LEGISLATIVE CHECKLIST—Continued

Status report page No.	Bill title and number	House			Senate			Conference	Public Law No.
		Hearings	Reported	Passed	Hearings	Reported	Passed		
	Communications:								
7	Newspaper Preservation Act, S. 1520, (H.R. 279)	X	X	X	X	X	X		91-353
7	Public Broadcast Financing Act, S. 3558, (H.R. 17982)	X	X	X	X	X	X	X	91-437
	Consumer affairs:								
8	Consumer Protection Agency Act, S. 4459, H.R. 18214	X	X		X	X			
8	Fair Credit Reporting Act, S. 823, H.R. 16340	X			X	X	X		
9	Unsolicited Credit Cards, (S. 721), H.R. 16542	X	X	X	X	X	X	X	
9	Poison Prevention Packaging Act, S. 2162, H.R. 16541	X			X	X	X		
10	Consumer Protection Act, S. 3201, H.R. 18214	X	X	X	X				
11	Consumer Products Warranty and Guaranty Act, S. 3074	X			X	X	X		
	District of Columbia:								
14	Delegate, House (S. 2163), H.R. 18725	X	X	X		X	X		91-405
14	Commission on the Organization of the Government of the District of Columbia, H.R. 18725	X	X	X	X	X	X		91-405
15	Representation, U.S. Congress, S.J. Res. 52, H.J. Res. 282				X				
15	Commission on Government for the District of Columbia, S. 2164, H.R. 11215	X				X	X		
16	Omnibus crime bill, S. 2601 (H.R. 16196)	X	X	X	X	X	X	X	91-358
17	District of Columbia Comprehensive Drug Abuse and Narcotics Crime Control Act of 1969, S. 3071				X				
17	District of Columbia Transit Act, S. 1814	X			X	X	X		
18	Salary increases for District of Columbia teachers, policemen, firemen (S. 2694), H.R. 17138	X	X	X	X	X	X	X	91-297
	Education:								
19	Elementary and Secondary Education Act amendments, H.R. 514	X	X	X	X	X	X	X	91-230
20	Emergency School Aid Act, of 1970, S. 3883, H.R. 19446	X	X		X				
20	School Lunch and Child Nutrition Acts amendment, H.R. 515	X	X	X	X		X	X	91-248
21	Child Nutrition Act of 1966, milk program amendments, H.R. 5554	X	X	X		X	X		91-295
21	Temporary emergency food assistance for children, H.R. 11651		X	X	X	X	X		91-207
22	Surplus dairy products for the school lunch program, S. 2595			X	X	X	X		91-233
22	Education opportunities for Indian children, S.J. Res. 144				X	X	X		
22	Library Services and Construction Amendments of 1970, S. 1338, H.R. 19363	X	X	X	X	X	X		
23	Comprehensive Headstart and Child Development Act of 1970, S. 3480, H.R. 15776.	X							
24	Comprehensive Preschool Education and Child Day Care Act of 1969, H.R. 13520.	X							
24	Head Start Child Development Act of 1969, S. 2060				X				
25	National Commission on Libraries and Information Science Act, S. 1519, (H.R. 10666).	X	X	X	X	X	X	X	91-345
25	Developmental Disabilities Services and Facilities Construction Act of 1970, S. 2846, (H.R. 14237).	X	X	X	X	X	X	X	91-517
26	Drug Abuse Education Act of 1970, H.R. 14252	X	X	X	X	X	X		91-527
	Environment and natural resources:								
27	Environmental Quality Education Act, (S. 3151), H.R. 18260	X	X	X	X	X	X		91-516
27	Joint Committee on Environment and Technology, H.J. Res. 1117		X	X			X		
28	Joint Committee on the Environment, S.J. Res. 207					X	X		
28	Environmental Protection Act of 1970, S. 3575	X			X				
29	Environmental Financing Act of 1970, S. 3468				X				
29	National Environmental Data System Bank, H.R. 17436	X	X	X					
29	World Environmental Institute, S. Res. 399				X	X	X		
30	Water Quality Improvement Act of 1969, (S. 7), H.R. 4148	X	X	X	X	X	X	X	91-224
30	Amendment to the Federal Water Pollution Control Act, S. 3471				X				
31	Amendment to the Federal Water Pollution Control Act, S. 3470				X				
31	Amendment to the Federal Water Pollution Control Act, S. 3472				X				
32	Clean Air Act, (S. 4358), H.R. 17255	X	X	X	X	X	X	X	
32	Automobile pollutants, S. 3072, H.R. 14534	X			X	X	X		
33	Resource Recovery Act of 1970, H.R. 11833	X	X	X			X	X	91-512
34	Intergovernmental Coordination of Power and Environmental Protection Act, S. 2752				X				
35	Electric Power Reliability Act, S. 1071, H.R. 7186	X							
36	Atomic Power Regulation and Licenses, (S. 4141), H.R. 18679	X	X	X	X	X	X		
37	Commission on Fuels and Energy, S. 4092, H.R. 18569				X				
37	National Land Use Policy, S. 3354, H.R. 16670				X	X			
38	Federal Lands for Recreation, H.R. 15913	X	X	X					
38	Federal Lands for Recreation Act, S. 1708			X		X	X		91-485
38	Land Utilization Programs, S. 3598		X	X		X	X		91-343
39	Alaska Native Claims, S. 1830, H.R. 13142	X			X	X	X		
39	National Forest Timber Conservation and Management Act of 1969, S. 1832, H.R. 12025	X	X		X				
40	Water Bank Act, H.R. 15770	X	X	X	X	X	X		
40	Wildlife Restoration Acts, H.R. 12475	X	X	X	X	X	X		91-503
41	Mining and Minerals Policy Act, S. 719	X	X	X	X	X	X		
41	Marine Resources Preservation Act of 1969, S. 2393				X				
42	Coastal Zone Management Act of 1969, S. 2802				X				
42	National Oceanic and Atmospheric Program Act of 1969, S. 2841, H.R. 13247	X			X				
43	Amendment of National Sea Grant College and program Act of 1966, (S. 2293), H.R. 11766	X	X	X			X		91-349
44	Youth Conservation Corps Act of 1969, S. 1076, (H.R. 15361)	X	X	X	X	X	X	X	91-378
44	International Biological Program, H.J. Res. 589	X	X	X	X	X	X		91-438
44	Technology Assessment Act of 1970, H.R. 18469	X	X						
	Foreign Affairs and National Defense:								
46	Arms Control Agreement with USSR, S. Res. 211				X	X	X		
46	Geneva Protocol, Executive J, 91st Cong., 2d Sess				X				
47	National Commitments, S. Res. 85					X			
47	National Commitments—Spain, S. Res. 469	X						X	
47	U.S. Recognition of Foreign Governments, S. Res. 205				X	X	X		
47	Presidential Powers as Commander in Chief, S. 3964								
48	Presidential Powers as Commander in Chief, H.J. Res. 1355	X	X	X					
49	Foreign Military Sales Act, S. 3429, H.R. 15628	X	X	X	X	X	X	X	
50	International Monetary Fund and the International Bank for Reconstruction, S. 3628				X				
51	Two Conventions and Amendments Relating to Pollution of the Sea by Oil, Executive G, 91st Cong., 2d Sess								
51	United Nations Conference on Human Environment, S. Res. 179, H. Res. 562		X			X	X		
51	Genocide Convention, Executive B, 91st Cong., 2d Sess				X				
52	Convention on the Privileges and Immunities of the United Nations, Executive J, 91st Cong., 1st Sess				X	X	X		
52	Expansion of United Nations Headquarters, S.J. Res. 173, H.J. Res. 1146	X	X		X	X	X		
53	Select Committee to Study Southeast Asia, H. Res. 976		X	X					
53	Asian Development Bank, S. 3543				X				
54	Resolution on Peace with Justice in Vietnam, H. Res. 613	X	X	X					
54	Prisoners of War (Vietnam), H. Con. Res. 454	X	X	X		X	X		
54	Vietnam Disengagement, S. Con. Res. 64					X	X		
55	Vietnam Disengagement, S. J. Res. 204	X							
55	Amendment to Inter-American Development Bank Act, S. 3934, H.R. 18236	X			X				
56	Military Procurement Authorizations, (S. 3367), H.R. 17123	X	X	X	X	X	X	X	91-441
57	Military Construction Authorizations, (S. 3588), H.R. 17604	X	X	X	X	X	X	X	91-511
57	Defense Production Act of 1950 Amendments, S. 3302, (H.R. 17880)	X	X	X	X	X	X	X	91-379

Footnotes at end of table.

Status report page No.	Bill title and number	House			Senate			Conference	Public Law No.
		Hearings	Reported	Passed	Hearings	Reported	Passed		
	General Government:								
59	Federal Employees Salary Act of 1970, S. 3690, (H.R. 16844)		X	X	X	X	X		91-231
59	Health Programs for Federal Employees, (S. 1772), H.R. 16968	X	X	X	X	X	X		91-418
60	Protection of Privacy and Rights of Federal Employees, S. 782				X	X	X		
61	To Disapprove Reorganization Plan No. 1 of 1970, H. Res. 841	X	X						
61	To Disapprove Reorganization Plan No. 2 of 1970, H. Res. 960	X	X		X	(House rejected.)			
62	Reorganization Plan No. 3 of 1970, H. Res. 1209	X	X		X	X	(House rejected.)		
63	To Disapprove Reorganization Plan No. 4 of 1970, S. Res. 433, H. Res. 1210	X	X		X	X	(Senate rejected.)		
63	Postal Reorganization and Salary Adjustment Act of 1970, H.R. 17070	X	X	X	X	X	X	X	91-375
65	Obscene Mail, Prohibition, H.R. 11032	X	X	X					
65	Obscene Mail to Children, H.R. 15693	X	X	X					
66	Pornographic Literature, S. 3220	X			X	X	X		
66	Legislative Reorganization Act of 1970, S. 844					X			
67	Legislative Reorganization Act of 1970, H.R. 17654	X	X	X		X	X		91-510
69	Committee Investigations of Lobbying and Campaign Contributions, H. Res. 1031	X	X	X					
69	Additional Federal Judges, S. 952	X	X	X	X	X	X	X	91-272.
70	Electoral College Reform, Direct Popular Election, S.J. Res. 1, H.J. Res. 681	X	X	X	X	X			
70	Federal Contested Election Act, H.R. 14195		X	X		X	X		
71	Election Reform Act of 1970, S. 734					X			
71	Financial Disclosures, Members of Congress, H. Res. 796	X	X	X					
71	Limitations on TV-Radio Campaign Spending, S. 3637	X		X	X	X	X	X	[1] Vetoed
72	Limitations on TV-Radio Campaign Spending, H.R. 18434	X	X	X	(S. 3637 passed in lieu.)				
73	Uniform Relocation Assistance and Land Acquisition Policies Act, S. 1, H.R. 4578	X	X	X	X	X	X		
73	Intergovernmental Personnel Act, S. 11, H.R. 5546	X	X		X	X	X		
74	Commission on Population Growth and the American Future, S. 2701			X	X	X	X		
74	National Center for Population and Family Planning, S. 2108 (H.R. 19318)	X	X	X	X	X	X		91-213
75	Full Opportunity and National Goals and Priorities Act, S. 5				X	X	X	X	
	Health and Health Insurance:								
76	Medicare and Medicaid, Social Security Amendments of 1970 H.R. 17550	X	X	X	X	X			
79	Hospital and Medical Facilities Construction and Modernization Amendments of 1969, (S. 2182), H.R. 11102	X	X	X	X	X	X	X	91-296
80	Comprehensive Health Planning and Services Act of 1970, H.R. 18110	X	X	X	X				
81	Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. 18583	X	X	X			X	X	91-513
82	Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation, S. 3562				X	X	X		
85	Public Health Cigarette Smoking Act, H.R. 6543	X	X	X	X	X	X	X	91-222
85	National Health Service Corps, S. 4106	X		X	X	X	X		
85	Communicable Disease Control and Vaccination Assistance Amendments of 1969, S. 2264, (H.R. 11913)	X	X	X	X	X	X	X	91-464
86	Grants to Schools of Public Health, S. 2809			X	X	X	X	X	91-208
86	Allied Health Professions Personnel Training Act, H.R. 13100	X	X	X					
87	Health Training Improvement Act of 1970, S. 3586			X	X	X	X	X	91-519
87	Migrant Health Act Amendments of 1969, S. 2660				X	X			
87	Community Mental Health Center Amendments of 1970, S. 2523			X	X	X	X	X	91-211
88	Public Health Service Act for Migrant Farm Workers, H.R. 14733	X	X	X			X	X	91-209
89	Family Practice of Medicine Act of 1970, S. 3418, H.R. 19599	X	X	X	X	X	X	X	
89	Heart Disease, Stroke, Cancer, and Kindey Amendments of 1970, S. 3355				X	X	X		
89	Heart Disease, Stroke, Cancer, and Kidney Amendments of 1970, H.R. 17570	X	X	X			X	X	91-515
90	Medical Library Assistance, H.R. 11702	X	X	X	X	X	X	X	91-212
	Housing and Urban Development:								
91	Housing and Urban Development Act of 1970, S. 4368				X	X	X		
92	Housing and Urban Development Act of 1970, H.R. 19436	X	X	X			X		
94	Emergency Home Finance Act of 1970, S. 3685, (H.R. 17495)	X	X	X	X	X	X	X	91-351
95	Emergency Community Facilities Act of 1970, (S. 3938), H.R. 17795	X	X	X	X	X	X		91-431
	Immigration:								
97	Alien Commuter "Green Carders", S. 2568, H.R. 12667	X							
97	Nonimmigrant Visas, S. 2593		X	X		X	X		91-225
	Labor:								
98	Unemployment Compensation, H.R. 14705	X	X	X	X	X	X	X	91-373
98	Railroad Supplemental Annuities, H.R. 13300	X	X	X	X	X	X	X	91-215
99	Increase in Railroad Annuities, H.R. 15733	X	X	X	X	X	X	X	91-377
100	Railroad Shopcraft Dispute Settlement, S. J. Res. 190 (H. J. Res. 1124)	X	X	X	X	X	X		91-226
100	Federal Construction Fair Practices Act, H.R. 3345	X							
	Law enforcement and criminal procedure:								
101	Organized Crime Control Act of 1969, S. 30	X	X	X	X	X	X		91-452
102	Omnibus Crime Control and Safe Streets Act Amendments, S. 3531, H.R. 15947	X	X	X	X				
103	Omnibus Crime Control and Safe Streets Act Amendments, S. 3171, H.R. 15597	X			X				
104	Explosives Control Act of 1970, S. 3650, H.R. 18753	X			X	X	X		
104	Corrupt Organizations Act of 1969, S. 1861, H.R. 10312				X				
105	Bail Reform Act of 1966 Amendments, S. 2600, H.R. 12806	X			X				
105	Controlled Dangerous Substances Act of 1969, S. 3246				X	X	X		
106	Comprehensive Drug Abuse Prevention and Control Act of 1970 (Title II, The Controlled Substances Act; and Title III, The Controlled Substances Import and Export Act), H.R. 18583	X	X	X			X	X	91-513
107	Commission on marihuana, S. 2590, H.R. 10019	X	X		X				
108	Illegal Gambling Business Control Act of 1969, S. 2022, H.R. 10683				X				
109	Wagering Tax Amendments of 1969, S. 1624, H.R. 322		X		X	X			
109	Federal Immunity of Witnesses Act, S. 2122, H.R. 11157	X			X				
109	Amendments to Sherman Antitrust Act Regarding Criminal Suits, S. 3036, H.R. 14116	X	X	X	X				
110	Identification Procedures in Federal Criminal Cases, S. 2977				X				
110	Public Defenders, S. 1461	X	X	X	X	X	X		91-447
111	Criminal Appeals, S. 3132, H.R. 14588				X	X	X		
111	Gun Crime Penalties, S. 849				X	X	X		
111	Obstructing the Military, H.R. 959	X	X						
	Manpower training, job opportunity, and regional development:								
112	Comprehensive Manpower Act, H.R. 19519	X	X	X					
112	Employment and Training Opportunities Act of 1970, S. 3867			X	X	X	X	X	Vetoed
113	Extension of Public Works and Economic Development Act of 1965, H.R. 15712.	X	X	X		X	X		91-304
	Monetary, banking, tax and fiscal policies:								
114	Federal Credit Union Act Amendments, H.R. 2	X	X	X	X	X	X	X	91-206
114	Federal Deposit Insurance Act Amendments, (S. 3678), H.R. 15073	X	X	X	X	X	X	X	91-508
116	Investment Company Amendments Act of 1969, S. 2224, (H.R. 17333)	X	X	X	X	X	X	X	91-547
116	Bank Holding Companies, H.R. 6778	X	X	X	X	X	X	X	
118	Federal Broker-Dealer Insurance Corporation Act, S. 2348				X	X			
118	Federal Broker-Dealer Insurance Corporation Act, H.R. 19333	X	X	X			X	X	
119	Interstate Taxation Act, H.R. 7906		X	X					
119	Elimination of Discrimatory State Taxation of Interstate Carriers, S. 2289, H.R. 16245	X			X	X	X		
120	Commission on Bankruptcy Laws, S.J. Res. 88	X	X	X		X	X		91-354

Footnotes at end of tables.

LEGISLATIVE CHECKLIST—Continued

Status report page No.	Bill title and number	House			Senate			Conference	Public Law No.
		Hearings	Reported	Passed	Hearings	Reported	Passed		
	Social security and pension plans:								
121	Social Security Amendments of 1970, H.R. 17550	X	X	X	X	X			
121	Pension Benefit Security Act, H.R. 1045	X							
122	Welfare and Pension Plan Protection Act of 1969, H.R. 1046	X							
122	Employee Benefits Protection Act, S. 3589, H.R. 16462	X							
	Transportation:								
123	Urban Mass Transportation Assistance Act of 1970, S. 3154, (H.R. 18185)	X	X	X	X	X	X		91-453
123	Airport and Airways Development Act of 1970, (S. 3108), H.R. 14465	X	X	X	X	X	X	X	91-258
125	National Traffic and Motor Vehicle Safety Act, H.R. 10105	X	X	X		X	X	X	91-265
125	Federal-Aid Highway Act of 1970, S. 4418, (H.R. 19504)	X	X	X	X	X	X	X	
126	Rail Passenger Service Act of 1970, S. 3706	X			X	X	X		
127	Federal Railroad Safety Act of 1969, S. 1933	X	X	X	X	X	X	X	91-458
128	Aircraft Hijacking, H.R. 19444	X	X	X	X				
128	International Travel Act Amendments, H.R. 14685, (S. 1289)	X	X	X			X	X	91-477
128	Maritime Program, (S. 3287), H.R. 15424	X	X	X	X	X	X	X	91-469
	Veterans:								
130	Pension Increase, S. 3385, H.R. 15911	X	X	X		X		X	
131	Veterans Housing Act of 1970, (S. 3656), H.R. 16710	X	X	X	X	X	X		91-506
131	Home Loan Financing for Veterans, S. 3008, H.R. 18253	X	X		X				
132	Veterans Education and Training Amendments Act of 1970 Amendments Act of 1969, H.R. 11959	X	X	X	X	X	X	X	91-219
133	Disability Compensation Increase, S. 3348, (H.R. 17958)	X	X	X	X	X	X		91-376
133	Servicemen's Group Life Insurance Amendments, S. 1479, (H.R. 16661)	X	X	X	X	X	X		91-291
	Welfare and Related Areas:								
134	Family Assistance Act, H.R. 16311	X	X	X	X				
134	Food Stamp Act Amendment, S. 2547	X			X	X	X		
135	To Amend the Food Stamp Act, H.R. 18582	X	X	X			X	X	
136	Other: National Foundation on the Arts and the Humanities, S. 3215, (H.R. 16065)	X	X	X	X	X	X	X	91-346
	Authorizations, Regular Annual, Fiscal 1971:								
144	Atomic Energy Commission, (H.R. 17405), S. 3818	X	X	X	X	X	X		91-273
144	Coast Guard, H.R. 15694, (S. 3473)	X	X	X	X	X	X		91-261
144	Maritime Administration, H.R. 15945, (S. 3489)	X	X	X	X	X	X		91-247
144	Military Construction, H.R. 17604, (S. 3588)	X	X	X	X	X	X	X	91-511
144	Military procurement, H.R. 17123, (S. 3367)	X	X	X	X	X	X	X	91-441
144	NASA, H.R. 16516, (S. 3374)	X	X	X	X	X	X	X	91-303
145	National Science Foundation, H.R. 16595, (S. 3412)	X	X	X	X	X	X	X	91-356
145	Peace Corps, S. 3430, (H.R. 16327)	X	X	X	X	X	X	X	91-352
	Appropriations, Regular Annual, Fiscal 1970:								
146	Foreign Assistance, H.R. 15149	X	X	X	X	X	X	X	91-194
146	Departments of Labor and Health, Education, and Welfare, H.R. 13111	X	X	X	X	X	X	X	Vetoed
146	Departments of Labor and Health, Education, and Welfare, H.R. 15931	X	X	X	X	X	X	X	91-204
147	Supplemental, H.R. 17399 (2d)	X	X	X	X	X	X	X	91-305
	Appropriations, Regular Annual, Fiscal 1971:								
147	Treasury, Post Office and Executive Office, H.R. 16900	X	X	X	X	X	X	X	91-422
147	Legislative Branch, H.R. 16915	X	X	X	X	X	X	X	91-382
147	Office of Education, H.R. 16916	X	X	X	X	X	X	X	[3] Vetoed
147	Independent Offices and Dept. of Housing and Urban Development, H.R. 17548	X	X	X	X	X	X	X	[3] Vetoed
148	Foreign Assistance and Related Programs, H.R. 17867	X	X	X	X	X	X	X	
148	District of Columbia, H.R. 17868	X	X	X	X	X	X	X	91-337
148	Department of Agriculture and Related Agencies, H.R. 17923	X	X	X	X	X	X	X	
148	Military Construction, H.R. 17970	X	X	X	X	X	X	X	91-544
149	Public Works, Atomic Energy Commission, H.R. 18127	X	X	X	X	X	X	X	91-439
149	Dept. of State, Justice, Commerce, the Judiciary and Related Agencies, H.R. 17575	X	X	X	X	X	X	X	91-472
149	Dept. of the Interior and Related Agencies, H.R. 17619	X	X	X	X	X	X	X	91-361
150	Dept. of Transportation and Related Agencies, H.T. 17755	X	X	X	X	X	X	X	
150	Depts. of Labor and Health, Education, and Welfare, H.R. 18515	X	X	X	X	X	X	X	
	Dept. of Defense, H.R. 19590	X	X	X	X	X	X	X	
	Addenda:								
	Appropriations for HUD and Independent Offices H.R. 19830	X	X	X	X	X	X		
	Rail Passenger Service Act, H.R. 17849	X	X	X			X		91-518
	Omnibus Crime Control and Safe Streets Act Amendments, H.R. 17825	X	X	X	X	X	X	X	
	Program Information Act, S. 60				X	X	X		
	Public Recreation Land, S. 3389				X	X	X		
	Reorganization of D.C. Government, H.R. 18782	X	X						
	Lead-based Paint Poisoning, H.R. 19172	X	X	X	X	X	X		
	Bankruptcy Act Amendments, S. 4247, (H.R. 18871)	X	X	X	X	X	X	X	91-462
	Withholding Exemption Act, (S. 2044), H.R. 10634	X	X	X	X	X	X	X	
	Occupational Health and Safety Act, S. 2193, H.R. 16785	X	X	X	X	X	X	X	
	Foreign Trade Act of 1970, H.R. 18970	X	X	X					
	District of Columbia Revenue Act, H.R. 19885	X	X	X			X		
	Vocational Rehabilitation, H.R. 19401	X	X	X	X	X	X		
	Comprehensive Program for Alcohol Treatment, H.R. 18874	X	X	X	X	X	X		
	Poison Prevention Packaging Act, S. 2162	X	X	X	X	X	X	X	

[1] Senate failed to override veto, Nov. 13, 1970.
[2] Vetoed by President Aug. 11, 1970. House overrode Aug. 13, 1970. Senate overrode Aug. 18, 1970. Public Law 91-308.
[3] Vetoed by President Aug. 11, 1970. House sustained veto Aug. 13, 1970.

THE FAMILY ASSISTANCE PROPOSAL

Mr. SAXBE. Mr. President, in the debate of December 19 on the family assistance proposal, Senator WILLIAMS of Delaware made a very detailed presentation on what he feels are some of the plan's weaknesses. However, some very important aspects of the administration's welfare reform measure were ignored in that debate, and other provisions were taken out of context and not described in terms of their impact on welfare as we know it today. I would like to take this opportunity to discuss these features of the Ribicoff-Bennett amendment.

Last week questions were raised concerning the degree to which family assistance would reform our present welfare mess. I think that the opportunities the bill presents for reforming, restructuring, and rationalizing welfare programs is tremendous. First, the proposal would extend aid for the first time to all poor families. Such an extension in program coverage to working poor, intact families lessens the current incentive under the aid to families with dependent children—AFDC—program for the father of a low-income family to desert, thereby making the mother and children eligible for AFDC benefits. It would also halt our present practice of rewarding those who do not work while ignoring equally poor families who do work.

The second most important aspect of this reform has to do with the Federal-State role in the administration and financing of welfare programs. Presently, 54 jurisdictions operate their own systems, with partial Federal reimbursement for payments and administrative expenses. The result is widely varying payment levels, eligibility rules, administrative practices, and, in many States, rapidly escalating costs the States can no longer afford.

Family assistance would greatly

standardize these programs, raise payment levels in the States with lowest payments, give the States the option of turning over program administration to a Federal agency, and place a ceiling on State expenditures which guarantees each State future reductions in welfare costs.

A third principle embodied in the proposal is that as many poor people who can work should do so and should be assisted in becoming economically independent. The Ribicoff-Bennett proposal would require certain family assistance recipients to register for work or training, and they would be referred for whatever services can benefit them. The necessary manpower and day care services would be improved, both in quantity and quality, over what is available today under programs for welfare families.

Some specific points were raised about this legislation last week that I would like to comment on. It was alleged that the family assistance plan would do nothing to retard the current incentives for family breakup mentioned earlier, and that the plan would somehow reward couples for having illegitimate children. These statements are misleading if not inaccurate, and I submit the following chart to illustrate the point.

As the chart shows, an intact family of four in Phoenix, Ariz., earning $2,000 receives no aid under AFDC. If the father leaves the family, the mother and children receive $1,836 from AFDC, raising total income to $3,836. However, under family assistance, the family would receive $960 in benefits if they stay together. Thus, the incentive for the family to break up is reduced by more than half.

As for the suggestion that family assistance would reward illegitimacy, the fact is just the contrary. Current law rewards illegitimacy, because a workingman and his family cannot get assistance, but an unwed mother can. Under family assistance, the legally married couple with children could be helped if their income made them eligible for the program.

In summary, I feel that the Ribicoff-Bennett amendment to H.R. 17550 represents a greatly needed step forward in the reform of welfare and I urge its prompt enactment.

INCENTIVES FOR FAMILY BREAKUP UNDER AFDC AND UNDER FAMILY ASSISTANCE

[Data assume a father, mother and 2 children living in Phoenix, Ariz.; father earns $2,000 annually]

	Income under AFDC			Income under Family Assistance		
	Earnings	AFDC	Total	Earnings	FAP	Total
Family lives together	$2,000		$2,000	$2,000	$960	$2,960
Father leaves family	2,000	$1,836	3,836	2,000	1,836	3,836
Incentive to break up			1,836			876

LIMITATIONS ON AMERICAN INVOLVEMENT IN CAMBODIA

Mr. CHURCH. Mr. President, over the weekend, I received a letter from Secretary of State William P. Rogers stating that the administration has no objection to the legislative restrictions on our military and economic aid to Cambodia, as provided in H.R. 19911, the supplemental foreign assistance authorization for 1970.

These restrictions, originally offered by the distinguished Senator from Kentucky (Mr. COOPER) and me, and contained in section 6 of the bill, prohibit the use of any funds to introduce U.S. ground combat troops into Cambodia or other U.S. personnel as advisers or instructors. The language, to which the executive branch takes no exception, reads as follows:

In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisors to or for Cambodian military forces in Cambodia.

The Secretary of State's letter, which I am told was approved at the "highest level" of the Government, should appreciably clear the air as to the Nixon administration's intentions in Cambodia. Dated December 19, 1970, the letter reads:

DEAR SENATOR CHURCH: Confirming Assistant Secretary Abshire's conversation with you, I should like to reaffirm that the Administration's programs, and policies and intentions in Cambodia in no way conflict with Section 6 of H.R. 11991, or with the concerns expressed in the colloquy on the floor of the Senate on December 15, 1970.

Sincerely,

WILLIAM P. ROGERS.

The colloquy Secretary Rogers was referring to took place between the distinguished Senator from Mississippi (Mr. STENNIS), the Senior Senator from Alabama (Mr. SPARKMAN), the ranking Republican member of the Foreign Relations Committee, the Senator from Vermont (Mr. AIKEN), and myself. I ask unanimous consent that the pertinent pages from the RECORD covering the colloquy be printed in the RECORD at this point.

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

SPECIAL FOREIGN ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 19911), to amend the Foreign Assistance Act of 1961.

Mr. GRAVEL. I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

"On page 4 strike out lines 18 through 20 and renumber the subsections accordingly."

The language proposed to be stricken reads as follows:

"(1) $85,000,000 for additional military assistance and $70,000,000 for special economic assistance for Cambodia;"

Mr. GRAVEL. Mr. President, I yield to the Senator from Mississippi without losing my right to the floor.

Mr. STENNIS. I thank the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I do not think I shall take more than a few minutes. I wish to address a question to the Senator from Alabama. I direct the attention of Senators to this question because it is a matter of some importance.

I wish to direct the attention of the Senator from Alabama to page 7 of the bill as now printed, and that part that provides, beginning with line 1: "none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia."

My question to the distinguished Senator from Alabama is as to his interpretation of this limitation on the President about financing the introduction of U.S. ground combat troops into Cambodia.

Is that language intended to be a prohibition on the President's going into Cambodia with U.S. combat troops to meet a situation like the sanctuary battle that we had last June and July, which proved to be directly connected with the arsenal, the armory, and everything else that goes to make war on our men in South Vietnam, and which proved to be beneficial? Would the Senator from Alabama speak to that point?

Mr. SPARKMAN. As I recall, when the President announced that we were going into Cambodia, he gave us the reason that it was to protect American troops—American people, American citizens—who are in South Vietnam. It was for that purpose. The sanctuaries imperiled those citizens and that was his purpose for going in there.

I may say that in the committee discussion I raised the question as to whether or not this language would permit the use of American forces to protect American lives in South Vietnam, as was done before. I shall be very glad to check on this, but, as I recall, the answer was that that would be a presidential power, that he would be exercising his own powers, and that this language did not prohibit that.

The distinguished Senator from Idaho (Mr. CHURCH), a few minutes ago, said something about the constitutional powers question still being unresolved. We all admit that. I would be very glad if the Senator from Idaho would say something on this.

Mr. CHURCH. I thank the Senator.

Mr. President, the question of the distinguished chairman of the Committee on Armed Services goes to the heart of the debate that took place this spring and summer on the Cooper-Church amendment. Since we had much time—7 weeks—to explore the question, we discused it at considerable length.

In the course of the debate, it was recalled that in times past the President had invoked his constitutional authority as Commander in Chief to order rescue operations, to take precautionary action to protect American troops in the field threatened with an imminent enemy buildup that posed a serious danger to them, and that, within the framework of past precedent, there is an area of discretionary action open to the President as Commander in Chief.

The exact definition of that power has never been attempted in the past. Congress has never undertaken to define it with precision. The best answer must rest upon the precedents.

However, I would not want it to be thought that writing this language into the bill has little or no effect. Far to the contrary. No one has contended, based on the precedents, that the President can make general war or deploy an army in a foreign country on his authority as Commander in Chief.

This language would clearly prevent the deployment, for an extended period of time, of a substantial number of American troops in Cambodia. If the President intended to do that, the money is not made available for that purpose, and it would be necessary for him to return to Congress and ask our consent. But it is true that, as Commander in Chief, within a limited area, the President has power to initiate action designed to protect American troops in the field.

Mr. STENNIS. If I may ask the Senator this question, with reference to the battle of the sanctuary, the areas that the President invaded this summer, to destroy ammunition, and so forth, would the Senator think that his language prohibits a repetition of that if the facts are similar and conditions are pressing?

Mr. CHURCH. If there were a particular concentration just over the border which constituted a serious, imminent threat, that could be suddenly struck and destroyed, that might fall within the President's powers as Commander in Chief. However, I could not say to the Senator that undertaking an extended invasion of Cambodia with a large American expeditionary force for six or eight weeks falls within the scope of his power under the Constitution as Commander in Chief.

This whole question was fully explored in the course of the earlier debate.

From a conversation I had with the President last evening, it is my understanding now that he no longer takes exception to the limiting language. He feels it conforms with his own policy in Cambodia. He says he has no intention of sending back troops. He no longer persists in objecting to language of this kind. I could not say, however, that this prohibition in the bill would not preclude an invasion of Cambodia on the scale that took place and for the length of time that occurred last summer. I feel it would.

Mr. STENNIS. On that point right there, the the Senator understands that no President, no Commander in Chief, no Army field commander, can tell how long it would take to carry out an objective. They go into the unknown. Also it takes time to prepare for such an attack on a sanctuary. So the President and his advisers might have to have 3 or 4 weeks, or even longer, to prepare. It is a deliberate act. It is not an extreme, rash act.

So the Senator would not preclude, then, a bona fide effort, the planning of an attack, an invasion, technically, of the country to clear out and clean out a sanctuary that was an imminent threat to our men in South Vietnam?

Mr. CHURCH. I would say, in reply to the Senator that, in the first place, there would be nothing to preclude whatever any planning on any military mission. Yet, on the basis of precedents, the President's power as Commander in Chief to undertake military action is strictly limited to actions restricted both in scope and time, and which are directly related to the need to protect American troops in the field.

Mr. STENNIS. While I am on that, the Senator does recognize that it takes time, and cannot always be foretold exactly?

Mr. CHURCH. Yes, I appreciate that there is no way to fortell precisely the length of an intervention.

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

Mr. GRAVEL. I yield to the Senator from Vermont for an observation.

Mr. AIKEN. Mr. President, I do not think the Committee on Foreign Relations now takes a position much different than it took last spring. If an incursion is necessary for the safety of our men, there would be no objection, but an invasion, which, as stated by the Senator from Mississippi, would require a long time in preparation and probably a long time to carry out, would have to be reported back to the Senate before it was undertaken. The committee did make a sharp distinction between an incursion and an invasion.

Several Senators addressed the Chair.

Mr. GRAVEL. I yield to the Senator from Alabama.

Mr. SPARKMAN. May I say that I did not understand that the Senator from Mississippi was speaking of an invasion. The term "incursion" was used, I think, in referring to it. But I think it is the objective that is controlling—in other words, the protection of American lives.

Mr. STENNIS. The Senator is correct, and my question was based on the incursion or the thrust, rather than a large scale invasion.

Mr. SPARKMAN. To protect American lives.

Mr. STENNIS. Primarily to protect the lives of our soldiers, our military men. I did make the point that sometimes it took weeks even to plan an incursion and get ready for it.

Mr. SPARKMAN. I wish to say that there is nothing in here that intends to limit the President's constitutional powers to act in an emergency in order to protect American lives.

Mr. STENNIS. I appreciate the Senator's answer; and, if I may respond quite briefly to the Senator from Idaho, Mr. President, I do not think it is definitely known, according to the precedents of history or according to this debate, just what the extent of the President's powers as Commander in Chief is. I think it depends greatly on the circumstances. I do not want any hard law here that would create any cloud or any doubt in any President's mind as to what his responsibilities are. I want to leave him with the responsibilities as well as the powers. If we do not leave the powers and the responsibilities with him, then it is not his fault or he is not to blame, and we have no head of State to that extent.

Mr. SPARKMAN. There is no effort here to limit the President's emergency powers or his constitutional powers.

Mr. STENNIS. Yes. That is why I am so concerned about this. The point first came up, as far as written law is concerned, in the military procurement bill. The battle of the sanctuaries was on then, and we put language in there that was approved by this body, that he would not be restricted as long as it was tied to our men and their safety in the draw-down. The battle over that language is going on now in appropriation bills and elsewhere, as well as here.

It seems to me that the colloquy has made it clear that this language does not take any of the responsibility nor the power away from the President of the United States to do what he thinks is reasonably necessary, within reasonable limitations of time, in destroying arsenals, armories, armies, or anything else that is in close proximity to our borders, which we have designated by the general term "sanctuaries," as in the past.

Mr. CHURCH. Mr. President, may I make one observation? Will the Senator yield for that purpose?

Mr. STENNIS. I yield.

Mr. CHURCH. It is perfectly true that it does not lie within the power of this body, even if we were to harbor an intention to do so, to curtail the constitutional powers of the President as Commander in Chief.

What we seek to do here is assert congressional powers over the spending of the public money. That is within our authority. It is clear, as far as my evidence indicates, that the President is now willing to acquiesce in a limitation of this kind imposed upon the funds made available in this bill and in other bills, vis-a-vis Cambodia.

It follows that if the President were later to decide that it is in the national interest to repeat an extended, full scale military invasion of Cambodia, he would come back to Congress and ask our consent.

We are exercising our power. I recognize that it is not within our reach to undermine such constitutional powers as vest in the presidency in the role of Commander in Chief.

Mr. CHURCH. In view of the fact that the administration has accepted the pertinent language in the Senate version of the supplemental foreign assistance authorization bill, including the Cooper-Church amendment, and the fact that the House and Senate conferees, representing the two legislative committees concerned, have concurred in that language, I hope it will now prove possible to eliminate from the appropriations conference reports those provisions that contradict and undercut these provisions in the authorizing legislation. If such an accommodation could be reached, we could then complete our legislative work on all the unfinished defense and foreign aid appropriation measures.

UNSNARLING THE CAMBODIA AID TANGLE

Mr. SYMINGTON. Mr. President, I do not think that the editorial in this morning's Washington Post, entitled "Unsnarling the Cambodia Aid Tangle," should stand without comment.

The editorial complains that the "potentialities for a misreading" of the words and deeds of American legislators "should be apparent to anyone who casts even a casual glance at the Senate's debate on whether its voting of $255 million in aid to Cambodia constitutes a 'commitment' or not."

It is obvious to me, from reading the editorial, that the writer has cast only a casual glance—and nothing more—at the Senate debate.

The editorial expresses respect for Senator FULBRIGHT's concept "that the Senate must assert its constitutional duty to approve foreign commitments." But it then goes on to say that the chairman of the Foreign Relations Committee failed to assert that duty because, the editorial continues, he should have been emphasizing that approval of the money was not equivalent to a treaty, and attempting "to nail down the administration tightly to that other interpretation," instead of charging, as he did and as others did, that "approval of this money is equivalent to a treaty."

What more would the writer have had Senator FULBRIGHT and other Senators who agreed with him do if they believed that approving the President's supplemental aid request constituted senatorial endorsement of a commitment which was, in fact, as much of a commitment as a treaty would have been.

The committee did include an amendment to the bill which made it clear that the giving of aid should not be construed as a commitment to come to the defense of Cambodia. But some members of the Senate feel that approval of the funds does constitute a commitment nevertheless—if a quarter of a billion dollars a year to a nation of 6 million does not involve a commitment; what does?

In fact, the staff report prepared for the committee, a portion of which the Post reprints on its editorial page, states clearly that the Cambodians have certainly inferred that the military assis-

tance program already begun—and begun, it should be noted, by the President without congressional authorization—has been taken by the Cambodians to constitute a commitment of support.

That is exactly the point that was made time and again during the debate. Senator Fulbright argued that for this reason the Senate should look carefully at what to date has been only a Presidential action before lending their endorsement to that decision, having in mind the fact that congressional passage of foreign aid authorizations and appropriations were cited by Secretary Rusk and other officials of the previous administration as commitments to the security of South Vietnam.

As for the question of whether military and economic assistance to Cambodia, once begun, will be "open ended," it should be obvious that since no one knows the enemy's intentions in Cambodia, it is fair to assume that the end to military and economic assistance to Cambodia is certainly not in sight.

The commitment to provide money to Vietnam has proved to be open ended. Why will the commitment to Cambodia not be?

The Cambodians are, after all, fighting the same enemy and are beginning their fight far less well equipped than the South Vietnamese. The staff report, which the editorial cites with approval, states in this connection:

It seems clear that providing effective assistance to Cambodia—sufficient for it to train, arm, equip and sustain in the field a large enough force to hold the present line militarily—will require a Military Assistance Program of several years duration and—given the effect the war has already had on the economy, not to mention the effect the continued fighting will have—a concomitant program of related economic assistance.

Would this writer care to guess at what that total cost of assistance to Cambodia will be—or how long it will continue? The administration certainly has not been willing to do so; indeed how could they?

In previous editorials, the Post has criticized the fact that some Senators insisted on debating for 2 days the question of the Senate's endorsing $255 million in military and economic assistance for Cambodia. But last spring and summer, those opposed to the Cooper-Church amendment tied the Senate up for some 7 weeks because they did not want to see that amendment brought to a vote until American forces were withdrawn from Cambodia.

The debate last summer, which revolved around the question of committing American ground forces to Cambodia, was described in an editorial on December 19, as "of truly national significance." But the editorial refuses to ascribe any significance at all to a debate on the question of beginning a military and economic assistance program to Cambodia which will run into at least hundreds of millions of dollars and perhaps into billions.

Is the writer of this editorial so much in favor of the administration's proposal that it is unwilling to see the Senate take any action but approve this program without any discussion. If so, would it not have been more constructive to have stated that view?

I do not believe this editorial does justice to this debate or contribute to public understanding of the important issues involved.

As this and other comparable matters develop, whether the chairman of the Senate Foreign Relations Committee is right, or whether he is wrong, it should be becoming more clear that what Chairman FULBRIGHT is really doing in these closing days is to stand up for the dignity, the independence, and the constitutional responsibility of the Senate.

I ask unanimous consent that the Washington Post's editorials, to which I have referred, dated December 19 and December 21 together with the Post's excerpt from the committee staff report Cambodia: December 1970, be printed in the RECORD at the conclusion of my remarks.

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

[From the Washington Post, Dec. 19, 1970]

THE FILIBUSTER SENATE

For some years this newspaper has contended that the Senate is not a modern legislative body because of its toleration of unlimited debate. During the last few weeks the Senate itself appears to have proved the point beyond the shadow of a doubt.

The filibusters in the lame-duck session have been of the mini variety, but their result has been to throw the legislative program into a state of deep confusion and frustration. The Senate has been literally unable to cope with several of the great issues of the day because a few of its members insist on thwarting the majority will. There was a time when the word "filibuster" conjured up images of long-winded Southerners talking a civil rights measure to death. Now it is the commonest tactic of liberals and conservatives alike and of tiny factions as well as large minorities.

Despite the great pressure on the Senate to clear its congested calendar in the few days that remain, Senators Fulbright and Gravel held up the foreign aid bill for two days in a futile effort to convince their colleagues that the proposed $255 million in aid for Cambodia would lead to a commitment to the present regime in that country even though the legislation itself would prohibit the President from sending in any ground troops or military advisers. Fortunately a vote was finally permitted. The Senate has been further plagued by threats of extended debate on the trade bill and on the conference report involving the controversial SST project. This newspaper has opposed both the trade bill and the SST, but we do not condone stringing out the debate so as to prevent a vote.

The basic trouble is, of course, that the Senate has dawdled along through most of its 1970 session. Several long filibusters when the pressure was less intense left it with an unmanageable burden as the end of the session approached. Undoubtedly many of its debates were highly educational, to use the euphemism customarily employed by the filibusters themselves. The seven weeks of discussion of the Cooper-Church amendment to limit the war in Cambodia, for example, was of truly national significance. Yet the fact remains that a legislative body confronted by a mountain of vital issues can no longer afford the luxury of unlimited debate on any thing.

Nor is there any real hope in the cloture rule which can be invoked only on a two-thirds vote. It is rather an invitation to the obstructionists to keep on talking. One of the most constructive proposals to come before Congress in recent years—the proposed constitutional amendment for direct election of the President—failed a few months ago because the Senate majority in favor of it could not muster a two-third vote to end a filibuster. In our view, the Senate's first order of business in 1971 should be reform of its cloture rule.

[From the Washington Post, Dec. 21, 1970]

UNSNARLING THE CAMBODIA AID TANGLE

It is difficult, indeed, misleading and artificial, to separate the way the Senate has been conducting its business from the specific nature of its business, and nowhere more so than in respect to its deliberations on military aid to Cambodia. Perplexed as many Americans may be as to just what the Senate has done, we have considerable sympathy for those foreigners—in Phnom Penh, Saigon, Hanoi and elsewhere—who are faced with the task of determining what the Senate's actions mean to them. If diplomats, who count themselves experts at this sort of thing, often mistake each other's "signals," think of how foreign governments may read the words and deeds of American legislators. The potentialities for a misreading should be apparent to anyone who casts even a casual glance at the Senate's debate on whether its voting of $255 million in aid to Cambodia constitutes a "commitment" or not.

Granted that a certain amount of ambiguity is inherent in the purpose of American policy and in the nature of the domestic political setting of that policy, the Senate still should have been able to speak with a clearer voice. For the lapse, we place the chief responsibility on Mr. Fulbright. His guiding concept, as we understand (and respect) it, is that the Senate must assert its constitutional duty to approve foreign commitments. Yet that is precisely what the chairman of the Foreign Relations Committee failed to do. Quite typical was his pettish charge that "approval of this money is equivalent to a treaty"; he should have been asserting exactly the opposite and attempting to nail down the administration tightly to that other interpretation. And having received from two of his own staff members a very balanced and perceptive report on Cambodia, excerpted elsewhere on this page "For the Record," he let it wither unpicked on the vine. No amount of latter-day complaining that the President has stolen the Senate's powers will obscure Mr. Fulbright's inadequate pursuit of the "thief."

Fortunately, Senators Church and Cooper were there to do the essential work of tacking on to the aid money provisions banning use of American ground forces or military advisers in Cambodia. Fairly, Mr. Church saluted his own handiwork as a successful—if belated—application of control on the Executive, Secretary of State Rogers' letter late Saturday, in which he said "the administration's programs, policies and intentions in Cambodia in no way conflict" with the Cooper-Church language, was a welcome—if even more belated—acknowledgement of an administration position that should have been made explicit months ago.

Earlier in the week, Mr. Fulbright declared that to vote the funds would be to endorse "enlargement of the war," but this is an arch misreading. Voting the funds means providing the means for Cambodia to continue the policies—such as closing down Sihanoukville and keeping heat on the sanctuaries alongside Vietnam—that are integral to Vietnamization in Vietnam. Can it be that Mr. Fulbright wants to see full restored use of the port and sanctuaries? Of course not. Rather, we suspect that he did not think the matter through.

Some Cambodians have "inferred," the staff report to Mr. Fulbright stated, that the American aid program constitutes a com-

mitment to them. Their inference is probably unavoidable but it is essential that Americans not contribute to or reinforce it. It was the Cambodians, faced with what they believe to be an invasion by foreigners (North Vietnamese), who came to the United States for aid. Washington had its own reasons to offer help—in order to get on with Vietnamization—and so a deal was made. This is what the administration says, though not so inelegantly, and this is what it should be held to. The Senate, which controls the money, has the power to do precisely that. "Unwise" the aid may or may not be, as Senator Gravel charged. "Open-ended," it need not be, if the Senate will but do its job.

The language in the Defense appropriations bill authorizing the President to take any action he wishes to promote withdrawal of United States forces from Southeast Asia and to retrieve American POWs, was mischievous, provocative and unnecessary. It should have been stricken long before the Rogers' letter of Saturday broke the logjam of which it was a central part. The thrust of any Senate language on Cambodia and Vietnam ought to be to define and circumscribe Executive actions and thereby to share responsibility for them within the limits set. It is irresponsible to write blank checks for the President, which in any case he could write and spend for himself if he were so minded—if he were so foolishly and arrogantly minded, that is.

A CHANCE IN CAMBODIA TO REGAIN PRESTIGE?

It is perhaps stating the obvious to say that the question before the Committee is not whether to initiate a Military Assistance Program. That program is already underway to the extent of $100 million. If such a program can constitute a commitment of support, as the Cambodians have certainly inferred, the commitment has already been assumed. It appears, therefore, that the question before the Committee is not whether to enter into such a commitment but whether to terminate it, on the one hand, or to continue or expand it, on the other, and if so, with what limitations.

It seems clear that providing effective assistance to Cambodia—sufficient for it to train, arm, equip, and sustain in the field a large enough force to hold the present line militarily—will require a Military Assistance Program of several years duration and—given the effect the war has already had on the economy, not to mention the effect that continued fighting will have—a concomitant program of related economic assistance.

In a way, these costs might be considered as merely an additional price it has become necessary to pay for Vietnamization. But there are subtle and complex undertones to justifying military and economic assistance to Cambodia on the ground that such assistance is, as the President said in his transmittal message to the Congress on November 18th, "a vital element in the continued success of Vietnamization."

Notwithstanding the obvious strategic connection between Cambodia and Vietnam, the Cambodians themselves emphasize the distinction between the situation in their country and the situation in Vietnam, a distinction they seem to believe Americans do not understand. They point out that they are asking not for troops and advisors but for material assistance, and that this help is needed not to fight a guerrilla war but to meet an unprovoked invasion by foreign forces, which are occupying parts of their country and are attempting to subjugate others parts. In Vietnam, they point out, American forces are fighting what is in part a civil war and in part a guerilla war between Vietnamese on Vietnamese soil.

If the distinction is valid, and if assistance to Cambodia is justified primarily on the ground that it assures that U.S. forces can continue to be progressively withdrawn from Vietnam or that the preservation of a non-Communist Southeast Asia is vital to U.S. security, why should other countries be expected to assist the U.S. to solve a problem that is primarily an American concern? Futhermore, if the U.S. intervened in Vietnam originally, and continues to maintain forces there, to enable the South Vietnamese to determine their own future without outside interference, why does the same principle not apply to Cambodia today? And if it does not apply to Cambodia today, why was it ever valid for Vietnam or, for that matter, for any other country receiving American military assistance.

Finally, does tying Cambodian assistance to Vietnamization not mean that as a practical matter Vietnamization is now tied to the survival of the Lon Nol Government for the next two years, despite disclaimers that have been made, for could Vietnamization continue if Cambodia fell under complete enemy control?

Cambodians find it difficult to understand the complicated and involved elements of the American dilemma in Southeast Asia today. Looking back at the pattern of American behavior in Asia over the past two decades, they seem mystified by the signs of American hesitancy in arming them to defend against an invading force armed by China and the Soviet Union. Seeking to understand American perceptions of the U.S. national interest in Southeast Asia, they sometimes see this interest in surprising ways. One Cambodian leader remarked to us that having "lost face" in Vietnam, the United States now had an opportunity in Cambodia to regain its lost prestige.

U.S. PARTICIPATION IN INCREASES IN THE RESOURCES OF CERTAIN INTERNATIONAL FINANCIAL INSTITUTIONS

Mr. FULBRIGHT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 18306.

The PRESIDING OFFICER (Mr. BYRD of Virginia) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 18306) to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. FULBRIGHT. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and they appointed Mr. FULBRIGHT, Mr. SPARKMAN, Mr. GORE, Mr. AIKEN, and Mr. CASE conferees on the part of the Senate.

THE VOTING RIGHTS ACT OF 1970

Mr. BAYH. Mr. President, as you know the Supreme Court today handed down its decision in the 18-year-old vote case. It upheld that portion of the Voting Rights Act of 1970 that would extend to our 18-year-old citizens the right to vote in Federal elections. However, the Court failed to uphold the right of 18-year-olds to vote in State and local elections. While I applaud the action of the Court in providing for the participation of our younger citizens in Federal elections, I believe there are a number of compelling reasons why the same age qualification should be extended to State and local elections.

First, if we accept the premise that national elections concern matters of more basic import than other elections, it would seem illogical to permit 18-year-olds to vote in the former and deny them the right to vote in the latter.

Second, many of the problems that most concern our younger citizens, such as the quality of education, are largely a matter of local and State policy, and hence their vote in local and State elections would seem particularly appropriate and necessary, and their point of view especially valuable in devising responsible programs.

Third, it is increasingly obvious that our federal system faces a crisis due among other things to the imbalance between tax resources available to the Federal Government and those available to other jurisdictions. Given this growing crisis, it would seem of vital importance to involve every concerned citizen in proposals designed to find a way to resolve this problem that affects all jurisdictions—Federal, State, and local.

Fourth, the fact that the electorate for Federal elections will be different from the electorate for other elections will create a serious practical problem when conducting and regulating the election process.

In addition to these problems raised by the action of the Supreme Court, there are the often cited and valid reasons for extending the franchise to all elections for 18-year-old citizens.

During the extensive hearings that I conducted as chairman before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary, perhaps the most compelling of these reasons to emerge was the fact that the distance between 21 and 18 has been altered physically and educationally in the almost 200 years since our Constitution was adopted. This generation of young Americans is better educated, better trained, and more aware of the vital issues facing every level of government than any other in our history. The Supreme Court is now convinced that they can make informed decisions concerning matters affecting broad national policy. I am convinced that they can exercise the same maturity of judgment concerning local issues as well.

Additionally, many of our finest young people have become deeply frustrated, if not disaffected, because they believe there are insufficient ways to secure change by working within the system. The full extension of the franchise to 18-year-olds will mean that our system has responded to the needs of the time by offering ways to secure necessary changes in the American way—via the ballot box.

The history of this country is no less than the history of a franchise gradually extended. That may be our true manifest destiny. Property and religious qualifications were the first to go. Restrictions based on race and sex were removed later. Now we see an arbitrary and un-

realistic age qualification almost entirely removed. I believe that we must now totally remove this barrier. We must go ahead and finish the job that was commenced in the Voting Rights Act of 1970. A number of people have asked me what could be done. Given the decision of the Supreme Court today, the only way to achieve our goal is by constitutional amendment.

Fortunately, the means to secure passage of such an amendment are already at hand in the form of Senate Joint Resolution 147. That measure was introduced and sponsored by my distinguished colleague from West Virginia (Mr. RANDOLPH). I think it is fair to say that he has been the prime mover in the effort to lower the voting age. As early as 1942, when he was in the House of Representatives, he introduced a similar joint resolution. He has been a strong and consistent champion of this legislation through the years.

I hope the Senate will be able to vote on the text of Senate Joint Resolution 147 before the end of this Congress. This resolution, which proposes a constitutional amendment to lower the voting age to 18 in all elections, has the benefit of thorough and complete study in this Congress, and is now sponsored by no less than 73 of the Members presently in the Senate, well in excess of the two-thirds required for passage.

Time is of the essence in this matter because most of the State legislatures will be meeting early next year. Thus, I suggest that the Senate consider one of the House joint resolutions that have already passed the House and are on the Senate calendar. One of these is House Joint Resolution 681, which deals with electoral reform. Another is House Joint Resolution 264, which deals with equal rights for men and women. I have been the main proponent of both of these measures, and I would like to see them passed in their present form. However, from a practical standpoint most of us realize that final passage of either is not possible during this session. Hence I suggest that we take up one of these measures and ask that it be amended so that the measure of the Senator from West Virginia, Senate Joint Resolution 147, could be substituted for the present text. The Senate could then pass the measure with amendments and send it back to the House for concurrence. Thus both Houses can take prompt action in moving toward full enfranchisement of 18-year-olds. If this matter does receive the attention its importance and urgency require, passage before the end of this session is yet a possibility.

Mr. RANDOLPH. Mr. President, I am very appreciative of the remarks of the distinguished Senator from Indiana.

Senate Joint Resolution 147, to which the Senator made reference, was introduced by me in the current 91st Congress, as it had been introduced on prior occasions. Over 70 Senators joined me in cosponsorship of this constitutional amendment for 18-year-old voting, not only for Federal offices but also for State and local offices.

I would like the RECORD to reflect that very thorough hearings were held, before the Subcommittee on Constitutional Amendments, so ably chaired by the Senator from Indiana. That subcommittee has reported Senate Joint Resolution 147 to the full Judiciary Committee.

Of course, I would be very happy if it were possible to do what the Senator from Indiana has indicated in his thoughtful remarks, a way to give the vote by a constitutional approach, as in my measure so our 18- and 19- and 20-year-olds could vote in State and local elections.

Mr. BAYH. Mr. President, I thank the Senator from West Virginia. I hope that through the efforts of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from Washington (Mr. MAGNUSON), and others, aided by the Senator from West Virginia (Mr. RANDOLPH), that we can all move forward and get action during the final hours of this session.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 18306) to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the exchange stabilization fund by the General Accounting Office, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BARRETT, Mr. REUSS, Mr. ASHLEY, Mr. MOORHEAD, Mr. WIDNALL, Mr. STANTON, and Mr. BROWN of Michigan were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 13493) to change the name of certain projects for navigation and other purposes on the Arkansas River, in which it requested the concurrence of the Senate.

EMPLOYMENT AND MANPOWER ACT OF 1970—VETO

Mr. MANSFIELD. Mr. President, the hour of 6 p.m. almost having arrived, I ask the Chair to lay before the Senate the business which is to be taken up at this time.

The PRESIDING OFFICER (Mr. GRAVEL). Under the previous order, the Chair lays before the Senate the President's veto message on S. 3867, a bill to assure opportunities for employment and training to unemployed and underemployed persons, to assist State and local communities in providing needed public services, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be taken out of both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered; and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from California (Mr. MURPHY).

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mr. MURPHY. Mr. President, as the ranking Republican on the Senate Labor and Public Welfare Subcommittee on Employment, Manpower, and Poverty, I rise to urge the Senate to sustain the President's veto on the manpower bill. In this capacity, I have had a good vantage point from which to view the Nation's manpower effort. I have worried with our problems for the past 5 years in the hope of finding workable answers.

I have reached the same conclusion as has been reached by most of the country's manpower experts. Namely, that the present manpower program needs to be overhauled and redirected if we are to make certain that the taxpayers get a maximum return for their investments and that those who need help get our best effort, that the manpower programs do not create false hopes, but rather meaningful jobs at the end of the training period.

Because of the rapid growth of manpower programs in the last decade, each of these programs, it seems, was proposed to meet same emergency and in enacting the various programs, little though was given as to how each new program would mesh with existing ones.

From time to time I got the feeling that one of the practices of which we have been accused, that where a problem arises, just throw some of the taxpayers' money at it and it will go away, was used too many times.

Dr. Jack Michie, director of the Oakland Skill Center, a few years ago testified before our subcommittee saying that if Federal restrictions and redtape were removed and greater flexibility were given to the skill centers, they could train 30 percent more trainees with the same amount of money and do a better job if they would just let us do it. The complete ridiculousness of the situation was driven home when Dr. Michie said they could not even legally transfer a typewriter on one project without a 6-month paperwork delay. We must do better.

The President has tried to make sense out of our present manpower programs, and so has the committees. Basically, what the President has sought to do is to decategorize the current manpower programs and decentralize their administration to State and local governments. The administration tries to give flexibility and freedom to the local and State governments so they can tailor their programs to meet the needs of their particular citizens rather than force State and localities to force citizens into categorical programs which may or may not be best suited for them.

In 1968 I offered the supplementary State program to provide States with some needed flexibility and freedom so that they could experiment and fill the gaps that existed in current manpower programs. This was needed in California to implement a completely bipartisan manpower package.

I was amazed when I found that both Governor Reagan and Democratic leader Jesse Unruh were in complete agreement on this. It made absolute sense. They wanted to put aside the redtape, the overlaps, and the competition and get it all under one umbrella so that we could find out what would work and would not work and approach the matter and get on with the job.

Unfortunately, although I was able to get the Senate to fund the program at the $20 million level, the funds were subsequently dropped in a House-Senate conference.

My program on a very minor scale attempted to do for some States what the President intended to do nationwide. The President's manpower program is a vote of confidence in State and local officials. It recognizes that in a country as vast as the United States there are many differences among our communities and conditions and that is practically impossible to package programs in Washington to meet the differing needs of the countless communities clear across the country. I have confidence that in most communities and States they can do the job.

I find with respect to most of the elected representatives across the country under our system of government that if the people in those communities lose their confidence in those elected representatives, they replace them with some others. That is proper. That is the way it should be.

Unfortunately, the bill before the Senate today only partially meets these objectives. It does appear to give a little more responsibility to State and local governments, but it does not go far enough. It also increases the number of legislatively mandating manpower programs. Categorical programs, of course, means less freedom and less flexibility at the State and local levels.

It worries me, Mr. President, that we seemed to wish to give the appearance of putting the control at the local level without really letting go of it here in Washington. I remember a dialog I had one time with a gentleman with regard to the FEPC in California in which some lawyer from the Justice Department answered that in his opinion only lawyers from the Justice Department in Washington were capable of handling these programs properly. The third time he said it, he realized what a ridiculous statement he had made.

I also was concerned with the public service sector of the bill before the Senate. I recognize there are meaningful jobs in the public service sector of our economy and, therefore, I would fully support legitimate public service employment as a part of the spectrum of manpower development activities. For many participants, public service jobs must be linked to further training and opportunities to move into nonsubsidized public or private jobs.

Mr. President, in other words, that is so that they could actually have a chance with the specific proposal of the program and provide with a program so that they might advance to better jobs.

Moreover, linked to the manpower reform measures the service employment program which, while it could not solve the problems which it addressed—unemployment and lack of public service—might well have destroyed our manpower training activities.

I fully support the need for public service employment as part of the spectrum of manpower development activities. For most participants such jobs should be linked to further training and better opportunities to move into nonsubsidized public or private jobs. I am concerned that the subsidized jobs themselves, might turn out to be permanent. I think that would be a shame. However, State and local governments should be required to work constantly to integrate such employees into their regular work force and move them onto locally supported payrolls as quickly as their department made their acceptance possible. Federally-subsidized public jobs should lead to career opportunities. They must not be a path to nowhere.

Although I did not sign the committee report, I voted for the Employment and Manpower Act when it was reported back from conference. I supported it because I believe in the need for new manpower legislation. I think we need it so badly that I voted for the bill in spite of my misgivings, balancing them against what I consider to be the actual existing need for a new bill.

However, I concur in the President's judgment, that the public service employment provisions in the bill are inadequately protected from widespread abuse. Given State and local governments pressing needs for more money, without adequate protections, manpower funds could become nothing more than a source of Federal funds which contribute nothing or, at best very little, to manpower development, where we just serve a sort of WPA which failed. I think that we can and must find a better way to do it. As far as I am concerned, the WPA was too much make work. It was not job training at all. It went nowhere.

I do not believe we can cure unemployment nor can we meet significantly the public service needs of our States and local communities through this bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MURPHY. Mr. President. I ask unanimous consent that I be permitted to continue for 2 additional minutes.

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

Mr. MURPHY. Mr. President, the needs vary so much that it is almost impossible to write a perfect bill.

We can, however, through future legislation provide for public service employment which is an integral part, not a distortion, of manpower reform. I support the President's veto and will vote against the motion to override it.

I feel that the Nixon administration is entitled to a fair chance to solve these problems and to provide programs to do the job.

I also worry about pursuing old methods whose success has been so frail—as to force us to find new ways to accomplish the badly needed ends.

I will vote to sustain the President's veto in the hope that badly needed solutions be found.

Mr. President, I hope that my colleagues will join me in sustaining the veto, and early next year the Congress can hopefully reach early agreement on a true manpower reform measure and not merely more of the not working and unworkable same.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, unemployment is rising throughout the Nation. In my State of Massachusetts, six cities—Brockton, Fall River, Lawrence, Lowell, New Bedford, and Springfield-Holyoke—have an unemployment rate of greater than 6 percent. Many economists predict that before long the national average will reach 6 percent.

In the face of this crisis, President Nixon saw fit to veto the Employment and Training Opportunities Act of 1970. This legislation was not some hastily put together attempt to deal with a pressing problem. It was a carefully thought out and fully considered measure. The Senate Manpower Subcommittee, chaired by Senator NELSON, held 22 days of public hearings in every section of the country. The subcommittee markup went on for months, with members of the minority party playing an extremely active role. Then the bill received consideration in full committee and on the floor of the Senate.

At the same time, the House enacted its legislation. We then went through four long conference sessions to iron out the differences between the House and Senate versions. In these conferences, every important policy issue was debated. Every significant provision of the bill was scrutinized and many provisions were modified to meet the objections of the House or Senate conferees.

In short the bill that went to the President's desk reflected a prolonged and substantial effort by the Congress to help meet the problem of unemployment. If the President wished to veto the bill, a proper respect for the Congress and for the American people required that he present adequate reasons. But the President did not present adequate grounds for his veto; instead he completely mischaracterized the legislation before him.

The core of the President's objection was that the manpower bill called for a large-scale public service employment program which would place untrained persons in dead-end, unnecessary jobs. The President neglected to mention that the bill expressly provided for training programs for those who were interested in public service employment. He neglected to mention that the bill gave the Secretary of Labor full authority to insure that the public service jobs obtained by the unemployed were meaningful.

The President cavalierly assumed that the jobs offered to the unemployed by State and local governments would be make-work. This assumption flies in the face of everything we know about the current crisis in municipal government. As the Kerner Commission found in 1968 there are vast unmet needs in education, health, recreation, public safety, sanitation, and other municipal services. We need more teaching aides in our schools,

health aides in our hospitals and clinics, community aides in our police departments. The Kerner Commission called for 1 million jobs in the public sector. The bill passed by the Congress was just the first step toward implementing this excellent recommendation.

The veto message declared that public service employment "would limit, not expand, individual opportunity." It must surely come as a surprise to the unemployed to learn that working for a State or a city on a sorely needed job is a limitation on individual opportunity. In fact, public service employment is the gateway to opportunity. It enables people who are now unemployed to gain skills which may help them move up the ladder in Government employment or move on to private employment.

The President's attack on the public service employment program becomes even more incomprehensible when we consider that the family assistance legislation which the administration in now supporting provides $150 million for public service employment and does not even contain the safeguards found in the manpower bill. Apparently public service employment is fine in a welfare bill, but no good in a manpower bill. In this administration the right hand does not always know what the left hand is doing. This leads to the kind of fumbling economic policy which it will take more than a new game plan to correct.

The President also objected to the special categorical programs in the manpower bill. Yet the administration itself has acknowledged that certain groups in our society, such as the Indians, require special attention if they are to receive the help they need from the Federal Government. Just last July the President recommended that every Federal department should have a separate office for Indian affairs. Why then should there not be a special categorical manpower program for Indians, and for migrants and other neglected segments of our society.

Finally, the President intimated that the manpower bill passed by the Congress did not give adequate responsibility to state and local governments. But just the opposite is true. The bill greatly increased the responsibilities of local officials. That is why it was supported by so many Governors, mayors and county executives.

Since the President did not give adequate reasons for his veto, since he did not show the proper respect for the arduous efforts of the Congress to deal with the unemployment problem, I call upon my colleagues to override his veto. This is the least we can do to help the millions of Americans who are unemployed and the million more who fear unemployment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 4 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, our unemployment situation has now reached crisis proportions and demands immediate and far-reaching attention on all fronts. Since January of 1969, approximately 2.2 million workers have been added to the unemployment rolls. Unemployment is at its highest level since May of 1963—7½ years ago.

Despite efforts—intentional or unintentional—to minimize the seriousness of the employment situation, a close reading of unemployment statistics and economic trends will reveal that our Nation is far from the point of reversing the present trend of increasing joblessness.

It is for this reason, in part, that I cosponsored last week with the Senator from Arkansas (Mr. McCLELLAN) the resolution calling upon the President to convene immediately a White House Conference on the National Economy. It is for this reason that I genuinely regret the President's action in vetoing the Employment and Manpower Act of 1970. The President's veto comes at the very time when our efforts must be directed in full force toward the stabilization of our economy, including a reversal of employment trends. A vital part of this endeavor will be comprehensive manpower training and employment programs, as provided in the legislation recently approved by the Congress.

Mr. President, at the outset I think it is important to note that the Employment and Manpower Act has been strongly endorsed by the National League of Cities, the U.S. Conference of Mayors, Urban Coalition, AFL–CIO, Congress of American Indians, National Association of Counties, National Farmers Union, Leadership Conference on Civil Rights, the National Council of Senior Citizens, the National Council on Aging, and many other organizations and responsible individuals. I realize that a listing of supporting organizations does not necessarily prove that every provision of a legislative measure could not be subject to some improvement. I would stress, however, that many of the organizations listed consist of membership and officials who have been at the heart of the effort to provide training and job opportunities for our citizens. Thus, their endorsement is meaningful.

The President, in vetoing the manpower bill, restated his support for reform of existing programs. Those of us in Congress who have participated in the formulation of the Employment and Manpower Act share his concern. We have included reforms in this measure which provide for the most part the changes the President requested. The differences between what the President has asked and what the Congress has approved are minor in nature and certainly do not justify the veto. It has been stated that the President received inadequate and misleading staff advice on this issue. I am inclined to believe this. Considering the heavy burden upon the President and the demands upon his time, it certainly is necessary for him to rely on advisors. It is a tragedy that they did not have a better grasp or understanding of the provisions and the history of this bill.

As Senators know, the President's veto message is generally based on two complaints about the Employment and Manpower Act—the scope and operation of the public service employment provisions and the continuation of categorical programs. On both counts, the objections do not rest on solid ground. With regard to public service employment, this measure provides a well conceived and well thought out program of employment opportunities through the largest employer in America—government. Citizens generally, I believe, support the concept of worthwhile public service employment, as long as it is not make work with no future. This bill meets this general objective. The public service job programs would be planned at the State and local level, with the assistance of many organizations, agencies and individuals.

Local officials, after conducting a careful inventory of unemployment and community service needs, could then make an application to the Secretary of Labor to operate a public service employment program.

Such an application must contain a plan for employment, with related training and manpower services, in the area vitally needing public services. These services could be health care, public safety, education, transportation, recreation, pollution control, housing and rural development. There is little question of the need for additional personnel to assist communities in these public services.

The bill directs that special consideration be given to jobs which provide prospects for advancement or suitable continued employment.

Additionally, there are requirements that these programs promote the advancement of participants to employment or training opportunities suitable to the individuals involved whether in the public or private sector, and that employees be trained in skills for which there is a high demand.

The bill requires that the status of every employee be reviewed annually by an agency selected by the Secretary of Labor to ascertain if the worker should be promoted within the system, or transferred to private job opportunities, depending on his existing prospects for advancement or suitable continued employment.

Mr. President, as I have stated this bill was well conceived. It will provide the opportunity for carefully developed local manpower programs, with training tailored to individual and community needs. There are sufficient safeguards to prevent make-work employment or dead-end jobs.

On the second point of categorical programs, the veto message states that:

> The "bill raises the number of narrow purpose program categories from 14 to 22" and that "these narrow categorical programs would continue to hamstring the efforts of communities to adjust to the change in their local needs.

The facts are: there are not 14 programs in existing law and the bill approved by Congress does not contain 22 programs. The bill does list several special emphasis programs which should be continued. This action was taken after careful study and extensive deliberations and discussions. I also know from personal experience in working with local communities and sponsors that there is

significant flexibility in categorical programs to meet local needs. Furthermore, unemployment conditions and minimal job opportunities for certain segments of our population justify some categorical programs—or at the very least argues against dropping completely the concept of categorical programs and services at this time.

In this regard, the Employment and Manpower Bill contains provisions to assist middle-aged and older workers. This is one of the categorical programs to which the President refers. I have discussed in the Senate on a number of occasions the need for this program. I continue to stress this need.

All age groups have been hard-pressed by the wave of widespread unemployment. But older workers and their families have been especially hard-hit.

Today there are more than 1 million persons 45 and older who are unemployed. Many have discovered that they have lost more than their jobs. Thousands have also lost their pension coverage as well—even though they may have worked most of their lives to provide a little "nest egg" for retirement.

Various indices now suggest that the critical period in the work lives of adults occurs during their late forties or early fifties. For this age group, several discernible trends become evident:

Unemployment rises;

Long-term joblessness jumps sharply;

Labor force participation declines; and

Poverty increases.

Despite these facts, our Nation still does not have a clearcut policy to help maximize employment opportunities for middle-aged and older persons. Quite to the contrary, many high officials in both industry and government seem to regard earlier and earlier retirement—in some cases, it is actually forced retirement—as inevitable and perhaps desirable.

Today persons 45 and older constitute less than 10 percent of all enrollees in our manpower programs, although they comprise about 43 percent of the very long-term unemployed—27 weeks or longer.

In recognition of this gap in our work and training programs, the Senate adopted my amendment—also sponsored by the Senators from New Jersey (Mr. WILLIAMS) and Massachusetts (Mr. KENNEDY)—to provide a midcareer development services program in the Department of Labor for persons 45 and older. This measure would have provided badly needed training, counseling and special supportive services to help put these unemployed individuals back to work. Moreover, it would have provided occupational advancement services for workers who now may find themselves in a "deadend" type job.

Very briefly, this provision of the Employment and Manpower Act would direct the Secretary of Labor to designate full-time personnel experienced in the manpower problems of middle-aged and older workers to have responsibility for program development and coordination.

The measure contains authorization for grants and contracts with public and private agencies and institutions for research and demonstration projects to aid middle-aged and older workers. Additionally, the Secretary, through the comprehensive midcareer development service program authorized by my amendment, would be able to provide needed training, counselling, and special supportive services to middle-aged and older workers who are unemployed or who want to increase their employability. He would be authorized to make loans and grants to public and private nonprofit agencies, institutions and organizations for the training, including on-the-job, for such workers. Finally, the Middle-Aged and Older Workers Manpower program would authorize and direct the Comptroller General of the United States to undertake a study of part-time employment in the executive branch of the Government and to make a report on his findings.

The need for these crucial services has been documented time and time again in hearings before the Senate Committee on Aging's Subcommittee on Employment and Retirement Incomes, of which I am chairman.

However, the well-balanced and comprehensive Employment and Training Act was vetoed by the President.

As I have stated, one of the principal objections raised in the veto message was that the additional categorical programs—for Indians, migrants, bilingual persons and older workers—would hamstring the efforts of communities to adjust to change in their local needs.

This notion, however, completely ignores the fact that these disadvantaged groups have been grossly underrepresented in our existing training programs.

Without specific statutory authorization, they would probably continue to be ignored or overlooked.

One reason for this belief is that the unemployment situation for middle-aged and older persons does not, at first glance, appear to be as critical as for younger workers. However, these unemployment statistics are very misleading because they only represent the tip of the iceberg. They do not, for example, reflect the labor force "drop-outs"—those who have given up the active search for work.

Today there are more than 8 million men 45 and over who have withdrawn from the work force—too often unwillingly. Another 20 million women are not in the work force.

Assuming that just 30 percent of these men—a conservative estimate—and 10 percent of these mature women wanted and needed employment, this would mean that the "real" unemployment for persons 45 and older would be approaching 5.4 million—about 600,000 more than the total unemployment in the United States now. This would represent an unemployment rate of around 15 percent.

Even more disturbing these aggregate numbers in poverty are now increasing. Since 1968, about 28,000 individuals 45 and older have been added to the poverty rolls. In sharp contrast, the number of persons under 45 in poverty has declined by approximately 1.2 million.

These figures clearly show that piecemeal, stop-gap proposals are just not going to solve the employment needs of older persons, as well as younger persons.

Mr. President, the Employment and Manpower Act is an excellent measure, formulated under the guidance and leadership of the able Senator from Wisconsin (Mr. NELSON). He is to be commended for leading the effort to provide urgently needed manpower measures. I join with him in strongly urging the Senate to vote to override an ill-advised veto.

Mr. JAVITS. Mr. President, I yield 20 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. PROUTY. Mr. President, I rise in support of the December 16th veto by the President of the United States of the Comprehensive Manpower Act of 1970, S. 3867. Although there are a number of excellent features in this legislation, its deficiencies outweigh its fine points. Incorporated in S. 3867, for example, is a high-level national manpower advisory committee patterned after the provision for such a committee outlined in my own manpower bill, S. 3878.

The manpower bill originally sent to Congress by the administration was designed to consolidate and reorganize existing manpower training programs now being conducted under numerous legislative authorities and operated by three different agencies.

Both the House and the Senate eventually passed different versions of a manpower training bill, neither of which was basically the administration's proposal. The House-passed bill, however, contained sufficient provisions satisfactory to the administration so that I am sure it would have been signed, but there was never any doubt that the Senate version would be in serious danger of a Presidential veto.

During the conference on the differences between the two Houses, it became clear very early that the conference report would be substantially the Senate bill. As a Senate conferee bound to uphold the Senate position despite my personal feelings, I signed the conference report. I had decided at that time, however, to vote to sustain a Presidential veto if one were forthcoming.

Public service employment has received the lion's share of criticism. Yet, except for my amendment in section 304 requiring that the applicant maintain linkages with upgrading and other programs under the act, all avenues to public service employment lead in, and none are designed to develop the capabilities of the individual to move back to productive employment in a profitmaking institution, or to move up in nonsubsidized public service positions. Public service employment programs must not ignore what appears obvious—that people must have the necessary education and training to perform on-the-job and to up-grade themselves. Public service employment without such a provision is a potential waste of taxpayers' money and a disservice to individuals for whom the program is designed.

The President's veto message properly pointed out that as much as 44 percent

of the total funding in this bill could go for dead-end jobs in the public sector. It became clear that most of these jobs would be dead-end ones when the House bill's provision to require that these public employment jobs be linked to training or the prospect of other employment opportunities was deleted at the conference.

Dr. Garth Mangum, former staff director of the Employment, Manpower, and Poverty Subcommittee and now director of the Human Resources Institute at the University of Utah, has been and remains a strong advocate of public service employment. In fact, it was he who wrote the report of the National Commission on Automation, Technology, and Economic Progress recommending that the Federal Government become the "employer of last resort." It was also a paper he wrote for the National Governors Conference concerning the need for decategorization and decentralization of manpower programs which led to the Steiger bill and finally to the administrative reform portions of the bill the President just vetoed. As much as Dr. Mangum believes in the principles of decategorization, decentralization, and public service employment, he believes the bill as it finally emerged from the conference would be more difficult to administer and cause more confusion than the present system. He says:

> The reforms are still needed, but it would be better to start over next year to make sense of our manpower policies.

The President also found the bill sent to him for signature unsatisfactory because it increased the number of narrow-purpose program categories from 14 to 22, whereas the Administration had sought to eliminate statutory categorical programs through the establishment of a single broadly defined manpower program. I completely agree with the President when he states that these programs would continue to hamstring the efforts of communities to adjust to local change and that in dealing with manpower problems the Federal Government should help but it should not always prescribe.

Many of the categorical programs authorized by title IV are already in operation by administrative decision. In many of these programs, there have been outstanding relationships in their delivery developed between the Department of Labor, Health, Education, and Welfare, and State education and employment services agencies which are serving the programs. Where this progress has been made, centralizing the entire program in Washington all but forecloses a continuation of the relationships possible under existing legislation. This would virtually eliminate the possibility of using such program models to bring about institutional change. I submit, Mr. President, that not only do we need to consolidate manpower programs, but also coordinate them.

When categorical programs were considered in our committee and also by the Senate, I stated I did not believe it was necessary to continue them in law, and that it would be much better to leave discretion to the Secretary of Labor to continue those which had proven effective while leaving him the option of discontinuing those which had not.

Under the bill vetoed by the President, all categorical programs would have been retained regardless of their individual merits. The result would be inflexibility and the impossibility of meeting changing local and particularly changing rural needs. I believe that the administration's desire to use these categorical programs as program models rather than program prescriptions is well taken.

I have always maintained that the Congress should make every effort to develop legislation that can be effectively administered. However, in addition to the broad range of services, programs, and activities contained in title I, which is inclusive rather than exclusive, title IV authorizes the development of 10 specific training programs, all of which can be conducted either under title I or under existing manpower legislation. There is no assurance that any of these special programs will be developed in concert with, or to complement, those locally developed programs which are conducted under the authority of title I, or those that exist under other legislation. Program administrators are denied valuable flexibility and are left without alternatives to make or create change. It would seem that, since many of the programs included in this categorical nightmare have developed and flourished under existing legislation, there is ample evidence that administrators are willing to try different approaches and design programs to meet the needs of special groups. They should also have the authority to meet new needs as they occur, and to diminish support for those programs which have achieved their objectives or which prove unworkable. Mandating program categories will not accomplish this.

Under S. 3867, the Manpower Development and Training Act would be terminated on July 1, 1971. At that time there will be well over $250 million worth of institutional MDTA programs under supervision of State agencies. Some of these programs run until December 1972. There is no transitional language in the bill to provide for an orderly phasing out of these programs. Additionally, with the termination of the Manpower Development and Training Act, over $300 million in equipment and teaching aids purchased over the past 8 years for institutional programs automatically becomes the property of the State vocational education agency for use as it sees fit. Under this bill, if enacted, we are likely to see many instances where States either do not have the authority to divert the equipment and aids to other sponsors or, where such authority exists, instances where they will elect not to permit the use of these materials by other operating entities selected by CAP agencies or other local prime sponsors.

S. 3867 does attempt to reorganize the administration of manpower programs, but not as recommended by the administration. While it is appropriate to assign total responsibility for the Nation's manpower programs to the Department of Labor, further directions as are contained in this bill appear to constitute infringements on the prerogatives of the executive branch of Government. For example, in section 7, legal authority, the Secretary is enjoined from delegating the disapproval of prime sponsorship plans below the level of the Assistant Secretary for Manpower. This would strip all of the present regional manpower administrators of their current authority to approve manpower programs. Such a provision thwarts the administration's efforts toward greater regionalization of Federal programs and program responsibility for the purposes of making government more responsive and placing the decisionmaking closer to the people the program serves.

In title V, there are four specific provisions concerning special offices to be established and the qualifications of individuals who must be designated by the Secretary for the management and direction of specific categorical programs. Specificity is carried even further by the language requiring that such personnel be full time. Obviously, these provisions are meant to have an impact on the organization of the executive branch—a function which heretofore has been an Executive prerogative and can hardly be construed as creating flexible legislation. By condoning such action, we are perhaps opening ourselves to additional pressures from many other groups which are not specifically mentioned and fostering even greater compartmentalization where we should be consolidating programs. The result could well be to cloud, rather than to maintain as distinctly as possible, the traditional separation of governmental functions.

Another very serious impracticality exists in S. 3867, Mr. President. The measure sidesteps or ignores some relationships between governmental units—Federal, State, and local. Because of this, the full utilization of all available programs and services in the manpower program is severely impeded. The primary "multipliers" of the measure are prime sponsors—any State and any unit of general local government of specified population, as well as certain local rural units with no population requirement. Under the existing manpower legislation, authority for the cperation of programs is vested with State agencies which in turn assign certain operations to constituent local agencies. Under some State codes, cities have no authority to either provide or contract for some of the enumerated services like education and training except through the State agencies. Where this exists, the presumptive local prime sponsor will be the CAA's rather than State government, because of the local orientation of this bill. Thus, the measure clearly discriminates against the full involvement of State government and, contrary to its supporters, does not establish an administrative structure which would assure maximum coordination and consolidation of programs. Also, because ultimate responsibility for vocational education is vested in the State and cannot be delegated, it could not be coordinated in any locality by other than the State.

I also find this bill objectionable because of the lack of coordination I see in the operation of State plans. Given the substantial numbers of prime sponsors who would deal directly with the Department of Labor rather than through the State plan without the necessity of coordinating with the State plan, I foresaw great inefficiency and loss of effectiveness in the implementation of these programs.

When prime sponsors in a State can bypass the State plan and deal directly with the Department of Labor, Mr. President, it is completely wrong, in my judgment, to allow the Federal Government to cut off a State's Wagner-Peyser funds. If the State manpower agency refuses the Department of Labor's request to provide services to a single independent prime sponsor not subject to the State plan and not required to coordinate with it.

The Wagner-Peyser Act programs, Mr. President, are largely funded from revenue derived from the Federal Unemployment Tax Act which established a special wage tax to pay the administrative costs of the Federal-State employment security program and for other purposes.

Such funds and activities are of a substantially different nature than the Federal grants which may be available under this act. To secure such funds, Mr. President, a State should not be compelled to agree to certain programs and other conditions not necessary to the operation of the Wagner-Peyser programs, but inherent in a State comprehensive manpower plan.

For example, a State could lose all of its Wagner-Peyser Act funds for the administration of its employment security agency, including administration of the work test to claimants for unemployment insurance, if it did not agree to participate in any one program funded under this act.

It is also important to understand that, under the provisions of the Wagner-Peyser Act, States already have to submit annual plans in which they agree to comply with the Secretary's rules and regulations. Such requirements provide ample authority to achieve necessary coordination and integration of Wagner-Peyser programs with other manpower programs by the Department of Labor.

I think it is important to note, Mr. President, that only three Republican conferees signed the conference report. Two Republican Senate conferees and all of the House Republican conferees refused to sign.

The reason they did not sign, Mr. President, was their belief that this bill is so inadequate that it would encounter a presidential veto, and they were correct.

The President did not cite the vast amount of money authorized in this bill as one of the reasons for his veto. It is possible to assume, therefore, that the increased funding levels may have been acceptable to him if we had sent him a bill where he felt the Federal Government could get a dollar's worth of achievement for each dollar spent. I think we should also realize, however, that this bill authorizes $200 million for fiscal year 1971 which was neither requested by the administration nor included in its proposed budget and which would merely serve to increase the tremendous deficit we are now in the process of making for fiscal year 1971.

In conclusion, I want the record to show that I have always supported and will continue to support what I consider to be workable and effective proposals for manpower legislation. The Governor of Vermont, the Honorable Deane C. Davis, and Vermont Commissioner of Employment Security, Mrs. Stella B. Hackel, both share my concern for proper manpower legislation. Both, however, are in agreement with my decision to vote to sustain the President's veto of the pending bill.

Accordingly, it is my hope that my colleagues will vote to sustain this veto.

In conclusion, I should like to read a telegram which I have received from Mrs. Stella B. Hackel, Commissioner of the Vermont Department of Employment Security, who, I may say, is a Democrat and a very able administrator:

May I urge your support of Presidential veto of S. 3867, Employment and Manpower Act, upon grounds that bill provides for vast sums of direct Federal to local funding of manpower programs, with no effective provision for coordination with or utilization of existing State government manpower and human services programs thereby encouraging inefficient, uncoordinated and wasteful administration of manpower programs legislated therein.

I have also received a telegram from the Governor of the State of Vermont, the Honorable Deane C. Davis, which reads as follows:

As we have supported manpower reform we hope you will support the President's veto of the compromise manpower bill. It will continue categorical programs and put undue burden on States for PSC program. Letter follows.

Mr. President, I ask unanimous consent that the letter from Governor Davis be printed in the RECORD at this point.

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

OFFICE OF DEANE C. DAVIS,
GOVERNOR OF VERMONT,
Montpelier, Vt., December 21, 1970.

Hon. WINSTON L. PROUTY,
U.S. Senator, Vermont,
New Senate Office Building,
Washington, D.C.

DEAR WIN: I wish you to know that I hope you will support President Nixon's veto of the compromise manpower bill. I had originally supported the Comprehensive Manpower Act in that it would offer elements of reform by giving to the smaller rural states such as Vermont greater control and direction over how we could use our manpower funds. The original administration bill would have eliminated the conglomeration of many duplicative programs. But the compromise bill continued almost all the categorical programs and would not have given effective control to those states who have viable manpower planning and delivery capabilities.

The largest portion of the funds could conceivably go into public service employment of which states or local governments would have to carry 20% of the costs. Certainly the state of Vermont could not take on commitments of that magnitude. Our experience in the Public Service Career programs at Brandon Training School shows us how to provide career ladders, and sound training, and not by creating "new" jobs we cannot afford. We expect to seek such a program also for other areas in the Human Services Agency.

The manpower bill as it came out the conference committee does nothing to effect manpower reform and would add serious burdens to state and local governments that they would not be able to support. I sincerely hope you will sustain the veto and move to gain passage in the next session of meaningful reform in the total manpower area.

Sincerely,

DEANE C. DAVIS.

Mr. PROUTY. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mrs. Stella B. Hackel, Commissioner of the Department of Employment Security in the State of Vermont.

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

STATE OF VERMONT,
DEPARTMENT OF EMPLOYMENT SECURITY,
Montpelier, Vt., November 25, 1970.

Re S. 3867—Employment and Training Opportunities Act of 1970; H.R. 19519—The Comprehensive Manpower Act.

Hon. WINSTON L. PROUTY,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PROUTY: I am writting in regard to the above Acts, S. 3867—passed in the Senate—and H.R. 19519—passed in the House, passage vacated and S. 3867 passed in the House after amendment to contain the language of H.R. 19519 as passed.

It is my understanding that you are a member of the Conference Committee, and therefore I am urging you to propose and support the following amendments in the language in the Act:

That Section 107(a) of H.R. 19519 be amended by striking from line 19 on page 22 the words "or the Wagner-Peyser Act (48 Stat. 113)"; and, further, that Section 107(b)(4) be amended at line 18 on page 23, by striking the word "conduct" and substituting therefor the words "utilization to the maximum extent possible".

The effect of these amendments would be to remove from the State comprehensive manpower plan required for purposes of receiving federal funds granted under S. 3867 the plan of conduct of employment services financed under the Wagner-Peyser Act, which are funded almost entirely from employer taxes paid on wages under the Federal Unemployment Tax Act. The Wagner-Peyser Act provides for a State Employment Security Agency which administers a public employment service and the unemployment compensation program. While entirely federally funded from wage tax revenue, the Employment Security Department is a State agency, responsible to the Governor of the State.

In many cases the Governor of a State would have different priorities in manpower programs than would a local prime sponsor Mayor or Community Action Agency. Under S. 3867, a Secretary of Labor would have the power to mandate to a Governor that he sublimate his own State priorities to provide State agency services to a local prime sponsor with a local plan over which he, the Governor, has no control in order that he receive any administrative funds for his State Manpower Agency. Such absolute authority of a Secretary of Labor over a Governor of a State in regard to the administration of a State agency is harshly restrictive of the proper authority of a Governor to administer State agencies responsible to him and for the operation of which he is re-

sponsible to the people. The Secretary of Labor is already protected from uncooperative acts of Governors in regard to Wagner-Peyser Act activities in that the State is required to submit a State plan under that Act.

Therefore, I feel strongly that the reference in Section 107(a) to the Wagner-Peyser Act should be deleted: and also that there should be a strong purchase of services clause which would require local prime sponsors to utilize the existing State Manpower Agency (and other agencies as well) to the maximum extent possible. These proposed amendments were approved by 43 State Employment Security Agencies in a poll taken in November, 1970 (copy attached hereto). Attached please find a copy of the rationale provided by the ICESA in this matter.

We would deeply appreciate any favorable action on the above proposals which you might see fit to take in the Committee of Conference on S. 3867.

Thanking you, I am

Very truly yours,

STELLA B. HACKEL,
Commissioner.

Mr. PROUTY. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, how much time did the Senator use?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. JAVITS. Mr. President, I just wish to advise the Senator from Vermont that I shall use but very little time, so that if he needs further time at any time, I am the trustee for it.

Mr. PROUTY. I thank the Senator.

Mr. JAVITS. Since I take the same position taken by the Senator from Wisconsin (Mr. NELSON), and since we have only 17 minutes remaining, I would appreciate it if the Senator from Wisconsin would yield some time in opposition.

Mr. NELSON. Mr. President, I yield 4 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Wisconsin for yielding time to me to discuss the Presidential veto of S. 3867.

When the conference report was before the Senate for consideration, I was one of two Senators—the other being the distinguished Senator from Mississippi (Mr. STENNIS)—who spoke against the adoption of the conference report, and I was one of only 13 Senators who voted against the adoption of the report.

At that time, I stated to the distinguished Senator from Wisconsin (Mr. NELSON) that we had been together in the vote against the SST, which resulted, at least temporarily, in a saving of $290 million, but that I did not wish to join him in the authorization of the spending or the appropriation of $9.5 billion under this program.

The distinguished Senator from Wisconsin jokingly but still accurately stated that he did not feel that it would be best for either of us if we agreed more than 50 percent of the time. I agreed at that time, and still agree, with the distinguished Senator from Wisconsin on that point.

Mr. President, I am hopeful that the Senate will sustain the Presidential veto of this bill. Actually, I believe it is an exercise in futility, because when the adoption of the conference report was considered in the other body, 47 percent of those voting on that issue voted against the adoption of the conference report. There is certainly nothing to indicate that they would change their position in the light of the Presidential veto.

Mr. President, in order to conserve time, I ask unanimous consent that the remarks I made on December 10, 1970, appearing at pages 40858 and 40859 of the RECORD, including a table that I inserted in connection with that speech, be printed in the RECORD at this point.

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

THE EMPLOYMENT AND MANPOWER ACT—CONFERENCE REPORT

Mr. President, I do not anticipate that anything that may be said on the floor of the Senate today will have any great influence on the vote on the adoption of the conference report. The bill was passed by an overwhelming majority in the Senate. I anticipate it will pass by a similar topheavy majority in just a few moments because there is no disposition on the part of the junior Senator from Alabama to prevent an early vote on the conference report.

The junior Senator from Alabama does feel, however, that a bill of this magnitude, a bill containing some 65 pages and authorizing the appropriation over the next 4 years of the tremendous sum of $9.5 billion should have at least some perfunctory study before a vote is taken.

It is said that this is not an appropriation bill and it is not. It is an authorization bill. But if an authorization bill is passed, can the appropriation bill be far behind? The junior Senator from Alabama submits it would not be far behind. He notes, too, that the authorization as to public service employment starts with the current fiscal year, whereas the authorization for the remainder of the program does not start until fiscal year 1972. That would cause the junior Senator from Alabama to wonder what is the crisis in public service employment, why the hurry, why the rush to provide additional public service jobs during the current fiscal year which will expire on July 1, 1971.

Much has been said about the fact that this is only the amount that was requested by the President, and all the Senate did before was to tack on a small amount of $4.5 billion as an add-on. Where did the figure come from? No one has said why they hit on that figure. They say:

We went to conference and the conference knocked $2.5 billion off the $4.5 billion that we added on.

They knocked off $2.5 billion from a sum that has been just reached out and grabbed and put into the bill as some sort of an add-on.

When the junior Senator from Alabama on yesterday questioned the distinguished Senator from Wisconsin on the number of public service jobs that could be created and filled and paid for out of the proceeds of any money appropriated in accordance with this authorization he was advised that the figure in the final year could run up as high as 300,000 public service jobs.

The basic bill is designed to cover three areas, as has been referred to, and those areas are set forth in section 4 on page 3 of the conference report.

It is stated in subsections (1), (2), and (3) of section 4 that one-third of this basic sum—and the basic money is $7.5 billion—should go for comprehensive manpower services under title I of the act; one-third shall be for public service employment programs under title III of the act; and one-third shall be for occupational upgrading under title II and special manpower programs under title IV of the act.

The bill goes on to state that the Secretary can take an amount not to exceed 25 percent of any of these sums that may be appropriated in accordance with the authorization provided in this bill, that is, take up to 25 percent of the amount appropriated, for any of these three programs and use it for another program. That, then, would provide, if the arithmetic of the junior Senator from Alabama is correct, that $2.5 billion would go for public service employment, because that is a third of the $7.5 billion. That leaves $5 billion.

Well, the Secretary can take 25 percent of that. So that is $1.250 billion. And then that would get up to $3.750 billion to be spent under the public service employment aspect of the bill.

Then, with respect to the add-on which the conference committee, in an economy move, struck from $4.5 billion down to $2 billion, it is provided that that shall be spent for public service employment.

I am sure that if I am incorrect in the conclusions I have drawn from a reading of the bill, I shall be corrected.

That, then, added to $3.750 billion would be $5.750 billion which could conceivably be spent for public service employment.

Does the Federal Government need to provide the necessary money for adding, at a cost of up to more than $5 billion, some 300,000 additional employees at every level of Government?

The statement is made, and I am sure in good faith, that these positions are to be in public service at the State and local level; that the Federal Government would not be involved in those jobs. Yet we see in title III, section 303, the eligible applicants:

Financial assistance under this title may be provided by the Secretary only pursuant to applications submitted by eligible applicants, who shall be—

And then are named the prime sponsors that were referred to, and other public agencies and institutions including public service agencies and institutions of the Federal Government.

So, the Federal Government, with its mushrooming bureaucracy, could come in for as many of these public service employees as the Secretary saw fit to give.

Just the other day, the Senate, in a rare burst of economy and for the protection of our environment, knocked out an item of $290 million for further work on the SST program. I am pleased that I was among the number that voted to eliminate the appropriation for the SST. I voted similarly last year when some $85 million was up for appropriation.

So we save there—if the conferees keep the saving—$290 million. And yet, in one fell swoop, we are going to authorize appropriations for the expenditure of up to $9.5 billion over the next 4 years.

Where are the opponents of the SST on this occasion? Why are they not here to help carry on this battle for economy we hear so much about? Why are they not here to try to help defeat this authorization of $9.5 billion?

Mr. President, I have some interesting figures in a table which I shall refer to. I ask unanimous consent to have printed in the RECORD, table No. 631 on page 428 of Statistical Abstract of the United States, 1970, prepared by the U.S. Department of Commerce, Bureau of the Census, entitled, "Governmental Employment and Payrolls: 1950 to 1969."

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

GOVERNMENTAL EMPLOYMENT AND PAYROLLS, 1950-69

[For October. Prior to 1960, excludes Alaska and Hawaii. See also "Historical Statistics, Colonial Times to 1957," series Y 205-240]

Year and function	Employees (1,000)					Payroll (millions of dollars)				
	Total	Federal (civilian) [1]	State and local			Total	Federal (civilian) [1]	State and local		
			Total	State	Local			Total	State	Local
1950	6,402	2,117	4,285	1,057	3,228	1,528	613	915	218	696
1960	8,808	2,421	6,387	1,527	4,860	3,333	1,118	2,215	524	1,691
1965	10,589	2,588	8,001	2,028	5,973	4,884	1,484	3,400	849	2,551
1966	11,479	2,861	8,618	2,211	6,407	5,473	1,665	3,808	975	2,833
1967	11,867	2,993	8,874	2,335	6,539	6,056	1,842	4,213	1,106	3,108
1968	12,342	2,984	9,358	2,495	6,864	6,889	2,137	4,752	1,257	3,495
Total, 1969	12,691	2,975	9,716	2,614	7,102	7,594	2,342	5,252	1,431	3,822
National defense and international relations	1,322	1,322				1,009	1,009			
Postal service	728	728				490	490			
Education	5,079	18	5,061	1,112	3,949	2,845	15	2,831	554	2,276
Teachers	2,865		2,865	342	2,523	2,106		2,106	287	1,819
Highways	602	6	596	296	301	324	6	318	179	138
Health and hospitals	1,168	195	973	488	484	626	157	468	252	216
Police protection	514	27	487	54	432	320	29	291	38	253
Fire protection	262		262		262	135		135		135
Sanitation and sewerage	188		188		188	95		95		95
Parks and recreation	156		156		156	61		61		61
Natural resources	393	216	177	143	34	278	185	93	80	13
Financial administration	326	91	235	92	143	205	86	118	55	64
All other	1,952	372	1,580	428	1,153	1,207	365	842	272	570

[1] Includes Federal civilian employees outside United States.

Source: Department of Commerce, Bureau of the Census; annual report, "Public Employment in 1969."

This table shows that in 1950 the total number of employees, State, local, and Federal, in the United States was 6,402,000.

By 1960 it had added 2,400,000 employees. It had gone up to 8,808,000 employees.

In 1965 the total number of employees, State, local, and Federal, had jumped to 10,589,000.

In 1966 it was 11,479,000; in 1967 it was 11,367,000; in 1968 it was 12,342,000; in 1969 it was 12,691,000.

Mr. President, we hear a lot about featherbedding and work rules in a discussion of the railroad situation. We hear about featherbedding on the railroads. What about featherbedding in the public service sector?

Here we are authorizing an appropriation of some $9.5 billion, of which over $5 billion could be spent creating new jobs in the public sector, and for the Federal Government to pay for it. I do not believe we need that.

The figure of 12,691,000 Federal, State, and local employees does not include millions of people who work in defense plants owned by the private sector. It does not include employees of contractors in the private sector. It does not include more than 3 million men and women in the armed services. It does not include some 12 million people who are on the public welfare assistance programs.

It does not include the 10 million more Americans who would be added to the public assistance rolls if the President's family assistance plan should be adopted.

Is there any need for the Federal Government to subsidize the addition of 300,000 more employees? Nothing is said about where they are going to be assigned. That has to be developed later.

But, Mr. President, I can tell you, if there is a job designation and a salary accompanying it, we can rest assured that someone will be furnished to fill that assignment. All we have to do is make the money available, and the need for the jobs will appear.

Mr. President, again I say that I do not anticipate that there will be any more than five votes against this conference report; but the junior Senator from Alabama wants and intends to be one of those.

This is an opportunity to strike a blow against a mushrooming bureaucracy in the public sector, be it local, State, or Federal. This is an opportunity to call a halt, to some degree, to the escalation of employment in the public sector.

I do not believe we need this authorization at this time. The main body of the authorization would not go into effect until fiscal year 1972, and it would seem that it would be the better part of wisdom to wait until the 92d Congress to pass this authorizations legislation. But I know that will not take place.

This bill is a voluminous document. A great deal of study, time, and thought have gone into it, and I commend the distinguished Senator from Wisconsin for his hard work, and for his zeal, for his sincerity, and for his dedication. It just happens that we are not in agreement on this matter.

We were in agreement, I might say, on eliminating the SST program from the appropriation bill. But I am persuaded, after seeing this authorization bill, that the Senator from Wisconsin made his decision, not on the basis of reasons of economy or fiscal responsibility, but on matter of ecology and our environment; because he now comes forward with this $9.5 billion bill, and it would not be very good business to save $290 million one day and then authorize the appropriation of $9.5 billion almost the next day.

I hope that the Senate will reject this conference report. Theoretically, under the rules, I assume if the report is rejected it could be sent back to conference with instructions; but again, I do not anticipate that that will take place. But the junior Senator from Alabama has had an opportunity to register his protest on this further movement in the direction of bigger and bigger Federal Government and bigger and bigger government at all levels.

Mr. President, I yield the floor.

Mr. NELSON. Mr. President, I thank the Senator from Alabama. Although we differ on this bill, he has quite obviously dedicated considerable time and thought to evaluating what is in the bill, and has made a thoughtful contribution to its legislative history.

I say to the Senator from Alabama that I am pleased that we agreed on the supersonic transport. He is correct that my criticism was not fiscal, but ecological. I am not pleased that we disagree on this manpower bill; but I would suggest—and I am sure the Senator from Alabama would agree with me—that it would not too healthy for either of us to be agreeing more than 50 percent of the time.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

My position will be to vote to sustain the bill passed by both Houses, notwithstanding the President's veto.

Mr. President, I do this because I believe that the manpower training program is a critical aspect of the effect to deal with unemployment and welfare dependency and I feel that under the conditions today, the balance is more strongly in favor of sustaining the action of both Houses than it is of overturning this bill and starting all over again next year.

Let it be clear at once that there is no dearth of legislation. We have the antipoverty law on the books. That expires next year in June. We also have the MDTA, that is, the Manpower Development and Training Act, which does not expire until June 30, 1972.

However, we undertook this particular measure of reform at the urging of the administration—indeed, I introduced the original bill—because we felt there were a current number of things wrong with the program.

First, the program was being run with too much broad diversity, with about 10,000 potential sponsors and an enormous proliferation of agencies running manpower training programs.

Second, the system was not working right, either on the management side, as I have mentioned or because of conditions which were not being insisted on in its organization.

We also appreciated the fact that something had to be done about public service jobs, for two reasons: First, they are an important element of dealing with unemployment; and second, because of the tremendous needs of municipalities, which are largely going unmet; it seemed shameful that career and work opportunities should not be made available to people who needed them so badly when the market was waiting like a sponge to absorb as many as possible in the governmental field.

Mr. President, the President felt that we had gone too far in the sponsorship concepts; he wanted sponsorship essentially through States, and we made sponsorship essentially through municipalities or by county groupings, with whoever was then uncovered being taken over by a State. However, we gave resid-

ual power to the State to see that not only was there a comprehensive, but also a coordinated plan. Accordingly, I do not really believe, Mr. President, that the President vetoed the bill on that ground. I believe what caused him to veto it was the public service job concept.

The fact is that one-third of what is appropriated under the bill was earmarked for public service jobs, and that there were add-ons, beginning with a $200 million add-on the first year, and coming, altogether, to some $2 billion over the term of 4 years, for public service jobs.

The President's key section in his veto message points out that up to 44 percent of the total funding in the bill would go for "dead-end job" in the public sector.

Mr. President, with all respect to the President, there are several points which show that that is not quite so.

In the first place, the President, in giving his 44 percent figure, took no account of transfer clauses with a 25-percent transferability in any program of the bill to any other program of the bill, nor with the fact that there might be no extra appropriation whatever under the so-called "add-ons" for public service employment.

According to our figures, with the transferability clause, the maximum that would have to be used for public service employment would be one-third of the funds—assuming appropriation of the add-on amount—and the minimum was right at about 25 percent, assuming that these add-ons were not appropriated at all.

Also, Mr. President, the President objected very seriously to the fact that the bill seemed to him to freeze into public service employment all of those to whom we gave public service jobs. I was very cognizant of that myself, as the ranking Republican who was negotiating this bill and the one who introduced the administration's bill. Mr. President, in the negotiations I believe that we gave the capability to any intelligent Secretary of Labor to provide——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JAVITS. I yield myself another 3 minutes.

To provide for the necessary manpower training and personnel handling which was required to move these workers who had public service jobs out of dead-end jobs and into career opportunities, either in public or private employment.

Mr. President, I call especial attention on that score—to the provisions of section 304(b)(12)—which I insisted on getting into this bill myself that section which provides for an annual review of each person employed in a public service job and for procedures which would provide that the participant's current employment situation would show—I use it in the affirmative, although it is stated in the negative in the law—sufficient prospects for advance or suitable continued employment and requiring maximum effort to locate employment or training opportunities providing such prospects, and then providing for subsequent assistance in choosing these opportunities after appropriate counseling.

Mr. President, even though the bill did not say that public service employment was just to be a bridge to normal private or public employment, and I wish it had because I had fought for it in the committee and was defeated, and I agree with the President in that—any intelligent Secretary of Labor using the provision I have just read could make it operate exactly that way.

Accordingly, my case is, that, considering the great difficulty of putting together a monumental and an extremely important and good manpower training program with a public service job quotient, at a time of serious unemployment in the country, with even more serious unemployment facing us, I do not believe that the risks which arise of an abuse of the program, considering our control over the appropriations process and the Secretary of Labor's control over how to handle these public service job operations, were such as to justify the President in vetoing the bill.

I tried my best to get the administration to see this, and I regret that I failed. I respect the President's view and do not say it is out of reason or out of the ball park. But at a time such as this, I do not think it was justified to throw the weight in the scales against it. I would have hoped the President would have thrown the weight in the scales for it.

For those reasons, Mr. President, I shall vote to override, and I hope very much that the Senate will do so generally.

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

Mr. JAVITS. I yield 1 minute to the distinguished Senator from California.

Mr. MURPHY. Mr. President, I have the greatest respect and regard for the Senator from New York.

I also have heard the question of unemployment mentioned here. I should like to point out that in my State, the unemployment exists also in an entirely different area. These are not merely unemployed people who need training. These are also people who are unemployed in the aerospace industry because the budgets in the military and space were cut back, and they would have been cut back further had it not been for the efforts of some of us who foresaw this problem.

I must say that I appreciate the President's position. In the public service field there is need, but that need is not a reflection of the overall unemployment. The unemployment in my State is mainly in well-trained, highly skilled, scientific, engineering, industrial experts who have proved their worth, who also need work.

That is one of the reasons why I hope the distinguished Senator from New York would join me in hopefully providing some funds to continue the program of the SST, because this would provide meaningful jobs immediately, badly needed jobs, not only in the State of Washington but also in California and several other States. I also have been one who has strongly urged that we tap the talents of the aerospace and defense industries to help us solve our domestic problems.

I thank the Senator.

Mr. JAVITS. I thank the Senator.

I yield myself 1 minute to reply.

Surely, California undoubtedly has a special situation. But, as the State with the most numerous population, I do not think it is unlike New York, which comes next to it in population, with approximately 18.5 million people. We have not only almost 6 percent unemployment, but also, 17 percent unemployment for teenagers in the cities; and when you get to black teenagers, the rates of unemployment run from 24 to 34 percent.

That is why I said we were in a serious emergency and crisis respecting unemployment.

It is for those reasons, Mr. President, that I feel that this veto is ill-timed and unnecessary, considering the fact that ample safeguards are included in the measure for the very concerns expressed by the President in his veto measure. I deeply believe that the Senate should vote to override the veto.

Mr. NELSON. I yield 3 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, it seems bitterly ironic that we are compelled to interrupt our consideration of the measure the President so desperately wants—the family assistance measure, a measure that many of us would like to see passed by this body—so that we can deal with a veto by the President of a measure designed to reduce the number of people who need family assistance.

The measure the President vetoed would have reduced the cost of family assistance in the long haul by providing training and job opportunities for people now on the welfare that is so bitterly resented by many people in our country, and properly so, both by people paying for it through their taxes and by the people who are on the welfare rolls but do not like the way the present system operates.

The pending measure that we are about to vote upon would have provided training opportunities for those who need them, so that they can work. It would have provided public service employment for those unable under present circumstances to find employment in the processes of our free enterprise system.

The President was very poorly advised on the actual content of this bill. It provides for no WPA, dead-end, useless jobs through public service, as his veto message alleged. Rather, it provides for meaningful jobs, jobs not now being performed in our society, which our society needs to have performed. It provides for consultation and assistance for those in public service employment and training for them, so that, if those jobs are not providing adequate opportunities, they could move on into other employment—in our free enterprise system, if jobs were available in our free enterprise system, or other public service jobs—or into appropriate training programs.

I am shocked by the President's downgrading of the dimensions of the present unemployment in our country. It is a widespread situation, affecting millions of citizens. It is particularly distressing in California—with a 7-percent unemployment rate—where we have suffered the consequences of cutbacks in Govern-

ment expenditures, many of which were wise cutbacks in defense and elsewhere.

The measure specifically seeks to provide an opportunity to help people who have lost jobs in the aerospace, defense, and construction industries by recognizing the problems they face.

I should like to reemphasize the aid this measure would give, if it can be passed over the President's veto, to veterans who are the victims of present American policy that places them in a sort of double jeopardy: By being first sent off to Vietnam to risk their lives, where many have been killed and many more wounded, and then when those who are alive return, they pay a second price in finding themselves unemployed due to deliberate Government policies aimed at stemming inflation, which is a consequence of the war these veterans have just fought in Southeast Asia.

The provisions of the bill relating to veterans were designed to expand opportunities to find employment and for reporting back on services to veterans in order to measure what more needs to be done for our veterans.

Also the bill exempted disability compensation and GI bill allowances from being considered as part of a veteran's income in determining his eligibility for job training and employment opportunities for public service employment. It also provides for representation by veterans' organizations on manpower services councils in the local communities in order to give veterans' interests full representation in implementing the important provisions of the bill.

I, therefore, urge that the Senate vote to override the veto for the reasons I have just given, and the many other reasons given by other Senators.

I pay tribute to the Senator from Wisconsin (Mr. NELSON) for the most able way he has handled the bill. I thank the Senator from New York (Mr. JAVITS) for his spirit of compromise, understanding, and accommodation in moving this measure along to the point where it is now, and for his steadfast allegiance to this only bipartisan piece of legislation, so vitally needed by our country at this time.

I think we made many compromises and bent in the direction of those who originally opposed the bill. It seems to me that this is a measure which merits the support of all Senators on both sides of the aisle.

Mr. HARTKE. Mr. President, in his veto message of December 16, 1970, President Nixon stated that the manpower reform bill he sent to Congress was "one of the three key parts in a program of fundamental reform." The other aspects, according to the President, are revenue sharing and welfare reform.

Let me here express my agreement with the President. It is indisputably true that the manpower legislation which this Congress considered for more than a year is vitally important. It is equally true that it is an essential prerequisite to meaningful welfare reform and an important part of the problem of revenue sharing.

It is precisely for these reasons that I find the President's veto so completely inexplicable. At a time when the Senate continues to labor mightily in an attempt to achieve meaningful welfare reform, it comes as a shock that the President should dismiss out-of-hand this legislation which received much bipartisan support in both the Senate and the House. At a time when the White House has not yet deigned to present the Congress with a workable revenue-sharing proposal for hard-pressed State and local governments, the veto of legislation which received the support of the Senate by a vote of 68 to 13 is particularly unfortunate. If the President truly believes in the absolute importance of legislation such as this, how can he reject it when it is so clearly the constructive product of bipartisan compromise.

In his veto message, the President contends that S. 3867 is "completely unacceptable" because as much as 44 percent of the total funding in the bill goes for dead-end jobs in the public sector." But what does this mean? Does he mean to imply that jobs in municipal, county, and State jurisdiction are meaningless, make-work occupations? Certainly the President must acknowledge that in the past the unemployed have been trained for a wide variety of jobs, but that a majority of them found no work when their training was completed. The Employment and Manpower Act of 1970 merely provides the mechanism whereby these trainees can gain some actual work experience in the public sector, with the expectation that most of these trainees would then move into private employment when the opportunity presented itself. While it is true that the Senate refused to force a fixed percentage of these trainees to move out of Government employment within a specified period, it is also true that several safeguards were written in the bill. It should be noted that the Secretary of Labor could reject any plan submitted by a State or municipality which failed to include provisions for upgrading trainees and encouraging them to move on to better paying jobs. The Secretary of Labor is also given power to cut off funds to any program which has only a WPA-type purpose.

The President also argued that the Employment and Manpower Act would only perpetuate and increase the number of narrow program categories rather than creating the "single, broadly defined manpower program" which was to be flawed. The authors of this legislation argue, and rightly so, that it would achieve at least two-thirds of the consolidation that the President views as desirable. It is their estimate that this bill would reduce the number of individual manpower sponsors from 10,000 to fewer than 500. There has not been complete consolidation because it was believed by the overwhelming majority of Members of the Senate that there still is room for innovative action at the Federal level and that all authority need not be abdicated to the States and local governments.

There, then, appear to be the two principal arguments for the veto. I find them sorely lacking in logical compulsion or factual foundation.

Apparently as an afterthought, the President also argues that the problem is not as bad as the Congress would have the country believe. The President states in his message that "inflation is receding. The economy is moving up." In support of his contention, the President points out that although he is "not satisfied" with the present overall unemployment rate of 5.8 percent, he implies some satisfaction with the unemployment rate for the heads of families, which is much lower at 3 percent. The extremely able chairman of the Senate Subcommittee on Employment, Manpower, and Poverty, Senator NELSON, has pointed out that reference to the unemployment rate among heads of families is virtually meaningless in light of the bill's purpose. It is the purpose of the bill to help minority groups, and among blacks the unemployment rate is currently 8.8 percent. It is the purpose of the bill to help the young and unemployed. Among young men 16 to 19 years of age the unemployment rate is a shocking 17.5 percent. Among nonwhite teenagers the rate is a crippling 31.9 percent.

A casual reading of this legislation would reveal that it was not designed to help the average "Heads of families." Almost all the present manpower programs which would be affected by this legislation have an abundance of young people in them. Almost all of them have a substantial percentage of nonwhites. In light of these facts, how can the President use the unemployment rate among heads of families—which is surely high enough itself—as some sort of indication that the problem here is being met? Would he have the Senate believe that the legislation he submitted in 1969 is no longer needed? I would surely hope not, given the indicators which show that unemployment will likely continue to increase for many months more.

At his recent press conference, the President acknowledged that he had a duty "to work with those men and those women elected by the people in 1970." I assumed, apparently incorrectly, that the President was pledging himself to act constructively with the Congress on matters such as the Manpower Act. I assumed, apparently incorrectly, that the President would view this legislation as the product of earnest, bipartisan compromise and would sign it even though he might have doubts about its implementation. But he has chosen not to do that. Rather, he has chosen to take a course which I find indistinguishable from his conduct at other times during his presidency when he appears to have valued partisan advantage more highly than constructive legislative action.

Like the President, I am interested in seeing that the country achieve an economic recovery. Unlike the President, I think this vetoed legislation will be a valued weapon in achieving that recovery. For that reason, and others I have indicated, I will vote to override.

Mr. President, I want to compliment the distinguished Senator from Wisconsin (Mr. NELSON) for the fine work he has done on this bill.

Mr. GRIFFIN. Mr. President, this leg-

islation still bears the title "Manpower legislation," but except for the name, there is very little in the legislation that reflects the proposal which the administration originally sent up to the Congress.

The proposal was made well over a year ago, to pull together into an efficient and manageable whole a scattered battery of narrowly aimed manpower training programs which have grown up "like topsy" during the 1960's.

The administration bill would have given to the States and local units of government the power and the financing to develop and operate flexible manpower programs closely attuned to the needs of the States and the local communities.

The House passed a bill that embodied most of the features of the administration bill—plus some notable additions, such as a program for transitional public service employment, patterned after the manpower administration's already-operating and successful program of public service careers. Public service careers would have placed unemployed disadvantaged people in needed public jobs, given them the instruction and other services to properly qualify them for such work—and made sure the new workers were not forgotten, but kept on moving on up the ladder to better-paying advanced steps in these jobs or related kinds of work.

Unfortunately, the Senate passed a different bill which is totally unacceptable to the administration.

For one thing, it would not only continue the categorical programs which the administration and House bills sought to consolidate and coordinate.

The Senate bill, indeed, added on more categorical programs. Under the Senate bill, the number of separate categorical programs was increased from an astounding 14 to a preposterous 22. The result is even more rigidity in programs as to which the administration has been seeking flexibility.

Moreover, the Senate bill adds provisions to the public service employment program which, instead of encouraging and enabling workers to strive for economic independence, would almost chain them to purposeless, make-work jobs on the public payroll.

The agreement that came out of the conference committee called for 44 percent of the bill's total funds to be spent for dead-end, going-nowhere, public jobs. There was no indication that these jobs would be linked to proper training or to any plan of upgrading to higher steps of a career ladder.

Mr. President, the measure agreed to by the conference committee would perpetuate the bad features of the present legislative mix of our manpower programs and it would add some incredible new departures.

The administration appropriately seeks flexibility and versatility in order to meet State and local needs. But this bill tightens the straitjacket.

The administration seeks a public service employment program patterned after programs for jobs in the private sector—moving the jobless into work they could perform and moving them up as they progressed.

Unfortunately this bill would set a jobless public service employment pattern in which there would be no reasonable hope of advancement or opportunities for advancement.

The administration seeks manpower programs which would open up career ladders and opportunities for advancement. But this bill would create thousands of dead-end jobs. Surely it is not the purpose of Congress through this bill to create another WPA-type program—and yet that would be the effect of this legislation.

This administration is committed to a strong manpower bill, one that will give States and communities the flexibility and the financial wherewithal to plan and carry out manpower programs that really meet local needs.

It would be a tougher vote, perhaps, Mr. President, to vote to sustain President Nixon's veto if it were not for the fact that there is no great urgency in the enactment of this legislation OEO legislation now on the books would not expire until June of 1971. And the Manpower Development and Training Act does not expire until the middle of 1972. So, by sustaining the President's veto and upholding his veto on this vote, we will be giving Congress the time and the opportunity to come back early in the next session with a better bill and, hopefully, one that Congress can approve.

Mr. NELSON. Mr. President, I yield 1 minute to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

Mr. FULBRIGHT. Mr. President, I wish to associate myself with those Senators who are expressing dismay at the President's veto of the Employment and Manpower Act of 1970.

With unemployment at its highest level in nearly a decade, a Christmas veto of legislation in Congress this year that could help alleviate this situation is tragic.

For those of us who have seen in their own States just how effective public service employment programs can be it is difficult to understand.

In Arkansas, the Farmers Union has been running an Operation Mainstream program for the last several years that has meant dignity and useful work for thousands in rural areas of chronic unemployment.

The act would provide hundreds of thousands of such jobs, in cities as well as rural areas. These are jobs that would be planned and administered by local citizens and officials, jobs that desperately need doing as cities and States encounter the fiscal squeeze of the recession.

The veto is especially hard to understand at a time when the President is urging Congress to pass a massive welfare reform measure with the slogan "workfare instead of welfare."

Mr. President, "workfare" without jobs is a farce, and without the public service employment provisions of the vetoed manpower bill the jobs just will not be there.

In his August 1969 message the President asked for three domestic reform measures—revenue sharing, welfare reform, and manpower reform.

All the specific things he asked for in manpower reform are in the congressionally approved act. Yet the President has vetoed the bill.

That bill provides:

A system of State and local prime sponsors to replace the unwieldy bureaucracy of the Labor Department for planning and administering manpower programs.

A major public service employment program, with a minimum of $500 million the first year to fund $100,000 new jobs.

Mr. President, the issue involved in our consideration of this veto inevitably comes back to national priorities—whether we can redirect the course of our Government during this extremely critical time in our history—whether human needs and values must continue to be subordinated to our Government's increased obsession with militarism and outer space exploration.

In a recent editorial on the President's veto of the Manpower Training Act, the Arkansas Gazette puts this question in its proper perspective by asking:

> Why is it bad to subsidize employment in such programs as "Green Thumb" and the Neighborhood Youth Corps but good to subsidize employment in the aerospace industry's SST project.

I ask unanimous consent that this and other editorials recognizing the real issue raised by this veto be printed in the RECORD at this point.

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

[From the Arkansas Gazette, Dec. 18, 1970]

PRESIDENT NIXON'S BAG OF SWITCHES

"The president's big thing—that he has been hollering about—is that he is going to bring us together. He sure as hell is going to bring us together—in the soup line."

Thus spoke Lewis (Red) Johnson, president of the Arkansas Farmers Union, which operates the "Green Thumb" and some Neighborhood Youth Corps projects in Arkansas, upon hearing Wednesday of President Nixon's veto of the 1970 Manpower Act.

The veto was in fact an immediate example of the kind of priority choices Mr. Nixon continues to make as the administration continues to bungle the economic issues before the nation at a time unemployment has reached 5.8 per cent. On the same day the President vetoed the Manpower Act, which would have created 40,000 jobs (some for hard-core unemployed) this year and up to 300,000 by 1974, he was also threatening to call Congress into special session after Christmas to act upon and pass the appropriation for continued development of the supersonic transport, which some supporters say would mean employment for 150,000 highly skilled workers. As if that were not enough, on the same Wednesday the news was leaked that the Nixon administration is considering cutting off funds for the Volunteers In Service to America (VISTA), which is the domestic peace corps.

Mr. Nixon vetoed the Manpower Act because it "would create a national manpower program that would relegate large numbers

of workers to permanent subsidized employment." The question raised, of course, is simple: Why is it bad to subsidize employment in such programs as "Green Thumb" and the Neighborhood Youth Corps but good to subsidize employment in the aerospace industry's SST project?

Senator Ralph Yarborough, chairman of the Senate Labor and Public Welfare Committee, which drafted the Manpower Act, says his committee will consider making an effort to over-ride the veto. We would join Red Johnson, who says 3,400 Arkansas jobs are at stake, in urging the Arkansas congressional delegation to support an over-ride. This is, as Mr. Johnson says, "President Nixon's Christmas present to the poor people of Arkansas" but Congress still has a chance to replace the bag of switches with meaningful jobs.

[From the Baltimore Sun, Dec. 19, 1970]

DEAD END

In vetoing the Employment and Manpower Act, President Nixon said he did so because the public service employment section "would relegate large numbers of workers to permanent, subsidized employment. Such a program would limit, not expand, individual opportunity." He referred to the jobs in another sentence as "dead end jobs in the public sector." This so dismayed him, he said, that he would forgo the parts of the bill he desired, the reforms of administration and procedure in training programs.

This is strange. The jobs the bill contemplates are not dead end. Democrats in Congress insisted and won the point that the jobs be career-oriented, with promotion possibilities and training. Mr. Nixon and his supporters in Congress insisted that the jobs be menial, low-paying and temporary. Now he vetoes the bill because it does what he said he wanted—even though it doesn't!

Public service employment paid for by the federal government is particularly desirable in cities and counties where the poverty of the citizens leads to poverty of services (which leads to more poverty for the citizens . . .). This act provided that such cities as Baltimore with high un- and underemployment and deteriorating services, would be helped most. Under this act, federal aid for perhaps 3,000 needed jobs in police work, education, recreation, health and pollution control would be forthcoming. Without this sort of federal assistance, the cities are the ones relegated to a dead end.

[From the New York Times, Dec. 18, 1970]

RIGIDITY ON MANPOWER REFORM

President Nixon's veto of the manpower bill is an expression of executive inflexibility that will disadvantage both the unemployed and the cities that could use their services in productive public jobs.

The bill's language provided the Secretary of Labor all the latitude he needed to make sure that the employment opportunities proposed for the public sector did not turn into dead-end jobs, much less leaf-raking activities of the kind the President conjured up with his contemptuous reference to the WPA of the thirties.

There was some substance to Mr. Nixon's complaint against the freezing into the bill of specific categories of job training in particular programs, but even on this point the objections ignored the discretion vested in the Labor Secretary to decide on fund allocations and other details.

Inevitably, the unemployed will interpret the veto as a mark of the low priority the Administration gives their problems as against the solicitude it shows for ailing defense manufacturers and railroads and its strong fight in support of the SST. That sense of limited concern for human problems will be deepened by the simultaneous disclosure that the White House is considering a cut-off in funds for VISTA as part of a 23 per cent slash in all antipoverty appropriations.

For the hard-pressed cities, the veto means another despairing wait for adequate answers to problems they cannot meet without large-scale help from Washington.

[From the Washington Post, Dec. 18, 1970]

STRANGE VETO OF THE MANPOWER BILL

President Nixon's veto of the employment and manpower bill is a strange sequel to his pull-together appeal in his news conference last Friday. At that time he said that, with the election over, he has a responsibility "to work with those men and those women elected by the people in 1970" and that he hoped Democrats and Republicans would work with him on future programs. But his veto probably kills a bill on which there was a large measure of compromise—a bill designed to aid the economic recovery in which he is so much interested.

The President rests his case on two chief complaints about the bill. First, he contends that, as finally passed, it would perpetuate and increase the "narrow categorical programs" which he wished to abolish in favor of "a single, broadly defined manpower program." Second, he says the bill is "completely unacceptable" because 44 per cent of the funds authorized would go for "dead-end jobs in the public sector." These "WPA-type jobs," he says, would not expand individual opportunity but would "relegate large numbers of workers to permanent subsidized employment."

If these objections rested on solid ground, a veto would appear to be justified. But the President's view of the bill differs sharply from that of its sponsors. Instead of creating more uncoordinated programs, sponsors of the bill say, it would achieve about two-thirds of the consolidation the President requested. One estimate is that the bill would reduce the number of sponsors of manpower programs from 10,000 to possibly 400. The Senate refused to go all the way with the administration's proposed merger of manpower training programs under the authority of the states and cities, because it believed that there is still room for some innovative or demonstrative training programs on the federal level. It is difficult to find justification of the veto in this relatively minor deviation from the White House view.

Far more serious is the fear that the bill would subsidize, make work of the type that was discredited during the great depression. But Congress built in substantial safeguards against any reversion to WPA days. The basic purpose of this section of the bill is to provide training for persons who could be usefully placed in state and local governmental jobs that are not now filled. Many of these jobs are in hospitals, public recreation, sanitation service and so forth. In the past the unemployed have been trained for a great variety of jobs, but many have found nothing to do at the end of their training. Congress proposed to provide funds so that they could get some actual work experience in the public service, with the expectation that most of them would then graduate into private employment.

The Senate refused to compel a fixed quota of the trainees to move out of public jobs within a specified period. But it wrote several safeguards into the bill. The Secretary of Labor could reject any state or municipal plan lacking provisions for upgrading trainees and helping them to move on to better jobs. The bill as passed would also require an annual review of the situation, with power in the secretary to cut off funds for any program that might lapse into the WPA pattern.

Some of the language in the veto message raises a serious question as to whether the President fully understands what Congress was trying to do. It is a pity that he did not further scrutinize the bill with the help of Senator Javits or the U.S. Conference of Mayors, whose spokesmen were clamoring to be heard. Rumor has it that the Department of Health, Education and Welfare and the Office of Economic Opportunity were also eager to have the bill signed.

If Congress fails to pass the bill over the President's veto, it seems probable that the controversy will flare up again in the tense political atmosphere of 1972 when the present Manpower Training Act expires. The Senate Committee on Labor and Public Welfare has indicated that it will have no time for manpower legislation in the 1971 sessions. An upset of this veto could in the end be an advantage to the President as well as to the unemployed who are looking for additional training and opportunities.

Mr. FULBRIGHT. Mr. President, telegrams from my constituents who are familiar with these manpower programs at the local level express unanimity in urging the Senate's override of this veto. These people, Mr. President, who deal with these programs on a day-to-day basis are perhaps the most knowledgeable about their practical benefits, and I am inclined to give my constituents' advice great weight in matters such as this. Mr. President, I ask unanimous consent that telegrams I have received be printed at this point in the RECORD.

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

STUTTGART, ARK.

Senator WILLIAM FULBRIGHT,
Senate Office Building,
Washington, D.C.:

We would appreciate your vote to over ride the President's veto of the man power bill.

Billy M. Garth, County Clerk, Prairie County; Representative Tucker, County Judge; Elmer Clark, Justice of the Peace; Marvin King, City Councilman; E. L. Feder, City Councilman; R. E. Ingram, Mayor; W. L. Blassingame; Sam Weems, Prosecuting Attorney; Gene Horn, Merchant; A. L. Berry, Recorder-Treasurer; J. E. Berry, Postmaster; Clifford Barlow, County Treasurer; John P. Bethell, State Representative, District 24.

CLARKSVILLE, ARK.

Hon. WILLIAM FULBRIGHT,
Senate Building,
Washington, D.C.:

Urge your support in overriding veto on comprehensive manpower bill.

Sheriff WALTER LOOPER.

CLARKSVILLE, ARK.

Hon. WILLIAM FULBRIGHT,
Senate Building,
Washington, D.C.:

Urge your support in overriding veto on comprehensive manpower bill.

PHIL TAYLOR.

PARIS, ARK.

Senator J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.:

Urge you to override President's veto on manpower bill.

R. N. BUTCH WADE.

PARIS, ARK.

Senator J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.:

Would appreciate assistance to override President's veto on manpower bill.

DAN PENNINGTON,
Mayor.

Mr. FULBRIGHT. Finally, Mr. President, a distinguished Arkansan who is eminently knowledgeable in this area, Mr. Lewis J. Johnson, Arkansas Farmers Union, testified before the Senate Committee on Labor and Public Welfare about the outstanding work being done in the manpower field in our State. I ask unanimous consent that his testimony be printed at this point in the RECORD.

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

STATEMENT OF LEWIS J. JOHNSON, ARKANSAS FARMERS UNION, LITTLE ROCK, ARK., MAY 14, 1970

Mr. JOHNSON. Thank you.

Thank you, Mr. Chairman. I am delighted to be here today and briefly, I want to touch on a lot of things that the folks ahead of me have.

I want to say, being almost 62, I am very much in agreement with the people that preceded me about these older folks, so don't forget us. We started in 1965 with sponsoring the program. We were the granddaddy on the NYU program. That summer, we worked 16,000 youngsters and spent $5¼ million.

Since that time, we have worked 35,000 youngsters and spent over $11 million. So it has been a tremendous thing with our young people in Arkansas, and it is one of the great programs.

It ought to be expanded instead of retracted. We have had youngsters in and out of school and this program has put them on through school. So for goodness sake this program should be expanded.

We had a mainstream program called CEP we subcontracted for, and I want to say to you, we had a homebuilders program under that. One of the most disappointing facts about that program was subcontracting under Employment Security on CEP. There was a great disturbance about who was the boss, labor, or Employment Security, so the program was funded in March.

They wanted to do comprehensive planning and they did, and it took them to September 15, and then it took a memorandum from the White House to get them started with the program.

We started and had homebuilders, nurses aides, senior citizens, on manpower programs, and they cut out programs back, 3 months for nurses aides, and landscape gardners, and finally cut those categories out all together.

We finally trained 203 people, most of them on homebuilders programs.

Mr. Chairman, we did not refer them. We had to wait until Employment Security referred them. We needed a crew of six men and a foreman. They would refer us to one man this week and one man next week, so I say I am not subcontracting today because you can't run an operation like that.

We finally got enough men to start the programs. We remodeled private homes for low income rural people under the 504 loan. You are familiar with that type of loan.

That was one of the greatest things, Mr. Chairman, that could happen to rural people. You have no conception, unless you go into the homes of these families that have never had hot and cold running water in their house, have never had a kitchen cabinet or a bathroom and have never had some of the ordinary, everyday things of life, and see them borrow $1,500 and see a new roof put on their house, running hot and cold water, bathroom fixtures put in, beautiful kitchen cabinets built, and they were able to pay whatever their income would allow them to back to the Farm Home Administration pay.

Now the Labor Department. We have asked for another proposal direct from the Labor Department, and they tell us there is some question whether what we did with that money was legal.

So I want to say this to you, if that part of the program is not legal, will you please change it, so we can train people, and train them on the job. Besides that, we gave them some related instructions.

For example, we would hire a foreman. A lot of times they were 72 and 75 years old, retired, and we would have half a day's course teaching them to cut rafters, or how to read a square, and those things, and then we would have a class in reading and writing, and in some cases consumer buying.

This can be one of the finest programs, and I am waiting now for a ruling from the attorney from the Labor Department, whether or not they will fund this home builders programs that we are proposing.

We can repair those homes and train those young people to be carpenters, plumbers, painters, electricians, and all of that, and we have a great need for that type of skilled workers right now.

We have always participated in the Green Thumb program, and truly that is almost a religion in Arkansas, it has done such a tremendous job.

We also promoted since 1966 on-the-job training programs, and I might say out of placement, I think we have had 62 percent permanent employment out of over 1,000 placed in a 3-year period.

We have operated, and are still operating, a Displaced Farm Worker program under migratory labor, and we contracted with a college at Pine Bluff. We have placed 81 percent of those people in permanent employment.

In other words, we have taken the head of a household, a young girl 19 or 20, with one or two children, the head of a household, that had a high school education, but no employment, and in the first year, we trained seven of them for secretaries, and most of them were nonwhites, and placed every one of them.

We have taken the hard-core field workers in agriculture, 45 and 55 years of age, and we taught some of them to be seamstresses, and then we got a loan from the Farm Home Administration and bought them machines and put them in business on their own.

So actually it is one of the great joys of my participation in these programs to see the great good that is done with underprivileged people.

Now, Mr. Chairman, you know and I know that the work force of this Nation is growing and growing and growing, and that private industry and business cannot, and will not, be able to employ them.

So it is going to be necessary for the Congress, and to me—I certainly don't know what we would do without you, because there must be work jobs provided, not only for our senior citizens, but part time for other people, for training programs.

We have a larger work force, and as we get that, we must go back to shorter work hours, and we must develop work programs by the Federal Government, 3 days a week or 2 days a week to help supplement these incomes.

Let me throw out this suggestion, if I may: The Federal Government can't meet all of this tremendous cost, so we must have a matching fund somewhere down the line by the States, and now, we must lead the way through our pilot projects. Here we are, undoubtedly, Mr. Chairman, one of the most polluted countries in the world, and I am proud to say to you that Arkansas is one of the five cleanest States in the Nation.

I served 14 years on Pollution Control Commissions there, and we had one of the finest. We filed our Water Quality Act with the commission act the first in the Nation. We have our air code act already approved.

What I am saying, though, is the solid waste program in Arkansas is a disgrace to human society. I asked a proposal from the solid waste people, as a pilot project, to work older people in two counties to make a total cleanup by working with the county officials and city officials, to bury these cans and refuse, all but the old cars, and then contract and move those and have them mashed and sold back to industry.

So far I have not got it approved Mr. Chairman, because they said, now look, your program is too simple. You just don't go about picking up solid wastes and you have to hire an engineer and tell us if your proposal is feasible.

I didn't know there was anything comprehensive about taking a bunch of older workers, with trucks the city will furnish, and they will dig the trench and will backfill, and we will clean up a county completely, cities and streets and country roads, and build parks along the highways that the people can put their rubbish in, and the county trucks, then will pick it up.

I don't see anything comprehensive about that. All we asked them for was salaries for the workers. We have too many times, Mr. Chairman, made a hard job out of a very simple job. It was our hope, and we said so, that if we had this pilot project we could show what could be done for such a little money. We asked our legislature to give us a matching appropriation, or some additional appropriation for other counties so that we would pass stricter laws on wayside dumping, and that we would have one of the finest educational programs in the country from it. We would instill in our people a pride that they would never forget.

We hope to get that funded, Mr. Chairman, as with the solid waste people. It is over in Cincinnati now. I don't know whether we will or not, but I am saying to you that there is enough pollution in this country to be cleaned up that this Government, on a matching program, can keep all of our senior citizens employed on a clean-up program for the foreseeable future, and it has got to be done.

There is no other way.

We have got to do it. We have plenty of jobs to be done, Mr. Chairman, in Arkansas. We are very fortunate there. We have the Ouachita Mountain range, the Boston Mountain range, and of course, we are part of the Ozark Mountain range. Over the past few years we had this economic development area there, and this one there, and we have planned and planned and planned.

Now Mr. Chairman, it is time to stop planning and get some action, and do some of these things that have got to be done.

There are too many people that can plan behind a desk, but do not have the very simple—well, maybe it is mule sense like myself, to go out and do a very simple job, just by doing it.

So I say to you, planning is necessary in some areas, but for goodness sakes, let's get some action.

In Arkansas today, with all of these recreational areas we have, you can't get into a parking area, and a recreational area, whether it is State or public.

It is already over crowded. So we have before us the beautiful areas that we can develop for our people and provide the jobs. We have the ugliest waste that has polluted our country, that is out there, that we can see, that we can pick up, can cover up, and make our country beautiful, and it seems to me we need more men like you. You know, I am a little disturbed about our society, Mr. Chairman, we have a $200 billion budget, and you and I know, or I think we know, with my little training in rural economics, I want to say this to you, we have got to keep a strong national economy.

We have got to keep a strong national

budget to have a strong national economy. It has just got to be decided where we are going to spend that money, and I am saying to you, in an affluent society, it is morally wrong to start with, and furthermore, I don't think the society will stand if it will provide for 60 and 70 percent of our people a high standard of living and the other 40 or 30 percent a substandard living.

So I am saying, then, that what we need to do is to reevaluate the whole program of our national economy. With this tremendous budget, on national spending, we spend that money at home and on these domestic problems that must be taken care of, and that we see, then, that all of our people will enjoy a part of this affluent society.

Now, Mr. Chairman, in closing, let me say this: My company nor I never made a dime out of these programs we sponsor. To me I don't understand how in this country of ours, that the national resources put here by the great creator, because some person or some company had the money and the ability to extract it from the soil or from the ground, should enjoy and receive all the benefits of it.

It just stands to reason, to me, that the greatest resources we have is people, and people should share in these great benefits.

Now, I want to say in closing that I thank you for your great leadership that you have shown, and I think technology has far outstripped our leadership in this country at this time, Mr. Chairman.

We are still trying to live way back in the 1920's. We have too many people and I don't mind saying the Chamber of Commerce and the National Manufacturers Association are a part of them that still believe that you have got to have a large reservoir of poor people to have a good economy.

I don't subscribe to that philosophy, Mr. Chairman. I believe there are enough here, if a man wants to work or a woman wants to work, they ought to have an opportunity to work.

I don't think you ought to make him, because if he does not want to work, he should not have to, but then we should not be responsible for him as taxpayers.

So I want to say that we have got to change that thinking, that sorry people have always been here because they have been underprivileged.

What they don't understand, the biggest people and the Chamber of Commerce, that through the free enterprise system that they have operated, they have created these underprivileged people and have perpetuated them over the years.

Now, Mr. Chairman, we have got to change that. Decency demands it and we have been delighted to participate in these programs, and I want to say to you, it is time now that we talk about $10 billion, $15 billion, $20 billion.

I don't agree with Dr. Carstenson. He told you he could use $125 million. We will spend more than that in Arkansas, we will spend it in a year's time if you will give it to us, Mr. Chairman.

We have got the need. Let's spend some of our money back here on our domestic problems.

Thank you a lot.

Senator NELSON. Thank you.

I am familiar with the kind of work that has been done in Arkansas, as well as Wisconsin, and by the Farmers Union, and it has been a superbly run program and it is the only program I know of in which I have yet to hear—in the poverty program—the first complaint from anybody about the program. It has broad support by local government officials who are close to hope to see how effective and constructive and useful the program is.

Thank you very much.

Dr. CARSTENSON. Mr. Chairman, I would like to give you one bit of information concerning the current funding of the Mainstream program before we close.

You met with assistant secretary Weber following the add-on appropriations, and as you remember, there were 41 million plus, a minimum of 15.8 million that was supposed to go into new careers or Mainstream.

This money is still being bandied about, back and forth between OEO, the Bureau of the Budget, and the Department of Labor, and as recently as the other day, Secretary Shultz indicated to Congressman Shriver of Kansas, and Warren Magnuson, the Senator from Washington, that they still had not delegated that money.

It seems a real shame that at this time, with the recession and all the problems, that this effort you made is being—perhaps I am being a little rough—but it is like a football.

They are blaming each other. Labor is blaming OEO and the Bureau of the Budget says it is budget, and it is going back and forth in a nice ping pong game there.

At least that 15.8 million—maybe I am thinking a little small here in terms of the 125 million, because we had so much trouble getting 15.8 million unfrozen from the Bureau of the Budget and OEO and Labor for Mainstream programs.

May I join Red in larger budgets, if we can get the Bureau of the Budget to spend the 15 million which was authorized this year.

Senator NELSON. Thank you.

(Whereupon, at 12:07 p.m., the subcommittee recessed, to reconvene at 10 a.m., Monday, May 18, 1970.)

Mr. JAVITS. Mr. President, we are in trouble over the time. I ask unanimous consent that the Senator from Mississippi may have 3 minutes without it being charged to either side.

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

Mr. STENNIS. Mr. President, when this matter came up, the first chance I had to know about it was in the conference report.

I examined it then. With all due deference to those who worked on it, I did not think it met the situation and the need.

I made further inquiry with respect to the program. I mention that to show that I have been interested in the subject matter. I think we have some need for it. However, I was compelled to vote against it because $9.5 billion was pledged for the next 3 years. It seems that whatever amount the authorization bill contains, that is the amount appropriated for the next 3 years.

The program had in it all the other mounting costs and unbalanced budgets. Furthermore, it would not bring about the end result.

Any kind of manpower training program that is going to be successfully carried out by the Federal Government certainly must have the administration behind it, the executive branch, or the chief of that branch, in order to organize it and to make it bring a return.

The President said that it is not in the ball park with his ideas of what we need in the way the matter should be approached and carried out.

It seems to me that having thus considered the procedure and the administration of it, we have an overwhelming reason why this is not the measure, the bill, or the plan to meet the need, whatever that need may be.

So for that reason and as one who is interested in the bill, I shall certainly vote to sustain the veto. I hope that my colleagues seriously consider also voting to sustain the veto.

Mr. President, I yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, it is with deep concern that I view the Manpower Act that emerged from conference and was vetoed by President Nixon.

In November, 5.8 percent of our labor force was unemployed, and countless others were underemployed, either because economic demands prevented them from working a full 40-hour week, or because their talents, for lack of training, were being underutilized. At the same time, many jobs requiring more sophisticated skills are still going begging. Our manpower programs have a tremendous job ahead of them if they are ever going to be successful in attacking and solving this dilemma.

The first thing we must do is to realize that this geographically and economically diverse country contains as many different economic situations as there are labor market areas. We all know that doctors cannot effectively treat the myriads of diseases that exist in this world if they limit themselves to only 22 specific prescriptions. Likewise, we cannot treat all the unemployment ills of this country by prescribing 22 different manpower programs.

But that, in essence, is what this proposed bill is doing. Because for the most part, it maintains the old program delineations, specifically offering newness by consolidating them into 13 separate categories, it builds the same rigidity into the administration of the entire system. On the other hand, what we need now in an increasingly diverse society, is to reverse the trend, and instead of merely providing catchall terms to maintain rigid categories, move legislation in the direction of offering flexibility.

When I supported S. 3867, I had a number of reservations about it, one of which was maintaining this dangerous fragmentation, involving overlapping programs which would do little or nothing to eliminate the inefficiency and wasted resources characteristic of the manpower program conglomerate.

A second reservation, closely related to the first, was the resulting lack of local freedom to utilize ingenuity and creativity to research and develop new programs, tailormade to specific geographic area and economic situations.

A third relates to the public service employment section, now under title III which I felt then, as I do now, does not have adequate built-in safeguards to offer effective incentives to local administrators to insure that trainees would be moved on through and out of this program into better employment in the private sector. Without such safeguards, stagnation and ineffectiveness can only result, once the enrollment quota becomes saturated. By not providing for constant movement through the pro-

gram, this bill does only half the job of public service employment, which in this case could be worse than not undertaking it at all.

In short, I feel very strongly that we need comprehensive manpower reform. But I feel that we need a comprehensive manpower program overhaul, rather than legislation that will merely pay lip-service to the word reform, as this act does. Therefore, I regretfully must admit, in maintaining my loyalty to the interests of my constituents back in Oregon, that this legislation is not the answer to their manpower problems or to ours.

SAY HIGH-SOUNDING THINGS, BUT DO NOT SPEND MONEY ON TRAINING

Mr. MONTOYA. Mr. President, President Nixon has again shown his lack of commitment to or understanding of the economic ills of our society. His recent veto of the manpower training measure is ample evidence of the fact that he lacks commitment to the cause of training the growing masses of Americans for jobs.

Here was action on the part of the Congress in terms of a $9.5 billion commitment over a period of 4 years. Local governments could have been able, with one-third of the funds involved, to initiate and undertake training projects for our unemployed. Another third was to be earmarked for direct Federal maintenance of ongoing Federal programs in the job training area. Several of these efforts are already in being, and are accomplishing significantly successful work in training those who otherwise would have received nothing in the way of hope, or education.

Several of these programs, such as the neighborhood Youth Corps and Job Corps are vestiges of that bold effort to give hope to the hopeless that a previous administration began. They have survived stubbornly, in spite of administration efforts to strangle them. Now the President seeks to administer a final death blow to them. We must prevent that coup de grace from being given.

Such programs have been done to near death, not by sudden blows, which would kill them then and there. Rather, they have been executed or brought to near extinction in salami fashion—a piece at a time. Administrative execution has been employed in the name of efficiency and economy—excuses for killing off programs which offend the political and philosophical sensibilities of this heartlessly conservative administration.

The last portion of this bill would have established a new series of programs on public service employment. Here State and local governments would have begun hiring the unemployed, with Federal financial backing. Yet the President has taken these three aspects of the manpower training program, wrapped them up in a tight ball, vetoed them and called them "deficient." Fascinating. Here is a profoundly enlightening insight into the inner-thinking at the White House.

The President says in his veto message that "as much as 44 percent of the total funding in the bill could go for dead end jobs in the public sector." He says that "WPA jobs are not the answer for the men and women who have them."

Mr. President, I submit that the President has become more than a little isolated in recent months. He has not been listening to the people in the Nation he leads. He has not looked into the faces of those in the lengthening lines of unemployed men and women who are now to be seen everywhere. He has not been reading financial pages as news of closing industrial facilities spreads and spreads. One day it is a gypsum products plant in Rosario, N. Mex. Sixty workers out. The next day it is a major television tube facility in Memphis and some 1,600 workers hit the streets. Farm prices are at depression levels, factory profits are at lowest levels in 9 years. Almost 5 million Americans walk the streets at this cheerless holiday season, looking for work—any work. Retail buying sends store managers to the wall in despair. He claims there is no need for WPA-type jobs and vetoes this manpower training measure we have sent him.

Mr. President, another Republican President sat in the White House, increasingly alienated from the people who daily added another measure to their level of suffering. He too turned his face from the realities of unempoyment. He also refused to go along with suggestions that would have placed Federal funds behind public works types of jobs. Remember? His name was Herbert Hoover. He also lived in a paradise of self-delusion. He too watched as a series of by-elections sent his party down to smashing defeat.

Now, however, instead of closed steel mills, which are also on the way, we have a Nation crawling with unemployed engineers, instead of day laborers filling the ranks of jobless, we have white collar and other managerial types standing in unemployment lines. The names of the players may be different, but the scorecard and ball game remain unchanged.

Mr. President, we have here the shameful picture of a Republican President sitting in isolation in the White House, while the economy of America falls to pieces around us as a result of his policies—and he sits there and sits there, telling America this is all according to plan—that his veto of the manpower training bill is correct. Why? Because WPA-type jobs are not good for people desperate for them. Try and tell a starving man food will hurt him.

Mr. President, Santayana once said that those who do not learn from the mistakes of history are doomed to repeat them. We should and must override this veto.

Mr. HARRIS. Mr. President, I view with grave concern the President's veto of the Employment and Training Opportunities Act. In vetoing the bill, the President stated that he was not objecting to the funds authorized for the bill, but that he was concerned that the bill would set up "dead end" public service jobs of the WPA type which were not the answer to the problems of the 1970's. He further stated that the bill would "relegate large numbers of workers to permanent subsidized employment."

I think that 4.6 million unemployed Americans would find it very difficult to understand or accept this reasoning. At a time when unemployment has been made to rise above acceptable levels to help fight inflation, the manpower bill offered some help. The seasonally adjusted unemployment rate for the month of November was 5.8 percent, an increase of 0.2 percent over the October figure.

The President's statement relative to relegating workers to "dead end" permanently subsidized employment is lacking in sufficient justification.

A study undertaken by Harold Sheppard for the Urban Institute in 1968 clearly dismisses this proposition. The Sheppard study showed that at least 140,000 job opportunities for nonprofessionals already exist in the Nation's 130 largest cities. These are jobs which are existing and available now. The fact that they exist clearly negates the position taken by opponents of public service employment that the jobs will represent make work or dead end jobs.

The National Commission on Technology, Automation, and Economic Progress estimates that there are more than 5 million additional jobs which could be filled in the public sector.

How much longer will this administration continue to call for cuts in appropriations for domestic programs and ask that we compromise beyond reasonable limits on legislation designed to afford equal opportunities and better living conditions for our own citizens here in America?

Mr. President, a number of prominent individuals and organizations have shown support for the Employment and Training Opportunities Act. Such organizations as the U.S. Conference of Mayors, the National League of Cities, AFL-CIO, Governors, and civil rights groups are among the supporters of this legislation.

Finally, Mr. President let me say that the bill vetoed by the President is, perhaps, the single most important piece of manpower legislation to pass the Congress in recent times. It would have done much to reorganize and consolidate existing manpower programs and legislation into one comprehensive package. At present there are more than 10,000 separate sponsors of manpower programs. The vetoed bill would greatly reduce the number of sponsors to approximately 400. The Congress was pleased with the new effort to reorganize Federal manpower activities and voted to adopt the measure by 68 to 13 in the Senate and 177 to 159 in the House.

On numerous occasions many of the Members of this body have addressed themselves to the need for reorienting the Nation's priorities in order that we might do more for those here at home. Surely there is no way that we can more significantly do this than through the process of providing the opportunity for the employment of our citizens. There has been a great deal of discussion on the subject of employment for the poor in connection with the family assistance plan now before the Senate. The President's veto is directly inconsistent with his advocacy of FAP.

Every able-bodied American citizen has a moral and economic right to a decent job at a decent wage. I believe that every citizen has a right to share in the Nation's productivity and wealth. Accordingly, in the name of many unemployed American citizens, I urge the Senate to override the President's veto of this important bill.

EMPLOYMENT AND THE MANPOWER BILL

Mr. MONDALE. Mr. President, the vote of the Employment and Manpower Act by the President raises a profound challenge about the nature of our society and the role which government must play.

The government of a free economy faces no more crucial a test than its ability to insure lasting and productive employment for all those willing and able to work.

And the supreme test is to see whether a free economy such as ours can not only maintain high employment, but can direct the energies, skills, and productive capacity of a war-oriented economy to the enormous needs of a peaceful society.

This is the double challenge we are facing—and, I think, failing. We must reverse the skyrocketing rise in unemployment which has added nearly a million and a half jobless to the ranks of the unemployed in the past year—30,000 in Minnesota alone. And we must reorder our priorities and apply our technology and skills to human and domestic needs such as health care, education, the restoration of our environment, the revitalization of our rural economy, and the rebuilding of our cities.

The failure of the Nixon administration to maintain economic growth and full employment is known to all—not just to the 4,600,000 jobless, but to all Americans who feel the loss of the $43 billion in wealth we have lost this year.

But the challenge of the next 2 years is not simply to put these men and women back to work. We must, at the same time, convert from an economy dominated by a war in Vietnam, by a legacy of incredible waste in the Pentagon, and by the enormous expense of placing men on the moon—to an economy devoted to the betterment of our human environment.

On top of the millions whose jobs have been sacrificed to a misguided policy of "economic restraint" will come more millions—scientists, engineers, and skilled workers—displaced by the end of a wartime economy and the hoped-for reordering of priorities. And on top of these will come the inevitable yearly addition—over a million a year—to the labor force: returning GI's, young people seeking their first jobs, and college graduates—800,000 in 1974 alone—all seeking the jobs that are inadequate for our labor force of today.

I welcome the cuts which have already been made in the space and Pentagon budgets. The Congress last year cut $6.5 billion worth of waste from the Pentagon budget. We are cutting out $2 billion this year. And I think we have a healthier defense capability because of it.

But you cannot eliminate nearly 1 million jobs without redirecting these skills and facilities into those areas of desperate domestic need. Over 370,000 civilian jobs and 450,000 Government jobs had been eliminated by this summer with nearly a million more to be directly or indirectly lost within the next year.

Minnesota with some 30,000 defense-generated jobs, has lost perhaps 5,000 of these since the peak year of 1968. Scientists, engineers, and highly skilled workers are discovering for the first time the tragedy of unemployment and the fundamental hollowness of an economy fed by war, space, and Pentagon waste.

Like the war-fed inflation, the wartime economy was inherited by the present administration. But like its policies toward inflation and unemployment, the policies of this administration toward the grave problems of defense conversion have been totally lacking. In fact, there is no real policy today toward the conversion from wartime to peacetime production—anymore than there are policies to make jobs for the millions of unemployed or for the control of our persistent inflation.

Like its approach to every other economic problem, the policy of this administration toward defense conversion is to "wait and see"—to "let the market adjust"—and to allow millions of highly skilled and highly educated men and women wonder why they cannot begin now to put their knowledge to work on our environmental crisis, our desperate housing shortage, our archaic transportation system, our crumbling cities, or our sick and malnourished.

We have taken the first steps—however small and tentative—toward an end to the war in Vietnam and a reordering of our national priorities. Let us not throw away the limitless potential of this step by proving ourselves unable to realize that we can do with these resources. Let us not step from the wasted billions upon moon shots, armaments, and unnecessary Pentagon hardware to the even more unconscionable waste of still higher unemployment.

We cannot afford to stumble into the blessings of peace with no adequate plan.

We cannot afford to reorder our priorities only half way, cutting out billions of dollars of Pentagon waste without redirecting those billions into productive work.

The Congress has faced up to its responsibilities to provide a positive program for reordering our priorities. We have added funds for education, over the President's veto. We have continued the Hill-Burton hospital construction program, also over the President's veto. We have added funds for water pollution and for urban renewal. We have refused to accept the administration's ill-advised cuts in health research. We have added funds for veterans' medical care.

But the most important action taken by this Congress to deal with our festering economic crisis was the Employment and Manpower Act. This act gave the Administration the basic structural reforms which it sought. It reduces the number of grantees from 10,000 to about 400. But the President vetoed the bill essentially because of its job-creation provisions. He also objected to the continuation of certain categorical programs.

Referring to the public service jobs which the bill authorized, the President said the program would "relegate large numbers of workers to permanent, subsidized employment." He said "Such a program would limit, not expand, individual opportunity." Surely, this is a new concept. How can a job for an unemployed person limit his opportunity?

Why does the President suddenly find public service employment is inherently undesirable? In 1969, 12.7 million people in the United States worked for Federal, State, and local governments. Perhaps the biggest single category of public employment is teaching school. Is a school teacher's job any less "dead end" than the teachers' aide positions which the bill would authorize.

These new positions would be proposed by State and local officials for performing needed public services. Could it be that the President's objection was based on the fact that these jobs would be subsidized by the Federal Government? What about the billions of dollars of Federal grants which now subsidize road building, and water pollution, and elementary education, and meat inspection, and flood control, and medical research? It cannot be simply that these jobs would be federally subsidized. Indeed, the administration has agreed to support the proposed public service jobs for welfare recipients which will be offered as an amendment to the family assistance program.

Public service employment has been growing steadily in the United States. It has more than doubled in the last 20 years, from only 6.4 million in 1950 to about 13 million today. The total number of new public service jobs authorized in the fourth year of the Employment and Manpower Act would be under 400,000. This is only equal to the annual increase which we have been experiencing in public employment. A recent study showed an unmet need for 5 million badly needed, additional jobs in the public service.

Furthermore, this bill contains all the provisions looking toward training, upgrading, and movement into private sector jobs that were in the House bill and favored by the President. It lacks only a punitive provision to cut off funding when it proves infeasible to transfer a person from public employment to private.

What the manpower bill would do is make it possible for hard-pressed States and cities to offer badly needed services for example, in nursing homes, day care centers, hospitals and schools. Public improvements would also be aided, such as parks, roads, urban renewal and pollution control.

It also would guarantee for the first time, a fair share in manpower programs for migrants, Indians, older persons and those who do not speak English as their first language. The Congress has learned only too well that, without such statutory assurances, these groups will be left out.

Mr. President, the Congress has conceived an imaginative and far-reaching approach to dealing with the problem of persistent unemployment in an inflated economy. It substantially carries out one of the President's three principal legislative recommendations for welfare

and manpower reform and for revenue sharing.

Apparently, the administration does not accept the approach of our bill because it conflicts with the President's game plan for cooling the economy through high unemployment. As everyone now realizes, this plan depends on putting more and more people out of work. Since last November, 1.9 million have been added to the ranks of the unemployed—raising the figure to 5.8 percent of the work force, or 4.6 million people. This is the highest unemployment rate in 7½ years.

I think it is time for the administration to stop playing games with American workers. What we need is more jobs. Our bill would provide those jobs. I hope that the House and the Senate will meet their responsibilities and vote to enact this landmark bill over the President's veto.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 4 minutes.

Mr. PERCY. Mr. President, it is with much regret that I have come to the conclusion that I must vote to override the President's veto. I regret doing so because I know how very deeply the President feels about the matter.

I believe so deeply in the concept of public service employment—and this seems to be a good concept at a time of underemployment and unemployment—that rather than scrap this program and start over again, I think it would be better to enact this bill and to modify and amend the program at some later time if that should prove necessary.

I support what the Senate has produced and I supported and voted for it in the original instance as well as in the conference report.

I do so for several reasons. First, I believe that today the Federal Government through the welfare reform bill is moving to take over more of the responsibility of welfare. We should also move very rapidly to do as much as we possibly can to provide employment rather than just welfare for people.

Second, I think this bill is not inconsistent with the administration's principle because just yesterday the Secretary of Housing and Urban Development announced that he was creating 20,000 jobs in HUD to take the scientists who are unemployed—and there are 45,000 of them unemployed—and put them to work on the problems with which HUD is concerned. So, in principle the administration has accepted the fact that they are going to have to provide employment rather than to have idle, unemployed scientists sitting at home doing nothing and drawing welfare when there are problems that the Nation faces now that these brilliant men can put their minds to solving.

Third, I will vote to override the veto because I think it is consistent with what the American people want. I have surveyed a number of times the attitude of people in my State as to whether they agreed with the principle that a man who is able and willing to work should have a job, and not just welfare and that he should have a job even if the Government must become an employer of last resort.

I would say that 75 to 80 percent of the people in the State of Illinois responded favorably to that inquiry.

I have heard it said that people do not want WPA projects. I relate a personal incident in the days of the thirties when WPA furnished jobs.

I knew a family on relief. That family was mortified to accept any benefits without working for them. However, they had no alternative. The husband was unemployed. The wife could not find a job. She was an unemployed musician. In those days who wanted to employ a musician?

The State of Illinois created the Illinois Symphony Orchestra. The wife played a violin and was given a chance of employment. She received $90 a month for doing something, the same amount that she had received for doing nothing. The morale of that family simply jumped. She had a chance to retain her dignity and pride.

What did that orchestra accomplish? They played 8 hours a day before grammar and high schools in the city of Chicago. Those students would not have had that kind of educational experience otherwise.

I know what it did to this family because it was my family. I was one of those children. For a year and a half, WPA saved the dignity of that one family as it did many other families. The cost was about the same as it would have been if those families had done nothing. Some employment was created for them in some sort of special category.

We want to take the people and try to give them dignity and training, and the best training is on-the-job training. We want to give the person a chance to work. In fact, I am for the Nixon reform program because it requires people who are on welfare to work.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. I yield the Senator 1 additional minute.

Mr. PERCY. Mr. President, I strongly support many of the programs of the administration. The administration, the President said in his veto message, has 3 programs he wants very badly: The Family Assistance Plan, and I support fully that program, the revenue sharing plan, and I support that plan, and manpower training, and I support that. This is not the plan he wants but it is as close as we can get to it.

Mr. President, in my view, public service employment offers individuals who are now demoralized by the lack of dignity which results from unemployment or from underemployment the opportunity to contribute to the public welfare. For example, there are hospital patients who are presently not receiving the care they should due to the lack of nurse's aides. Yet there are many individuals, now underemployed or receiving welfare benefits, who could, if given the opportunity, fill these jobs and thus help to give these patients the care they require. Public service employment could, benefit the entire nation by providing employment for those who are now unemployed or underemployed in areas where help is greatly needed.

Public service employment does not; necessarily result in "dead-end" jobs. There are programs now in existence, and I hope that more will be funded, which permit individuals to begin their employment at one level and, as they demonstrate ability and capacity, to advance to higher levels. The bill contains guarantees designed to assure those who are employed in the public sector that they will be able to advance as far as their capability will allow, either within the field of public service or within the private sector.

Finally, Mr. President, the public service employment program will not create a pool of "cheap labor." In my view, the bill contains that best safeguards obtainable under the circumstances to guard against this possibility.

Mr. President, for the reasons I have outlined, I feel that the bill, as vetoed by the President, is the best bill we could develop at this time and I shall vote to override.

Mr. HUGHES. Mr. President, at a time when the Nation's leaders of all political persuasions are seeking ways to minister to our stricken economy, it is both tragic and incredible that the President has vetoed the Employment and Manpower Act of 1970.

In the first place, this bipartisan legislation, developed after extensive hearings, executive sessions and consultations with administration representatives, is a specific remedy directed at the core of the economic malaise afflicting our country at this time.

In the second place, it is sound, carefully drafted legislation which is directly on target in meeting the very objectives that the President has called for in this area.

As several of my colleagues have pointed out, the veto message criticizes the Manpower Act for faults that it does not, in point of fact, possess.

The allusion to "dead-end, WPA-type jobs" is particularly unfortunate, since the kind of public service jobs covered by this bill would be sound, urgently needed employment with opportunities for training, advancement, and lasting usefulness that would strengthen our society, not just for a temporary emergency, but over the long pull.

I do not question the President's objectives for sound public service manpower legislation. Those objectives are shared by an overwhelming majority of the Senate, as shown by the vote of 68 to 6 by which the bill passed this body.

The point is that the bill, as passed by the Senate and as modified in conference, satisfied those objectives.

In a very puzzling way, the veto message seems to reflect a lack of understanding of the real provisions of the legislation.

The objections seem to be largely matters of misinterpretation or semantics.

Mr. President, with unemployment standing at 5.8 percent, the highest since May of 1963, with State and local gov-

ernments sorely pressed for manpower with which to provide critically needed public services, it is late in the game to deny critical human needs at this time of emergency for reasons that do not stand up under examination.

As a three-term Governor of my native State, I have had direct experience with manpower programs at the State and local levels.

I know what the Governors of our 50 States and the mayors of our cities are facing at this time.

It is significant that the U.S. Conference of Mayors protested the veto very strongly and a delegation of mayors had desperately sought to see him for a week prior to his veto.

In Iowa, in the late spring of 1967, we saw that there was serious trouble ahead if work was not provided for the unemployed young people in our cities. It was a crisis that had to be met quickly and decisively if severe trouble later on was to be avoided. In a matter of a few days, we had such programs going in five of our major cities and $150,000 privately subscribed to fund them.

And these young people were assigned, not to "busy work," inconsequential tasks, but to important public service jobs, such as assisting with the removal of thousands of diseased Dutch elm trees, that the cities did not have crews or funds to handle.

The point is that the emergency had to be met with prompt and decisive action—just as our present national emergency in manpower and public service needs to be met with the prompt and decisive action set forth by the Manpower Act.

We have heard a good deal from this administration about the new federalism.

I submit to you that the Employment and Manpower Act of 1970, with its decentralization of planning and administration to States and local communities and with its responsible funding of vital State and local government services, represents the efficient functioning of our Federal-State-local system at its best.

A study last year by Dr. Harold Sheppard of the Upjohn Institute surveyed the public service needs in a sample of cities. It concluded that at least 141,000 untrained people could be employed almost overnight in the 130 cities with over 100,000 population. A half million could be employed within a few months in smaller cities and State governments.

The jobs are there to be done. And there are people capable of doing them. What the State and local governments and other institutions need are the funds to pay the people for the work.

The bill which the President vetoed would have authorized funds to finance up to 80 percent of the costs of locally designed programs to meet local needs. Each billion dollars in Federal money would support about 250,000 jobs.

These jobs, as I have stated, would be useful and worthwhile—not unnecessary leaf-raking or make-work.

There are jobs waiting to be funded and filled—jobs in health facilities, in schools, in police and fire departments, in sanitation and waste disposal services.

It is not make-work if we can provide for more nurses' aides and orderlies in our understaffed hospitals. It is not make-work if we can add to our underfinanced police and fire department. It is not make-work if we can get more men to remove the mountains of trash from our cities and deny rats a place to live.

This would not be welfare. It would be a very prudent investment in our social well being. Economists believe that public service employment would have high returns for the individuals involved, who would gain in self-respect and skills as well as income. It would also have high returns for our society in the form of increased productivity. Some studies have predicted a return in extra GNP of from $4 to $12 on each dollar invested now in a new worker.

In his veto message, the President said:

> The administration is taking measures to expand economic activity and job opportunities.

But what are the facts? Unemployment is still rising. Now over 4.6 million people are out of work. The newspaper today reports that Christmas buying is so slow that thousands of people hired in past years could not find even part-time employment during this year's shopping rush.

The most recent figures show that industrial production has fallen more than in the 1960–61 recession.

Where are those jobs? Where is evidence of that expanding economy?

The current administration has made many promises about improvements, but it has not delivered. Only last week, the Secretary of Commerce had to admit that its highly touted black capitalism program had fallen short of the mark—only one fourth of the promised businesses had been established.

Yet here we have a program that would increase employment and provide vitally needed public services.

Furthermore, this bill would have done more than provide public service employment, although that was the most controversial feature. It would also have provided an expanded and more imaginative approach to manpower retraining.

Right now, the poor that we always seem to have with us are stuck in the ruts of unemployment, under-employment, and dead-end skills. We must help these people to climb out of those ruts and into new, lasting, and meaningful jobs.

We must remember that these people have families to provide for, bills to pay, future plans to save for. The real costs of unemployment or underemployment to them include hopes dashed, frustrations increased, and suffering prolonged.

And we must not forget that the real costs to this country include less productivity, less money going to shopkeepers, and less likelihood of domestic tranquility.

Can we, as the richest nation in the world, afford these costs? I think not.

The President was, I believe, profoundly wrong in his analysis of this bill and in his veto of it. These various programs would be an important step toward prosperity and toward the alleviation of some of our needs for public services.

In the light of our own objectives—and the stated objectives of the President himself—I believe we owe it to the people of America to override the Presidential veto.

Mr. NELSON. Mr. President, I yield 5 minutes to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, it is a great misfortune that the other 98 Senators were not able to hear the remarks of the distinguished Senator from Illinois. I say 98 instead of 99 Senators because one Senator is in the hospital. I feel if the other 98 Senators had heard the distinguished Senator from Illinois there would be no problem about overriding the President's veto because the reasons he gave were so cogent and unanswerable.

We have heard it said that we should come back next year and have thorough hearings. How could we have more thorough hearings than we have had already unless we consume two more years to have those hearings? There have been hearings on this matter during the past 2 years. The distinguished Senator from Wisconsin held hearings in a number of cities from Washington to the Pacific Ocean, including Cleveland, Oakland, San Francisco, Milwaukee, and a typical city in my State where over one-half of the people were unemployed Spanish Americans. The hearings cover 4,000 pages of testimony published in three volumes. Who is going to have more thorough hearings next year?

It is said that there is too much money involved, referring to the $9.5 billion. This is a 3-year authorization. Not one penny is appropriated. The authorization averages out to $3⅙ billion a year, I say to the Senator from Mississippi. The Senator has said it is too much. We are appropriating $66 billion for the military this year. Year after year during the 13⅔ years I have been in the Senate, I have stayed here while action has been taken on bills for health and education that take in 3 years. I point out that we never hear more than 1 year mentioned in connection with the $66 billion or $80 billion military bill. Why not say it is a bill for $198 billion? If that were done, we would get some basis of fair realization and comparison of what we are spending the money of the taxpayers for.

The hearings held in connection with this matter have been the most thorough that I have observed in my 13⅔ years in the Senate.

We have 80 million people in industrial employment, and 5.8 percent of those people are unemployed. We have 4.640 million unemployed industrial workers. The average family in this country consists of five people, so that would be 23.2 million people in those families of unemployed workers facing this bleak Christmas.

As we come to this vote I wish to mention that I looked out my window today and saw the heavy flakes of snow falling. I thought, "What a bleak Christmas for those 4,640,000 unemployed workers," and including the members of their fam-

ilies we are speaking of about 23,200,000 people. If we were to take those 23,200,000 people and spend just $100 a year for each person, the total would be $2.320 billion. Senators can figure it out. The purpose of this bill is to train people to earn money.

It has been pointed out by Senators on the other side of the aisle that this was a bipartisan bill in committee. It has been pointed out that these people will be on relief unless some make-work schedule is extended to train them. This is not a make-work program. It is a training program.

Amendment after amendment was offered by the Senator from New York (Mr. JAVITS) and all those amendments were accepted. So many of them were accepted that there was grumbling on this side of the aisle in committee that they had surrendered the entire bill to the other side.

We were shocked with this veto because of the administration's emphasis on decentralization. More power to the governors and the mayors is provided for in the bill. This is a bipartisan bill.

The veto on December 16 of the Employment and Manpower Act of 1970 is a great disappointment to those of us on both sides of the aisle who have spent more than a year working to effect major reforms in our present job-training programs. The bill is the result of a bipartisan effort, originally initiated by the administration, to engage in comprehensive reform of our present manpower programs. One object of the bill is to give State and locally elected officials an opportunity to help the Federal Government with manpower training programs. This objective, which was originally suggested by President Nixon, has been one feature of the Employment Act of 1970.

The bill has been strongly supported by the National League of Cities, the U.S. Conference of Mayors, the Urban Coalition, the National Association of Counties, the AFL–CIO, the Congress of American Indians, the National Farmers Union—as well as many other organizations and responsible individuals.

A second important feature of the bill was to provide special programs for certain disadvantaged groups. The bilingual training provisions are the first ever enacted by Congress. These provisions for special manpower training programs for bilingual persons of limited English-speaking ability, as well as several other groups, is a major advance in solving manpower training problems. The last Congress recognized the special problems inherent in the education of persons of Spanish-speaking background by passing a bilingual education act. That act would help children presently in school. This bill would provide manpower training to persons who have already left the school systems but whose lack of knowledge of English has created handicaps in their job placement. Training manuals, parts manuals, and technical reference books in most jobs—whether they be airplane mechanics, pilots, home building employees or the like—all require a working knowledge of English. In my home State of Texas, many of our best workers are deprived of advancement because of their inability to properly utilize these materials. The addition of this program to the bill will allow specialized training of these individuals and will open up thousands of jobs for them.

We also had in the bill a provision which would help the cities such as Corpus Christi, which was badly damaged by Hurricane Celia last summer. The Red Cross certified that 65,000 homes were damaged; and the bill contained a provision to retrain people where factories were destroyed and jobs were gone.

The bill also contains a title providing for public service employment. As envisioned by the committee, public service jobs would not be make-work jobs. Rather, they would be permanent jobs selected by the responsible local officials which, under the present tax structures of the local communities, could not be filled because of lack of funds. Employment and related training would be provided to allow vitally needed public services to be met. These would include jobs in the fields of one, health care, two, public safety, three, education, four transportation, five, pollution control, six, housing, and the like.

This manpower bill, which was two years in the making, passed the Senate on September 17 by a vote of 68 to 6, and I believe it extremely unfortunate that the President's advisers were so shortsighted as to recommend that he veto this bill. At the present time, there is a 5.8 percent unemployment rate in this Nation. Thousands of people are out of work and more are in danger of losing their jobs. Many of these individuals and their families would profit both by the training and the public service job opportunities which this bill created. Many individuals would be extremely grateful for the opportunity to work rather than receive unemployment compensation or relief payments. At the same time, the President is urging us to consider his family assistance program, he has vetoed a manpower training bill. What better family assistance is there than to give every individual the right to a job and training for a better job.

The manpower training bill would help relieve our unemployment, which is at a 7-year high. It would give new hope at Christmas time to individuals who do not know where they will be working, and it would, in fact, help to solve many of the problems of our local governments—giving them money to engage additional workers in vitally needed public service employment.

The bill is a moderate one. It has the backing of State and local officials throughout the Nation. It is a carefully thought-out bill, reached as the result of much compromise.

I hope and trust that the Senate will consider the need of the people of the United States this evening and will vote to override the President's veto.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from California (Mr. MURPHY).

Mr. MURPHY. Mr. President, I would like to say I am impressed by the rhetoric and the eloquence of the Senator from Texas and the Senator from Illinois but I would also like to say I find the logic not equal to the eloquence. I do not think there is anyone in the United States who is more conscious of the conditions of unemployment than the President. I have been concerned with this problem for many months. I would like to point out for the RECORD that this is not a question of need; this is a question of method. The President feels that the methods employed in the past have not worked to the degree we had hoped for, otherwise, we would not have so many persons still unemployed.

The President believes that state and local officials and citizens should have more control over the way moneys are spent in training programs. The President has confidence in their abilities and their decisions. So do I. That is the one reason for the difference and that is a reason for the veto. This, plus the fact I share the President's misgivings with respect to the public service employment, is the reason I shall vote to sustain the veto.

Mr. NELSON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. NELSON. Mr. President, the President has vetoed the Employment and Manpower Act of 1970, which was the result of more than a year of bipartisan effort in both houses of the Congress, and which would have carried out historic reforms in our presently ineffective and poorly organized Federal job training programs.

The bill was strongly supported by the National League of Cities, U.S. Conference of Mayors, Urban Coalition, AFL–CIO, Congress of American Indians, National Association of Counties, National Farmers Union, Leadership Conference on Civil Rights, and many other organizations and responsible individuals, including the leading manpower authorities of this country.

The bill had passed the Senate on September 17 by a vote of 68 to 6.

President Nixon himself was the one who initiated this legislation. In August of 1969, he called for comprehensive reform of our present manpower programs, shifting new responsibility to State and local elected officials. We agreed with him, and conscientiously undertook the difficult task of conducting the hearings, endlessly drafting and redrafting the legislation, repeatedly consulting and reconsulting with administration representatives, developing bipartisan support within the Congress, drawing together a balanced coalition of support from the innumerable affected constituencies including mayors and Governors, employees and employers, the poor and minority groups, labor unions and industry leaders, educators, and employment services plus a wide spectrum of manpower experts and concerned Americans. I see no hope of any new manpower legislation in the near future. It was only a matter of luck and endless months of negotiation and hard luck that made it possible during this session. Dramatic reform legislation is difficult to pass under any circumstance because so many powerful groups have a vested interest in the way things are now being done or a

strong emotional view on how they should be done. It is doubtful we can put together such a coalition again and even if it can be done the reforms so urgently needed will be delayed another 2 or 3 years. Meantime, we will bungle along with a manpower program that is collapsing because of bureaucratic red tape and falling apart because of confusion and lack of clear direction.

It was all so unnecessary, that is the tragedy. The differences between what the President asked for and what the bill provided are not real, only semantics. The President's advisors have done him a grave disservice and the country, too.

I do not blame the President. His burdens are heavy, and it is necessary that he rely upon his advisers. In 1 hour with the President a bipartisan group of legislators could, in my judgment, have demonstrated to him that the bill is sound, that it accomplishes the basic reforms he so rightly sought and that the differences are too minimal to justify a veto.

Furthermore, the President, a former distinguished legislator himself, would have understood the necessary compromises that were made just as his advisers did not. If the public service jobs in this bill were in fact deadend, WPA-type make-work jobs, I would have vetoed the bill, too, if I were in his position. They were not that kind of job. They were real, necessary jobs performing important services. In fact, the bill gives the Secretary of Labor full authority to veto any prime sponsor program that he does not believe is sound.

WHERE ARE THE JOB OPPORTUNITIES?

Every serious study of the problem of poverty, hunger, and civil unrest which has been made in recent years—and there has been several very fine ones—has come to the conclusion that we have got to do a much better job of bringing the poor, the unskilled, and the handicapped into the mainstream of the American work force.

Simply stated, jobs are the answer.

This is what the experts tell us. This is what the public also says in public opinion polls. No one really wants handouts. The public does not want to give handouts, and most self-respecting people don't want to accept them.

Jobs are the answer.

Obviously, if we are to put more people into jobs, we must channel them into those areas where the jobs are to be found.

Government happens to be the largest employer in America.

In State and local service alone, there are more than 10 million jobs. In Federal service there are another 2,650,000 jobs. In the month of November 1970 according to the Bureau of Labor Statistics, there were almost 13 million people employed in local, State, and Federal jobs. By comparison, all manufacturing jobs in America, durable and nondurable goods, total about 18.6 million. Government employees comprise 15 percent of the total labor force.

Most of our manpower training programs in the past have been aimed at trying to place new workers in jobs in the private sector, with a heavy emphasis on manufacturing. These efforts should continue, but they obviously cannot do the whole job—especially at a time when unemployment is steadily increasing.

If we are going to have the kind of comprehensive manpower program which the President, the academic experts, and leaders of both parties in the Congress have demanded, then we cannot ignore the largest employer of all, which is public service, especially at the State and local level.

The unskilled, the disadvantaged, the handicapped and the poor have traditionally faced almost insurmountable obstacles in finding job opportunities in Government, especially at the State and local level.

Many are blocked by strict civil service rules, educational requirements and lack of previous job experience. Others are blocked by prejudice, ranging from actual racial discrimination to a simple lack of experience on the part of Government employers in recruiting and employing the disadvantaged.

The fact is, few State and local governments are equipped to employ the disadvantaged in their present systems simply because they do not have the kind of training programs necessary to give them the qualifications to hold the job. I want to emphasize that when we talk about creating job opportunities for the disadvantaged in public service, we are not talking about trying to force people into positions they are incompetent to hold. Expert witnesses testifying before our committee have concluded that the potential among the disadvantaged, as a group, is almost exactly the same as the potential among the general population.

What the disadvantaged need is a program which will make up for some of the failures of the past, in education, in skill development, and creating good work attitudes, and this is the bill to do that.

Government has insisted that the private sector assume a moral responsibility to develop jobs for the disadvantaged, even though this is a difficult task which often leads to increased costs of doing business.

Certainly Government cannot make this demand of the competitive private enterprise sector while refusing to accept the same responsibility itself.

Perhaps the biggest single obstacle to finding job opportunities in Government service is the growing financial crisis at the State and local level, where the outmoded and inequitable property and other revenue sources have simply been unable to keep up with actual needs.

Mayors, county executives, Governors, and expert researchers have told our committee of literally millions of jobs—vital, necesary jobs—which are remaining vacant simply because the communities do not have the funds to fill them.

The Employment and Manpower Act, strongly supported by the National Civil Service League, the National League of Cities, the U.S. Conference of Mayors, and the public employee unions, offered the opportunity for a breakthrough in filling these job opportunities in State and local service.

It would do something about civil service rigidities.

In order to qualify for public service employment, a governmental sponsor would have to outline "ways in which the program shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged."

It would, of course, forbid racial discrimination, but much more importantly it would require public service employers to set up innovative new systems for interviewing, job counseling, training, and upgrading.

And finally, and most important, it would make the Federal Government a partner with hard-pressed State and local government in bearing the cost of this program, which is so vital to our national interest. The bill would authorize the Secretary of Labor to provide up to 80 percent of the cost of a public service employment program, so that communities which wanted to proceed in good faith to open up these jobs to people who so desperately need them would not be blocked by the financial crisis which faces most of our cities and States.

What an irony it is that one spokesman for the administration—Secretary of Health, Education, and Welfare Elliot Richardson—has endorsed public service employment for welfare recipients in the family assistance plan, while the Labor Department representatives demanded a veto of the manpower bill because it contained public service employment.

So we now have a situation where the manpower legislation was vetoed because it provided public service employment while the family assistance plan is supported by the administration because it does provide public service employment.

The administration's position is all the more impossible to understand when one sees that the administration-supported Ribicoff-Bennett family assistance plan does not contain the penalties insisted upon in the manpower bill cutting down the Federal share of any State, city, or county which is unable to meet quotas set by the Labor Department bureaucracy for removing people from public service jobs who have not been able to find other jobs.

The administration-supported family assistance plan provides for a Federal share of "80 percent of the cost of providing employment to any individual thereunder, unless the Secretary of Labor determines a higher percentage is necessary to carry out the purposes of such program". That is no different from the Federal share in the Manpower Act passed by both Houses of Congress.

Yet the Assistant Secretary for Manpower told members of the conference committee during its deliberations on the manpower bill that language which is good enough for the family assistance plan is not good enough for the manpower bill. The Labor Department spokesmen told us that we should put in a provision mandating less than 80 percent in subsequent years if cities, counties, and States failed to meet their

Washington-dictated quotas for getting people out of public service employment.

In other words, while the administration-endorsed family assistance plan provides a Federal subsidy of 80 percent or more for welfare recipients, the Labor Department wanted Federal support of 80 percent or less for public service employment for unemployed persons under the Manpower Act.

What kind of public service employment did the administration endorse for the public service employment program in the family assistance plan, and how does it compare with the provisions of the manpower bill's public service employment provisions? The Ribicoff-Bennett amendment provides that the family assistance plan's public service employment shall be designed with a view toward developing new careers—so does the manpower bill; providing opportunities for career advancement—so does the manpower bill; providing opportunities to continue training including on-the-job training—so does the manpower bill; enabling individuals employed under public service employment programs to move into public or private employment not supported under this or any similar Manpower Act—so does the manpower bill.

So it is very difficult for me to understand why the administration can on the one hand endorse a public service employment in the family assistance plan which has substantially the same concept as that in the Manpower Act which has been returned to the Senate with a veto message.

In the Employment and Manpower Act, we gave the President every basic feature of manpower reform which he requested in his August 1969 message.

We also gave him something which responsible spokesmen all over this Nation told us was a vitally necessary addition to a manpower training program—a system of public service employment designed and operated for the most part by the same State and local officials who would have run the manpower training programs. This concept—public service jobs to fight unemployment and at the same time raise the quality of public services—was considered even more urgent than manpower training by many of those who testified before our committee.

In fact, the National Conference of Governors, which had failed to reach a united position on either the administration's manpower bill or the compromise bill passed by the Senate, strongly supported public service employment.

In its "Policy Statements on Human Resources" issued on July 9, 1970, the National Governors Conference said:

> We urge an additional Federal program for creating new Federally financed job opportunities and related employability development and training.

That is what the Congress did in the Employment and Manpower Act—comprehensive reform of manpower training programs combined with a broadly supported public service jobs program.

The veto is a deep disappointment for the thousands of unemployed people who would have benefitted from it, and to the many mayors and Governors who were already getting ready to put it to work to provide badly needed training and jobs.

The bill was without any question whatever the most comprehensive training and employment bill ever enacted by Congress.

The veto leaves our job training programs—which already cost more than $1.5 billion a year—in a state of disarray, with the Department of Labor trying to monitor more than 10,000 contracts with a fantastic variety of different kinds of contracting agencies and organizations.

The veto message which was prepared for the President does not accurately reflect the provisions of the bill and in fact is refuted by the specific language of the act. This, I emphasize again, is not the fault of the President. It simply is not possible to expect him to read the several hundred pages of testimony, the bill, and the committee report.

Let me take up these points one by one.

First, the message put most of its emphasis on a charge that the bill would have created "dead end, WPA-type jobs," and thus was "a reversion to the remedies that were tried 35 years ago."

Nothing could be farther from the truth.

In fact, the most significant dispute we have had with administration spokesmen on this issue has been our absolute determination that the public service jobs in this bill would be good jobs, with a strong guarantee of training, opportunities for promotion and career development, and assurances that the employees would either move up within public service or out to jobs in the private sector.

Here are some of the facts:

The Labor Department tried to set the salary for public service jobs at 80 percent of the prevailing wage. We insisted that it was unconscionable to have public employees working side by side, doing identical work, with one earning one-fifth less than the other. Both in committee and on the Senate floor, we defeated this attempt to create a new "poverty corps" of substandard public jobs.

They tried repeatedly to make certain that the public service jobs in this bill were purely temporary, by limiting the period of employment—limits ranging from 6 months to 2 years were proposed. The mayors, Governors and county executives who would have run this program have told us repeatedly that they cannot provide good jobs, with responsible duties and worthwhile training, and with career development opportunities, if those jobs are branded purely temporary at the outset. Temporary jobs by their very definition are make-work jobs. This is what the Labor Department requested—and this is what we refused to give. We defeated this position in committee and on the Senate floor and in the conference committee.

The Labor Department tried to tie the hands of mayors, Governors and county executives with a requirement that they agree in advance to move public service employees into private jobs or lose some or all of their 80 percent Federal financing for the program. This was a totally unworkable provision—how can the mayor of Seattle, with unemployment at 12 percent or more of the work force, certify in advance that he will place people in private jobs next year—and it was one more step in the effort to downgrade public service employment. The Senate and House conferees rejected this proposal.

In contrast to these Labor Department proposals to create a vast "poverty corps" of people in temporary, make-work jobs with no future, let us look at some of the creative proposals contained in the bill.

First of all, these public service job programs would be planned entirely at the State and local level. Mayors, Governors, county executives, and certain other eligible applicants would be required to make a comprehensive inventory of the unemployment and poverty in their communities, and of the need for certain kinds of public services. They would be advised by a locally selected Manpower Services Council, representing the school system—including vocational schools—business, labor, welfare agencies, employment service, Community Action Agencies and so forth.

These responsible local officials, responding to this careful inventory of community needs, would then make an application to the Secretary of Labor to operate a public service employment program.

The application must outline a plan to provide employment and related training and manpower services which would not otherwise be available for vitally needed public service including health care, public safety, education, transportation, recreation, pollution control, housing, rural development, and so forth.

The bill requires that special consideration be given to "jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services."

The bill requires that these programs "promote the advancement of participants to employment or training opportunities suitable to the individuals involved" whether in the public or private sector.

The bill requires that employees be trained in "skills for which there is a high demand."

The bill requires special consideration for graduates of separate manpower training programs, many of whom now complete their training only to find no job at the end of the line in an economy with the highest unemployment in 7 years.

The bill requires that the status of every employee be reviewed annually by an agency selected by the Secretary of Labor to see if the worker should be promoted upward within the system, or moved outward to private job opportunities if his present job does not offer satisfactory prospects for advancement or suitable continued employment.

That is the concept of this bill—good jobs, carefully built into an expertly designed local manpower training and employment program, with training tailored to individual needs, with a help-

ing hand toward promotion within or outside the system.

This certainly is not WPA-type jobs or dead end employment.

Incidentally, the reference to WPA invite some comparisons.

In the 1930's, we had as many as 4 million people working under federally subsidized public jobs—in the CCC, NYA, PWA, and WPA. Our population then was roughly 60 percent of what it is today. Our gross national product, even measured in current dollars, was roughly one-fifth of what it is today.

Yet that much smaller country, out of a much smaller gross national product, found it necessary to put as many as 4 million people to work at one time to prevent very serious consequences.

Compared with that massive effort in the 1930's, what are we proposing today?

To cope with 4 million, 800 thousand unemployed; to augment training programs which presently have about half a million people in training with little assurance of employment in the near future, to strengthen the public services which are rapidly deteriorating all across the country, we have proposed a modest bill which could create an estimated:

Some 40,000 jobs in this fiscal year.

From 100,000 to 180,000 jobs in fiscal 1972.

Up to 245,000 jobs in fiscal 1973.

And up to 310,000 jobs in fiscal 1974.

All of this would depend, of course, on the funds authorized in this bill being appropriated by the Congress and approved and spent by the executive branch.

I think if any serious criticism could be leveled against this bill, it would be that it is such a modest half-step in the direction of doing what clearly must be done if we are to cope with unemployment and the unrest, discontent, and simply wasted human resources that result from it.

The next most serious charge which the veto message makes is that the bill "raises the number of narrow purpose program categories from 14 to 22, whereas the administration's proposal would have established a single, broadly defined manpower program."

First of all, the numbers used in the veto message are meaningless. There are not 14 programs in the present law and there are not 22 programs in the vetoed bill.

Most of the existing programs are not even mentioned in the existing law. They operate under the broad authority given to the Secretary of Labor.

The Labor Department has repeatedly assured us that most of the present programs will be continued, in approximately the same manner, whether they are mentioned in the law or not. The Department has personally assured me that Operation Mainstream, for instance, will not only continue but will be expanded. They have assured the Reverend Leon Sullivan in Philadelphia, and his many supporters, that the program known as OIC—Opportunities Industrialization Centers—will be continued. They certainly intend to continue the Job Corps—it was written into the administration's own bill—and the program known as JOBS—Job Opportunities in the Business Sector—which the Labor Department has made the most favored program of all.

So it is the Labor Department itself which has provided assurances that most of these programs will be continued under the Secretary's broad authority which both the present law and the vetoed bill give him. All we did was list several of the programs which we felt must be continued, at least during the transition period, when two-thirds of our national manpower training resources are being shifted over to mayors, Governors, and county officials to operate newly designed programs.

We did not earmark funds for any one of these categorical programs. The Secretary himself will decide whether $1 million or $10 million or $100 million will be spent on any one of these programs.

The Secretary also has authority to decide whether these programs shall be run through the new network of State and local "prime sponsors"—Governors and mayors, for the most part—or through contracts with other eligible organizations or units of Government.

Who could possibly object to this section of the bill?

No one could seriously propose that we utterly abolish every manpower program now in operation, wipe any mention of them from the bill, and start from scratch with new sponsors, most of whom have never operated manpower programs in the past.

Yet the veto message, using meaningless figures and a distorted concept, escalates this trivial difference of opinion over the future of categorical programs into a major reason for vetoing the most comprehensive work and training bill ever passed the Congress.

Perhaps most ironic of all is the manner in which the veto message harkens back to August of 1969, when the President called for manpower reform, revenue sharing, and the family assistance plan, and then goes on to chide the Congress for not having granted these requests.

In the first place, as I said at the outset, the Employment and Manpower Act gave the President everything he asked for in manpower reform.

But in addition, let me point out that the very things objected to in the manpower bill are contained in both the revenue sharing and family assistance proposals.

We have asked administration officials this question:

Is it not correct that if revenue sharing is enacted, mayors and Governors could use the funds to create permanent, public service jobs—with no strings attached?

Their answer is, of course they could. They could use revenue sharing for the exact purpose which the President says in this message is unacceptable.

If the President could hear the other side of the argument I am confident he would request that we override his veto because this bill provides all the basic reforms he so correctly and sensibly urged upon us. Its enactment would be a major credit to the President and a great step forward for the country.

UNEMPLOYMENT STATISTICS AND THE MANPOWER VETO MESSAGE

In the veto message is the following statement:

> I am not satisfied with the present overall unemployment rate (5.8%) even though the unemployment rate for the heads of families is much lower (3%). The Administration is taking measures to expand economic activity and job opportunities. Our main objective is to achieve a stable growth while actively reducing unemployment.

Certainly the impression left by these words is that unemployment is not really as bad as it may seem at first glance, and that things are getting better all the time.

Actually, the reverse is true. Unemployment is actually far worse than it has been protrayed in its impact on the persons who were to be served by the Employment and Manpower Act. And things are not getting better, they are getting worse all the time.

Let us take a look at a few cold facts on unemployment, as reported by the Labor Department's own Bureau of Labor Statistics.

Unemployment in November 1970 was the highest since May 1963. The rate is now 5.8 percent.

In just the 12 months since November 1969, we have added to the unemployment rolls 905,000 adult men, 565,000 adult women, and 435,000 teenagers—an increase in the ranks of the unemployed of 1,900,000 persons.

But, bad as that jobless rate of 5.8 percent appears, the situation is far worse among those who would have been especially helped by the Employment and Manpower Act.

Among Negroes, the unemployment rate is 8.8 percent.

The most serious increase in unemployment from October to November was among young women, 20 to 24 years of age. Their rate of unemployment is now 9.5 percent.

Among young women 16 to 19 years of age, the unemployment rate is 18.6 percent.

Among young men 16 to 19 years of age, the rate is 17.5 percent.

Among nonwhite teenagers—16 to 19—the rate is a shocking 31.9 percent.

The veto message seems to say:

> Let's not talk about 5.8% unemployment among the work force as a whole. Let's talk about 3% unemployment among heads of families.

But how can such logic be justified? The manpower programs involved in the Employment and Manpower Act are not designed to serve the entire work force, and they certainly are not specifically designed to serve the group broadly classified as "heads of families." Many manpower programs, such as the Neighborhood Youth Corps and the Job Corps, are made up almost 100 percent of people under 22, and mostly teenagers. Almost all manpower programs have a heavy percentage of youth in them. Also, most of the programs have high percentages of nonwhites, ranging from 21 percent in Operation Mainstream, to 35 percent in MDTA on the job training, to 48 percent in the Neighborhood Youth Corps,

to 58 percent in the Job Corps, to 61 percent in New Careers, to 65 percent in the concentrated employment program, to 78 percent in the JOBS program.

How can anyone justify talking about a 3-percent unemployment rate, when the people to be served by this act have unemployment rates ranging from 8.8 percent, to 17.5 percent to 18.6 percent to 31.9 percent?

The message's use of the 3-percent unemployment rate for heads of families is an example of the selective use of statistics. It is true that the rate for November was 3 percent male heads of families—a total of 1,274,000 unemployed men—but the rate among female heads of families was 4.9 percent—another 330,000 unemployed. The rate for all married men was 3.2 percent and has been increasing steadily since last winter, according to the Labor Department.

In other words, even for the favored group the message talks about, the situation is becoming steadily worse.

There is one more important point to remember in understanding this tricky business of unemployment rates.

The administration has done a lot of comparing, designed to create the impression that, bad as it is, unemployment is not nearly as bad as it was under previous administrations. That again is a serious distortion of the facts.

Today's unemployment rate figures cannot be compared with rates prior to 1965.

In 1965, a change was made in the definition of unemployment. At that time, the Labor Department stopped counting trainees in manpower programs as unemployed. That has the effect of reducing the unemployment rate by about fourtenths of 1 percent. Furthermore, in 1967, the Department tightened up the definition of seeking work. According to Prof. Charles Killingsworth, a distinguished manpower economist from Michigan State University, this further reduced the unemployment rate by twotenths of 1 percent. Combined together, the 1965 and 1967 changes reduced the unemployment rate by 0.6 percent.

Therefore, without quarreling in any way with whether these changes should have been made, the fact is that unemployment rates prior to 1965 must be reduced by 0.6 percent in order to be compared with today's rate.

In other words, the present rate of 5.8 percent is actually equal to an unemployment rate of 6.4 percent in pre-1965 terms.

Unemployment has exceeded 6.4 percent on only two occasions since the Korean war—in 1958, when it was 6.8 and in 1961 when it was 6.7 percent. Thus, despite the efforts of the administration to minimize the problem, unemployment is worst today than it was in 1953, 1954, 1955, 1956, 1957, 1959, 1960, 1962, 1963, 1964, 1965, 1966, 1967, 1968, and 1969.

Mr. President, I ask unanimous consent to have printed in the RECORD certain items bearing on the subject under discussion at this time.

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

WASHINGTON, D.C.,
December 18, 1970.

HON. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Manpower, and Poverty, Old Senate Office Building, Washington, D.C.:

The President's veto of the 1970 Employment and Manpower Act must, in the best interests of the people of the cities of this Nation, be turned around. We urge an immediate congressional override on this critical issue. The President has misinterpreted the intent of the legislation, and the result is that thousands of unemployed individuals in this country will continue to be hopelessly unemployed. This legislation creates employment in the cities, with adequate training provisions to create significant promotional opportunities for those employed. We continue to find it inconceivable that the President, himself, has killed his own first major domestic new federalism law to provide local capability to cope with disastrous local unemployment problems. This concept has received top priority with the U.S. Conference of Mayors since 1967, and has now received the widespread approval of public interest groups throughout the Nation. And, of course, it has also received the approval of the Congress of the United States. This program is not stop-gap and it is not dead-end. It is our last hope to turn back the hopelessness of thousands of individuals. The mayors of the Nation see these individuals every day, live with them, talk with them, and desperately try to help them. The mayors must have the resources to provide that help. We must have the override of this veto. Now.

Mayor Joseph Alioto, San Francisco, Calif., Mayor Frank W. Burke, Louisville, Ky., Mayor Thomas D'Alesandro, Baltimore, Md., Mayor Richard Daley, Chicago, Ill., Mayor John Driggs, Phoenix, Ariz., Mayor Peter Flaherty, Pittsburgh, Pa., Mayor Roman Gribbs, Detroit, Mich., Mayor Harry G. Haskell, Wilmington, Del., Mayor John Lindsay, New York City, N.Y., Mayor Henry Maier, Milwaukee, Wis., Mayor Sam Massell, Atlanta, Ga., Mayor Carl Stokes, Cleveland, Ohio, Mayor James Tate, Philadelphia, Pa., Mayor Wesley Uhlman, Seattle, Wash., Mayor Kevin White, Boston, Mass., Legislative Committee of U.S. Conference of Mayors.

[From the Washington Post, Dec. 18, 1970]

STRANGE VETO OF THE MANPOWER BILL

President Nixon's veto of the employment and manpower bill is a strange sequel to his pull-together appeal in his news conference last Friday. At that time he said that, with the election over, he has a responsibility "to work with those men and those women elected by the people in 1970" and that he hoped Democrats and Republicans would work with him on future programs. But his veto probably kills a bill on which there was a large measure of compromise—a bill designed to aid the economic recovery in which he is so much interested.

The President rests his case on two chief complaints about the bill. First, he contends that, as finally passed, it would perpetuate and increase the "narrow categorical programs" which he wished to abolish in favor of "a single, broadly defined manpower program." Second, he says the bill is "completely unacceptable" because 44 percent of the funds authorized would go for "dead-end jobs in the public sector." These "WPA-type jobs," he says, would not expand individual opportunity but would "relegate large numbers of workers to permanent subsidized employment."

If these objections rested on solid ground, a veto would appear to be justified. But the President's view of the bill differs sharply from that of its sponsors. Instead of creating more uncoordinated programs, sponsors of the bill say, it would achieve about two-thirds of the consolidation the President requested. One estimate is that the bill would reduce the number of sponsors of manpower programs from 10,000 to possibly 400. The Senate refused to go all the way with the administration's proposed merger of manpower training programs under the authority of the states and cities, because it believed that there is still room for some innovative or demonstrative training programs on the federal level. It is difficult to find justification of the veto in this relatively minor deviation from the White House view.

Far more serious is the fear that the bill would subsidize make work of the type that was discredited during the great depression. But Congress built in substantial safeguards against any reversion to WPA days. The basic purpose of this section of the bill is to provide training for persons who could be usefully placed in state and local governmental jobs that are not now filled. Many of these jobs are in hospitals, public recreation, sanitation service and so forth. In the past the unemployed have been trained for a great variety of jobs, but many have found nothing to do at the end of their training. Congress proposed to provide funds so that they could get some actual work experience in the public service, with the expectation that most of them would then graduate into private employment.

The Senate refused to compel a fixed quota of the trainees to move out of public jobs within a specified period. But it wrote several safeguards into the bill. The Secretary of Labor could reject any state or municipal plan lacking provisions for upgrading trainees and helping them to move on to better jobs. The bill as passed would also require an annual review of the situation, with power in the secretary to cut off funds for any program that might lapse into the WPA pattern.

Some of the language in the veto message raises a serious question as to whether the President fully understands what Congress was trying to do. It is a pity that he did not further scrutinize the bill with the help of Senator Javits or the U.S. Conference of Mayors, whose spokesmen were clamoring to be heard. Rumor has it that the Department of Health, Education, and Welfare and the Office of Economic Opportunity were also eager to have the bill signed.

If Congress fails to pass the bill over the President's veto, it seems probable that the controversy will flare up again in the tense political atmosphere of 1972 when the present Manpower Training Act expires. The Senate Committee on Labor and Public Welfare has indicated that it will have no time for manpower legislation in the 1971 session. An upset of this veto could in the end be an advantage to the President as well as to the unemployed who are looking for additional training and opportunities.

[From the New York Times, Dec. 18, 1970]

RIGIDITY ON MANPOWER REFORM

President Nixon's veto of the manpower bill is an expression of executive inflexibility that will discourage both the unemployed and the cities that could use their services in productive public jobs.

The bill's language provided the Secretary of Labor all the latitude he needed to make sure that the employment opportunities proposed for the public sector did not turn into dead-end jobs, much less leaf-raking activities of the kind the President conjured up with his contemptuous reference to the WPA of the thirties.

There was some substance to Mr. Nixon's complaint against the freezing into the bill of specific categories of job training in particular programs, but even on this point the objections ignored the discretion vested in the Labor Secretary to decide on fund allocations and other details.

Inevitably, the unemployed will interpret the veto as a mark of the low priority the Administration gives their problems as

against the solicitude it shows for ailing defense manufacturers and railroads and its strong fight in support of the SST. That sense of limited concern for human problems will be deepened by the simultaneous disclosure that the White House is considering a cut-off in funds for VISTA as part of a 23 per cent slash in all antipoverty appropriations.

For the hard-pressed cities, the veto means another despairing wait for adequate answers to problems they cannot meet without large-scale help from Washington.

[From the Milwaukee Journal, Dec. 18, 1970]

MISTAKEN PRESIDENTIAL VETO

President Nixon's veto of the comprehensive manpower bill, coming after the administration's gutting of job training programs, builds up a shocking record of neglect and unconcern in this vital area.

Its public service employment feature was recommended by the president's Advisory Commission on Civil Disorders, which investigated the ghetto riots of 1967. The commission proposed a three year program to create up to one million jobs. These would not have been "make work" jobs, but would be permanent. They would have been created by mayors, county officials and governors to meet local needs in hospitals, police departments, education, health, recreation, sanitation and other services which need expanding.

The manpower bill, largely the work of Sen. Nelson (D-Wis.) and his staff, provided the first concrete step toward the goal of increased public service employment. It also would have brought together under the labor department all the government's manpower funds and tightened job training programs, now scattered among 10,000 separate private contractors over the nation.

The Nixon veto is hard to understand. This is what the president said Aug. 12, 1969, in a message to Congress:

"Manpower training means: (1) making it possible for those who are unemployed or on the fringes of the labor force to become permanent, full time workers; (2) giving those who are now employed at low income the training and the opportunity they need to become more productive and more successful; (3) discovering the potential in those people who are now considered unemployable, removing many of the barriers now blocking their way."

Congress strongly supported the manpower bill because of the shaky state of the economy and because the high unemployment brought home the need to do something—and now. Nixon's veto ignored the seriousness of the situation and the mounting concern about joblessness and inflation. The veto should be overridden by Congress.

[From the Evening Star, Dec. 19, 1970]

A VETO THAT SHOULD NOT HAVE BEEN

(By Michael Harrington)

President Nixon has vetoed one of the most hopeful pieces of legislation passed by the 91st Congress.

The proposal was sponsored by Sen. Gaylord Nelson, D-Wis., as an amendment to a manpower act. It provided that the federal government pay up to 80 percent of the cost of funding public service jobs at the state and municipal level at a price of $4.5 billion; 310,000 employment openings would be created over a period of four years.

The Republicans tried to get a provision added which would have guaranteed that these jobs be only temporary. When they lost that battle, they started maneuvering for a presidential veto.

Nixon, who often seems to be obsessed with the value of work, went along with his party. He is willing to sponsor legislation in which people can be forced to work by local officials in order to get their full welfare benefits, but when it comes to actually generating a useful—sometimes desperately urgent—public service job he balks. His puritanism about work extends only to the point of making people scramble for employment in a labor market with almost 5 million jobless.

There is a long history to the Nelson proposal. As far back as 1966, Lyndon Johnson's Automation Commission pointed out that there were over 5 million jobs waiting to be filled in the public service area.

Then, in 1968, the Riot Commission recommended that a million of them be funded at once. The federal money went instead to subsidize hiring in the private sector, giving the corporations a handsome bonus for employing men they badly needed. Now, with the Nixon recession in full swing and unemployment on the rise, Nelson revived a modest version of finding public service jobs.

But Nixon and the Republicans cannot accept this humane legislation. One reason for their reactionary attitude is that they refuse to recognize how the labor market is changing.

A generation ago the great mass of Americans found jobs in mass production industry as semi-skilled workers tending machines. But by the middle of the 1950s the number of white collar workers exceeded the blue collar. By 1980, according to a recent Department of Labor study, there will be as many "professional and technical workers" as factory workers—and that former group is not simply white collar, but college-educated as well.

Given these trends, there are going to be fewer and fewer unskilled and semi-skilled jobs. In the coming decade when professional and technical workers will increase by 50 percent, non-farm laborers will drop by 2 percent and assemblers and truckers will go up by only 10 percent.

If that trend is not dealt with there will be a permanent reservoir of people who are unemployable, or else employable only under inflationary conditions when industrial capacity is straining at its very limits.

It is within this context that, ostrich-like, Nixon and the Republicans are insisting on 1930s conservatism for the 1970s.

For it is a reactionary article of faith from the anti-New Deal days that public employment is wasteful, inefficient and demoralizing. That was never true, but now it has become utterly fantastic.

One of the few areas which can employ people without a lot of education and skill and put them to work satisfying some of our most urgent needs is the public sector. By carrying on a struggle against Franklin Roosevelt's public works administration in the 1970s, Nixon is going to create some permanent unemployment in this country.

[From the Washington Post, Dec. 17, 1970]

MANPOWER BILL BACKED BY GARDNER

(By Peter Braestrup)

John Gardner, chairman of Common Cause, and some 60 former members of Presidential commissions have urged President Nixon to sign a $9.5-billion employment and manpower bill, which would provide up to 300,000 city and state jobs for the jobless.

The authorization bill, a liberal-conservative compromise, was passed Dec. 10 by Congress. There was widespread speculation among Labor Department officials that the President would veto the three-year measure.

"Congress has now recognized that in the public sector, training is not enough," Gardner wrote the President. "This bill enables cities, counties, and non-profit private institutions to plan job creation as well as training programs to match people who need jobs with useful public service jobs that are badly needed."

The Gardner plea was backed by, among others, Andrew Heiskell, chairman of the board of Time Inc.; Ben W. Heineman, president of Northwest Industries Inc.; I. W. Abel, president of the United Steelworkers of America; Walter Heller, former chairman of the council of economic advisors; and Roy Wilkins, executive director of the National Association for the Advancement of Colored People.

It was the latest move by the bill's liberal and urban supporters to urge the President's support. Last week, the National League of Cities executive committee mandated its president, Mayor Richard Lugar of Indianapolis, a Nixon ally, to press the issue. Other mayors, including Mayor John Lindsay of New York, have sent emissaries to meet with administration officials.

According to congressional and Labor Department sources, the administration's formal objections to the bill center not on money, not on the "public service employment" feature, and not on overall re-organization provisions which match administration requests.

The sticking point is, by all accounts, a paragraph on administrative procedure in the compromise version, covering "public service employment" in hospitals, libraries, and sanitation works.

In the orginal administration-backed House bill, the Secretary of Labor was empowered to set "objectives"—for getting local "public service employees" out of federally-subsidized programs. He was also required to cut the 80 per cent federal subsidy—in case these "Objectives" weren't met by individual mayors or governors.

Senate liberals led by Sen. Gaylord Nelson (D-Minn.) was this provision as a potential weapon against the entire "public service employment" program.

In the House-Senate conference a compromise emerged. To avoid abuses, the bill now provided for "annual review" by an "appropriate agency," usually the state employment service, of the status of every public service employee's progress and prospects under the program, so that no jobholders would wind up in dead-end jobs.

The Secretary of Labor would approve the "appropriate agency" as part of his negotiations on federal subsidy with mayor and governor.

This compromise provision, according to Labor Department sources, does not satisfy Assistant Secretary of Labor Malcolm Lovell and his aides. They reportedly have the support of George P. Shultz, former Labor Secretary and now director of the Office of Management and Budget, who has opposed adding "public service employment" to traditional Labor Department training.

However, Gardner, and his supporters argued that training was no longer enough "with unemployment at the highest rates in eight years."

Telegram to President Nixon from Mr. Earl Old Person, President of the National Congress of American Indians:

"The National Congress of American Indians strongly supports the Employment and Manpower Act, S. 3867, which contains important new authority for the administration and funding of manpower programs on Indian Reservations. We urge you to sign this bill into law without delay. Newspaper reports indicate that efforts will be made to have you veto this bill. If you are disposed to veto the bill, we would like an opportunity to meet with you and discuss the disastrous effect this action would have among Indian people."

Telegram to President Nixon from Don Wright, President of the Alaska Federation of Natives:

"The Alaska Federation of Natives urge you to sign the Employment and Manpower Act, S. 3867, into law. We support the new authority for administration and funding of manpower programs on Indian Reservations."

Telegram to President Nixon from James Bluestone, Tribal Business Council, Member, Ft. Berthold Reservation:

"The three affiliated tribes of Ft. Berthold Reservation support the Congress passed version of the Employment and Manpower Act, S. 3867, which contains new authority for the administration and funding of manpower programs on Indian Reservations. Urge you to sign the bill into law."

CITY OF CLEVELAND,
December 14, 1970.

Senator GAYLORD NELSON,
Chairman, Senate Subcommittee on Employment Manpower and Poverty, Washington, D.C.

DEAR SENATOR: I have today telegraphed President Nixon as follows:

"On behalf of the people of Cleveland, I urge your approval of the Employment and Manpower Act which has passed the Congress.

This legislation provides vitally needed reorganization of Federal Manpower Training Programs to permit a maximum of state and local initiative.

I know that the high rate of unemployment, particularly in the central cities, is a matter of concern to you and your administration, as it is to me and my fellow mayors. We see the need for constructive manpower and job creation programs as critical, and therefore plead for your favorable action on this legislation."

Sincerely,

CARL B. STOKES.

NATIONAL COUNCIL OF SENIOR CITIZENS

The National Council of Senior Citizens—which speaks for nearly three million members in older people's clubs throughout the United States—respectfully urges the Senate to override the Presidential veto of the Employment and Manpower Act, H.R. 19519.

This bill would provide desperately needed public service employment opportunities for the young and middle aged and for the older and retired worker during the national unemployment crisis which now confronts us. There have been few more callous applications of veto power during the traditional season of good will. As usual, the children and the old people will suffer the most.

The elderly we represent will feel the immediate tragic impact of this cutback in job opportunities. The elderly and the nation as a whole will suffer even more if the reasons for the President's veto are permitted to stand as national policy.

We contend that the value of job opportunities for the elderly cannot be measured in terms of access to the regular job market.

Our senior aides projects have demonstrated the enormous social value to the community of the skills and knowledge of the elderly—employed helping others and not competing with the young worker for jobs in the private economy.

NELSON H. CRUIKSHANK,
President.

Night Wire Sent to President Nixon:

"My work with national poverty program and now with American Jewish Committee prompts this appeal for your signature on historic Employment and Manpower Act which incorporates your principal recommendations. Both you and the Congress deserve nation's thanks for this breakthrough."

HYMAN BOOKBINDER,
Washington Representative,
American Jewish Committee.

EXCERPTS FROM PRESIDENT'S MANPOWER MESSAGE

President Nixon, August 12, 1969.—I propose a comprehensive new Manpower Training Act that would pull together much of the array of Federal training services and make it possible for State and local government to respond to the needs of the individual trainee. * * * The act which I propose would:

1. Consolidate major manpower development programs administered by the Department of Labor.

2. Provide flexible funding of manpower training services so that they can be sensitive to and focused on local needs.

3. Decentralize administration of manpower services to States and metropolitan areas, as Governors and mayors evidence interest, build managerial capacity, and demonstrate effective performance.

4. Provide more equitable allowances for trainees.

5. Create a career development plan for trainees, tailored to suit their individual capabilities and ambitions.

6. Establish a national computerized job bank to match job seekers with job vacancies.

7. Authorize the use of the comprehensive manpower training system as an economic stabilizer.

KERNER COMMISSION RECOMMENDATION

National Advisory Commission on Civil Disorders, March 7, 1969.—We recommend a 3-year program, aimed at creating 250,000 new public service jobs in the first year and a total of 1 million such jobs over the 3-year period. * * * In the public sector, a substantial number of such jobs can be provided quickly, particularly by government at the local level, where there are vast unmet needs in education, health, recreation, public safety, sanitation, and other municipal services. The National Commission on Technology, Automation, and Economic Progress estimated that there are 5.3 million potential jobs in public service. * * * Emphasis should also be placed on employing trainees to improve rundown neighborhoods and to perform a variety of other socially useful public services which are not "make-work," including community service officers in police departments, as recommended by the President's Commission on Law Enforcement and Administration of Justice.

EXCERPTS FROM SENATE COMMITTEE REPORT ON BILL S. 3867

SUPPORT FOR PUBLIC SERVICE EMPLOYMENT

Strong support for a public service employment program came from virtually all representatives of national organizations, State and local government and the poverty community to appear before the committee in the long course of the hearings. Mayor Carl Stokes of Cleveland, Ohio, stated the case well when he testified:

"There are just not sufficient jobs in the private sector for the disadvantaged unemployed, and the public sector cannot absorb large numbers of additional people without direct federal subsidy. Cities across the nation face an ever-expanding need for policemen, firemen, sanitation workers, housing inspectors, health and welfare personnel. . . . To determine the need in Cleveland and in the public and voluntary sectors for additional personnel we asked the Manpower Planning and Development Commission of Cleveland's Welfare Federation along with the City of Cleveland and the Board of Education, to conduct surveys to determine the personnel needs of public agencies and community service organizations throughout Cuyahoga County. These agencies need approximately 6,900 additional personnel beyond what their budgets will allow. At least 2,900 of these positions could, with some training, be filled by disadvantaged unemployed persons."

The National League of Cities/United States Conference of Mayors said:

"In most central cities, the unmet need of local government to provide greatly increased services and the continuing dangerously high level of unemployment (even during periods of prosperity) constitutes persuasive evidence for federal support of a public service employment program."

The Urban Coalition testified:

"Corporations cannot be expected to produce jobs that cannot be justified economically. When orders decrease layoffs must occur and the last employed are let go first. The private sector has not failed to do its job—rather the job is clearly beyond its capabilities. In the meantime . . . the plain fact is that the cities that badly need the services are losing the revenue. The great merit of a public service employment program is that it could be aimed specifically at those sectors of the labor market that benefit least from present programs and share least in the growth of the economy."

Mortimer M. Caplin, president, National Civil Service League, said:

"We believe government, as 'employer of the first resort' can provide meaningful career opportunities for many who are unemployed and underemployed and at the same time, help meet severe staff shortages. And our society will have strengthened, improved, modernized merit systems of public employment as a result."

Betty Miller, testifying for Jerry Wurf, president of the American Federation of State, County and Municipal Employees, AFL–CIO, said:

"Our union is comprised of 460,000 public employees . . . Two-thirds are employed in blue-collar, low-level jobs, because many of them are undereducated and underdeveloped, we favor a meaningful public service career program."

According to the U.S. Department of Labor, data for 1966 shows that 6.8 million persons, worked 50 to 52 weeks that year, but earned less than $3,000. These are the working poor. Much more than half are working women who are heads of families. Our union is in favor of a public service employment policy, if such a policy is accompanied by the creation of more jobs and advancement opportunities.

Nathaniel Goldfinger, director of research, AFL–CIO, said:

"Public Service Employment is one of the major domestic issues of our times. President Meany has repeatedly called it one of the most important issues to come before Congress during his long years in Washington. We are urging legislation to provide for public service employment to meet the needs of America—to provide jobs for those who need them, to provide service that have been too long ignored, to make the economic and social picture in America one of which we can all be proud.

"Action is called for now. We must launch a massive job creation program based largely on a public service employment if we are to successfully grapple with the problem of the unemployed and the underemployed."

The PRESIDING OFFICER. All time on the question has expired.

The question, Shall the bill become law, the objections of the President to the contrary notwithstanding? The Constitution requires that this vote shall be determined by yeas and nays.

Mr. JAVITS. Mr. President, a parliamentary inquiry. A vote to override is a "yea" vote?

The PRESIDING OFFICER. That is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. TALMADGE (when his name was called). Mr. President, on this vote I have a pair with the Senator from North Dakota (Mr. BURDICK) and the Senator from Utah (Mr. Moss). If they were present and voting, they would each

vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, on this vote the Senator from Mexico (Mr. MONTOYA) and I have a pair with the distinguished Senator from Mississippi (Mr. EASTLAND). If they were present and voting, the Senator from New Mexico would vote "yea" and the Senator from Mississippi would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. SAXBE (after having voted in the affirmative). Mr. President, on this vote the Senator from Oregon (Mr. HATFIELD) and I have a pair with the Senator from Colorado (Mr. DOMINICK). If they were present and voting, the Senator from Oregon would vote "yea" and the Senator from Colorado would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. RUSSELL), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oregon (Mr. HATFIELD) is absent on official business.

The Senator from Colorado (Mr. DOMINICK) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The Senator from Ohio (Mr. SAXBE) has previously announced that he and the Senator from Oregon (Mr. HATFIELD) are paired with the Senator from Colorado (Mr. DOMINICK).

The yeas and nays resulted—yeas 48, nays 35, as follows:

[No. 441 Leg.]

YEAS—48

Bayh	Hart	Muskie
Bellmon	Hartke	Nelson
Bible	Hollings	Pastore
Boggs	Hughes	Pell
Brooke	Jackson	Percy
Byrd, W. Va.	Javits	Proxmire
Cannon	Jordan, N.C.	Randolph
Case	Kennedy	Ribicoff
Church	Long	Schweiker
Cranston	Magnuson	Spong
Eagleton	Mathias	Stevenson
Fulbright	McCarthy	Symington
Goodell	McGee	Tydings
Gore	McGovern	Williams, N.J.
Gravel	Metcalf	Yarborough
Harris	Mondale	Young, Ohio

NAYS—35

Aiken	Byrd, Va.	Dole
Allen	Cook	Ellender
Allott	Cooper	Ervin
Baker	Cotton	Fannin
Bennett	Curtis	Fong
Griffin	McIntyre	Sparkman
Gurney	Miller	Stennis
Hansen	Murphy	Stevens
Holland	Packwood	Thurmond
Hruska	Prouty	Williams, Del.
Jordan, Idaho	Scott	Young, N. Dak.
McClellan	Smith	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Mansfield, for.
Saxbe, for.
Talmadge, against.

NOT VOTING—14

Anderson	Goldwater	Mundt
Burdick	Hatfield	Pearson
Dodd	Inouye	Russell
Dominick	Montoya	Tower
Eastland	Moss	

The PRESIDING OFFICER (Mr. BYRD of Virginia). On this vote the yeas are 48 and the nays are 35. Two-thirds of the Senators present and voting not having voted in the affirmative, on reconsideration, the bill fails of passage.

THE SUPREME COURT DECISION ON THE 18-YEAR-OLD VOTE

Mr. MANSFIELD. Mr. President, the Supreme Court has just ruled constitutional—at least in part—the action taken by Congress to extend the vote in national elections to all citizens 18, 19, and 20 years old. In my judgment, that opinion will live as one of the most—if not the most—significant decisions the high Court has handed down in its long history.

There is no doubt that when Congress voted to extend the franchise of the ballot there were legitimate questions raised about the constitutionality of such action. Those questions have now been resolved. There was never any question, however, about the importance of the action in bringing young people into the "system." That is where they belong.

Up to now the youth of today had a legitimate grievance. For all their interest, for all their work and effort, for all the opinions they expressed; nothing counted. Nothing they did or could do for that matter made much difference. They were denied the ballot. They could not vote. They could not directly influence policy decisions at the polls.

Up to now those 18, 19, and 20 were told to fight our wars even though they themselves had no right to choose the officials who made the decisions that led to war.

Up to now, at 18, a young adult was treated by our courts as fully responsible for his legal actions—both civil and criminal—and were made to suffer the full penalties of the law. Yet they could not pass judgment on the men chosen to enact those laws. They got married. They paid taxes, too, but had no real voice in the imposition of those taxes. In short, up to now the full responsibility has been on us, the other generation. We have borne the full burden of our actions as they have affected young people. And our actions affected young people to a great extent.

Now much of that has changed. With this opinion, the Supreme Court has opened the way for joining the youth of today with the youth of yesterday. With this opinion, the Supreme Court has shifted the burden and placed it were it belongs—on the young people themselves—on those who have raised their voices and pointed their fingers, on those who decried and criticized for being saddled with responsibilities and obligations that in many cases they neither sought nor sanctioned.

I welcome their fresh approaches; their criticisms; their interest and concern. The fact that some young people exhibit disdain for certain of our institutions should in no way reflect upon the great majority of our youth. With the vote they will establish themselves quickly for what they are: Alert, interested, mature, and concerned. Henceforth their judgments cannot be ignored. Given the vote, these young people have been challenged to prove their worth and the value of their contributions to our system. I am confident that they will meet that challenge. On their behalf, I welcome it.

PROGRAM

Mr. SCOTT. Mr. President, I rise to ask the distinguished majority leader whether or not we have any business tonight, or what the next order of business is.

Mr. MANSFIELD. Mr. President, if I may respond to the distinguished minority leader, there will be no further business tonight. It has been a long day. The leadership is not only praying, but meditating as well, hoping that something will come forth unexpectedly.

The order for tomorrow calls for the Senate to convene at 9 a.m., at which time those Senators who desire to do so will pay their tributes to one of our retiring colleagues, the distinguished Senator from Texas (Mr. YARBOROUGH). The time for these tributes will end precisely at 10 o'clock and not a minute later, and at 10 o'clock the time limitation on the cloture motion will begin. The vote will occur shortly after the hour of 11.

Then we will go back on the Department of Transportation bill; and, in accord with the agreement reached, at approximately 3 o'clock we return once again to the conglomerate bill which has been reported by the Finance Committee and covers a number of different areas.

Mr. SCOTT. May I ask if there is any information on the conference with regard to the investment broker legislation?

Mr. MANSFIELD. No. There seem to be some differences of opinion. I would hope that those differences could be reconciled. If they are not, my guess is that very likely no action will be taken on the measure this year.

Mr. SCOTT. I thank the Senator.

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

Mr. SCOTT. I yield.

Mr. MILLER. I should like to ask the majority leader a question.

Do we correctly understand that there will be no session on Wednesday?

Mr. MANSFIELD. If the House concurs in the concurrent resolution which

was adopted by the Senate unanimously this afternoon, that is the intention of the joint leadership, and evidently it meets with the approval of the Senate as a whole.

Mr. SCOTT. We have adopted that resolution.

Mr. MILLER. The House has not acted.

Mr. JAVITS. Whether we can do anything about it or not, I should like to state to both leaders the consternation and dismay with which the whole economic community of the United States will greet the fact that, after we have labored to produce an historic effort to assure the security of brokerage accounts, both in cash and securities, we will be unable to do anything about it.

I understand that the difference is really very limited in one particular area.

I can only tell the Senators, I repeat—no one is finding fault, and Members have every right to be as stern as they wish about their particular views; but I could not think of anything that would more directly be a matter of jeopardy in respect of the securities markets and the economic system of this country than to let this matter, which represents such a fundamental aspect of our national life and our national economy, die at the end of this Congress. I would say that it is very close to tantamount in importance to the guarantee of bank deposits.

Mr. SCOTT. I fully agree with the Senator.

Mr. JAVITS. It is so deplorable that it makes me weep to think that we cannot find some way, so close, having been approved by the House, the conference report, the bill at the point of passage, as to fall on its face here because we cannot push it over the line.

Mr. MANSFIELD. May I say that I am hopeful that, as men of good sense, responsibility, and reason, and recognizing the difficulties which confront this body at this time, these differences can be resolved. But the leadership does not intend to call up measures which will engender further controversy, because we have just too much of it before us at the present time, and time is not with us.

Hopefully, the individuals who are in disagreement will get together, and if they do, it will be taken up expeditiously.

Mr. JAVITS. I should like to say that I can only appeal to the gentlemen concerned to study the subject and consult all the banking and securities authorities they wish themselves.

I know what they say has aroused their consciences to pass this legislation.

Mr. MANSFIELD. May we join in that appeal, too?

Mr. SCOTT. There is no question of our feelings in that matter.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DENNIS YIANTOS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1454, S. 1681.

The PRESIDING OFFICER (Mr. FANNIN). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1681) for the relief of Dennis Yiantos.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. WILLIAMS of Delaware. Mr. President, may we have an explanation of the bill?

Mr. KENNEDY. Mr. President, S. 1681, is a bill for the relief of Dennis Yiantos, introduced by Mr. HOLLINGS.

The purpose of this bill as originally drafted was, notwithstanding the statute of limitations or any prior civil proceedings, to give jurisdiction to the U.S. District Court for the District of South Carolina, to hear and determine Mr. Yiantos' claim for social security disability benefits allegedly payable because of a spinal injury incurred on December 30, 1957, and to allow that suit to be instituted within 6 months after enactment, to be heard de novo under the Federal Tort Claims Act.

The bill as drafted was objected to as giving a special advantage to Mr. Yiantos, denied to other persons in similar situations. Now, a person may obtain district court review of the Secretary of Health, Education, and Welfare's final decision, if requested within 60 days or such additional time as the Secretary allows. The Secretary's findings, if supported by substantial evidence, are conclusive and there is no trial de novo, save that a court may order additional evidence to be taken by the Secretary.

To meet these objections, the bill was redrafted to give the court jurisdiction merely to review the Secretary's decision, to allow 6 months to file suit, and to provide that proceedings will be in accordance with the Social Security Act, rather than the Federal Tort Claims Act.

Mr. WILLIAMS of Delaware. Mr. President, I thank the Senator for the explanation.

Mr. SCOTT. Mr. President, there was some suggestion that this bill might be held up for a while, but I understand there is no longer any objection on this side to passage of the bill immediately.

Mr. KENNEDY. Mr. President, I understand that I have to ask unanimous consent that we consider this bill now in place of the pending business, and I ask unanimous consent for that.

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

Mr. KENNEDY. Mr. President, there is an amendment at the desk as proposed by the Senator from South Carolina (Mr. HOLLINGS) and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

S. 1681

Strike out all after the enacting clause and insert in lieu thereof the following:

"That, notwithstanding any statute of limitation, or bar of laches, or any proceeding heretofore had in the United States District Court for the District of South Carolina, Charleston Division, jurisdiction is hereby conferred upon the United States District Court for the District of South Carolina to review any final decision of the Secretary of Health, Education, and Welfare with respect to the claim of Dennis Yiantos against the United States for disability insurance benefits under title II of the Social Security Act, alleged to be payable as the result of an incapacitating spinal injury incurred on or about December 30, 1957, at a time when the said Dennis Yiantos was apparently eligible for such benefits. The court may, at any time, on good cause shown, order additional evidence to be taken before the Secretary,

"SEC. 2. Suit under this Act may be instituted at any time within six months after the date of enactment of this Act. Except as otherwise provided herein, the proceedings in such suit shall be in accordance with the provisions of section 205(g) of the Social Security Act, as amended (42 U.S.C. 405(g)).

"SEC. 3. Nothing in this shall be construed as an inference of liability on the part of the United States."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

EXPORT-IMPORT BANK BILL—S. 4268

Mr. PROXMIRE. Mr. President, I regret very much that a bill exempting the Export-Import Bank from the budget passed the Senate on Friday last. I had indicated to the leadership my strong opposition to it and wanted to be notified when it was to be taken up. That bill was strongly opposed by the Federal Reserve and the General Accounting Office. It exempts the Export-Import Bank from borrowing from the budget although it includes housing programs, farm programs, and other programs that are very important.

The bill at least should have been discussed at great length—well, at some length—in the Senate.

It is most unfortunate that the bill passed. I do not know what action can be taken now. The Senate has passed the bill. It is a misfortune that it did.

In view of the fact that outstanding authorities in government oppose this legislation and a number of States were opposed to it, the passage of this legislation, I think, is a tragedy.

ECONOMIC POLICY IN 1970—A REALISTIC ASSESSMENT

Mr. PROXMIRE. Mr. President, in testifying before the Joint Economic Committee last February, the Chairman of the Council of Economic Advisers spoke of the possibility that the economy was heading for "the worst of both worlds—a recession with inflation." He called this the popular cliche of the day. Cliche or not, this is indeed what has developed. We have both a recession and inflation at the same time. There is no evidence that the administration has found a path out of this dilemma. If we measure our performance by the size of the gap between where we are and where we ought to be, the economic situation is growing steadily worse. The gap between actual output of the economy and potential output of the economy rose from $12 billion at the end of last year to $47 billion in the third quarter of this year, and it continues to grow. No amount of rhetoric about changes in the rates of change can gloss over the fact that we are falling increasingly short of the Employment Act goals of maximum employment, production, and purchasing power.

I had thought that there was a ray of hope in this dismal situation, in that the situation had become so bad that it was at last obvious to everyone. Recent statements by the administration, even if they did not use the word "recession," had at last begun to acknowledge an economic mess. So, until President Nixon's press conference on December 1, and until his veto message of the manpower bill on December 16, I had thought that the seriousness of the present situation had at last been recognized. These two Presidential statements shocked me out of this euphoria. I was profoundly discouraged to hear President Nixon express satisfaction with an average unemployment rate for this year of 4.9 percent. Most discouraging of all, the President seems to be accepting 5 percent as his unemployment goal. And by his veto of the manpower bill which the Senate just tried to override, unsuccessfully—the President has turned his back on a program which would offer jobs to some of the 4.5 million men and women now unemployed. That veto and his press conference statement on unemployment indicate that the seriousness of the present situation is still not recognized.

In discussing unemployment, the President neglected to point out that the average for the year of 4.9 percent conceals a rapidly rising unemployment trend. Unemployment was 3.9 percent last January. It is 5.8 percent now and still rising. I do not understand how the administration can accept this situation with such passivity. Until the President's recent statements, 4 percent had been generally accepted as the maximum level of unemployment consistent with a healthy economy. Now the President seems to be suggesting 5 percent. The difference between 4 percent and 5 percent unemployment is 830,000 jobs. Even a 4-percent unemployment rate should be considered unacceptable as a long-range target. The Joint Economic Committee has repeatedly emphasized that our long-term goal should not exceed 3 percent. At the present time the difference between actual unemployment levels and 3 percent unemployment would be 2,360,000 jobs.

If I am discouraged by the President's attitude toward unemployment, I am dismayed by his veto of the manpower bill; 4½ million people are unemployed, yet the President turns his back on a program to provide jobs for some of them. At a time when great needs in areas such as health and education go unmet, the President turns his back on programs which would put people to work helping to meet these needs. The President speaks of public service jobs as a "dead end." Of course, this is not so, but, in any case what is the alternative the President proposes? The alternative is continued unemployment—growing unemployment. If we accept the President's statements at their face value we can only conclude that the administration's philosophy is that a job is a dead end, but unemployment is an opportunity to get ahead in life.

I cannot believe that the administration really prefers unemployment to jobs. Despite the recent evidence, I continue to hope that the administration is seriously concerned about unemployment. I continue to hope that we may reach at least some partial consensus on economic policy. I hope we can agree that our main task must be to start the economy growing again and to reduce unemployment. I hope we can agree that fiscal policy has an important part to play in restoring economic growth. This has previously been acknowledged by the administration. They have several times acknowledged that to attempt to balance actual budget receipts and expenditures in a period of recession is foolish and self-defeating. What we must do is to look at the budget as it would be if individual and corporate tax payments were at their full employment level and as it would be if expenditures were not swollen by high unemployment compensation payments. It is heartening that this fundamental precept of fiscal policy has been acknowledged by the administration. I hope there will be no about faces on this such as there have been on manpower.

THE CURRENT STATUS OF FISCAL POLICY

If we are to have an appropriate fiscal policy for expansion, it is important to know just what our overall fiscal policy has been in the recent past and just what shifts may now be appropriate. It is important to understand the extent to which our spending priorities have and have not shifted.

A convenient starting place for examination of these questions is the fiscal 1971 budget submitted by the administration last February. This budget recommended a surplus of $1.3 billion. This figure referred to the balance of actual receipts and expenditures. There was no estimate given in the budget or the Economic Report for the full employment surplus; that is, the balance of receipts and expenditures as they would be if the economy were at full employment throughout the fiscal year. Indeed, when the Joint Economic Committee asked the Budget Bureau and the Council of Economic Advisers last February to give us an estimate of the full employment surplus, we encountered a great reluctance to supply this information. They argued that the rapidity with which prices were increasing made it impossible to accurately estimate the full employment budget. So we still do not know today what the administration expected the full employment surplus to be this year or how they evaluated its impact on the economy.

We do know that the administration clearly regarded a balance in the actual budget as highly desirable. The President stated in his Economic Report last February:

> Our objective is to avoid these dangers [inflation, excessive slowdown, overly tight credit] as we achieve stability. A necessary condition for doing this is to keep the Federal budget in balance in the coming fiscal year.

From estimates made by recognized private research groups we know that the full employment surplus implied by the President's budget for fiscal 1971 was in the neighborhood of $13 to $15 billion. Such a full employment surplus must be judged a restrictive fiscal policy even though the shortfall in receipts during a recessionary period prevents the surplus from in fact being realized. Yet the budget message and the Economic Report evidenced no concern that fiscal policy might be too restrictive for our economic health.

Even as late as August of 1970, when the weakness of the economy should have been thoroughly evident to everybody, the administration showed no recognition of the harm which could be done to the economy through an overly restrictive fiscal policy. At that time President Nixon was determined to stick to his budget even if it meant sacrificing what he acknowledged to be highly desirable and important social programs. The need for a restrictive budget was the chief reason given by the President for his vetoes of the HUD and education appropriations bills. In his veto message on August 11, the President said:

> I am determined to hold the line against a dangerous budget deficit.

If the tax and spending program originally recommended by the President had been realized, what we would have had would have been a dangerous budget surplus, a surplus which would have been dangerous on two grounds. First, it would have been achieved by cutting back, not on defense and space and highways and the SST—all areas where cuts would be desirable in their own right—but by cutting back on housing, health and education. These were cuts we truly could not afford. The administration's spending priorities were badly misconceived in the February budget. Moreover, the planned budget surplus would have been dangerous because it would

have represented too restrictive a policy for a period of threatening recession. If the President's budget surplus had been realized we would have been driven even deeper into recession than has actually been the case.

Fortunately, Congress has shown the good sense to modify the President's budget, to shift its priorities by cutting back substantially on defense and by increasing appropriations for urgent social programs. Congress has also had the good sense to recognize that a recession is not the time to impose new taxes in an effort to sustain a budget surplus. Based on tax and expenditure decisions to date, including probable action on the defense appropriation, it is estimated that the full employment surplus for fiscal 1971 will be about $5 billion. This is substantially less than the $13 to $15 billion originally envisaged for this year by the administration. It is much healthier medicine for a sick economy.

Fortunately, the administration has now recognized the wisdom of the changes that have been made in the budget since it was presented last February. In his speech on December 4, President Nixon stated:

This is what has already been done to help the economy resume its growth:

First, early in 1970, budget policy turned in a more expansionist direction. It was an orderly and well-timed change.

The President might well have added that it was a change wrought by Congress during its consideration of the President's budget. The change was perhaps not as orderly and well-timed as the President gives us credit for. I certainly would not argue that congressional procedures of budget review could not be improved so as to produce a more systematic and timely fitting of the parts into the total. Nor would I argue that our shifts in spending priorities have been anywhere as big as they should have been and must become. But the budget changes made by Congress have been in the right direction. Priorities have been shifted. And the level of the full employment surplus is more appropriate to our economic circumstances than it would have been without the actions Congress has taken.

Looking ahead to next year's budget, I hope the administration's new commitment to the full employment budget concept will be sustained. I hope that this year we wil be given estimates of full employment receipts and expenditures. I hope the American people will be told clearly and honestly that actual receipts and expenditures cannot be balanced in a recession. I hope there will be no further attempts to skimp on housing and education in the misguided belief that this is the way to fight inflation.

I hope too that we will not again be told that an unemployment rate approaching 6 percent is evidence of a "shift in priorities" or that it is an inevitable part of what is referred to as the "conversion to a peacetime economy." Blaming unemployment on the conversion to a peace economy is highly misleading. It is misleading because actual defense cuts have been very modest. We are still not at peace in Southeast Asia. In any case, there is no reason why conversion has to mean a leap in unemployment.

THE FACTS ABOUT CONVERSION

The President emphasized in his speech on December 4 that more than a million men have been released from the Armed Forces and from defense plants since he took office 22 months ago. It should also be pointed out, however, that during these same 22 months unemployment has increased by 2.2 million. Less than half the total rise in unemployment can thus be attributed to defense cutbacks. The President has blamed the rise in unemployment on a shift in priorities. But in 1970, it is not a shift from a war economy to a peace economy but from a war economy to an idle economy.

Our lack of an effective economic conversion policy is in sharp contrast to our experience following World War II. It it instructive to recall the magnitude of that demobilization. In the 2 years following VJ Day, approximately 10 million men were released from the armed services. Over this same period civilian male employment grew by about 7½ million, indicating that, of those returning veterans who did not return to school, the overwhelming majority rapidly found civilian employment. It is true that there was a rise in unemployment of about 1 million people, or from 1.9 to 3.6 percent of the labor force, but in view of the fact that by 1947 defense spending had fallen to only $9 billion; one-eighth of what it was in 1945, and that the Armed Forces had been reduced to one-seventh of the 1945 level, it seems clear that a major reorientation of the economy was accomplished with a minimum of dislocation and distress.

How disastrous our present experience is compared to what happend in the past World War II period:

Then 10 million men were released from the Armed Forces. Now the number has been reduced by only 440,000 which is less than one-twentieth the number after World War II.

Then we cut the defense budget from $73.5 billion in calendar 1945 to $9.1 billion in calendar 1947, or by over $64 billion. Now military spending is down from $81.2 billion to $77.6 billion or by only $3.6 billion.

Then 6 million new jobs were created. Now civilian employment has risen by only 1½ million jobs over the 2 years and has actually declined in the last year.

Then unemployment rose by only 1 million to a peak of 3.6 percent. Now, 2.2 million more people are unemployed and the rate is 5.8 percent.

Let me say just a word about the numbers I used for military spending. The numbers for 1945 and 1947 were calendar year numbers. They were taken from the national income accounts. If we look at Treasury Department expenditure records by fiscal years the numbers are somewhat different, but the picture is the same. From fiscal 1945 to fiscal 1947, military spending fell from $80.5 billion to $14.8 billion, a drop of over $65 billion. Whichever statistical series we use, military spending fell by about $65 billion during a 2-year period.

The numbers I used earlier for the current period are on the now familiar unified budget basis. They compare military spending for fiscal 1969 to the probable total for fiscal 1971. What is the picture today on the national income account basis? In the fourth quarter of 1968 defense spending was at a $79.2 billion annual rate according to the national income accounts. In the third quarter of this year it was at a $75.8 rate. The decline, measured on this basis has been only $3.4 billion, or slightly less than the $3.6 billion decline suggested by the fiscal year numbers in the unified budget.

Our experience after World War II demonstrated the capacity of our economic system to absorb a shift many times more massive than what has recently taken place. Yet today, with a much less difficult problem, the administration has done a far worse job. There is virtually unanimous agreement among economists that proper economic management could sustain prosperity during a period of conversion. But the tragic fact is that we have no policy of economic conversion in effect now. The post-Vietnam planning initiated by the Johnson administration has been abandoned.

The Nixon administration's policy of economic conversion from a wartime to a peacetime economy has been a miserable failure. The fact is we have no policy. Instead of planning we have platitudes. We have attempts to attribute unemployment to defense cutbacks. The American people are being deluded into believing that prosperity depends on military spending. This is a real disservice which is being perpetrated on the public. It is time for it to stop. It is time and past time to develop and implement the conversion policies which will demonstrate that peace and prosperity can be achieved together.

MISTREATMENT OF JEWS IN SOVIET UNION

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a very fine message from the distinguished Senator from Maryland (Mr. MATHIAS) to a rally for Soviet Jewry, a rally protesting the mistreatment of Jews in the Soviet Union, which was held in Baltimore, Md., on December 20, 1970.

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

MESSAGE FROM SENATOR CHARLES MCM. MATHIAS, JR.

As we enter the holiday season, it strikes me as most fitting and symbolic that this year Hanukah, the festival of lights, begins just two days before Christmas. And since Hanukah lasts a full eight days, it goes on to embrace Christmas. I use this word advisedly—embrace—for I believe the time is long overdue for all Americans—Christians and Jews—to embrace the cause for which you have gathered tonight.

This is not a Jewish cause. It is the cause of freedom. It is the cause for which this country was founded almost two hundred years ago. And it is the cause to which we must now rededicate ourselves if we are to keep faith with our ideals.

You have come together to give voice to the great wave of protest sweeping this country over the persecution of Jews in the Soviet Union. You have gathered here to protest a deliberate and calculated Soviet program aimed at eradicating the spirit—indeed, the very existence—of Judaism in the Soviet Union. Needless to say, Soviet authorities deny these charges. Soviet Jews are happy in that country and wish to remain there, they claim. Freedom of religion and the right to emigrate, they point out, are solemnly guaranteed in the Soviet constitution.

But even as they utter these pious disclaimers, the true facts of Soviet life, the monstrous policy of religious and cultural genocide that is systematically being carried out, unmasks them and reveals the cynical fraudulence of their words.

For, as you gather here, Soviet Jews are being tried in Leningrad, reportedly on charges of treason and hijacking. I say "reportedly" for facts are very hard to come by. The trial is closed to public and to the foreign press. American lawyers, seeking to attend the trial, were refused this privilege. The trial is, for all practical purposes, secret.

And beyond Leningrad, in all parts of the country where Jews still live, their religious services are being disrupted—in a manner that is reminiscent of the beginning of the Nazi terror in the 1930's.

And, what is most monstrous of all, the victims of this repression are denied the right to leave the country, to flee their torment. And so 3 million Jews are being held hostage in a land which systematically denies them their rights and subjects them to harassment, outrage, and incarceration.

But the human spirit is indominable. And somehow a truly extraordinary thing has resulted. In one important aspect, at least, the Soviet persecution has backfired. For the stronger their repression has become, the greater has grown the spirit of religious and cultural identity of Soviet Jews. Particularly the Jewish youth, who had been denied religious training and who had every encouragement to abandon their heritage, have gained a sense of unity and a pride in their Jewish identity that they had never had before. This despite official repression—or possibly because of it.

And so I am deeply grateful and honored at the opportunity to add my voice to this protest. Indeed, it is a duty we all owe to the cause of humanity to ensure that this protest is heard. We dare not remain silent in the face of this injustice, in the face of this pernicious program of religious and cultural genocide. I join you in urging the President to make it amply clear to Soviet authorities how gravely the people of the United States regard the plight of Soviet Jews. I join you in your prayers that the similarity we now see between present Soviet policy and the program of Nazism in the 1930's will grow no greater. I join you in demanding a halt to the persecution of Jews in the Soviet Union and the granting of their right to leave that country.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

REPORT ON FACILITIES FOR RESEARCH AT THE STATE AGRICULTURAL EXPERIMENT STATIONS

A letter from the Director of Science and Education, Department of Agriculture, transmitting, pursuant to law, a report on facilities for research at the State Agricultural Experiment Stations as of June 30, 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON PLANNED BIOLOGICAL DISPOSAL ACTIONS

A letter from the Assistant Secretary of the Army (Installations and Logistics), reporting, pursuant to law, on planned biological disposal actions; to the Committee on Armed Services.

INTERIM REPORT ON THE U. S. METRIC STUDY

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on the U.S. Metric Study, dated December 1970 (with an accompanying report); to the Committee on Commerce.

REPORT ON FERRIS CORPORATION CLAIM AGAINST THE UNITED STATES

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the claim of the Ferris Corp., against the United States (with an accompanying report); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

A letter, in the nature of a petition, from the Marion Lake Boat Owners Association, Inc., of Salem, Oreg., relating to Marion Lake and proposed methods of action in having it removed from the Mt. Jefferson Wilderness; to the Committee on Interior and Insular Affairs.

A letter in the nature of a petition, from Warren M. Weitzman, of New York, N.Y., relating to alleged Army spying; to the Committee on the Judiciary.

A resolution adopted by the Idaho Legislative Interim Highway Roads and Streets Needs Study Committee, relating to the continuation of the Federal Aid Highway Trust Fund; to the Committee on Public Works.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 19342. An act to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes (Rept. No. 91-1512).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 10874. A bill to provide for the establishment of the Gulf Islands National Seashore, in the States of Alabama, Florida, Louisiana, and Mississippi, for the recognition of certain historic values at Fort San Carlos, Fort Redoubt, Fort Barrancas, and Fort Pickens in Florida and Fort Massachusetts in Mississippi, and for other purposes (Rept. No. 91-1514).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

H.R. 10482. An act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes (Rept. No. 91-1513).

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. JACKSON:

S. 4597. A bill to amend titles 10 and 32, United States Code, to authorize additional medical and dental care and other related benefits for reservists and members of the National Guard, under certain conditions, and for other purposes; to the Committee on Armed Services.

By Mr. BELLMON:

S. 4598. A bill to amend the Act of August 28, 1950, enabling the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services involving overtime work; to the Committee on Agriculture and Forestry; and

S. 4599. A bill to establish environmental laboratories within the States, regions and nation pursuant to policies and goals established in the National Environmental Policy Act of 1969; to the Committee on Public Works.

By Mr. HART:

S. 4600. A bill for the relief of Aurora Perez Ocdol; to the Committee on the Judiciary.

By Mr. KENNEDY:

S.J. Res. 251. Joint resolution to provide for the franchise for 18-year-old citizens in State elections; held at the desk, by unanimous consent.

(The remarks of Mr. KENNEDY when he introduced the joint resolution appear earlier in the RECORD under the appropriate heading.)

ADDITIONAL COSPONSORS OF BILLS

S. 2031

At the request of the Senator from New Hampshire (Mr. COTTON), the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2031, to provide for the correction of inequities in the creating of National Guard technician service in connection with civil service retirements.

S. 4564

At the request of the Senator from Texas (Mr. YARBOROUGH), the Senator from Massachusetts (Mr. BROOKE), the Senator from North Dakota (Mr. BURDICK), the Senator from West Virginia (Mr. BYRD), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Vermont (Mr. PROUTY), the

Senator from West Virginia (Mr. RANDOLPH), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Ohio (Mr. YOUNG) were added as cosponsors of S. 4564, "The Conquest of Cancer Act."

SENATE CONCURRENT RESOLUTION 87—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO ADJOURNMENT OF THE CONGRESS

Mr. MANSFIELD submitted a concurrent resolution (S. Con. Res. 87) relating to adjournment of the Congress on Tuesday, December 22, 1970, until Monday, December 28, 1970, which was considered and agreed to.

(The remarks of Mr. MANSFIELD when he submitted the concurrent resolution appear earlier in the RECORD under the appropriate heading.)

ADDITIONAL STATEMENTS OF SENATORS

DESIDERATA

Mr. HANSEN. Mr. President, this year Mr. and Mrs. Art Buck, Cheyenne, Wyo., included with their Christmas card an insert which I believe would be of great interest and benefit to Members of this body.

It would be well for all of us, especially as we consider the business before us at the close of this Congress, to consider this message.

I ask unanimous consent that the insert entitled "Desiderata" be printed in the RECORD.

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

DESIDERATA

(Found in Old St. Paul's Church, Baltimore; Dated 1692)

Go placidly amid the noise & haste, & remember what peace there may be in silence. As far as possible without surrender be on good terms with all persons. Speak your truth quietly & clearly; and listen to others, even the dull & ignorant; they too have their story.

Avoid loud & aggressive persons, they are vexations to the spirit. If you compare yourself with others, you may become vain & bitter; for always there will be greater & lesser persons than yourself. Enjoy your achievements as well as your plans.

Keep interested in your own career, however humble; it is a real possession in the changing fortunes of time. Exercise caution in your business affairs; for the world is full of trickery. But let this not blind you to what virtue there is; many persons strive for high ideals; and everywhere life is full of heroism.

Be yourself. Especially, do not feign affection. Neither be cynical about love; for in the face of all aridity & disenchantment it is perennial as the grass.

Take kindly the counsel of the years, gracefully surrendering the things of youth. Nurture strength of spirit to shield you in sudden misfortune. But do not distress yourself with imaginings. Many fears are born of fatigue & loneliness. Beyond a wholesome discipline, be gentle with yourself.

You are a child of the universe, no less than the trees & the stars; you have a right to be here. And whether or not it is clear to you, no doubt the universe is unfolding as it should.

Therefore be at peace with God, whatever you conceive Him to be, and whatever your labors & aspirations, in the noisy confusion of life keep peace with your soul.

With all its sham, drudgery & broken dreams, it is still a beautiful world. Be careful. Strive to be happy.

FOOTHOLD IN THE FUTURE

Mr. SPARKMAN. Mr. President, there is the old story about the Chinese nobleman who very much admired the piano he saw pictured in an American magazine. He employed the most skilled craftsmen and ordered that they make one just like it for him.

Their creation was a great work of art. Rare rosewoods were polished to perfection. Mother of pearl was inlaid with finest artistry. But, the most important thing was missing.

They had reproduced the instrument to the last patient detail. It was exactly like the picture. But, it had not shown them what was inside. So, their piano had no strings and could not play a note. It always pays off to look into things—like how to secure a sure foothold in the future through savings.

No one ever really saves for the sake of saving. While inherently thrifty, Americans are also ready spenders. But, the habit of thrift is not something to be encouraged one time; discouraged another. It is far too basic.

Saving is fundamental to free enterprise. It is the sure, sound way to provide essential funds for growth and public service. And that means more jobs and more opportunities for more people to get ahead.

Neither individuals nor business enterprises operate efficiently, realistically without reserves. And they are built enduringly only through the regular practice of setting something aside from income or profits. It is a patient, gradual process requiring necessary degrees of time.

The U.S. savings bond program serves its purpose well in changing random saving into regular payroll savings; aimless spending of idle dollars into planned spending for future vital needs.

Of course, all savings are meant to be spent at the appointed time. Whether saved for short-range benefits; salted away for more important needs; used to meet unexpected emergencies—that is how their values are gaged in the economic process.

Regular saving produces such planned for, future spending strength as—down payments on homes; costs of education; purchases of cars; surety of retirement—you name it. Thus, regular saving also helps keep local businesses at relatively high and stable levels of assurance, despite temporary reverses.

Whatever we have known in the way of economic downturns or the aftermaths of inflationary booms would have been milder, had Americans saved more than in the preceding years.

Yesterday's savings are spent for the wants of today. Today's savings stimulate tomorrow's economy. So, the time to save with U.S. savings bonds—to encourage others to save likewise—is always now.

Redemptions are as normal as the daily flow of the purchasing stream. People redeem and reapply their holdings to meet the needs for which they originated their savings. At the same time, others are buying bonds—many initiating their first real savings as a stake in the future.

No one ever gets back one penny less than the amount that he puts into U.S. savings bonds. Where else can you find that kind of guarantee, with interest? And the interest is now 5½ percent—when held to maturity of 5 years and 10 months—when the half percent is added as a bonus for your prudence.

The people of Alabama are prudent people. It is part of the heritage of the West. Many have learned the wisdom of regular saving through U.S. saving bonds. Those who have not, should discover this guaranteed-return way to gain a firm foothold in the future.

SMALL FIRMS IN ALABAMA AND THROUGHOUT NATION WILL BENEFIT FROM NEW SBA DISASTER LOAN AUTHORITY IN ENVIRONMENTAL AND CONSUMER AREAS

Mr. SPARKMAN. Mr. President, it may be that Congress has been following the last minute heroics of certain football teams, because December 15 was the deadline for 7,000 small meatpackers to comply with the upraded standards of the Wholesome Meat Act of 1967—and Congress on December 15 passed legislation enabling these small, family, and local firms to gain emergency Small Business Administration loss assistance.

We have good reason to believe that many of these small, family, and local companies could not otherwise survive, since interest rates have remained very high since the passage of the Wholesome Meat Act of 1967 and the Poultry Products Act of 1968, and loan capital was actually unobtainable in some parts of the country. A witness from Georgia told our Banking Committee last June that he could not obtain a loan for the purpose of making the needed improvements at any interest rate.

I was proud to join Senator BIBLE as the principal cosponsor of S. 1750 on April 1, 1969, and am pleased that it has now found its way into three major pieces of legislation approved by the 91st Congress:

The Coal Mine Health and Safety Act;

The Occupational Health and Safety Act; and

The Egg Products Inspection Act (which covers compliance with the Wholesome Meat Act of 1967, the Wholesome Poultry Products Act of 1968, and the Egg Products Inspection Act of 1970).

The Senator from Nevada (Mr. BIBLE), I believe, is entitled to a great deal of credit in this matter. I know of the early concern which prompted him to raise this issue before the Senate in May of 1968, with the introduction of Senate Resolution 290. After he became chairman of the Select Committee on Small Business

in January 1969, I know of the care, study, and close consultation with the Small Business Administration which went into the drafting of the substantive legislation.

As chairman of the Committee on Banking and Currency which has overall legislative jurisdiction over small business matters, I am well aware of the work which went into Senator BIBLE's statement before our Small Business Committee in June of 1969, and his appearance in July of 1970 to explain the details of the measure and the reasons for its urgency.

All of this effort has been justified by the acceptance of the Senate and the House in the legislation we have cited.

I would like to associate myself with the remarks which the Senator from Nevada made on Thursday. I believe the enactment of these bills does constitute a turning point in harmonizing the interests of consumers, outdoorsmen and really all citizens concerned with the environment, with those of businessmen in the quest for better air and water; a better economy; and a better life.

In Alabama, for instance, there are about 60 meatpacking firms which employ over 4,000 people, pay $15 million in wages and make about $7½ million in capital investments each year. Many of these firms are in small- or medium-sized towns. They are obviously major factors in Alabama commerce, and a base for further expansion of the economy of our State in the marketing of meat and poultry which are growing needs of our region and our country.

This legislation will enable many of these Alabama companies to remain in business, to increase their capital investments, and to provide better service for Alabama families. The same is true for our poultry and egg producers and smaller coal mine operators to which these statutes will apply.

We are looking forward to the approval of these bills by the President, who has said many times that he shares our concern for the Nation's small businessmen.

It has been my pleasure to work in this cause, and I will do all I can in the future to assist in carrying it forward. In this way, small business firms across the country may take their rightful place as allies in the advance toward an improved environment, an expanding economy, and the better life for all of our people.

ANTI-SEMITISM IN RUSSIA

Mr. HART. Mr. President, I wish to add my voice to that of my able colleagues, Senator SCHWEIKER and Senator MCGOVERN, in expressing concern over the plight of the Jewish people in Soviet Russia. The recent reports indicating a new wave of anti-Semitism in Russia are most distressing.

The circumstances surrounding the trial of 34 Jews suggest that their major "crime" is their desire to express themselves in thier own religious-cultural heritage, or to emigrate to Israel where they can do so freely. Both of these alternatives are guaranteed by the Universal Declaration of Human Rights, a United Nations document signed by the U.S.S.R. Denial of these basic rights today at best reminds us of man's short memory about acts against humanity and at worst rekindles fear of a recurrence of one of man's darkest hours in Nazi Germany.

Elie Wiesel, a survivor of the horrors of Auschwitz and noted author, has written that civilization is but "foam that crests the waves and vanishes." Once again civilization is being challenged; it failed in World War II when it tolerated the intolerable. It is imperative that we not fail this time to speak loudly and clearly to Moscow in condemning this new wave of anti-Semitism.

The Soviet Union is finding its Jewish population a most handy scapegoat. The young Jews have dared to demand their rights to live in concert with their religious-cultural heritage. They have appealed to the United Nations Human Rights Commission, International Red Cross and other agencies. It is widely feared that the trial of the 34 in Leningrad is designed as a showpiece to dissuade others from similar attempts.

As we condemn these actions in the Soviet Union, it is important to remember and purge ourselves of our own tendency to look for scapegoats. Instead of examining the most fundamental causes of our manifold ills, we too often prefer to find an easily identifiable culprit, and then divert our anger, fear, or frustration toward him.

In the United States, as elsewhere, we find it easier to blame militants, doves, hawks, hard hats, intellectuals, or the mass media for problems in foreign policy, on campuses, in ghettos, in suburbs rather than looking for causes and then seriously trying to right fundamental errors.

Mr. President, the first candle of Hanukkah will be lighted on the evening of December 23. Hanukkah, the Festival of Lights, is the commemoration of the religious-cultural-political victory won by the Jews under the leadership of the Maccabees.

More than 2,000 years later, Soviet Jews are still struggling for the right to their own identity in the Diaspora.

Let us hope the weight of the world's moral indignation will persuade Soviet officials to abandon all forms of anti-Semitism; that this will be the last Hanukkah that cannot be observed freely by our Jewish brothers and sisters in Russia; and that we use our concern for Jews in Russia to strengthen our commitment to judge each man on his merits, to seek causes rather than scapegoats for our problems.

THE RUSSIAN SUBMARINE BASE IN CUBA

Mr. GURNEY. Mr. President, I ask unanimous consent to include in today's RECORD a story from the December 28 edition of Time concerning the Soviet building at Cienfuegos in Cuba. The story recites that:

U–2 reconnaissance photographs show that the base (at Cienfuegos) is almost complete. In addition to bunkers for storing submarine borne nuclear weapons, the Russians have built a steel antisubmarine barrier net between the shore and the Island of Cayo Carenas and have installed antiaircraft emplacements. They have also built a pier for docking submarines and elaborate rest and recreation facilities. The Bay now contains two storage barges designed to receive the discharges of nuclear contaminated effluent from submarines. The tender that touched off the September announcement is still cruising the Caribbean, and could return to Cienfuegos at any time.

The story also mentions that in his most recent news conference, President Nixon said he was not worried by the base and did not regard it as a threat to our security.

Mr. President, I am quite frankly alarmed by this whole episode. I think the Senate and American public are entitled to a full and complete report on this base.

On October 14, on the Senate floor, I made the following statement:

If the early intelligence is correct and the Soviets are in fact developing a submarine base in Cuba, we will have to deal with only two alternatives: either the stand this Nation took in the Cuban missile crisis of 1962 dies, or we take some affirmative counteraction, for the presence of such a Soviet nuclear sub base on our door step is incompatible with the reaffirmance in 1962 of the Monroe Doctrine.

I do not think, Mr. President, and I do not think other Senators believe, that the Monroe Doctrine should be discarded.

It is quite another matter if our early intelligence is wrong or has misled us. In that case there would be no problem of any magnitude. But if the early signs are correct, that the Russian Communists intend to have an operational submarine base in Cuba, then it behooves the United States to reassess its whole foreign policy vis-a-vis Soviet Russia.

Mr. President, I would urge most emphatically that the Department of Defense proceed immediately to determine, with the more than adequate means at its disposal, whether the Soviets intend to place a permanent submarine base or station in Cuba, and that it report to Congress and the American people the results of its investigation. If the Soviets have no such intention, we should know it. If the Soviets are building such an installation, we should know it and know it as soon as possible. It occurs to me that we have a right to know the full facts on this matter at the earliest possible date, so that we can take appropriate action. Candidly, I am not satisfied with the information which has so far been made available to the Congress.

Mr. President, I stand by that statement. It now appears that the Soviets are determined to build a nuclear submarine facility in Cuba. It is about to become an accomplished fact.

What shall be our posture in the face of this development? It seems to me that we cannot merely accept it. We must take a position—the postponements are over. I think it incumbent upon our Government to advise the Congress and the people of our position on this matter—of our intentions, of our policy.

We have heard and seen in the press a number of stories about the Soviet-American understanding at the time of the Cuban missile crisis in 1962. The time has come, in my judgment, Mr. President, for a full statement concerning that understanding—we should know in the first instance whether such an understanding exists; whether we consider it binding; whether the Soviets

consider it binding; we should know what our obligations are under it and what the corresponding Soviet obligations are. We should know whether it has been breached by the construction of this Soviet missile base. I respectfully, but emphatically, urge the administration to speak to us on this issue—to assure the American people—to state publicly and for the record, our national position on this apparent crisis.

Mr. President, I repeat what I said in October: If we retreat in the face of this latest Soviet probe—if we acquiesce to the placement of a Soviet military facility of this magnitude in our hemisphere, we will not be winning security or stability or respite; we will be in effect inviting new and potentially more dangerous probes. The Soviets will understand our actions as weakness and we will inevitably be subjected to further, more sinister tests. If we acquiesce, we will not be avoiding the ultimate nuclear confrontation—we will be bringing it closer.

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

CUBA

THE SUBS OF CIENFUEGOS

Last September the White House announced that the Soviet Union was building a base to service missile-carrying submarines at the south Cuban port of Cienfuegos. The news set off shock waves of fear that an East-West confrontation comparable to the 1962 Cuban missile crisis was imminent. But then the Soviets removed their submarine tender from Cienfuegos, and the moment of alarm seemed to pass.

Despite President Nixon's press-conference statement that he was unworried by Soviet naval presence in the western Atlantic, there is some evidence that the crisis has merely been postponed. U-2 reconnaissance photographs show that the base is almost complete. In addition to bunkers for storing submarine-borne nuclear weapons, the Russians have built a steel antisubmarine barrier net between the shore and the island of Cayo Carenas and have installed anti-aircraft emplacements. They have also built a pier for docking submarines and elaborate rest and recreation facilities. The bay now contains two storage barges designed to receive the discharges of nuclear-contaminated effluent from submarines. The tender that touched off the September announcement is still cruising the Caribbean, and could return to Cienfuegos at any time.

Double capacity

One U.S. naval official describes the Cienfuegos base as "smaller than Holy Loch and larger than Rota," referring to U.S. nuclear submarine bases in Scotland and Spain. It could service any of the Soviet navy's 76 nuclear submarines, including those of the Polaris-type *Yankee* class, of which the Soviets presently have 13. The practical strategic effect of the base will be to double the Soviets' nuclear submarine capability in American waters; one *Yankee* submarine will be able to perform a surveillance mission that required two such ships before.

The Nixon Administration faces a dilemma over how to react to the base at Cienfuegos. An outright confrontation with the Soviet Union, in an area deep within the traditional "U.S. sphere of influence," would almost certainly rule out the advancement of top-priority Administration objectives concerning the SALT talks, the war in Viet Nam, and the stalemate in the Middle East. The U.S. seems to be resigned to the presence of Soviet naval vessels in the Caribbean, with the submarines serviced in international waters from a tender based in Cuba. But it hopes that the Soviets will not force the issue by putting the Cienfuegos base into operation.

Ever since 1962, State Department officials have alluded to a vaguely defined "understanding" between John Kennedy and Nikita Khrushchev that the U.S. would not invade Cuba if the Soviets did not build strategic bases or install nuclear weapons there. Last month the White House let it be known that this understanding had been "renewed." In the meantime, however, the Cienfuegos base is all but ready to service Soviet nuclear missile submarines.

SEABED AND THE LAW OF THE SEA—TRIBUTE TO SENATOR PELL

Mr. HOLLINGS. Mr. President, I want to acknowledge today the leadership of a man who, more than anyone else in the Senate, has brought our attention to the need for new international agreement governing the exploration and exploitation of the resources of the oceans. My distinguished colleague from Rhode Island, Senator PELL, knows well the loneliness of the long distance leader; for years he has been way ahead of us in recognizing the need and pursuing the goal virtually alone. But he has pursued it well, and we are now seeing some of the fruits of his leadership and influence in actions being taken by the United States and the United Nations.

On November 26, Senator PELL, as a U.S. representative to the United Nations, spoke on the seabed and law of the sea to Committee I. Addressing the need for a Law of the Sea Conference, he said:

The principal issues that need to be considered at the conference are familiar to all of us. There is the need for treaty arrangements on an international regime for, and definition of, the area of the sea-bed and ocean floor beyond the limits of national jurisdiction, including appropriate machinery. In addition there is the question of the breadth of the territorial sea and related questions of international straits and conservation and management of the living resources of the high sea, including the interest of coastal states with respect to fisheries on the high seas. We and many other delegations also recognize the importance of taking conference action to secure effective regulation of marine activities to prevent pollution, taking due account of the forthcoming Stockholm Conference on the Human Environment and work of interested bodies such as the International Maritime Consultative Organization. If there are other matters which may be ripe for action, the conference should be free to consider them.

Last week, Mr. President, the U.N. General Assembly approved a declaration of principles governing the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, and also called for consideration of a Law of the Sea Conference in 1973. This action was an important first step leading to the recommendations made by Senator PELL. Mr. President, I ask unanimous consent that Senator PELL's statement to Committee I on November 26, and the declaration of principles passed by the General Assembly be printed in the RECORD.

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

STATEMENT BY SENATOR CLAIBORNE PELL

It is a great pleasure for me to join in the discussion of this item at the United Nations and at this particular time. I have followed the work of the Sea-Bed Committee since my distinguished friend and colleague, Ambassador Pardo, first proposed discussion of the sea-bed problem three years ago. Like him, I had for some time been concerned that the advancing pace of technology, both military and industrial, would soon signal a new area of conflict on the ocean floor. In the fall of 1967, I introduced in the United States Senate the first proposals designed to encourage international action on this item, and the following year I presented to the United States Senate a draft treaty on ocean space. I have followed ocean matters closely in my capacity as Chairman of the Oceans Space Sub-Committee of the Committee on Foreign Relations of the United States Senate.

Looking back, I am sure that are many here who will understand when I say that there was a certain sense of loneliness then—the kind of loneliness that comes from the pursuit of a new idea which few appreciate and many are ready to criticize.

In these past three years I have participated as an advisor to the United States delegation to the Sea-Bed Committee in your work here at the United Nations. I have also taken an active part in discussions within my Government and with leaders of other Governments on these matters.

And so it was a great satisfaction to me that the oceans policy announced by President Nixon last May, and the proposals presented to the Sea-Bed Committee in August based on that policy, were not the fuzzy result of compromise, but a bold venture into the future. I am very glad too that the approach and many of the ideas contained in my original draft treaty are included in these draft proposals.

It is my conviction that when we look back upon the decisions made here, what we do on this question will be seen as one of those crucial turning points at which we either choose the path of hesitation, delay, and finally conflict, or we choose a braver course which may speed not just the development of the resources of the oceans, but the development of new patterns of cooperation our world so badly needs. We do not want to see a "flag nations" rush towards new colonial empires. Rather, we wish to see the ocean resources and usufruct available to all the world's peoples.

President Nixon expressed this theme in the General Assembly on October 23 when he said:

"It is in the world interest for the resources of the sea to be used for the benefit of all—and not to become a source of international conflict, pollution and unbridled commercial rivalry. Technology is ready to tap the vast largely virgin resources of the oceans. At this moment, we have the opportunity to set up rules and institutions to ensure that these resources are developed for the benefit of all mankind and that the resources derived from them are shared equitably."

A great deal of useful work has already taken place. Of particular note is the work of the UN Sea-Bed Committee under the able and respected leadership of its Chairman, Ambassador Amerasinghe of Ceylon. The work on seabed principles, on which he and others have labored so industriously and with such a great measure of success in recent weeks, is particularly heartening. We are pleased that, as the result of Ambassador Amerasinghe's skillful and tireless consultations within the Sea-Bed Committee he has been able to submit a draft declaration of seabed principles to the First Committee, and I shall comment on that text at the appropriate time.

The Sea-Bed Committee and this General Assembly have helped develop an increased understanding of the complex issues involved in developing an international regime governing the exploration and exploitation of the deep seabed, including appropriate machinery, reflected in the most recent report of the Sea-Bed Committee. The Committee has benefited from the Secretary General's excellent report on international machinery. Ambassador Galindo Pohl and Denorme have provided valuable leadership through their chairmanship of the Legal and Economic and Technical Sub-Committees, respectively.

At the last meeting of the UN Sea-Bed Committee, several proposals were made regarding the preparation of an international regime for the seabed. I am particularly happy that one such proposal was made by my own Government in the form of a draft, United Nations Convention on the International Seabed Area.

I believe the draft Convention reflects the common interests of the international community in a seabed regime; interests which we already share, and which we will share more vitally in years to come. Among them are:

Preservation of the broadest possible precisely defined area of the seabed as the common heritage of mankind, open to use by mankind, open to use by all, with equitable sharing of benefits by all, particularly developing countries;

Preservation of the area exclusively for peaceful purposes;

Creation of new and uniform rules of law;

Establishment of a new international organization with regulatory powers that permit it to adapt rules of changing situations and to ensure that rights and obligations are respected;

Protection of human life and safety and of the marine environment;

Protection of the interests of coastal States in the exploration and exploitation of resources; and

Creation, for the first time in history, of an independent, substantial source of international revenues to be used for international community purposes, particularly to promote the economic advancement of developing countries.

Much remains to be done. The exploratory phase of our work is now ending, and the negotiation of treaty arrangements must now begin. This is not the time to address the substance of these negotiations. But it is the time to decide that the problems will be solved by prompt international negotiation.

The moment is, however, a fleeting one. The technology is within our reach now. And now is the time that we must decide whether those who possess it will work out their own means of accommodation, or whether we will plan ahead for the equitable sharing of benefits from what is truly the common heritage, and perhaps the most valuable heritage, of mankind. In truth, this is the world's new frontier—and its last frontier where we have a choice of developing it sensibly and peacefully for the benefit of mankind.

Mr. Chairman, in stressing the importance of diplomacy keeping abreast of science and technology, I think this Committee's overwhelming commendation of the draft seabed arms control treaty is well worth recalling. That commendation evidenced a strong conviction to prevent the extension of the nuclear arms race to a new vast area. The wisdom of that decision cannot be contested. We must strive for a similar diplomatic ability to ensure the best use of advances in undersea technology which is now making the theoretical wealth of the seabed an actuality.

Worldwide about 16% of our oil is now produced off-shore, and that percent is rising. A few weeks ago a producing well was brought in at more than 300 meters of water, and new technological developments will extend this frontier further. It is expected that commercial recovery of manganese nodules in the deep seabed could begin as early as 1973.

There are many unknowns in this equation. We do not know just how valuable these untapped resources may prove to be though it is fairly certain that they are extensive. We do not know precisely what the economics of deep seabed mining may prove to be. But, we do know that man's growing need for resources is already creating great pressure to develop the technology to obtain those resources. It will avail us little to develop a cooperative plan for the development of these newly available resources if at the same time we revert to the most nationalistic approaches to the problems. The oceans will become an area for new clashes of national wills and ambitions as a result of which all nations will suffer—unless we are determined to find solutions through international cooperation.

Some countries have recently made new claims of national jurisdiction over the oceans which have the effect of reducing the area of the oceans beyond the limits of national jurisdiction by many thousands of square miles. These claims, if they expand and proliferate, would remove from any international regime vast areas of the ocean beds which may contain the most valuable, and certainly the most easily exploitable, sources of wealth. Worse, such claims of jurisdiction may well extend to the sea the same conflicts that have attended the defense of jurisdictional claims on land. This is clearly not a bold step forward, and may well be a disastrous step backward.

I can well understand the pressures on many nations to adopt unilateral solutions. Such pressures certainly exist in the United States. I can testify to the vigor with which certain interests have urged that the United States unilaterally extend its own jurisdiction.

But when States give in to those pressures, they undermine efforts to develop through international cooperation agreed and mutually beneficial arrangements that will accommodate the interests and needs of all States, whether land-locked or coastal.

We cannot provide for the orderly use of a common resource by unilateral action. On the contrary, I would suggest that, given the realities of power, the inevitable result of such an approach to law of the sea or the seabed will be that nations will share no more equitably in the economic benefit to be derived from ocean mineral resources than they have in the past in other exploitation of natural resources on land.

The international community must act before it is too late. Clearly, there needs to be a new international conference on the law of the sea, to meet as soon as possible, and we are encouraged in this regard by the wide support for such an approach as reflected in the replies to be Secretary-General's inquiry contained in Document A/7925.

How, then, should we proceed? In my view, the first step that needs to be taken is for the General Assembly to decide that such a conference shall be held and to set firm dates for the conference. In the absence of timely conference arrangements, the development of international law will fail to keep pace with the rapidly expanding technology, and States will not share equitably in the full benefits that would flow from application of this technology.

In fact, because of the speed with which technology is moving ahead, procedural delays can have the effect of filibuster, and can create out of our oceans and their seabeds new colonial empires to be exploited for the sole benefit of the adjacent coastal states.

We are presuaded that final conference decisions cannot be put off beyond early 1973. The requirement that States have sufficient time for adequate preparation must also be balanced with the urgency of attaining our goals of peaceful and stable development.

To ensure that the conference will be successful we must also provide for the necessary preparatory arrangements, including elaboration of draft treaty articles on the principal issues that should be considered by the conference.

If final conference decisions are to be made in early 1973, it would be important to schedule the conference in two sessions, so that a preparatory session could be held early in 1972. This would enable broad participation at a sufficiently early stage and give all delegations an opportunity to further develop their positions in the interim between the two sessions so that final decisions could be successfully negotiated at the second session of the conference.

It is desirable that all of the outstanding issues come before both sessions of the conference. Therefore, substantive preparations of these issues need to be undertaken as soon as possible, in 1971.

The principal issues that need to be considered at the conference are familiar to all of us. There is the need for treaty arrangements on an international regime for, and definition of, the area of the sea-bed and ocean floor beyond the limits of national jurisdiction, including appropriate machinery. In addition there is the question of the breadth of the territorial sea and related questions of international straits and conservation and management of the living resources of the high sea, including the interest of coastal states with respect to fisheries on the high seas. We and many other delegations also recognize the importance of taking conference action to secure effectively regulation of marine activities to prevent pollution, taking due account of the forthcoming Stockholm Conference on the Human Environment and work of interested bodies such as the International Maritime Consultative Organization. If there are other matters which may be ripe for action, the conference should be free to consider them.

We recognize that nations give different weight to the importance of various issues that should be considered by any future law of the sea conference The best approach, in our view, is for the General Assembly to enumerate those matters on which there now is a broad measure of agreement as to the desirability of their consideration at a conference, yet leave the conference free to take up other related matters.

To ensure adequate preliminary preparations for the first session of the conference, the Seabed Committee should meet early next year to prepare draft treaty articles on seabed matters. We are hopeful that this session of the General Assembly will reach agreement on a Declaration of Seabed Principles which will provide the framework for the preparation of treaty articles on these matters.

For the preliminary preparation of draft treaty articles on the breadth of the territorial sea and other matters, we think it desirable to create a new Preparatory Committee, which would also meet early in 1971.

During the time remaining between now and 1973, we should be able successfully to prepare international agreements on all of these equally important subjects, and conclude them together at the final session of the conference.

With these considerations in mind, we have put before the Committee a draft resolution calling for a new conference on the law of the sea. Although much thought and work has gone into the draft, it is by no

means a final product, and we hope and expect to improve upon it in light of the comments and suggestions of other delegations, and discuss the resolution in more detail at a later point in the debate.

But, let me stress now, that the time has come to take definitive actions leading toward a new law of the sea conference, and that we should act in the conviction that agreed international solutions can and will be found. To be sure we must act carefully as well, but let us not heed the counsels of delay.

The General Assembly can delay progress on international solutions. But it cannot delay technology; it cannot delay the problems; and it cannot delay the pressures for unilateral solutions to these problems, and the conflicts that will inevitably result if unilateral actions are taken. In brief, in every year that passes, unilateral actions will reduce our options and prejudge our decisions until the opportunity will be lost to provide for the common benefit of all. A few technologically advanced states will be wealthier. A few states with long coastlines will take false comfort in the thousands of square miles they have claimed as their own. But the international community will have a substantially reduced source of independent income.

It is important to act with urgency to establish internationally agreed rules which will assure the harmonious use of the seas and the seabed—for commerce and transportation, for the production of food, and in the development of other resources—to ensure that man's marine activities are regulated to prevent pollution.

We have seen about us the effects of greed, of indifference to the future, of disregard for the waste of resources, and the indignities to nature which may be irretrievable. Surely it is not necessary to repeat the mistakes of the past.

The future compels greater unity as our global interests increasingly outweigh our individual differences. It is often hard in this forum to imagine a time of such unity, but imagine it we must because there is no real alternative. This is one of the times when we have within our grasp the means of dealing with a problem which has no national history, and which knows no national boundaries, and to resolve it in the kind of global framework that we must construct for the future.

Every day that we delay reduces our opportunity for choice. I urge all of you who share my personal concern with this problem to enter into this effort with renewed determination to ensure harmonious use of the oceans and their riches for the benefit of all.

DECLARATION OF PRINCIPLES GOVERNING THE SEA-BED AND THE OCEAN FLOOR AND THE SUB-SOIL THEREOF BEYOND THE LIMITS OF NATIONAL JURISDICTION

The General Assembly,

Recalling its resolutions 2340 (XXII) of 18 December 1967, 2467 (XXIII) of 21 December 1968 and 2574 (XXIV) of 15 December 1969, concerning the area to which the title of the items refers,

Affirming that there is an area of the seabed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction, the precise limits of which are yet to be determined,

Recognizing that the existing legal régime of the high seas does not provide substantive rules for regulating the exploration of the aforesaid area and the exploitation of its resources,

Convinced that the area shall be reserved exclusively for peaceful purposes and that the exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole,

Believing it essential that an international régime applying to the area and its resources and including appropriate international machinery should be established as soon as possible,

Bearing in mind that the development and use of the area and its resources shall be undertaken in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to minimize any adverse economic effects caused by fluctuation of prices of raw materials resulting from such activities,

Solemnly declares that—

1. The sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind;

2. The area shall not be subject to appropriation by any means by States or persons, natural or judicial, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof;

3. No State or person, natural or judicial, shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international régime to be established and the principles of this Declaration;

4. All activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international régime to be established;

5. The area shall be open to use exclusively for peaceful purposes by all States whether coastal or land-locked, without discrimination, in accordance with the international régime to be established;

6. States shall act in the area in accordance with the applicable principles and rules of international law including the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding;

7. The exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographic location of States, whether land-locked or coastal, and taking into particular consideration the interests and needs of the developing countries;

8. The area shall be reserved exclusively for peaceful purposes, without prejudice to any measures which have been or may be agreed upon in the context of international negotiations undertaken in the field of disarmament and which may be applicable to a broader area;

One or more international agreements shall be concluded as soon as possible in order to implement effectively this principle and to constitute a step towards the exclusion of the sea-bed, the ocean floor and the subsoil thereof from the arms race;

9. On the basis of the principles of this Declaration, an international régime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character, generally agreed upon. The régime shall, *inter alia*, provide for the orderly and safe development and national management of the area and its resources and for expanding opportunities in the use thereof and ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal;

10. States shall promote international co-operation in scientific research exclusively for peaceful purposes:

(a) by participation in international programmes and by encouraging co-operation in scientific research by personnel of different countries;

(b) through effective publication of research programmes and dissemination of the results of research through international channels;

(c) by co-operation in measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes.

No such activity shall form the legal basis for any claims with respect to any part of the area or its resources.

11. With respect to activities in the area and acting in conformity with the international régime to be established, States shall take appropriate measures for and shall co-operate in the adoption and implementation of international rules, standards and procedures, for *inter alia:*

(a) prevention of pollution and contamination, and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment;

(b) protection and conservation of the natural resources of the area and prevention of damage to the flora and fauna of the marine environment;

12. In their activities in the area, including those relating to its resources, States shall pay due regard to the rights and legitimate interests of coastal States in the region of such activities, as well as of all other States, which may be affected by such activities. Consultations shall be maintained with the coastal States concerned with respect to activities relating to the exploration of the area and the exploitation of its resources with a view to avoiding infringement of such rights and interests;

13. Nothing herein shall affect:

(a) the legal status of the waters superjacent to the area or that of the air space above those waters;

(b) the rights of coastal States with respect to measures to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat thereof resulting from, or from other hazardous occurrences caused by, any activities in the area, subject to the international régime to be established;

14. Every State shall have the responsibility to ensure that activities in the area, including those relating to its resources, whether undertaken by governmental agencies, or non-governmental entities or persons under its jurisdiction, or acting on its behalf, shall be carried out in conformity with the international régime to be established The same responsibility applies to international organizations and their members for activities undertaken by such organizations or on their behalf;

Damage caused by such activities shall entail liability.

15. The parties to any dispute relating to activities in the area and its resources shall resolve such dispute by the measures mentioned in Article 33 of the Charter of the United Nations and such procedures for settling disputes as may be agreed upon in the international régime to be established.

THE OLD STONE GATE AT THE CHICAGO STOCKYARDS

Mr. PERCY. Mr. President, for generations, the Chicago stockyards were both a landmark and a place of work. To proud Chicagoans, the stockyards both symbolized our city's unique place in the panorama of America and contributed to our economic progress.

History was made there, and poetry, as well as a living for many of us. The bus-

tle and clamor of the Chicago stockyards came to symbolize for many the drive and hustling determination of America.

Now, modern technology and changing ways have silenced the stockyards. The pens are empty and the workmen gone. The area is slated to be closed in February and given over to commercial development.

But the stockyards mean too much to the development of Chicago to be forgotten once they pass out of existence. I am most happy to see that the Amalgamated Meat Cutters and Butcher Workmen, AFL–CIO, is spearheading a drive to preserve the old stone gate to the Union Stockyards as a memento of the past.

Patrick E. Gorman, the public-minded secretary-treasurer of that great union, put it well when he said recently:

> So much of the history of the meat industry and organized labor is associated with the yards that we feel something should be done to preserve the Stone Gate on Exchange Avenue as a permanent reminder to the people of Chicago that the early growth of the city and its world-wide reputation was founded on the square mile behind it.

I am pleased also that this is an effort fully supported by all parties. Mr. Charles Potter, president of the stockyards, has supported the project since its inception and it is supported also by the Chicago Historical Society, the Chicago Farmers Club, and other outstanding organizations.

I am most happy to join with all the organizations involved in urging that the gate be preserved as a national historical landmark.

TRIBUTE TO SENATOR WILLIAMS OF DELAWARE

Mr. METCALF. Mr. President, during the time I have been in Congress I have been privileged to serve on the Ways and Means Committee of the House for one session and on the Finance Committee of the Senate for one session. During each of those periods I became more closely aware of the eminence of Senator WILLIAMS of Delaware. More closely aware, perhaps, than had I not been exposed to the special areas of knowledge and perception that he has brought to the Senate Finance Committee.

So I join with my colleagues in expressing regret that so able and skillful and experienced Member of the Senate is leaving. His place will not be filled for a long time, and in future debates he will be missed.

THE SST

Mr. GOLDWATER. Mr. President, during debate on the SST matter last week, I made the statement that what had been said on the floor relative to scientific matters was pure, unadultered poppycock. To point this up a little more, I looked into the statement appearing in one of our local Washington papers to the effect that 10,000 additional cases of skin cancer would occur due to the SST. I found that this statement had been made by Dr. James McDonald of the University of Arizona.

Looking into this statement, I found very readily that this statement is not only very soft, it is incredibly misleading. To begin with, Dr. McDonald is a meteorologist and a very fine one, and not a doctor, and there is no written document that can be examined and checked; and, the release was made without appropriate Academy concurrence or review, even though this is part of an Academy study on climate modification.

The proposed mechanism is the destruction of stratospheric ozone by SST water exhaust and consequent enhancement of solar ultraviolet radiation reaching the earth. A conversation with John Sievert at the National Academy of Sciences affirmed by previous understanding that no qualitative relation is known between increased UV and increased skin cancer, so we must assume that the quoted number of skin cancer cases, even assuming that the ozone destruction occurs, is a stab in the dark.

I offer this as further statement that those who have made scientific statements on this floor, even though they were not of their own, were careless with the academic and scientific facts of the case, and I would hope that in the course of time, all of these misleading statements can be put in their proper order and perspective.

TRIBUTES TO SENATOR HOLLAND

Mr. SPONG. Mr. President, on Saturday morning I arrived on the floor just as the allotted time was expiring for tributes to our colleague, Senator SPESSARD L. HOLLAND. I regret this, and hasten today to join those who have already paid tribute to this great American.

First, I should like to thank SPESSARD HOLLAND for his many kindnesses to me during the 4 years I have been privileged to be his colleague. In serving with Senator HOLLAND I have been struck by his unfailing courtesy to all, his innate kindness and his steadfast dedication to public service.

SPESSARD HOLLAND'S service has been superb to his State of Florida but that service has far transcended State or regional boundaries. His accomplishments and contributions in the field of agriculture are recognized by every Member of this body. As an able attorney, he has often injected logic and reason into the most emotional of debates—casting light rather than heat.

We junior Senators will miss the counsel of SPESSARD HOLLAND. All of us regret that he and Mrs. Holland will be soon leaving. As they return to Florida—for what I hope will be many years in the sun—they leave behind a model of what a Senator and his lady should and can be.

Mr. HOLLINGS. Mr. President, I am honored indeed to join in tribute to the retiring senior Senator from the State of Florida. As he prepares to take leave of this Chamber, SPESSARD L. HOLLAND can take great pride in a job well done. His career spans not only many years but varied occupations. He has been a distinguished student and decorated soldier, educator and attorney, judge and legislator. And from each of these pursuits have come honors and distinctions.

The distinguished senior Senator from Florida has been not only an effective representative of his State but also of the Nation. It has been my privilege to work with him on many problems—on the problems of agriculture, for instance, and, along with my colleagues, I can attest his championship of the American farmer. I have seen him pondering the great issues of war and peace and, along with my colleagues, I take inspiration from his dedicated Americanism. His judgments are always reasoned and mature. Even those who occasionally found themselves differing from his views will testify to the integrity of the man.

The Senate will miss the presence of SPESSARD HOLLAND. But in the record of his years, he leaves a legacy that can continue to shape the deliberations of this Chamber. It is a legacy of sincerity and dedication, of homework done and legislation passed, of unflinching integrity and patient gentlemanliness. Mr. President, I appreciate this opportunity to pay tribute to my good friend from Florida. And I shall always recall with gratitude the opportunity of having served alongside the man we honor today. I wish him a long and happy retirement.

Mr. CHURCH. Mr. President, on Saturday morning, owing to an unanticipated, though unavoidable, delay. I was unable to take part in paying tribute to SPESSARD HOLLAND during the time set aside for that purpose. Since he has been a good friend, and has extended many personal courtesies to me through the years, I would not want the occasion to pass without joining in the salute to him.

Other Senators have detailed the major legislative accomplishments of SPESSARD HOLLAND, emphasizing his leadership role in securing Senate approval of the tidelands bill and his sponsorship of the constitutional amendment ending the poll tax. A test of leadership in the Congress is to be able to rise, when conscience dictates, above regional customs and folkways. In the early 1960's, Senator HOLLAND did just this, when he led the fight to eliminate the poll tax that in many States had been used to disenfranchise Negroes from voting. The repeal effort, in which Senator HOLLAND played such a prominent role, was successful and is enshrined in the form of the 24th amendment to the U.S. Constitution.

Senator HOLLAND'S great interest in agriculture will be long remembered. On frequent occasions, when I expressed support for authorizations for various activities of the Agriculture Department, especially those relating to soil and water conservation programs and projects in my home State of Idaho, SPESSARD HOLLAND, as ranking Democrat on the Committee on Agriculture and Forestry, always listened sympathetically and acted supportively. For this, the farmers of Idaho are indebted. And on their behalf, I express both their appreciation and mine.

Any of these services would mark SPESSARD HOLLAND as an effective and

successful Senator. I recall, however, another leadership role which has not received as much notice, but nevertheless deserves prominent mention in any review of SPESSARD HOLLAND'S career in the Senate. I refer to his direction of the opposition forces to the effort made, 2 years ago, at the commencement of this Congress, to revise Senate Rule 22. Along with the distinguished Senator from Kansas (Mr. PEARSON), I spearheaded that effort to amend the rule. I strongly disagreed, then, as now, with the position taken by Senator HOLLAND. It was, however, a position that conformed with the Senator's deeply held convictions concerning the role of the Senate in our political life.

Throughout the debate, Senator HOLLAND argued his case with the skill, tenacity, and eloquence that have made him one of the most formidable debaters in this body. Moreover, he was a perfect gentleman at all times, never permitting his keen interest in the subject matter, nor his determination to win the fight, to overcome his unflagging civility and courteous treatment of all who participated in the lengthy debate. Senator HOLLAND invariably displays that desirable trait of being able to disagree without being disagreeable. His example should be a guideline for the Senate in the great legislative debates of future years.

These are the attitudes of a man tempered by a lifetime of exposure to public affairs; a career which embraced the highest political office his constituents could confer, the governorship of Florida, to be followed by these many years of distinguished service to the U.S. Senate.

So, we shall miss him, though he takes with him the satisfaction of a life honorably devoted to the service of his beloved State and Nation.

Mr. METCALF. Mr. President, in the days when I was a Member of the House of Representatives I looked over to the Senate and regarded Senator HOLLAND with ambivalence. He was an eloquent spokesman for a farm program I espoused and he was an adamant foe of a labor program I believed in.

But I have grown to know Senator HOLLAND in the last decade since I came to the Senate. I am an office neighbor of his in the Old Senate Office Building and in the last session I have been privileged to sit close to him on the Senate floor.

Knowing Senator HOLLAND has been a rewarding experience. He has been a prosecutor as a lawyer, but he is not prosecution minded. He was a county judge and he has always been judicial. He has been a Governor but in spite of States' rights he sponsored and was most instrumental in the passage of the Constitutional amendment eliminating the poll tax as a prerequisite for voting.

In committee he is ever questioning but never questionable. His inquiring mind and his knowledge helps him keep ahead of almost all witnesses. He is a formidable debator, always prepared, well grounded in his subject and articulate and eloquent.

But as a neighbor in the Senate, I especially want to pay tribute to him. I shall miss him in the elevator. I shall miss his cogent comments as a vote progresses. I shall miss his staff as amiable next door neighbors. Mrs. Metcalf and I wish Senator and Mrs. Holland a happy retirement and know they will bask in the feeling of a job well done and a mission performed.

Mr. YOUNG of Ohio. Mr. President, it is a happy personal recollection of mine that on my very first day as a Senator of the United States on the 3d of January 1959, the distinguished senior Senator from Florida, SPESSARD HOLLAND, shook hands with me and wished me good luck. Over the years since then he and I have been seated close together in the Senate Chamber. So in the Senate Chamber itself and also in the private dining room of the Senate during the past 12 years I have talked with Senator HOLLAND on many, many occasions and have frequently had the benefit of his views and advice.

Mr. President, I hold the senior Senator from Florida, SPESSARD HOLLAND, in the highest admiration. I like him as an individual and I like the magnificent public record he has made serving his State first, as a county prosecuting attorney, then as a county judge for two terms and following that as a State senator for two 4-year terms and then as Governor of Florida from 1941 to 1945. The citizens of Florida have manifested their gratitude for his services to them. He first came to the Senate by appointment in 1946, then following that he served in the Senate of the United States from January 3, 1947, and was reelected at every successive election including November 3, 1964, for the present, his final term in the Senate.

Mr. President, Senator HOLLAND as a young man served in combat with distinction. In World War I he was aerial observer of the 24th Squadron, Army Air Corps in France and was awarded one of our Nation's highest honors for bravery in the Armed Forces, the Distinguished Service Cross.

Mr. President, I salute this great man who is voluntarily retiring from the Senate. He is walking out with his regimentals, his back straight and head up. I feel honored to be numbered among his friends and to SPESSARD HOLLAND I say, Godspeed and happy landings in all things.

Mr. ELLENDER. Mr. President, we all are aware that the adjournment of this 91st Congress will bring to a conclusion the long and highly distinguished service in this legislative body of the senior Senator from Florida, the Honorable SPESSARD L. HOLLAND. I wish to give special recognition today to Senator HOLLAND'S efforts on behalf of American agriculture as a member of the Committee on Agriculture and Forestry for the past 22 years. From the year 1955 through 1964 he was chairman of the Subcommittee on Agricultural Credit and Rural Electrification, and, in this capacity, guided most of the legislation that resulted in an adequate and continuous supply of credit for the Nation's farmers and ranchers.

Recognizing this vital contribution to the well-being and success of our farmers, the Federal Farm Credit Board—top policymaking body of the farm credit system which is appointed by the President and confirmed by the U.S. Senate—on December 9, 1970, authorized Gov. E. A. Jaenke to write a letter to Senator HOLLAND, expressing grateful appreciation to him. I ask unanimous consent to enter this letter in the RECORD at this point.

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

FARM CREDIT ADMINISTRATION,
Washington, D.C., December 10, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLAND: The Federal Farm Credit Board has asked me to express in its behalf and that of the entire cooperative Farm Credit System, its grateful appreciation for the many things you have done in our and agriculture's behalf over the years.

Knowing something of your disdain for flowery rhetoric, we promise to keep our remarks brief and to the point.

We, of course, greatly appreciate the leadership and support you, as a member of the Senate Committee on Agriculture and Forestry, have extended over the years in support of many pieces of Farm Credit legislation, perhaps the most significant of which is the Farm Credit Act of 1953, which created the Farm Credit Administration as an independent agency, set up the Federal Farm Credit Board, and enunciated a policy of greater participation on the part of our farmer-members. However, these endeavors are written indelibly into the record.

What we particularly want to acknowledge and recognize here are the many unrecorded courtesies and services you have performed because you are Spessard L. Holland. We refer here to the always friendly reception you have accorded us and the numerous times you have responded to our requests for advice and counsel. These, we feel, were extended as our friend.

Best wishes, Senator, for many years of well-deserved retirement.

Sincerely,

E. A. JAENKE, *Governor.*

Mr. ELLENDER. Mr. President, on November 12, 1970, Hon. F. A. Mechling, president, Water Resources Associated, and executive vice president, A. L. Mechling Barge Lines, Inc., made remarks at a convention of the Florida Waterways Association, Inc., and paid tribute to Senator HOLLAND. I ask unanimous consent that excerpts from those remarks be placed in the RECORD following my remarks.

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

Florida has matchless potentialities for growth and prosperity. Much of your industrial plant is new and modern. More and more industry and commerce is being attracted here because of the capacity to satisfy water supply, navigation, power and—that magic word for young and old alike—recreation. With water and agriculture and modern industry together with new improvements in both ocean and inland waterway equipment, this area has a great growth potential and great prospects for a long run of prosperity.

The quality of your natural resources is equally matched with the quality of your human resources. Your luncheon program tomorrow has as its highlight an appreciation luncheon honoring one of your great senators. His long and dedicated service to water resource development in the State of Florida is outstanding. Many of us in the Midwest would also like to claim the wonderful service that has been performed by

Senator Spessard Holland and his many long years of devoted service and support of water resource development. His unselfish dedication has not only been of great service to your state but also to other states of this nation. The long list of projects that he has supported will go down in history in justifying his vision and foresight for generations to come. To name but a few projects of vital interest to this Association, the Cross-Florida Barge Canal, the many flood control projects, the "Missing Link" and many others under study require the continuing, untiring efforts of people with vision and dedication like the Senator you will be honoring tomorrow.

Mr. ELLENDER. Mr. President, much more has been said about the distinguished and able Senator from Florida, Hon. SPESSARD L. HOLLAND, in which I wholly concur. He was well prepared when he assumed his duties as a Senator from Florida. He served in the three branches of government in Florida: First as a judge, then as a member of the Florida Legislature and finally as its Governor. In all of these capacities he has served the people of Flordia ably and well. He has no peer in the Senate in his efforts to help protect and preserve our two most important resources—land and water. All of us wish him well and hope that in retirement he and his charming wife, Mary, will enjoy life and will continue to make themselves useful to their friends and neighbors in Bartow, Fla., their home. We hope that both return to Washington and visit with us.

INTERNATIONAL LAW AND PRISONERS OF WAR

Mr. PERCY. Mr. President, as Christmas approaches, it would be well for all Americans, and for the world of civilized nations as well, to remember that for some American young men it will be the fifth, and even the sixth, Christmas in a Southeast Asia prison camp. These men are heroes, not criminals, and they do not deserve to be treated as criminals.

These prisoners of war are suffering untold tortures, both in body and spirit, while we at home by the nature of the holiday season think mostly of tinsel and mistletoe and gifts for our loved ones. For years, most of these men have received no gifts from anyone, nor even mail.

The people of America, and the world at large, will note the cynical behavior of North Vietnam. Her treatment of the unfortunates who have fallen into her hands is on a par with the execrable way Hanoi has attempted to gain dominion over the people of South Vietnam—by torture, and murder, of village leaders and their families.

Hanoi should long since have learned that the only way to gain respect among nations is to treat the institutions of nations—by which is meant, among other things, the institutions of international law—with respect.

SEEMS UNLIKELY THAT GENOCIDE CONVENTION WILL BE ACTED ON BY THE ENTIRE SENATE

Mr. PROXMIRE. Mr. President, it now appears very doubtful that this Senate will be able to consider the United Nations Genocide Convention. This is most unfortunate and I deeply regret that the Senate allowed such an opportunity to pass without action. I am aware, however, of the many pressing issues still left unresolved by this session of Congress, and have realized that to expect action on this convention at this time is not possible.

I am disappointed, but I do not believe that all has been lost. This convention has been waiting for 20 years for Senate action. Thus the favorable recommendation by the Senate Foreign Relations Committee was a major milestone on the road to success. Certainly I had hoped that the Senate would follow the lead of the Senate Foreign Relations Committee. Since this is not the case, this convention will have to go back to the committee, where hopefully they will report the convention to the floor as soon as possible in the next session of Congress. Action by the Senate Foreign Relations Committee should not be difficult since the committee has already acted favorably on the convention.

We cannot allow the impetus to ratify the Genocide Convention to fade away. I am hopeful that the entire Senate will get a chance to discuss this treaty in the next session of Congress.

THE TFX REPORT

Mr. CURTIS. Mr. President, I want to associate myself today with the views expressed in the TFX report filed by Senator MCCLELLAN on Friday last. I believe that this report of the Permanent Subcommittee on Investigations represents a real service to the American people in exposing what was truly the worst sort of example of poor government.

The TFX report hits right at the root cause of the failure of that program—mismanagement. I cannot emphasize enough how important it is to recognize that the five major management blunders in TFX, so ably documented by the subcommittee, occurred at five separate times spread over the tenure of Defense Secretary McNamara. He made these blunders in the years 1961, 1962, 1964, 1966, and 1967. This demonstrates, I believe, that there was a continuity of mismanagement—of poor decisionmaking—throughout this TFX program. It did not occur in one single isolated instance. It characterized the Defense Secretary's actions throughout the TFX program.

This is why I feel the subcommittee has performed such an important service in documenting the complete history of this example of the McNamara management. The subcommittee has shown conclusively the ruinous effects that overcentralized but inexpert decisionmaking can have on the results of a weapons development program, when the advice and recommendations of the technical staffs and the judgments of senior military advisers are ignored or rejected in favor of superficial personal ideas on what should be done to manage a program.

When I sat on the subcommittee in 1963 during the TFX contract award hearings, I was disturbed more than anything else by the attitude of intellectual arrogance that pervaded the arguments, the expositions, and the thinking processes of those civilian Secretaries who were witnesses. "How dare you to question our judgments" was their attitude as they so smugly expounded on their reasons for the award of the TFX contract.

A question that I would like to propound today—now that we have before us the fruits of those judgments—is whether the TFX case represents a single isolated instance of blundering—one aberrance in an otherwise smoothly functioning management system—or is it more probably typical of the operation of the Pentagon management under Defense Secretary McNamara? I strongly believe the latter to be the case. The evidence surrounds us that this is true. Cost overruns and performance deficiencies abound in the military procurement programs of the McNamara era.

Under Defense Secretary McNamara, we also suffered through a development hiatus for new military combat aircraft, the effects of which we are facing today. I am thinking about the F–14 and F–15 fighter programs, both of which should have been started in the middle 1960's but did not go under contract until Secretary Laird was appointed. Also, the S–3 antisubmarine warfare aircraft was delayed and delayed until the present administration took office. Lastly, and of extreme importance, is the B–1 strategic bomber, for which the Air Force had expressed a definite need and specific requirement since 1964 and 1965. Instead of starting this new strategic bomber back then—and if we had, it would be approaching operational status today—Mr. McNamara had us spend over $1.2 billion to acquire 76 FB–111 medium bombers, thus wasting time as well as money, and as a result we will be faced with a strategic bomber gap in our weapons arsenal in the waning years of this decade.

I am sure that there is an ample field here in the management programs and concepts of the McNamara era in the Pentagon to document many other case histories similar to the TFX.

I salute Senator MCCLELLAN for his perserverance in seeing this investigation through to its conclusion. I know he has been the target of much misinformed criticism for his efforts on this case, and I believe the Congress and the American people owe him an acknowledgment of debt for his great contribution that will accrue from completing this case.

THE PROGRESSIVE MAGAZINE'S ARTICLE ON SENATOR SAM J. ERVIN, JR.

Mr. JORDAN of North Carolina. Mr. President, in recent years my colleague Senator SAM ERVIN has been a major force influencing some of the most significant issues involving individual liberties which have ever come before the Senate. In a recent article which appeared in the Progressive magazine for September 1970, Mr. Erwin Knoll explored Senator ERVIN's efforts in the Senate, and he highlighted the one aspect of SAM ERVIN's creed which, I be-

lieve, dictates his courageous action in so many legislative battles. Mr. Knoll quotes Senator ERVIN as saying:

The supreme value of civilization is the right of the individual to be free from governmental tyranny.

This quote is certainly not new to the Members of the Senate who have heard it on numerous occasions, but Mr. Knoll realizes that it is more important to SAM ERVIN than just a vague statement to be used in Senate debate. It represents the overriding philosophy of a man who follows it regardless of the political consequences.

Under the umbrella of this credo, Ervin tilts away at the legislative fads of the moment—the so-called law and order bills, civil rights bills, school prayer amendments, consumer bills, and many others. These are all popular ideas, meant to do good, but SAM ERVIN opposes them because he feels they expand an ever-growing Government at the expense of the individual. In a time of political expediency, SAM ERVIN takes the broader view, and the Senate and the American people are the beneficiaries.

Mr. President, for a highly interesting article on one of its most distinguished Members, I recommend to the Senate the article in the Progressive magazine which was republished in the Raleigh News and Observer for November 29, 1970; and I ask unanimous consent that it be printed in the RECORD.

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

SAM ERVIN'S THUNDER

(By Erwin Knoll)

WASHINGTON.—"What we're witnessing in this country, I think, is a shift toward tyrannical, totalitarian government. Constitutional rights are evaporating—there's no question about that."

A cry of rage from the underground press? The feverish rhetoric of a fugitive Weatherman? A message smuggled from the New Haven jail by an imprisoned Panther? Well, no. The stark statement above is the considered judgment of Sam J. Ervin Jr., Democrat of North Carolina, a pillar of the Southern conservative establishment in the Senate of the United States.

Sam Ervin, 73 years old, has fought many fights some good, some bad, in his 16 Senate years. He fought one of his best this summer—a week-long, tablethumping, arm-flailing campaign to keep the Senate from approving a bill called the District of Columbia Court Reform and Criminal Procedure Act of 1970.

Ervin called it "a Bill to Repeal the Fourth, Fifth, Sixth, and Eighth Amendments to the Constitution," and he implored his Senate colleagues to reject this "garbage pail of some of the most repressive, nearsighted, intolerant, unfair, and vindictive legislation that the Senate has ever been presented."

He lost, and he lost decisively. The Senate passed the D.C. omnibus crime bill—"the ominous crime bill," Ervin called it—by 54 votes to 33. The House had previously approved it, after the usual brief, perfunctory debate, by 332 votes to 64. The President, praising it as an "unprecedented and very strong" measure, signed it into law on July 29, and on that day Sam Ervin told me that he thought the "shift toward tyrannical, totalitarian government" was well under way.

He has been watching the shift closely—and with growing trepidation—for many years. Since 1961, when he became chairman of the Senate Judiciary Subcommittee on Constitutional Rights he has been the Senate guardian of civil servants harassed for their political views, of GIs deprived of due process in the military courts, of indigent defendants unable to raise bail or retain legal counsel. On the Senate floor, he has thundered—almost invariably to a deserted chamber—against what he bluntly calls "the trappings of a police state . . ."

When it transpired this summer that Treasury agents were combing through public library records to identify borrowers of "subversive" books, Ervin was the first—and one of the few—senators to protest. "Throughout history," he wrote to Secretary of the Treasury David M. Kennedy, "official surveillance of the reading habits of citizens has been a litmus test of tyranny."

And yet, to the bedevilment of those who like their politics neat and straight, Sam Ervin is the pride and joy of Southern racists—the artful and articulate opponent of every civil rights measure to come before the Senate in the last decade and a half. He has railed with the worst of them against the "judicial oligarchy" of the Supreme Court, and Southern colleagues often suggest he would be an ideal appointee to that tribunal. He is, they say, "the greatest constitutional lawyer in the United States."

A Northern senator offers a more qualified—and precise—assessment: "He has an excellent legal mind and he does his homework better than anyone I know around here, but he's got some strange blinders. There isn't anyone in the Senate who can match Sam on the Constitution as long as you don't go beyond the 12th Amendment."

There is no inconsistency, Ervin maintains, between his devotion to civil liberties and his opposition to "so-called civil rights acts." "I am concerned with the rights of the individual against an ever-growing federal government," he says. "The supreme value of civilization is the right of the individual to be free from government tyranny."

Down in North Carolina, they have become used to Sam Ervin's peculiar ways, and probably attribute them to his Harvard law degree. Forty-five years ago, as a young member of the state legislature, he helped defeat a bill that would have barred the teaching of evolution in the public schools. The measure would have infringed free speech, he said, and served "no good purpose except to absolve monkeys of their responsibility for the human race."

He came to Washington in 1954 to fill an unexpired Senate term, and quickly displayed his maverick style and his famous brand of folksy oratory.

In much the same tone, Ervin exhorted the Senate this summer to defeat the D.C. crime bill. . . . He knew from the beginning of the debate which way the wind was blowing. "I hear the siren voice of that old devil, political expediency, whisper in my ear, 'You better vote for the D.C. bill because it's a law-and-order bill.' It's not politically sagacious, not politically wise, to vote against a law-and-order bill," he said.

The bill as its formal title suggests, started out as a court reform measure for the District of Columbia—one that would add judges, prosecutors and public defenders and introduce a much-needed measure of modernization into the capital's clogged and antiquated court system. In the course of a year of complex legislative maneuvering, the measure was encumbered with a number of additional provisions—most of them drafted in the Justice Department to serve as weapons systems in the Nixon administration's "war on crime." Atty. Gen. John N. Mitchell voiced the hope that once these provisions were adopted for the District of Columbia, they would serve as a "model" for other jurisdictions around the country.

Ervin and other opponents of the crime bill had no objection to the court reform aspects. "We needed those provisions bad," he says, "and we could have gotten them a year ago if they hadn't loaded down the bill with all that other garbage." The "garbage" includes, in his view, provisions that juveniles charged with felonies may be tried as adults at the age of 15; that jury trials need not be provided to juvenile offenders; that mandatory minimum sentences be imposed on repeat offenders, and that the local police be given broad authority to tap telephone wires.

Ervin concentrated his fire, however, on the two features of the bill on which the administration placed the highest premium—the "preventive detention" of persons accused of dangerous crimes, and the authorization of "no-knock" entry by police officers.

The "preventive detention" scheme, as enacted in the crime bill, authorizes the courts to jail a defendant for up to 60 days if there is reason to believe he may be a danger to the community. Its effect, according to Ervin, is to "take a man and put him in jail for a crime he has not committed and which he may never commit, because the provisions for preventive detention do not detain the man for the crime he has committed or for a crime of which he has been convicted. It puts him in jail for fear he may commit another crime if he is permitted to be free."

Ervin was skeptical, too, of the 60-day limitation written into the "preventive detention" clause. The language of the law, he warned, left open the possibility that at the end of 60 days a few findings of possible danger to the community would result in further incarceration. In the District it is not unusual for criminal defendants to wait 18 months before they are brought to trial. In one of his finer rhetorical flourishes, accompanied by the arching of massive eyebrows that have been described as resembling Venetian blinds in a hurricane, the Senator declared that "under these provisions an accused can be held under one preventive detention order after another, until he is tried or until he dies, or, if he happens to be immortal, until the last lingering echo of Gabriel's horn trembles into ultimate silence."

The senator's comments on "preventive detention" were meek and mild, however, compared to his rage against the "no-knock" clause (which Atty. Gen. Mitchell recently proposed to rename—for cosmetic purposes—as "quick entry"). Under the new law, policemen will be permitted to enter premises without advance warning if they have "probable cause to believe" that notice would be likely to result in the destruction of evidence, the flight of a person to be arrested, or danger to the police or other persons.

The doctrine that every man's home is his castle represents "the greatest longing of the human heart," Ervin declared, and he proceeded to quote the Prophet Micah.

It was a grand performance in a losing cause, and when he finished Sam Ervin reminded his colleagues that they were not just legislating for the hapless, voteless residents of the District of Columbia. "The attorney general," he pointed out, "holds this bill up as a model for all the states of the nation. All senators should know he hopes to have it imposed on all their constituents as well as the residents of the District."

When he signed the crime bill into law a few days later, President Nixon made a prophet of Sam Ervin.

"I hope this is only the beginning," the President said.

THE SST

Mr. MILLER. Mr. President, in yesterday's Washington Sunday Star, the lead editorial "Economic Turbulence Hits the U.S. Airlines" adds further

weight to the argument against the economic arguments in favor of the supersonic transport. I ask unanimous consent that the editorial be printed in the RECORD.

I also ask unanimous consent to have printed in the RECORD and article entitled "Start of SST Fleet Figured at $5 Billion" which appeared in today's Washington Post.

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

[From the Sunday Star, Dec. 20, 1970]

ECONOMIC TURBULENCE HITS THE U.S. AIRLINES

Exactly 67 years ago last Thursday, Orville Wright crawled onto the lower wing of his biplane, opened the throttle of the 12-horsepower engine and took to the air for a flight that lasted 12 seconds, covered 120 feet and changed the shape of the world.

The world, to be sure, took its time about recognizing what had happened. For the next 40 years, the impact of the airplane on the every-day life of America was negligible. It was a curiosity. It was a chancy means of travel for the adventurous, the rich and the hurried. During two world wars, the airplane was honed into an efficient weapon of mass destruction. But as a serious means of transportation, flying was for the birds.

In 1939, the railroad was king, accounting for 65 percent of the passenger-miles traveled in public conveyances. The trainmen, from time to time, took a nervous look over their shoulders at the buses, which had captured 26 percent of the market, and seemed to be gaining. But neither of the giants paid serious attention to that curiosity overhead, the overpriced, undependable carrier that accounted for barely 2 percent of the domestic travel industry.

Then came the end of World War II, and the end of the surface carriers' complacent dream. For with peace came the jetliners and application of technology that ended the tyranny of the weather over airline schedules. By 1947, the airlines were taking 7.8 perecnt of the passnger-mile traffic. Five years later, the figure had zoomed to 21.6 percent. By 1960, the airplane had taken the lead from the rails and the buses with 43.5 percent. In 1968, 67.4 percent of the passenger-miles traveled by Americans went to the airlines; buses accounted for 20 percent, while the once-proud railroads rode the caboose with 10 percent of the action.

The statistics reflect a record of growth that is without parallel in industrial history. And as the beautiful balloon ascended, profits, for most of the carriers, rode an exhilarating, upward curve. Three years ago, the U.S. carriers rang up just short of half a billion dollars in profits, despite inflation, rising costs and government control over ticket prices.

Today, that balloon has sprung a leak and is coming down fast. The airline industry, during the 12-month period that ended September 30, showed an operating loss of some $90 million. Translated into human terms, it means that some 7,000 employees have been laid off since September of 1969. Trans World Airlines, which is the hardest hit with a net loss of $49 million for the first six months of this year, alone has furloughed 401 pilots since April with 170 more scheduled to go by March 1.

How did it happen? How is it that the high-flying airlines have suddenly started producing contrails of red ink?

Secor Browne, the chairman of the Civil Aeronautics Board, has been quoted with one answer. "We have," he said, "far more seats than bottoms to fill them. It's that simple."

Browne's statement is half true. The problem is the empty seats, the half-filled flights across the country every hour on the hour. But that is the symptom—not the disease. And neither the cause nor the cure is "that simple."

The airlines are suffering from a multiplicity of woes. They are paying for the breathless—and sometimes thoughtless—period of expansion that created false dreams of economic invulnerability. They are a controlled industry in a free economy, operating in active competition, forced to fight it out with their rivals in murderously expensive advertising battles—and at the same time prevented from major innovations in service, in fare structures or in routes by tight regulatory reins. Even the suggestion implicit in Browne's remarks that the airlines should start cutting down on their flight schedules is easier said than done. The CAB must approve schedule changes. And in one case, when CAB approval seemed likely for a reduction in cross-country flights by three major carriers the Justice Department moved in with an objection that such a move would be monopolistic.

Forced to adopt similar rates for similar routes, the airlines can compete only in the expensive frills. They cannot advertise the speed, comfort and price of the flight; the other fellow has exactly the same product to offer. So the prospective customer is lured with the beauty of the hostesses, the opulence of the furnishings, the cusine, the multiple movies. They all must buy the latest in equipment and maintain it in perfect condition. They must absorb operating expenses that rose 14.5 percent in the first half of this year. Unlike other businesses trapped in the inflation escalator, they cannot pass the expenses on to the consumer without permission. And that permission has not been forthcoming. It costs less to fly cross-country today than it did 35 years ago.

Compounding the economic problem is the skyrocketing cost of aircraft and the need to stay ahead of the game. Right now, the domestic airline industry has $20 billion worth of aircraft on order. It is struggling to pay for its fleet of 747s—some 85 jumbo jets in domestic service at a cost of $22 million each. And now, after months of pressure salesmanship by the U.S. government, the airlines have pledged their support for the supersonic transport, and are expected to buy their share of the anticipated minimum fleet of 300 SSTs at $50 million each.

Clearly, some major changes are necessary. The airline industry cannot follow the escape route employed by the railroads. They cannot be allowed to fail because there is now no alternative to airlines as the nation's primary means of public transport. An individual airline or two may go the way of Penn Central, but the industry, as a whole, cannot go down the drain.

The alternative must be some major rethinking by the airlines, by the agencies that regulate them and by the public. The carriers should acknowledge the reality of the crunch and stop treating their passengers like visiting potentates. A sandwich and a cup of coffee can sustain a passenger on a cross-country flight; if more is required, it can be paid for. A book can replace a movie or the selection of musical tapes.

Some real competition should be permitted. If an airline can, by cutting frills, shave a few dollars off the going rate, it should be allowed to try it without having to make its plans available to the competition months before the reduced fare can take effect.

The CAB—and other arms of the government—should let carriers drop unprofitable routes unless a real necessity for continued service can be demonstrated. And when a new route is established and proves profitable, the regulatory agencies should not dilute those profits to the vanishing point by welcoming all applicants who ask to duplicate the service.

The public should expect to pick up more of the tab in the form of direct subsidies to airlines that are forced to maintain unprofitable routes for the general welfare of the country. The flying public should expect a general restructuring of fares, including some increases, during the coming year.

And finally, as an act of mercy, the SST should be put firmly on the shelf until such time as we have learned to live within our present economic and environmental means.

START OF SST FLEET FIGURED AT $5 BILLION

(By George Lardner, Jr.)

The chairman of a special White House advisory committee on the supersonic transport (SST) has warned that another $5 billion may be needed to certify the jetliner and launch production of a commercial SST fleet.

Dr. Richard L. Garwin, a member of the President's Science Advisory Committee, said he was convinced that it will take much more government financing than the Nixon administration has suggested to make the SST a commercial success.

He pointed out that the builders of the controversial superjet have been repeatedly allowed to hold back proposals for financing the project beyond the production and testing of two SST prototypes.

The Boeing Co., which is building the SST, and General Electric, which is making the engines, were originally supposed to submit plans for financing certification and production costs by June 30, 1968. The deadline, Garwin said, has now been postponed until 1972.

Meanwhile, Garwin said, the FAA has estimated that it will cost $600 million to certify plans and another $3.2 billion to finance initial production of commercial models. Both calculations, he added in a phone interview, were put in terms of 1967 dollars. Inflation, he estimated, will send these costs up to $5 billion by 1976.

Supporters of the SST in Congress and within the Nixon administration have steadily insisted that private financing can and will take over once the two SST prototypes have been built and flight tested, with an estimated $1.3 billion in government support.

But Garwin, who has repeatedly recommended the government's abandonment of the SST, said he still feels that the 1,800-mile-an-hour jetliner will remain too shaky a project to get along with fresh federal funds, over and above the $1.3 billion.

"After all," he told a Senate subcommittee earlier this year, "the prototype will not have demonstrated the actual capability of the production aircraft, nor does it need to any more."

The FAA's initial contract with the Boeing Co., would have required the prototypes to have had the same aerodynamic configuration as a "safe and economically profitable" production model.

But under contract changes adopted last year, Garwin said, the production models can be different and the prototypes need only show that a successful SST program—financed either publicly or privately—"could emerge" from their performance.

Garwin is an industrial physicist with the IBM Corp. He headed an ad hoc scientific advisory panel whose findings on the SST were submitted last year to Mr. Nixon's science advisor, Dr. Lee A. DuBridge, and to the White House.

Rep. Henry S. Reuss (D-Wis.) has said he was told the report labeled the SST "an economic fiasco, an environmental disaster and a social outrage," but the White House refused to release the study on the grounds that it was "prepared for the advice of the President."

Two conservationists subsequently filed suit for the report under the Freedom of

Information Act, but the issue is still in the courts. At his recent news conference, Mr. Nixon said he felt such reports "should be held in confidence," although he had "no objection to the substance of the reports being made public." Garwin said he still did not feel free to discuss the study itself, but he emphasized that he "said everything I have to say" about the SST in the course of critical testimony this year before three congressional committees.

The Senate voted earlier this month to end the SST program, but Mr. Nixon, who asked for a $290-million appropriation this year, urged that it be kept alive. House-Senate conferees agreed to support $210 million for the project, of which half has already been spent. The conference report ran into a Senate filibuster and is now tied up in the end-of-session jam.

The government, Garwin has maintained, should have held Boeing in default of its initial contract because of its failure to meet original specifications for the SST. Instead, he says, so many changes have been approved that "it is problematical whether the SST will fit on existing airfields." The commercial SST, Garwin has also protested, will produce as much "sideline noise" on airport runways as 50 Boeing 747 "jumbo jets" taking off at once.

Reiterating that "very major uncertainties" about the SST will remain even after the prototypes are built and tested, Garwin said he thinks it very likely, as he told one congressional hearing, that "much more government money will be necessary."

If the half-completed prototype program is so promising, he said, Boeing ought to jump at the chance to drop further federal funding "Congress has already appropriated $700 million," he said. If the government dropped the program now, he said, Boeing would be free of any obligation to pay the money back.

"If this were such a good commercial deal," Garwin said, "I would expect they would be anxious to do this."

WAKE UP CITIZEN

Mr. McCLELLAN. Mr. President, countless citizens are deeply concerned by our departure from fundamentals and attitudes which have made this Nation great. One such citizen is my constituent, Rev. Tal D. Bonham, pastor of South Side Baptist Church, Pine Bluff, Ark., and president of the Arkansas Baptist State Convention.

On November 19, Dr. Bonham delivered an impressive and inspiring address on the steps of the State Capitol building in Little Rock. Over 500 persons gathered in the rain for this noonday service planned in conjunction with the 117th session of the Arkansas Baptist State Convention.

Dr. Bonham eloquently expresses his patriotic devotion to the United States of America, and his glowing tribute to our Nation is of the nature not often depressed or heard in these troublesome days. He speaks in reverence of our brave forefathers and warns of present-day dangers to our country.

Mr. President, I heartily commend this address to all who are concerned and who have faith in our country and ask unanimous consent that it be included in the RECORD at this point as a part of my remarks.

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

WAKE UP, CITIZEN!

(An address by Dr. Tal D. Bonham, pastor of South Side Baptist Church, Pine Bluff, Ark.)

During World War I, a member of the State Council of Defense in an Illinois city received a stack of patriotic posters with the request to display them all over town. He enlisted the help of an over enthusiastic teenager and instructed him: "Put these up all over the city wherever you find a dead wall." Later in the day, the official was taken to a nearby cemetery where he read on the tomb of one of the city's deceased founding fathers:

"Wake up, citizen! Your country needs you!"

A PROUD AMERICAN

If it were possible, I too would request that some of our forefathers awake with the plea, "Your country need you!" If they could awake, I would express my gratitude to those who paid for my freedom at Bunker Hill, Gettysburg, and Iwo Jima. I would have a special word of thanks for those who lost their lives on a barren ridge in Korea or a slimy jungle in Vietnam.

I am a proud American! My gratitude to God for this nation still causes a lump in my throat when I think of the patience of a Washington, the wisdom of a Franklin, the compassion of a Lincoln, the integrity of an Eisenhower, the courage of an unknown soldier, the vision of a Jefferson, and the sacrifice of a Nathan Hale. I hear them as though it were yesterday:

"I have not yet begun to fight."

"I only regret that I have but one life to lose for my country."

SIGNED IN BLOOD

My hat is off to that group of brave men who signed that historic document in behalf of the people of the 13 colonies which stretched from New Hampshire to Georgia. They signed knowing that it meant danger. Nevertheless, they pledged their lives, their fortunes, and their sacred honor. They literally signed the Declaration of Independence in their own blood.

Carter Braxton of Virginia saw his ships swept from the seas by the British Navy and he died in rags. Thomas McKean, hounded by the British, was separated from his family. Francis Lewis' home was destroyed and his wife died in jail. The homes of Ellery, Clymer, Hall, Gwinnett, Heyward, Rutledge, and Middleton were looted by soldiers and vandals. John Hart was driven from his wife's bedside as she was dying and their 13 children fled for their lives. Others who dared sign the Declaration of Independence met similar fates.

A THRILLING FLAG

I don't know about you but I still thrill at the sight of our flag. I can enthusiastically pledge allegiance to a flag whose stripes represent the struggles of the original 13 colonies and whose stars represent the freedom of the 50 sovereign states of these United States. I can pledge allegiance to a flag whose red reminds me of course, sacrifice, hardiness, and valor. I can pledge allegiance to a flag whose white reminds me of purity, innocence, and liberty. I can pledge allegiance to a flag whose blue reminds me of loyalty, vigilance, perseverance, and justice.

I can pledge allegiance to the flag of the United States of America and to the Republic for which it stands!

AN EMPIRE RISES

I can almost see George Washington, James Madison, Alexander Hamilton, John Adams, and Benjamin Franklin sitting among those present at the state house in Philadelphia in 1787. They were there for the purpose of drawing up a constitution for the new nation. Delegates were arriving late because of the weather. The small states wanted representation equal to that of the larger ones. The larger ones wanted representation on the basis of population. It seemed as though there was no possibility of reaching a decision.

Then, Benjamin Franklin Spoke:

"Gentlemen, I have lived a long time and am convinced that God governs the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? I move that prayers imploring the assistance of Heaven be held every morning before we proceed to business."

After prayer, our founding fathers drafted a document that insures, to this day, the freedom of all Americans.

ONE NATION UNDER GOD

I glory in the spunk of John Leland, a Baptist preacher from Massachusetts who moved to Virginia at the end of the 18th century to aid in the struggle for religious liberty. He became a candidate for the Virginia Constitutional Convention and had planned to exert his influence to see that the Constitution was not ratified by Virginia until it guaranteed full religious freedom. He and James Madison met beneath an oak tree near Orange, Virginia, where Leland agreed to support Madison for political office with the understanding that he would, in turn, present amendments to the Constitution which would guarantee religious liberty, free speech, and a free press. Madison kept his promise and introduced the ten amendments known as The Bill of Rights.

I visited our nation's capitol recently and knelt to pray in the prayer room. The prayer room is centrally located for the convenience of any member of the U.S. House or Senate. I asked, "Is it used much"? The answer was, "Yes, it is used often during the sessions of the House and Senate." There is an open Bible on the altar opened to the 23rd Psalm. I was told that this one passage is read most by those seeking the will of God before voting on some vital issue. In fact, the page on which the 23rd Psalm is found is so worn that they had to cover it with plastic.

The prayer room is rather simple. There are only ten chairs in it. There is an altar flanked by two candelabras, an American flag, and two small kneeling rails. Over the altar is a lighted stained glass window. It features Washington on his knees at his inauguration surrounded by the names of the 50 states of the United States. Directly over his head are the words: "This nation under God." Beneath the kneeling President are the words of Psalm 16: 1 which Washington prayed at his inauguration:

"Preserve me, O God, for in thee do I put my trust."

A DISTURBED AMERICAN

I am proud of our American heritage. I am a proud American! But I am also a disturbed American!

In 1903, 17 people committed themselves to the teachings of Marx and Engels and organized the first Russian communist political party. At that time 90 percent of the Russian peasants owned no land and had no rights. At that time 80 percent of them could not read. A 17 year old Russian youth by the name of Vladimir watched the Royal Police seize his older brother, cut out his tongue, cut off his ears, and hang his body at the door of their humble hovel where it hung until it rotted down. "Someday," said the 17-year-old boy, "I will change things!" The world later knew him as Lenin.

Communism swept through Russia promising a better life to the downtrodden. They said to a little peasant boy, "Come, little Joe, and follow us and we will give you a new way of life." He had seen three brothers and a sister starve to death as peasants. He had been trained as a religious leader but he hung up his frock and followed those

who later gave him the name of Joseph Stalin.

In China, Mao Tse-tung led the Chinese phase of the Communist movement to control the world and by 1949 he had defeated the Chinese Nationalist forces and drove them into Formosa.

HAS COMMUNISM CHANGED?

Communism's initial formula for world conquest was: "First, conquer eastern Europe; then, the masses of Asia; then, we will circle the United States of America, the last bastion of capitalism. We will not have to attack it. It will fall like an overripe fruit in our hands."

When revolution came in Russia and China, the masses were both ignorant and poor. America is both prosperous and literate. The Communist Party is probably the most innocent-looking underground organization in the United States. I am convinced that it moves quietly to infiltrate labor unions, college campuses, judicial powers, and religious bodies. I am convinced that much of the burning, looting, shooting, and rioting that we have observed in recent years is directly related to communist inspiration. Several years ago the Director of the Federal Bureau of Investigation labeled the communists as "masters of deceit" and estimated that there were over 20,000 committed communists and over 200,000 communist sympathizers in the United States. No one knows how much that number may have grown in the past few years.

ALL IS NOT LOST

I am proud of this nation. I am disturbed at some recent events in this nation. But I am convinced that all is not lost. Already in many of our churches and on many campuses, the fresh wind of a spiritual awakening is blowing.

If those who claim to believe the Bible will merely heed and proclaim its admonitions, America will remain the "land of the free." When James Russell Lowell was asked, "How long do you think the American Republic will endure?" he replied, "So long as the ideas of its founding fathers continue to be dominant."

Jesus said, "Render therefore unto Caesar the things which are Caesar's and unto God the things that are God's" (Matthew 22: 21). No wonder Toynbee said, "The first heralds of the gospel brought a living faith to a dying civilization." To follow the admonitions of the Bible will truly bring a living faith to this nation that may be dying in racial strife, drug addiction, alcohol, pornography, and pollution (both inward and environmental).

Christian citizenship calls for prayers—not pot shots. Certainly, we must constantly question the policies and deeds of our local, state, and national leaders but we must also pray for them. The Apostle Paul left no place for the censorious spirit when he said, "I exhort therefore, that, first of all, supplications, prayers, intercessions and giving of thanks, be made for all men; for kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty" (I Timothy 2: 1–2).

FAIR SHARE OF TAXES

Christian citizenship calls for financial support. When our Lord spoke of rendering unto Caesar that which belongs to Caesar, he did so in the context of a conversation on paying taxes. Jesus paid his taxes (Matthew 17: 24–27). The Apostle Paul admonished Christians to pay their taxes (Romans 13: 6). We should thank God that our places of worship are tax exempt in America. But, it is high time that someone reminded many churches that there is a limit to their exemptions. I pray that our nation will never levy taxes on our places of worship and religious education. However, it is no more than right for a church to pay its fair share of taxes on revenue-producing property.

Christian citizenship calls for a rededication to law and order. The Bible admonishes us to "be subject to principalities and powers" and "to obey magistrates" (Titus 3: 1). It calls for our respect of those in places of leadership (Romans 13: 1–4).

THE MESSAGE OF THE BOOK

Those who believe the Bible must be busy about proclaiming its message as never before! Let them echo the words of the Psalmist from California to Maine: "Blessed is the nation whose God is the Lord" (Psalm 33: 12). Let them remind every American that "Righteousness exhalteth a nation: but sin is a reproach to any people" (Proverbs 14: 34).

Let those who believe the Book point to a troubled world:

To the One whom the grave could not contain;

To the One with a message of love for a world of hate;

To the One who points a polluted world to a theology of inner ecology;

To the One who is productive—not destructive;

To the One who does not destroy classes but loves all classes;

To the One who is color blind when he looks upon a human being created in the image of God;

To the One who died for all men of all races.

LEARN, EARN, BURN, OR TURN?

The church stands at the same crossroad and asks the same question with the rest of the world: "Which way from here?" Some are saying, "Learn—education is the way." Others are saying, "Earn—economic development will solve all of our problems." Some are crying, "Burn, baby, burn—our society is so corrupt that it must be destroyed." When others clamor to learn, earn, and burn, we must listen to the voice of God who says, "Turn—be converted from your selfish ways and find life everlasting in Jesus Christ."

Many years ago, a French statesman visited America to ascertain the American ideal. Here was his conclusion: "I sought for the greatness and genius of America in her commodious harbors and her ample rivers, and it was not there; in her fertile fields and boundless prairies, and it was not there. Not until I went to the churches in America and heard her pulpits aflame with righteousness did I understand the secret of her genius and power. America is great because she is good and if America ever ceases to be good, she will cease to be great."

Wake up, Citizen! Your country needs you!

CASPER, THE ENERGY CAPITAL

Mr. HANSEN. Mr. President, a constituent has brought to my attention an article entitled "Energy Is the Word for Casper," which presents some factual insight into the great progress being made in Wyoming.

This progress is being made in an exemplary manner, retaining the natural beauty and traditions of our State and protecting against environmental hazards that have brought crises to some other areas.

This article was published in the Quarterly Review, a regional business report published by Dain, Kalman & Quail.

I believe it is worth reading, and ask unanimous consent that it be printed in the RECORD.

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

"ENERGY" IS THE WORD FOR CASPER

Some months ago, a correspondent from a national daily newspaper visited Wyoming, where the deer and antelope still play, and write many a discouraging word. He wrote about the state's rather sparse population (330,000 plus), quoted a few disgruntled residents in small towns, and concluded there wasn't much progress in the Cowboy state.

One thing is certain, the writer couldn't have spent much time in Casper, Wyoming's second largest city, "The Energy Capital," the "Can Do" city and the "Gateway to Yellowstone Park," where so many things are happening, you need a tally sheet to keep up with the progress.

Geographically, economically and industrially, Casper is the center of Big Wyoming. Wyoming has some of the largest oil, gas and uranium reserves in the nation and Casper is the hub of these industries. Total value of the livestock in Casper's Natrona county is nearly $10 million and the city is a center for shipping to regional and national markets. Casper boasts one of the finest two-year colleges in the nation and the largest general hospital in Wyoming with over 60 physicians on its staff. Five aggressive banks and two savings and loan associations make Casper the financial center in Wyoming and provide much of the financing for oil, gas and mineral exploration.

But to simply catalogue these economic assets is to miss the special beauty, charm and quality of life that makes Casper a unique modern city. Set at the foot of the 8,500-foot Casper Mountain, surrounded by grassy, rolling plains of Natrona County, Casper offers a cornucopia of contrasts to make the average metropolitan dweller drool.

The air is crisp and clean. Skies are a brilliant, clear blue. The pure Platte River meanders through the modern downtown area. Twenty-five parks and four outdoor swimming pools dot the city. Renovated, gracious mansions, built in the "oil boom" days are ringed by newer, ranchstyle homes. A pair of grizzled sheepherders amble by the sprawling new modern $3.5 million Federal building. Businessmen leave their office, drive for 15 minutes, and bag a pronghorn antelope or catch a creel full of brook trout.

Casper began as an oil boom town in the early 1900's. Earlier it had been a trading center for the cattle and sheep ranches. Following a growth spurt after the oil boom of 1916, the town grew at a slow, but steady pace. It was the discovery of large uranium deposits, in the early 1950's that made the town boom again.

Today, the "Oil Capital of the Rockies" has been renamed the "Energy Capital" and uranium is a primary reason.

Neil McNeice, a machine shop operator from Riverton, Wyoming, is credited with the first commercial uranium find in the Gas Hills area some 80 miles west of Casper. His discovery brought many more uranium seekers to the area.

"In those days, the professional geologists were skeptical of finding a commercial uranium ore body in our sandstone," says Richard Lisco, President of Teton Exploration Drilling, a subsidiary of United Nuclear Corporation, "so it took the independent explorers to prove them wrong. We had hundreds of people crawling the hills with geiger counters. You needed no real training in those days, just a $35 geiger counter and since most of the land was public domain, it belonged to the drugstore clerk as much as it did to the geologist."

After the Gas Hills strike, other finds were made in the Crooks Gap, Shirley Basin and Powder River Basin areas. Lisco estimates there may be as much as $8 billion in uranium in the Shirley Basin area alone.

Forty-five percent of the uranium ore reserves in the U.S. are located in Wyoming and 95% of the state's uranium is located within 100 miles of Casper. The pent-up demand for power by public utilities is expected to create another uranium exploration, mining boom by 1974, Lisco claims.

Four mining companies near Casper process the uranium ore to extract the "yellow cake" that is shipped elsewhere for further processing. Humble Oil Company is now building a new uranium processing mill 50 miles east of town that will process 2,000 tons of yellow cake a day and employ 300.

"Uranium is best fuel, for the long haul," Lisco claims. "The TVA just issued contracts for four nuclear power plants. We are a basic industry in this state. It takes more support people in our industry than in oil or gas production. Three years ago, when several major petroleum companies moved their administrative staffs out of town (about 300 families), the uranium companies moved into Casper with their exploration staffs and stabilized the economy again."

But while uranium has made a solid contribution, the oil industry continues to provide most of the muscle for Casper's economy. In Natrona County, the oil industry has paid 42.6 percent of all county tax revenues this year. The Casper phone book has over 30 pages in its yellow pages devoted to the oil industry. About 280 allied businesses are in town because of the oil industry.

"Energy's the story of this town," says Terry Martin, regional manager of the Rocky Mountain Oil & Gas Association. "We're sitting on a powder keg of resources and things have never looked better for Casper."

Last year was a record year for the production of oil in Wyoming and production is greater this year. The Hilite Oil Field, discovered 22 months ago about 70 miles northeast of Casper, is said to be the biggest new oil field in North America in the past 20 years. It already has 225 producing wells.

"By the first of 1971, we'll be getting 100 thousand barrels from Hilite a day" says Martin. "That's 25 percent of the current oil production of the whole state. And this was largely an independent oil field. The majors had dropped their leases. About $20 million in leases went into that country in six weeks—most of it to farmers and ranchers who owned the land. Now these farmers have paid their mortgages off and and they're driving Cadillac pick-ups."

Martin says the major challenge now is to transport the gas out of the Hilite field. They're building pipelines up there from hell to breakfast," says Martin. Phillips Petroleum has 72 miles of gas line going from field to plant already and they should be putting out 90 thousand cubic feet of gas a day by next year."

But the real sleeper among Wyoming's rich trove of resources, Martin claims, is coal. Wyoming is fourth in the nation in coal reserves. The line of coal reserves runs from the Green River Basin in Eastern Wyoming through the whole state. It is a quality coal, high in BTU rating, low in sulphur content and among the most easy to strip in North America. "Coal's the next boom," the confidently optimistic Martin says, "and when it comes it will come faster than uranium."

The energy story isn't confined to Casper's natural wealth, it applies equally to the city's "can do" residents. "CAN DO", the city's official slogan, is derived from Casper and Natrona Development Organization, a group that began settling long-range community goals in 1966. In 1967, the group called and advertised a community-wide town hall meeting. About 600 citizens, including youngsters, showed up at the meeting to discuss needed priorities and projects for the city. Each suggested project was assigned to a committee for evaluation. A subsequent meeting, one year later, selected projects to tackle.

"Boy! It really worked," says Dick Jackson, an officer of the First National Bank who serves as President of the Casper Chamber of Commerce. "We came up with a plan for urban renewal, a beautification and parks campaign and a youth organization. Better than 50% of the projects have been completed. We set up Old West sites on Circle Drive; built a new swimming pool and baseball field; tore down an old power plant that was an eyesore and built a new tourist information building. Over 1,000 of our school kids clean up our parks during the annual Spring clean up."

One project that hasn't been completed is an urban renewal plan for the old "red light" sandbar area along the city's waterfront. Submitted to the voters in a bond referendum last fall, it failed, but city officials have hopes of getting a less ambitious version of the plan approved by voters soon.

"One thing that makes it so healthy and exciting in Casper," say Mayor Bill Miller, "is that the oil companies keep our population young and moving. Many of the people that come here are young college graduates on the way up. We don't have an old guard that runs the city and tells people what to do. So we have an exciting base that keeps us young and gives us all kinds of new ideas."

City manager Ken Erickson, who came from the Los Angeles megalopolis, a year ago, calls Casper a "metropolitan area in microcosm." The people are young, extremely well educated and they bring the cultural amenities. We have a fine symphony here and a variety of good local theatre groups. But the thing that interested me most is the interest people have in their community. The people in this town say: "We want to participate. We want to change things.' People are willing to give their time. In this city a city manager doesn't have to push the people, he has to run to keep up."

Fred Goodstein, who came to Casper 48 years ago and has built a petroleum exploration and supply and real estate empire, says: "We're a small city population-wise, but our style of living and doing business is big city. A lot of people have overlooked Casper, but they're starting to look at us now. Control Data just opened an assembly plant that employs 200 people and we'll be getting more light industry."

Accompanying the boom in Casper's economy during the past decade, has been the growth of Casper College, the only community college in the state. Town-gown relationships have always been excellent. A bond issue for college expansion pased by a 5-to-1 margin in 1966.

Casper residents have helped the college add 15 impressive new buildings in the past nine years. Over 1,000 adults attend the college's night school courses every week.

"Our 2,500 students come from every one of the 22 counties in Wyoming," says Dr. Tim Aley, President of the College. "An educational authority from the University of Texas said recently that Casper College was one of the 10 best 2-year colleges in the country and possibly, one of the best three. Almost half of our teaching staff comes from business and industry which gives them different dimensions. We also have doctorates in excess of the norm for colleges our size. I'll put our faculty up against any of the other 2,650 college staffs in the country."

Dr. Aley could also put his college basketball team up against any other in the country—and has. The Casper "Thunderbirds" had a 33-and-3 record last year and finished fourth in the national college tourney last year.

Even more impressive is the record of the school's rodeo team. It has won four national intercollegiate titles competing against major schools like the University of Texas, Texas A&M, and Montana. Casper is the only school in the nation that has won the rodeo title two years in a row.

For a few days each August, during Rodeo Week, Casper recaptures that wild and wooly frontier town flavor. One person who remembers some of those days is Tye Moore, owner of the Buzzard Ranch, one of the largest ranches near Casper. Moore remembers his father talking about the famous Johnson County cattle war in 1893, when the Wyoming Stockgrowers Association hired Texas gunmen to take on the rustlers.

"Basically, it was a fight between those who ranched for a living and rustled on the side, and those who rustled for a living and ranched on the side," Moore explains.

Modern economics has brought an end to the conflict between the large ranchers and the small ones, the cattlemen and the sheep men. "It takes at least a 500 animal outfit to make a living today," Moore says. "The initial investment is so large that a young man can hardly get started in the business now without inheriting a ranch."

"The only real efficient operation is a combined sheep and cattle ranch," says Moore who has 10,000 sheep and 2,000 cattle on his ranch. The combined operation gives you a greater animal unit volume and sheep and cattle are very compatible. You also get greater efficiency because one crew of men can handle both sheep and cattle."

Wyoming is the second largest wool producing state and Natrona county ranks first in the state with an annual wool production worth more than $1 million. Today's wool grower faces two nemese—imports and predators. Japanese imports of finished textiles have depressed the wool market, but coyotes and eagles pose an even greater threat. Last year, Moore lost 1,500 lambs to coyotes. He and four other sheep ranchers have a hired helicopter pilot-hunter full time to protect their flocks from predators.

Aside from the museums and historical sites, there's one place in Casper where a visitor can still see some of the town's free-wheeling frontier town flavor. It's the New Wonder Bar where a rancher can hire himself an extra hand.

In Casper's wide open days, the New Wonder Bar was the gambling hub. Current owner Tom Swanson, who inherited the place from his father, has replaced the crap tables and roulette wheels in the back room with pool tables. But the 80-foot long bar, made of four pool tables, the moose and antelope heads, and the hand-carved cherry wood back bar, built in England in the 1880's, are still there.

"We used to have wires to all the east coast tracks," young Swanson recalls. "On a Saturday, you couldn't get in the front door because of the crowds. We even had our own motto, which was patented until five years ago: 'A Stranger is a Friend We've Never Met.'"

Tom Stroock a successful young oil lease broker and community leader believes that more and more "strangers" will be coming to Casper. "It's bound to happen," asserts Stroock, a Yale-educated Easterner who came to Casper in 1948 with a major oil company and stayed.

"Petroleum and minerals are our greatest asset right now, but taking the long, long view, our environment and the quality of life we offer are our greatest resources. I think more and more light industry will be coming out here as Control Data did. It just makes sense. People can't continue to live the way they do in some large cities. I get calls from old friends in other parts of the country who are willing to take a substantial pay cut to move out here.

"I don't know when it's going to happen," Stroock admits. "I just can feel that it's coming. That's why it's so important we

take steps now to preserve what we have—to keep our water pure and our air fresh. We've got something other places don't have—the lead time to prevent mistakes."

To really appreciate what Stroock is saying, you have to stand on a lookout point near the top of Casper Mountain and look down on the city spreading out below. On a clear day, you can see the Big Horn mountains, 160 miles to the east. But, best of all, you inhale that incredibly cool pure air, with its intoxicating mingled scents of pine, sage and mountain wild flowers. It's a cinch that the writer of that other story on Wyoming didn't take the trip up Casper Mountain. He might not have gone back East.

A SALUTE TO JOHN J. WILLIAMS

Mr. CHURCH. Mr. President, the distinguished senior Senator from Delaware, JOHN J. WILLIAMS, and I have been colleagues on the Foreign Relations Committee for the past 10 years. Sometimes an ally, sometimes an opponent, Senator WILLIAMS has always been one whose judgment commanded respect and attention.

On foreign affairs, as on domestic matters, JOHN WILLIAMS always spoke directly to the point. He invariably expressed his own opinion, never that of others. As one determined to uproot waste, he became the Senate's self-appointed sentinel against all forms of questionable spending. Seldom did a bill come to the floor, concerning some part of which Senator WILLIAMS was unprepared to raise a challenge.

In the sentinel's role, JOHN WILLIAMS knew no partisanship. He stood ready to oppose any ill-conceived spending scheme, whatever its origins, whether Democratic or Republican. I never saw him falter or fudge.

From his positions on the Foreign Relations and Finance Committees, Senator WILLIAMS balanced his support for a strong defense establishment with concern that we neither spend needlessly nor overextend ourselves in troop commitments abroad. Defense Department planners who put forward extravagant proposals for dubious gadgetry found a stern opponent in the senior Senator from Delaware. JOHN WILLIAMS was among the first on the Senate Foreigns Relations Committee to insist that the loan terms be tightened in our foreign assistance program.

Typical of his surveillance over money matters, Senator WILLIAMS deserves the principal credit for eliminating the abuse of counterpart funds for Members traveling on official business overseas. Due to his persistence, the Senate rules now specify that a Member must account for use of counterpart funds in the same manner as appropriated dollars.

For Senator WILLIAMS, his role was a seamless one. He applied to himself what he asked of others. Even to the end of his tenure here, he stood by that principle and invoked it in determining his own retirement. Senator WILLIAMS had often said that there comes a time in the life of a public servant, however valuable, when he should stand aside and let younger colleagues assume large leadership. He fixed that age at 65. When he, himself, reached that demarcation year, though his physical stamina and mental alertness remained unimpaired, he applied his stricture to himself.

So JOHN WILLIAMS is leaving us, true to his own standard to the last. His place will be hard to fill.

SALVAGE THE SOCIAL SECURITY INCREASE

Mr. PACKWOOD. Mr. President, the pending social security legislation (H.R. 17550) contains much that is good and much that is controversial. It would be a pity for the Senate to lose the good because of the controversial. The situation we find ourselves in seems to be precluding action on items that most of us would agree should be approved. Foremost among the items that most Senators could agree on are the social security changes that would be made by title I of the bill. The bulk of these changes are things that the Senate could dispose of with a minimum of argument and debate and this Senator wishes to be put on record as favoring a salvage operation which would permit the Senate to work its will on the social security provisions of the pending bill.

The bill reported by the Committee on Finance has made a number of significant changes in the House-passed bill. The provisions of the bill have been widely reported so that nearly every social security beneficiary and nearly every person who plans to retire next year is anticipating a significant increase in his social security benefits, effective for next January. This bill provided all of the major social security legislation proposed by the President in addition to improvements suggested by the House Committee on Ways and Means and the Senate Committee on Finance. It would not only increase social security benefits but it would do away with a number of injustices which exist under the present program. In addition it seeks to improve the operation of the medicare program so that its costs will not continue their wild increase.

The need for a social security benefit increase is obvious. Nearly 26 million people—retired workers and their wives, disabled people and their dependents, widows, and orphans—depend on social security benefits as their major source of regular income. Under the bill all of these people would get at least a 10-percent benefit increase. The people who get the lowest benefits would have their benefits increased even more. For example, the minimum basic benefit would be increased to $100 and widows' benefits would be raised to the full amount of their husbands' retirement benefits. Few would question the need for these increases. Our quarrels about other parts of the bill should not prevent us from acting on these important changes.

The need for prompt action is underscored by the fact that even if a social security benefit increase were agreed to and was approved by the President today it could not mean increased cash in the hands of beneficiaries until next April. If we wait until the next Congress to act on this, I doubt that the increased benefits, even if they are retroactive to January, could be in the hands of the beneficiaries before late spring or even early summer.

Mr. President, we have before us a bill which would provide 26 million social security beneficiaries with about $6.5 billion in the first year; 624 thousand new recipients would receive benefits in the same year. These people need the benefits that would be provided under H.R. 17550 and I believe that it is still not too late to act on this legislation. I do not want to go home and tell the people of Oregon that they will have to wait for their improved social security benefits. If the Senate wills, it can salvage at least this part of the pending legislation and this Senator wants to be counted among the salvors.

TRIBUTE BY COMMITTEE ON FINANCE TO SENATOR GORE

Mr. LONG. Mr. President, the Committee on Finance met in executive session on Friday, December 11, and approved a resolution expressing the committee's appreciation and gratitude for the outstanding contributions that Senator ALBERT GORE has made to our committee's work over the years. Senator GORE has served on the Finance Committee since January 10, 1957. During that time the committee faced many complex issues and Senator GORE has diligently helped the committee to develop legislation to meet these issues. At this time, I ask unanimous consent that the resolution adopted by the Committee on Finance in behalf of Senator GORE be printed in the RECORD.

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

Whereas, ALBERT GORE, of Tennessee, has served honorably and faithfully as a member of the Committee on Finance since January 10, 1957, and

Whereas, ALBERT GORE generously devoted his knowledge and energy to the consideration of the many complex issues before this committee during this period, and

Whereas, ALBERT GORE has unceasingly advanced the development of legislation relating to trade, government finance, and social welfare in execution of the broad responsibilities of this committee; Now, therefore, be it

Resolved, That the Committee on Finance hereby expresses to Albert Gore its sincere appreciation and gratitude for his outstanding contributions to the fulfillment of the obligations of this committee, and for his faithful and devoted service as a member of this committee.

Mr. LONG. Mr. President, during the 18 years ALBERT GORE served in this body, he has distinguished himself as a statesman. He has always done what he thought was right, even when many Senators opposed his position. Many times he has represented the interest of the average man before this body. Frequently, his debates were concerned with the proper method and course to take to improve the lot of the average citizen—the bulwark of our society.

I cannot help but think of Senator GORE's performance last year on the Tax Reform Act. ALBERT GORE felt very strongly about the personal exemption, and he fought like a tiger, both in the committee and in the Senate, to substi-

tute a personal exemption increase for the tax rate reductions proposed by the House bill. He succeeded in the Senate, but the real showdown did not come until the conference with the House.

Without question the conference committee is a real test of one's battle courage. In that arena, Senator GORE stood firmly and fought hard for what he believed in—and he won—but he did it in the gracious manner of a fine Christian gentleman.

The direct result of his efforts is that the personal exemption for Federal income tax purposes is moving up—over a short transition period—from $600 to $750, providing more than $4 billion tax relief in a full year of operation.

One of the unique qualities of ALBERT GORE is his tremendous ability to shift from matters of great impact, like the personal exemption fight, to technical questions concerning narrow areas of tax law. He could make the change from the major issues to the less important issues without any sacrifice in the dedication of his pursuit of what he thought was the right answer.

I particularly recall his vote on a motion by Senator WILLIAMS of Delaware in 1965, that the Senate amend the Internal Revenue Code to prevent the tax collector from seizing unopened and undelivered mail for the collection of taxes due and owing the United States. Senator GORE opposed the amendment and spoke against it. Nevertheless, the Senate agreed to the Williams amendment by a vote of 83 to 1—only Senator GORE voted against it.

Later, when we studied the matter more intently in conference, the conferees concluded that Senator GORE's position was indeed legally correct, and the Senate amendment went too far. And so it was modified to produce substantially the result Senator GORE had argued for. The modified provision is now the law of the land, and it is a good law. Had it not been for ALBERT GORE's courage to speak out against a very popular amendment, the law we enacted might have been a very bad law.

Everyone knows that Senator GORE is an extraordinary parliamentarian and can be a worthy adversary that one comes to respect. Some of the toughest days in my life involve legislative confrontations with ALBERT GORE in this Chamber. However, his manner of conduct and standards are of the highest.

Senator GORE has been a Member of the Congress for 32 years, 14 years in the House and then 18 more in this body. His wisdom, guidance, and friendship will be sorely missed.

ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. JAVITS. Mr. President, the passage on December 19 of the Comprehensive Alcoholic Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 marks the culmination of a campaign Senator Moss, of Utah, myself, and others both in the Congress and out, have been waging since 1966 to bring about recognition of alcoholism as an illness and the establishment of a national committee to meet the challenge of this major health problem—alcoholism—on all fronts. That was the aim of the Javits-Moss Alcoholism Care and Control Act of 1969 (S. 1997) introduced prior to the formation of the special subcommittee chaired by Senator HUGHES of which I am the ranking member. A bill which had the backing of 42 Senators from both parties and the active support of the North American Association of Alcoholism Programs and the National Council on Alcoholism. In substantial measure this bill was incorporated into the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 and other provisions of the Javits-Moss bill were enacted into Public Law 91-211.

The passage on December 19 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 bears out my prophecy as the leadoff witness on July 23, 1969, on the impact of alcoholism before the Special Subcommittee on Alcoholism and Narcotics. I said at that time that the organization of this subcommittee "is a significant stroke by our chairman, Senator YARBOROUGH and I join in its work most enthusiastically as the ranking member of the Senate Labor and Public Welfare Committee. I look forward to constructive meaningful results from our hearings. I, too, join with Senator YARBOROUGH in the feeling that Senator HUGHES, new to us, but a great Governor in his own right, will give us the energy and the leadership which the consummation of this total effort requires. I am very optimistic about our ability to succeed."

I am grateful for the kind words of Senator HUGHES about my efforts regarding this legislation and wish all to know that without his dedication and able leadership this vital legislative commitment could not have been achieved.

The differences between the House-passed bill and the bill as it passed the Senate have been thoroughly discussed by Senator HUGHES when the Senate passed the modified House form of the bill and I concur in his remarks. I too am concerned that the findings, particularly the provisions stating that alcoholism is an illness or disease and strengthening present findings to more clearly indicate that the criminal law is not an appropriate vehicle for preventing or controlling a health problem, which alcoholism is, have been dropped in the bill. Although these findings have been deleted, the thrust of this landmark legislation, to establish comprehensive programs to treat alcoholics throughout the country with the aid of Federal funding, has been accomplished.

As the author of the formula grants provision, I am gratified to note that the modified House version of the bill increased the authorization for formula grants over the next 3 years from $75 to $180 million. This is vital if we are to help State governments develop and administer programs dealing with alcoholism—although I regret reducing the funding for alcoholism prevention and treatment project grants.

I believe the passage of this legislation represents a practical and historic Federal commitment to meet the challenge of alcoholism.

PUBLIC WORKS PROJECTS

Mr. ELLENDER. Mr. President, last year the President placed in budgetary reserve all new starts and increases in budgeted items added by the Congress.

The budget for fiscal year 1971 contemplated some new starts recommended by the administration and the release of funds impounded by the President during fiscal year 1970. Congress in working its will on the public works appropriation bill for fiscal year 1971, again added some new starts in planning and construction. In signing this public works appropriation bill, the President criticized the Congress for the unbudgeted new starts and increases. At that time he stated that the future commitments in the bill totaled $4.5 billion. I think this is a good example of the misinformation being furnished the President, since new starts in the bill would involve a commitment of only about $1.4 billion.

In order to arrive at the figure the President used, you have to consider each new planning start as a Federal commitment in the amount of the total estimated cost of the project; each new land acquisition start as a Federal commitment in the amount of the total estimated cost of the project; and each new construction start in the amount of the total estimated cost of the project. It is quite obvious that if, at the time you initiate planning on a reservoir project estimated to cost $80 million, you choose to say the Government has made a commitment of $80 million, it would be improper, when the first funds for land acquisition only on that project are provided, to say that the Government has made another commitment of $80 million; and then, later, when the first construction funds are provided for the same project, contend that still another new commitment is made in the amount of $80 million.

In my opinion, the proper time to discuss future commitments is at the time the first construction funds are provided. I cite this type of accounting as just one example of the misinformation furnished the President at the time he signed that bill. There are many other types of errors in the figures compiled for the President's statement.

With respect to the congressional add-ons, I would like to point out that each and every project was carefully considered. For instance, the Corps of Engineers has a backlog of over 400 projects. The Congress approved the initiation of 31 projects, of which 17 would cost under $10 million; 12 between $10 and $42 million; and two over $43 million.

Recently, it became known that the President has again placed funds in budgetary reserve. This time the action is more drastic—construction projects previously funded but not initiated, projects recommended in the budget as new starts, and all congressional add-ons for planning and construction have been

placed in budgetary reserve pending decisions on the fiscal year 1972 budget.

Mr. President, I ask unanimous consent to place in the RECORD the lists of projects where funds have been impounded.

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

(See exhibit 1.)

Mr. ELLENDER. Some of these projects are required to help alleviate power or water shortages, some would assist in water quality and pollution control, while others would provide flood or hurricane protection. In some cases the projects are located in areas of persistent and chronic unemployment.

Mr. President, I cannot follow the logic of the administration's opposition to resource development projects in this country that are required to meet the demonstrated needs, and, at the same time, vigorously supporting foreign assistance programs which provide similar facilities in foreign countries. A water resource project in this country requires a detailed survey, including public hearings, and thorough coordination at the local, State, and Federal level. It must demonstrate economic justification; it usually requires substantial local cooperation; it must be specifically authorized by Congress, and individually justified each year in the appropriations process. In contrast, similar projects in foreign countries are financed from the development loan fund. At the time appropriations are made for this fund, the Congress is not even informed of the new projects that will be supported out of the funds requested. This year, the administration requested $570 million for development loans, of which $266,700,000 was earmarked for India.

Let us examine a few of the continuing projects in India that are being supported by this program:

	Authorization
Irrigation and power on the Beas River	$24,000,000
Tarapur Nuclear Power Project	75,000,000
Ramagundam thermal power	7,900,000
Dhuvaran thermal power	24,750,000
Total	131,650,000

I think it is particularly interesting to note that these loans run from 30 to 40 years at interest rates ranging from three-fourths of 1 percent to 3½ percent, while in this country the Office of Management and Budget is advocating the use of an interest rate of between 10 and 15 percent for economic evaluation of land and water resource projects.

With further reference to the low interest rates on these development loans, in my report to the Senate in 1967, I pointed out examples where the funds obtained from the development loan fund at the low interest rate were being loaned by the recipient nation at a much higher interest rate.

Mr. President, since I have been chairman of the Subcommittee on Public Works of the Senate Committee on Appropriations, we have provided a number of new starts for locks and dams to improve our system of inland navigation—including a number of modern locks and dams on the Ohio River. We are currently in the process of modernizing this waterway by replacing the present system of 46 small locks and dams with 19 larger modern structures. The old system was justified on the basis of the commerce building up to 13 million tons. However, in 1968, the last year for which statistics are available, that waterway carried over 120 million tons. Except for the replacements already completed, most of which were started without a budget estimate, this waterway would not have had the capacity to move this large volume of traffic.

The typical Ohio River tow requires two lockages. This means breaking up the two and reassembling at each lock. So, on a trip from Pittsburgh to the Mouth of the Ohio River, instead of 92 lockages now required through slow filling lock chambers, only 19 lockages through modern fast filling lock chambers will be required.

I note that included in the list of funds placed in reserve are units of the Ohio River navigation project:

Mound City lock and dam, Illinois and Kentucky (land acquisition)	$100,000
Smithland locks and dam, Illinois and Kentucky	5,275,000

The construction of the Smithland locks and dam which will replace locks No. 50 and No. 51 has been strongly supported by the TVA because of the delays their coal shipments have been subjected to as a result of the congestion at the existing locks. Funds were provided for fiscal year 1970 to initiate the project, but were placed in budgetatry reserve. This spring, the division engineer testified that a contract for the locks and cofferdam would be awarded early in July. We now find that all the funds for this project have been impounded. In this connection, it should be noted that due to transportation difficulties, including car shortages by rail, and congestion of river traffic, the coal reserves of TVA are being depleted and it is possible that there will be a power shortage in the TVA service area this winter.

A typical single tow of oil barges on the Ohio River carries 175,000 barrels of oil which would require 866 tank cars, which is equal to more than six trains each a mile long. If we had not provided for our system of inland navigation on the Ohio, the Mississippi, the Gulf Intracoastal Waterway, and others, I do not know how we would ever meet our transportation needs.

I note also in the list of reserves $4,250,000 appropriated over the budget for land acquisition for the Tocks Island project. I am certain that the Senators from Pennsylvania and New Jersey recall that these additional funds were provided to relieve hardship cases and split track acquisitions—that is where funds are available for land acquisition for that portion of an owner's property required for the Delaware Water Gap National Recreation Area but not for the portion of the owner's property required for Tocks Island project. Great hardship is being experienced by the owners when part of their property is taken and they know that the remainder of their land will be required shortly for the Tocks Island project.

I will not take the time of the Senate to discuss the many other projects being deferred except for one in my own State. That is the Lake Pontchartrain hurricane protection project.

Last year, if Hurricane Camille had been centered 50 miles west of its actual path, the center of the storm would have passed over Lake Pontchartrain. In such an event, the death and destruction in the city of New Orleans and the surrounding area would have been enormous.

Last year and this year the Congress provided additional funds so that the engineers could proceed faster with the construction of the authorized protective works at Lake Pontchartrain. Both last year and this year the President impounded the additional funds provided by the Congress. Was he presented with all of the information, and the possible result of a delay in completing this work? Did he deliberately decide to gamble on the lives and security of the citizens of New Orleans? I do not believe so. I think he is getting bad advice. However, I do feel that it is time for the President to take whatever steps are necessary to insure that he is getting all of the facts before he makes a decision.

When the fiscal year 1972 budget is submitted to Congress it will be interesting to see what impounded funds, if any, are released, and the criteria used in determining which projects will go forward.

EXHIBIT 1

Projects where funds have been impounded

ALABAMA	
Montgomery	$50,000
Tennessee-Tombigbee Waterway, Alabama and Mississippi	655,000
ALASKA	
Kake Harbor	100,000
King Cove Harbor	100,000
Sergius and Whitestone	200,000
ARIZONA	
Gila River and Tributaries down from Painted Rock Reservoir	500,000
Indian Bend Wash	40,000
Phoenix and Vicinity	200,000
Santa Rosa Wash (Tat Momolikot Dam)	380,000
ARKANSAS	
Red River Levees and Bank Stabilization below Denison Dam Arkansas, Louisiana and Texas	200,000
CALIFORNIA	
Buchanan Reservoir	[1] 890,000
Chester Feather River	50,000
Cucamonga Creek	190,000
Hidden Reservoir	1,050,000
Lower San Joaquin River	720,000
Lytle and Warm Creeks	1,000,000
Monterey Harbor	150,000
Oakland Harbor	2,820,000
San Diego Harbor	30,000
San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels)	625,000
Santa Paula Creek	[1] 235,000
Tahquitz Creek	[1] 260,000
COLORADO	
Bear Creek (Mount Carbon) Reservoir (land acquisition)	390,000
Boulder	50,000

Footnotes at end of table.

CONNECTICUT	
New London Barrier	$700,000
Park River	100,000
Trumbull Pond Reservoir	150,000
DELAWARE	
Delaware Coast	50,000
FLORIDA	
Brevard County	50,000
Central and Southern Florida	200,000
Cross-Florida Barge Canal	350,000
Gulf Intracoastal Waterway, St. Marks to Tampa Bay (Ecological Study)	180,000
Miami Harbor	60,000
GEORGIA	
Spewrell Bluff Dam	500,000
Trotters Shoals Reservoir, Georgia and South Carolina (land acquisition)	300,000
HAWAII	
Heela-Kea Harbor	49,000
Kawaihae Harbor	1,102,000
Waikiki Beach	[1] 700,000
IDAHO	
Stuart Gulch Reservoir (Resumption)	75,000
ILLINOIS	
East Moline	30,000
Freeport	[1] 181,000
Levee District 23 (Dively), Kaskaskia River	60,000
Lincoln Dam and Reservoir	100,000
Lock and Dam 26, Alton, Illinois and Missouri	351,000
Mississippi River between Ohio and Mississippi Rivers, Illinois and Missouri: Regulating Works	1,000,000
Mound City Lock and Dam, Illinois and Kentucky (Land Acquisition)	100,000
Smithland Locks and Dam, Illinois and Kentucky	5,275,000
INDIANA	
Big Pine Dam and Reservoir (Land Acquisition)	50,000
Clifty Creek Reservoir (Land Acquisition)	50,000
Greenfield Bayou Levee	50,000
Island Levee, Indiana and Illinois	[2] 165,000
Lafayette Dam and Reservoir	100,000
IOWA	
Ames Reservoir	100,000
Bettendorf	30,000
Big Sioux River at Sioux City, Iowa and South Dakota	70,000
Fort Madison Harbor	100,000
Marshalltown	512,000
Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri and Nebraska	400,000
Waterloo	[1] 220,000
KANSAS	
Arkansas—Red River chloride control, Texas, Oklahoma, and Kansas (see Texas).	
Cedar Point Reservoir	25,000
Cow Creek, Hutchinson	[1] 215,000
Dodge City	350,000
El Dorado Reservoir	300,000
Grove Reservoir (resumption)	150,000
Hays	200,000
Kansas City (1962 mod)	1,050,000
Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri and Nebraska (see Iowa).	
KENTUCKY	
Martin	[1] 295,000
Martins Fork Reservoir	100,000
Mound City lock and dam, Illinois and Kentucky (see Illinois).	
Paintsville Reservoir	330,000
Smithland lock and dam, Illinois and Kentucky (see Illinois).	
Taylorsville Reservoir	150,000

Footnotes at end of table.

Fiscal year 1971 construction, general, allocations

LOUISIANA	
Bayou Bodcau and Tributaries	[1] $119,000
Lake Pontchartrain and Vicinity	3,000,000
Mermentau River (Lake Arthur Bridge)	[1] 835,000
Michoud Canal	50,000
Mississippi River Outlets, Venice	50,000
Monroe Floodwall	30,000
Morgan City and Vicinity	[1] 419,000
New Orleans to Venice Hurricane Protection	574,000
Ouachita River Levees	80,000
Red River Emergency Bank Protection	[3] 1,820,000
Red River Waterway, Louisiana, Arkansas, Oklahoma and Texas (Mississippi River to Shreveport only)	600,000
Red River Levees and Bank Stabilization below Denison Dam, Arkansas, Louisiana, and Texas (See Arkansas).	
MARYLAND	
Anacostia River (Northeast and Northwest Branches) (Sec. 205)	450,000
Bloomington Reservoir, Maryland and West Virginia	3,110,000
MASSACHUSETTS	
Fall River Harbor, Massachusetts and Rhode Island	25,000
Saxonville	39,000
MICHIGAN	
Lexington Harbor	15,000
MINNESOTA	
Big Stone Lake-Whetstone River, Minnesota and South Dakota	185,000
Roseau River	[1] 153,000
Zumbro River	50,000
MISSISSIPPI	
Tallahala Reservoir	60,000
Tennessee-Tombigbee Waterway, Ala. and Miss. (See Alabama).	
MISSOURI	
Brookfield Reservoir	59,000
Chariton-Little Chariton Basins	350,000
Dry Fork and East Fork Reservoirs (Fishing River) (restudy)	50,000
Harry S. Truman Reservoir (formerly Kaysinger Bluff Reservoir)	100,000
Little Blue River Channel	50,000
Little Blue River Reservoirs (land acquisition)	1,220,000
Lock and Dam 26, Alton, Ill. and Mo. (See Illinois).	
Mercer Reservoir	140,000
Mississippi River Agricultural Area No. 8 (Elsberry drainage district)	120,000
Mississippi River between Ohio and Missouri Rivers, Ill. and Mo. (See Illinois).	
Missouri River, Sioux City to mouth, Iowa, Kansas, Missorui and Nebraska (See Iowa).	
Pattonsburg Reservoir (town relocation only)	50,000
Union Reservoir (advance participation, highway bridge)	300,000
MONTANA	
Great Falls	400,000
Libby Reservoir	650,000
NEBRASKA	
Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri and Nebraska (See Iowa).	
Papillion Creek and Tributaries (land acquisition)	1,310,000
NEW JERSEY	
Elizabeth	892,000
South Orange, Rahway River	[2] 76,000
Tocks Island Reversoir, Pa., N.J. and N.Y. (See Pennsylvania).	
NORTH CAROLINA	
Drum Inlet (Section 107)	$90,000
Falls Reservoir	300,000
Howards Mill Reservoir	90,000
Randleman Reservoir	78,000
NORTH DAKOTA	
Minot	100,000
Pembina (Section 205)	300,000
Pipestem Reservoir	732,000
OHIO	
Alum Creek Reservoir	620,000
Caesar Creek Reservoir	847,000
Chillicothe	75,000
East Lake Chagrin River	60,000
Salt Creek Reservoir (land acquisition)	300,000
OKLAHOMA	
Arkansas Red River chloride control, Texas, Oklahoma and Kansas (See Texas).	
Birch Reservoir	400,000
Copan Reservoir	500,000
Crutcho Creek	[1] 470,000
Lukfata Reservoir	[2] 450,000
Waurika Reservoir	900,000
OREGON	
Elk Creek Reservoir	400,000
PENNSYLVANIA	
DuBois	[1] 150,000
Tioga-Hammond Reservoir	650,000
Tocks Island Reservoir, Pa., N.J., and N.Y.	4,250,000
RHODE ISLAND	
Cliff Walk, Newport	50,000
Fall River Harbor, Mass. and R.I. (see Massachusetts).	
SOUTH CAROLINA	
Trotters Shoals Reservoir, Ga. and S.C. (see Georgia).	
SOUTH DAKOTA	
Big Sioux River at Sioux City, Iowa and S. Dak. (see Iowa).	
Big Stone Lake-Whetstone River, Minn. and S. Dak. (see Minnesota).	
TENNESSEE	
J. Percy Priest Reservoir (Nashville Davidson County Bridge)	839,000
TEXAS	
Aquilla Creek Rservoir	90,000
Arkansas-Red River Chloride Control (supplemental studies) Texas, Oklahoma and Kansas (resumption)	410,000
Aubrey Reservoir	115,000
Big Pine Reservoir	35,000
Cooper Reservoir and Channels	300,000
Corpus Christi Ship Channel	250,000
Gulf Intracoastal Waterway, New Orleans to Houston, 16 ft. channel, Louisiana and Texas (Corpus Christi cutoff only)	200,000
Highland Bayou	400,000
Millican Reservoir	140,000
Mouth of Colorado River	95,000
Navasota Reservoir (see Millican).	
Red River levees and bank stabilization below Denison, Ark., La. and Tex. (see Arkansas).	
San Gabriel River tributary to Brazos River	800,000
Taylors Bayou	[2] 182,000
Whitney Reservoir	[2] 260,000
UTAH	
Little Dell Reservoir	91,000
VIRGINIA	
Four Mile Run	170,000
WASHINGTON	
Chief Joseph Dam (Additional Units)	650,000
Columbia River and Lower Willamette River, 35 and 40 Foot Projects, Oregon and Washington (See Oregon).	

Ice Harbor Lock and Dam (Additional Units)	$400,000
John Dayl Lock and Dam, Oregon and Washington (See Oregon).	
Little Goose Lock and Dam (Additional Units)	130,000
Lower Columbia River Bank Protection, Oregon and Washington (See Oregon).	
Vancouver Lake	85,000
Wynoochee River Reservoir	1,900,000
WEST VIRGINIA	
Bloomington Reservoir, Md. and W. Va. (See Maryland).	
Burnsville Lake	120,000
Leading Creek Lake	150,000
Rowlesburg Lake (Land Acquisition)	150,000
Stonewall Jackson Lake	450,000
WISCONSIN	
La Farge Reservoir, Kickapoo River	180,000
MISCELLANEOUS	
Small Navigation Projects not Requiring Specific Legislation costing up to $500,000 (Sec. 107)	90,000
Small Projects for Flood Control and Related Purposes not Requiring Specific Legislation (Sec. 205)	750,000
Recreation Facilities, Completed Projects	1,000,000

[1] Includes funds prior to FY 1971 Appropriations.
[2] All Funds from Prior Year Appropriations.

Flood control, Mississippi River and tributaries—Amounts for fiscal year 1971 in budget reserves pending decisions in relation to the fiscal year 1972 budget

Construction and Planning

Channel improvement	$732,000
St. Francis Basin	1,150,000
Cache Basin	100,000
Yazoo Basin:	
Greenwood	200,000
Upper auxiliary channels	200,000
Control structure in Muddy Bayou (Eagle Creek)	100,000
Atchafalaya Basin	1,750,000
West Kentucky tributaries	100,000

Projects with fund in budgetary reserve not listed on fiscal year 1971 conference report, prior year funds

	Amount in reserve
Red River Lake, Kentucky	$430,000
South Ellenville, N.Y.	15,000
Big Darby Lake, Ohio	4,000
Gulf Intracoastal Waterway, Chocolate Bayou, Texas	558,000
Total	1,007,000

Department of the Interior, Bureau of Reclamation—Amounts for fiscal year 1971 in budget reserves pending decisions in relation to the fiscal year 1972 budget

Construction and rehabilitation:	
Advance planning: Palmetto Bend, Texas	$200,000
Central Valley project, California:	
Westlands Distribution and Drainage System	8,500,000
Pleasant Valley Canal	1,500,000
Auburn - Folsom South Unit	2,000,000
Chief Joseph Dam project, Washington: Manson Unit	530,000
Colorado River Front Work & Levee System, Arizona-California	538,000
Columbia Basin, Washington	1,460,000
Fryingpan - Arkansas, Colorado	1.020.000
Mountain Park, Oklahoma	$450,000
Tualatin project (land acquisition), Oregon	900,000
Drainage and minor construction: Washoe, Nevada-California	185,000
Rehabilitation and betterment:	
Cascade Irrigation District, Washington	5,000
Klamath project, Shasta View Irrigation District, Oregon	8,000
Shoshone project, Garland Division, Wyoming	200,000
Tumalo Irrigation District, Oregon	5,000
Uncompahgre project, Colorado	133,000
Westland Irrigation District, Oregon	5,000
Missouri River Basin project:	
Garrison Diversion, North Dakota-South Dakota	1,000,000
Minot Extension, North Dakota	470,000
Oahe Unit (land acquisition), South Dakota	350,000
Advance planning: Nebraska-Mid State, Nebraska	200,000
Total, construction and rehabilitation	19,659,000
Upper Colorado River storage project:	
Advance planning:	
Animas-La Plata, Colorado-New Mexico	225,000
Dallas Creek, Colorado	189,000
Dolores, Colorado	170,000
San Miguel, Colorado	50,000
Construction projects:	
Curecanti Unit, Colorado	923,000
Central Utah project:	
Bonneville unit	2,023,000
Jensen unit	400,000
Fruitland Mesa, Colorado	30,000
San Juan-Chama Project, Colorado-New Mexico	475,000
Savery-Pot Hook Project, Colorado-Wyoming	250,000
Recreation and fish and wildlife	340,000
Total, Upper Colorado River storage project	5,075,000
Colorado River Basin project: Central Arizona project Arizona-New Mexico	1,200,000
Loan program:	
Arvin-Edison Water Storage District, California	1,200,000
Buttonwillow Improvement District, California	1,200,000
Central Oregon Irrigation District, Oregon	50,000
Feather Water District, California	200,000
Haights Creek Irrigation Co. No. 2, Utah	600,000
Hidalgo and Willacy Counties Water Control and Improvement District No. 1, Texas	1,000,000
Mitchell Irrigation District, Nebraska	190,000
Pioneer Water Co., California	50,000
Salmon River Canal Co., Idaho	150,000
Santa Maria Water Control and Improvement District, Tex	200,000
Valley Center Municipal Water District, California	1,500,000
Total, loan program	6,340,000
Total, Bureau of Reclamation	31,274,000

Atomic Energy Commission—Amounts for fiscal year 1971 in budget reserves pending decisions in relation to the fiscal year 1972 budget

Operating expenses:	
Naval propulsion reactors	$4,800,000
Isotopic powered artificial heart—R. & D. program	800,000
Radiation preservation of foods	120,000
Regulation	900,000
Plant and capital equipment:	
Gaseous diffusion plants (production support facilities and process equipment modification)	16,100,000
Addition to physics building (human radiobiology facility, Argonne National Lab., Illinois)	500,000
National nuclear science information center (planning), Oak Ridge, Tennessee	600.000

SENATOR SPESSARD HOLLAND

Mr. DOLE. Mr. President, the view from a junior Senator's position gives opportunity to observe senior Senators in their work and deliberation. As a junior Senator, I have observed and accrued a tremendous respect for the senior Senator from Florida, SPESSARD HOLLAND. During my 2 years in the Senate, I have been privileged to serve with him on the Senate Agriculture and Forestry Committee—and the 8 years prior to that as a House Member—I observed and appreciated Senator HOLLAND'S attitude and work for agriculture.

Senator HOLLAND is indeed worthy of the praise he is receiving. He has represented his constituency in the State of Florida as well as the Nation with outstanding contributions in flood control, water transportation, and conservation. He is well known as the prime mover of the Highway Act of 1956, the basis for our Interstate Highway System today.

LEADER IN AGRICULTURE

But today, I would call particular attention to the many contributions Senator HOLLAND has made to agriculture. As a member of the Senate Agriculture and Forestry Committee, Senator HOLLAND has been a leader in the true sense of the word.

As chairman of an agricultural subcommittee, Senator HOLLAND is a recognized authority on agricultural credit. Through his leadership, the Farm Credit Board was created and major legislative changes were made to make the Farm Credit Administration an independent functioning unit, supervised by the Government, but operated by the farmers who own the system.

Later, with the same responsible approach, Senator HOLLAND took part in writing legislation to expand operations of the Farmers Home Administration to assist low-income farmers.

As chairman of the Agricultural Appropriations Subcommittee, Senator HOLLAND has maintained a cautious eye on these and other programs, assuring their proper and aggressive performance.

RESEARCH FACILITIES

Senator HOLLAND has encouraged the establishment and adequate staffing of

many agricultural research facilities to assure our future supplies of water, food, and other environmental resources.

MARKETING ORDERS

His contributions to American agriculture are many—and I would be remiss if I did not emphasize Senator HOLLAND'S expertise in the particular field of marketing orders. Rightfully so, he had worked closely with the milk, citrus fruit, and other special marketing orders and is respected for his knowledge of the proper administration of these orders. He is also constantly alert to the proper administration of section 32 of the Agricultural Marketing Act, which provides for distribution and sale of Commodity Credit Corporation stocks of surplus foods. Much of the food utilized in our nutrition programs comes from this program.

Yes, Senator SPESSARD HOLLAND will be missed on the floor of the Senate.

He will be missed by American farmers. He will be missed by all Americans concerned with sound, constitutional government.

NEW HAMPSHIRE IS PROUD OF GREG LANDRY

Mr. McINTYRE. Mr. President, on Sunday the Detroit Lions professional football team qualified for the National Football Conference playoffs with a 20 to 0 victory over the Green Bay Packers.

The crucial factor in the Lions surge into the playoffs was the performance of a New Hampshire native, quarterback Greg Landry, who came off the bench 6 weeks ago to replace injured starter Bill Munson and piloted his team to five consecutive victories.

The people of New Hampshire take great pride in Greg Landry and in his clutch performance, Mr. President. This fine young man, in only his third year of professional football, has exhibited poise, coolheadedness, courage, savvy, and skill far beyond his years and experience.

Greg Landry was a star performer at Nashua, N.H., high school, then went on to even greater gridiron exploits at the University of Massachusetts. There he gained 1,682 yards rushing and passed for 3,113 yards on 445 completions over a 3-year span.

In 1968, he was the Detroit Lions' No. 1 draft choice, and was 11th in the pro football draft.

Greg Landry's sudden success came as no surprise to those who have followed his career, or to those who have played on the same teams.

Lions' tight end Charlie Sanders recently observed:

> When he was playing in his first year, I said he was the best rookie quarterback around. He was better last season, and now I think he is better than most of the veterans.

Lions' head coach Joe Schmidt puts it this way:

> Landry is getting better with each start and his confidence is really building up. This kid has a great future.

Mr. Schmidt has good reason for such confidences in his young quarterback.

In his first game as Munson's replacement, Greg Landry engineered a 28 to 7 victory over the San Francisco 49'ers, throwing three touchdown passes in the process. On Thanksgiving Day, he sparked the Lions to a 28 to 14 win over the Oakland Raiders and seasoned his three-touchdown passing performance with 77 yards rushing.

The following week, Landry led the Lions to a third straight win over St. Louis, and on December 14 sparked his team to a 28 to 23 victory over the Los Angeles Rams. In that game he threw one touchdown pass and ran 22 yards to set up another score.

In last Sunday's playoff position clincher with Green Bay, Landry again engineered a sound victory and added his own contribution of a touchdown pass to Charlie Sanders.

Mr. President, all of New Hampshire is proud of this young man from Nashua, and we are confident his career will grow more and more lustrous with each passing year.

TRIBUTE TO SENATOR HOLLAND

Mr. ALLOTT. Mr. President, I have mixed emotions today as I join my colleagues in paying tribute to Florida's distinguished senior Senator, SPESSARD HOLLAND.

I am saddened by the knowledge that he will not be with us in the 92d Congress. Yet, at the same time, I am happy that he is able to return to his beloved State of Florida, along with his charming wife, Mary, to enjoy life.

Every descriptive term which can rightfully be used to compliment a Member of this body is applicable to my friend from Florida. He is able, articulate, sincere, dedicated, and principled.

I will never forget as a new Senator, 16 years ago, the wise counsel he gave me on many matters. Throughout these years I have relied on him for advice, particularly regarding agriculture matters about which the Senator is one of our best experts, and Appropriations Committee on which he and I have served together for some 12 years now.

During our service on Appropriations, I have had an opportunity to get to know him and observe his work in a special way. He is a gentle soft-spoken man. On the other hand, his parliamentary ability and his tenacity in fighting for what he believes in has made him a match for any of us.

Fortunately, our ideas have coincided more often than not. I know of no man who has spoken up more courageously, or reasoned more eloquently. He will be greatly missed in the Senate he loves so much.

Welda joins me in wishing Mary and SPESSARD HOLLAND a most enjoyable and fruitful retirement.

THE 18-YEAR-OLD VOTE

Mr. BYRD of Virginia, Mr. President, today's 5-to-4 decision by the Supreme Court is another outrageous decision by that Court.

Giving younger people the right to vote does not bother me—but what does deeply concern me is adults taking away from the individual citizens the right to determine the voting age.

Through the years, the voters themselves have had the right to determine the voting qualifications. Four States permitted voting at ages less than 21—but 46 States did not.

Now, by this 5-to-5 decision, the vote of one man has taken away the rights of 200 million Americans to determine voting qualifications.

Constitutional government has suffered a severe blow. The people have lost more of the power given to the individual citizen by the Constitution

Any change in the voting age should be made by the people themselves, and not by the Congress or the Court.

TRIBUTE TO SENATOR HOLLAND

Mr. CURTIS. Mr. President, I dislike to see our good friend Senator HOLLAND leave the U.S. Senate. The United States needs his services.

In these troubled times, our Government can ill afford to lose the services of such an individual. He is honest, able, devoted and courageous.

Senator HOLLAND is an individual of principle. His entire public record is in support of our constitutional system of government, our economic system, and our American heritage. I will not attempt to enumerate all of the public service that he has rendered. I merely want to add my name to the list of those others who have observed his work and say to him and to his lovely wife, Mrs. Holland, "Well done."

MAJOR OIL COMPANIES WIN AGAIN

Mr. PROXMIRE. Mr. President, it is true that I have opposed the tax loopholes that allow gigantic amounts of oil company income to escape taxation, but the reason I have done so is that they have not accomplished their supposed goal—to encourage exploration.

I have no objection to incentives that will encourage domestic exploration. As a matter of fact, I tried to convince the Finance Committee last year that a direct drilling subsidy paid directly to those who drilled domestically would be far more effective than the present complex system which only benefits the major, international oil companies while allowing the small, domestic drillers to go bankrupt.

Unfortunately, the major oil companies in conjunction with their crucially located allies among the independent oilmen managed to kill the direct drilling incentive program I proposed.

The situation continues the same—the independent oilmen are going out of business at an increasingly rapid rate and the major oil companies are using the subsidies they get from our oil import quota program and foreign tax credits to buy up the remaining pools of oil and to buy competing sources of energy, like the coal and nuclear energy businesses.

Recently the major oil companies raised the price of oil about 25 cents a barrel—a price increase the President's

Council of Economic Advisers termed "clearly inflationary." President Nixon then took some steps, admittedly inadequate, to roll back this price increase. However, a careful analysis of his action shows that its only effect will be to help the major oil companies at the expense, once again, of the independent oilmen. Once again, the supposed goal of encouraging domestic exploration has been thwarted to fatten the purses of the major, international oil companies.

I ask unanimous consent that Ted Brooks' article in the Wichita Eagle explaining the consequences of President Nixon's action be printed in the RECORD at this point.

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

OIL NEWS ANALYSIS—EFFECT OF NIXON'S OIL ROLLBACK QUESTIONED

(By Ted Brooks)

There has been a curious development, or lack of development, in President Richard Nixon's move to test the validity of recent crude oil and crude product price increases.

It has been scored by oil state governors, denounced by domestic producers, deplored by conservation officials and hissed at by virtually everyone in every segment of the industry, except—

The large firms who are directly and immediately affected by the orders to the Department of Interior to unleash production on U.S. leases in the Gulf and let down restrictions on Canadian oil exports into the U.S.

Their reaction to the order, other industry people have noted, has been a vast silence that figuratively rings out with unspoken approval.

Ostensibly, President Nixon's directive was made to roll back the 25-cent increase in crude prices and recent increases in product prices. It has been reinterpreted by the Office of Emergency Preparedness, as more of a measure to determine whether or not the new prices would hold in a "free market."

Coupled with the lack of protest from the firms who established the new prices, this casts the entire maneuver in a different light.

It now appears, to paraphrase one Kansan, that "having accused the fox of raiding the chicken house, they are now letting him run loose in the farm yard."

Whether intended or not, the following effects of the order have been projected by producers and refiners in this area:

Additional production from U.S. Gulf leases, almost all of which is owned by major, integrated companies who set prices, may amount to as much as 300,000 barrels daily.

This will flow into their own refineries through mutually owned pipelines at basic production costs independent of posted prices; its wellhead and delivered cost is far below that of delivered foreign oil.

Carrying the highest posted price in the nation, it cannot be economically purchased by domestic refiners.

It will supplant the demand for foreign oil to the extent of the increase and will thus enable the international firms to continue to refuse to swap domestic oil for the quota tickets of domestic refiners.

The import tickets held by small business refiners will continue to remain useless; the goal of independent producers to share in import quotas will be wiped out.

Integrated company oil flowing in from offshore will supplant demand for onshore oil, particularly that of Louisiana and Texas produced by small operators.

Compounding the effect, would be the flow from Canada, which now amounts to more than 500,000 barrels daily. Although the Interior Department has reported that this can be increased by but about 50,000 barrels daily immediately, the government expressed the hope that this may be upped by 200,000 next year.

The effect, local oil men say, would be similar to that of increasing the flow from the Gulf. The Canadian industry too is dominated by the internationals.

Canada, they note, produces about the same as it consumes, falling short by 200,000 barrels daily. But in practice it serves as a middleman for the arms-length importation of foreign oil into the U.S.—that is, western Canadian oil of low cost is exported to the U.S. at a relatively high (but less than U.S. posting) price; while an equal or slightly greater amount of low cost foreign oil is imported into eastern Canada to yield product prices higher than those in U.S.

The energy-industrial complex that dominates these operations—production in the west and import-refining in the east—is the same as that which dominates production, importation, refining and marketing in the U.S.

Inland U.S. refineries will have no opportunity to import the Canadian oil at an advantage. The Canadian postings are nicely adjusted to reach the refinery gates of northern U.S. refiners at about 10 cents a barrel less than domestic oil. The gathered well price in Canada, roughly ranges from about $2.50 to $2.85 per barrel, depending on gravity and the field source. These prices are expected to rise soon in response to the new U.S. posting.

But even at present prices, a barrel of high-gravity Canadian oil cannot reach the midcontinent for less than $4 per barrel, the pipeline charges being more than $1.

U.S.-Canadian exchange rates, at a disadvantage of about seven cents on the dollar, effectively add nearly 20 cents a barrel to the real cost of purchased Canadian oil, and increase the leverage of the international producer by that amount. Canadian production returns are further augmented by a 33 per cent depletion allowance.

The fact that condensate-type oil is currently delivered into Oklahoma, despite the transportation barrier, is not related to the general problem. The oil is self-produced, or generated by trade on the Canadian market, and therefore flows at cost of production, not at the nomial posted price, whatever it may be.

The Canadian and U.S. relationship is further mystified by an international flow of products. The Oil & Gas Journal sets the total influx of Canadian oil and products into the U.S. at approximately one million barrels daily. Canadian consumption at the product level amounts to 1.4 million barrels daily, or 200,000 greater than production.

It inevitably follows, some observers say, that the present condition is one that accommodates the interests of international firms rather than that of either Canada or the U.S. The commercial advantage of being in the middle of both an export system that creates Canadian scarcity and an import system that then satisfies the engineered demand is too obvious for comment.

It is unknown to what extent both Canadian and Gulf crude may supplant onshore production in the contiguous states. It is unknown to what extent, if any, this would effect prices, since the record shows these have been maintained at levels independent of supply and demand for 20-odd years.

But such negative effects that do occur will fall entirely upon the small business segment of the U.S. oil industry. Hence there is some doubt as to whether the administration is really trying to contain the large integrated firms or is unwittingly installing them in an unassailable position as arbiters of North American supplies and prices.

MAN IN THE MIDDLE

Mr. SCOTT. Mr. President, 2 weeks ago the distinguished Senator from Massachusetts (Mr. BROOKE) spoke on our Nation's plans to mark the 200th anniversary.

Many of us are deeply concerned with what type of observance will be held in Philadelphia, its costs and other pertinent facts. President Nixon also shares this concern. He has named a special coordinator who will report directly to him. I am pleased to see this happen for two reasons: First, such liaison will insure total cooperation and improve communications between those involved. Second, the gentleman the President has selected was once on my staff and is an ideal selection. Since leaving me for even greater challenges, he has been doing an exceptional job as the Administrator of the General Services Administration.

Of course, the coordinator for the President and the man who will play a strong hand in marking the Nation's 200th anniversary is Bob Kunzig.

I ask unanimous consent to have printed in the RECORD an editorial from the Philadelphia Inquirer applauding his appointment by President Nixon.

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

MAN IN THE MIDDLE

We welcome the news that Robert Kunzig has been named a special assistant to President Nixon to coordinate plans in Washington for the Bicentennial.

Bob Kunzig, of course, needs no introduction to Philadelphians. To say that this former resident "retains a keen interest in Pennsylvania matters," as one Washington official did, is to understate the case. He brings to the role not only a knowledge of the city and the state but a genuine affection for both.

Equally important, he knows his way around Washington and is well known there. His service on the staff of Senator Scott made him a familiar figure on Capitol Hill; in his present position as head of the General Services Administration he has dealt with all the executive departments at the highest levels; and, crucially, he has that all-important entree at the White House.

We congratulate both the President and Mr. Kunzig. It is a good appointment which should do much to enhance communications and cooperation between Philadelphia and Washington in moving the Bicentennial along.

OCEAN DUMPING

Mr. MONDALE. Mr. President, the discovery of mercury—a potentially lethal element—in significant quantities in deep sea tuna is an alarming indication of the pollution damage that has already been done to the supposedly invulnerable ocean environment. Add to this the oil spills, the pesticides, sewage, and other wastes that are being dumped in massive quantities into the sea, and we can see the stage being set for an ecological—and human—disaster of worldwide proportions.

In a speech January 19, the first day of this Congress' second session, Wisconsin Senator GAYLORD NELSON called on

this country to adopt a tough new national policy to protect the ocean environmental from further assault. On February 19, he introduced the first legislation to spell out and establish such a policy. Among other things, the bill, the Marine Environment and Pollution Control Act, which I was glad to cosponsor, would halt the dumping of wastes into the sea and the Great Lakes from the United States by 1975.

Last week, Senator NELSON announced that he will reintroduce this important measure early in the next Congress. And with him, I would hope that the extremely important concern of halting the abuse of the fragile sea would be among the items at the top of the agenda for the next Congress.

Mr. President, I ask unanimous consent that an excellent report by Walter Cronkite last week on the implications of the discovery of mercury in deep sea tuna and on the efforts of Senator NELSON to get this country committed to stopping the destruction of the sea be printed at this point in the RECORD.

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

CBS RADIO NETWORK—WALTER CRONKITE REPORTING

Mr. CRONKITE. This is Walter Cronkite reporting with news and analysis for CBS News. Ten months ago, Senator Gaylord Nelson of Wisconsin called for adoption of a National Oceans Policy to prevent what he called the greatest potential environmental disaster of all—pollution of the sea. The oceans support life on this planet; tiny ocean plants far at sea produce the oxygen we breathe. And with prospects that the world's population will be doubled in the next thirty years, the oceans have emerged as an ultimate source of food supply as well. But now, with the discovery of unacceptably high amounts of poisonous mercury in deep ocean tuna fish, the question is raised: Are the oceans themselves threatened by man's pollution? If so, we're in more trouble than we thought.

The Food and Drug Administration stresses that even though it is pulling almost a million cans of tuna fish off the shelves because of high mercury levels, that doesn't mean it's not safe to continue to eat tuna fish. A person would have to eat something like two cans a day for a year before he'd be in serious trouble.

But it's not the question of whether or not to eat mercury-tainted tuna that's the main concern. There are other questions. How did the poisonous mercury find its way into the deep oceans in the first place? What else has it affected? What about those oxygen-producing phytoplankton, for example?

Man has been dumping mercury into the environment ever since the Industrial Age began. And one estimate is that we release four to five thousand tons of mercury into the environment each year. Until now it has been assumed that most of that mercury did its damage fairly close to the spot where it was dumped. Now, however, it appears the problem has spread from fresh water lakes and rivers and off-shore areas to the deep oceans, although there is some question as to whether the mercury in the tuna fish came from man's pollution or from natural deposits of mercury on the ocean floor.

Environmentalists, at any rate, are prepared to assume the worst. Senator Nelson will be resubmitting his proposal for a National Oceans Policy in the next session of Congress. And he also urges that the United States take up the problem at the 1972 World Conference on the Environment in Stockholm. Even before the question of mercury contamination was raised, Nelson was concerned about ocean pollution. In the current issue of Playboy Magazine, for example, he writes that unrestricted dumping of everything from nerve gas to used cars has turned the ocean into the "trash can for the world." And he notes that scientists say that if such practices are not stopped, all productive ocean life will be destroyed within the next fifty years. Senator Nelson says disclosure of mercury in deep sea tuna just increases that alarming possibility.

This has been Walter Cronkite reporting for CBS Radio.

THE REVEREND ELIZABETH PLATZ

Mr. MATHIAS. Mr. President, as we grapple with legislative complexities that at times appear insurmountable, I would like to take a moment to call the attention of my colleagues to an event of a different sort that offers hope for the future, reinforces our confidence in our own ability to attain constructive change as well as being of great historical interest. At College Park, Md., for the first time in the history of this hemisphere, a woman has been ordained as a minister of the Lutheran Church. After 5 years as associate chaplain at the University of Maryland, Elizabeth A. Platz has achieved this singular distinction. The Washington Evening Star on Friday, December 18, remarked that:

> The religion of Europe and America has, almost from its beginnings, separated itself from the wisdom and the compassion of one half of the human race. The ordination of Elizabeth Platz is a welcome sign of the end of that particular alienation.

Millions of Americans will want to join in the expression of those sentiments. I ask unanimous consent that the editorial from the Washington Evening Star be printed in the RECORD.

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

WOMAN OF GOD

With the laying on of hands and the calling of the Holy Spirit, Elizabeth A. Platz was ordained recently at College Park as this hemisphere's first woman minister in the Lutheran Church.

The Reverend Platz has served as associate chaplain at the nearby University of Maryland for the last five years.

Undoubtedly, her ordination, her ability to preside at worship—she celebrated the eucharist immediately following her ordination—will deepen and widen her service to the Maryland students.

But there is a larger significance to her success in obtaining ordination and to the act of the Maryland Synod in conferring it upon her. That act is a recognition of the ordinand's achievement in theological study and in personal dedication. But it is also an achievement for the Synod, for the Lutheran Church and for Christianity, an achievement symbolized in the change of the formula from "man" to "person."

It is, after all, the person that religion is concerned with. Priestesses and prophetesses were common enough in the antique world, one reason, no doubt, for their strange absence in Christianity. The religion of Europe and America has, almost from its beginnings, separated itself from the wisdom and the compassion of one-half of the human race. The ordination of Elizabeth Platz is a welcome sign of the end of that particular alienation.

DEPARTMENT OF TRANSPORTATION'S HIGH-SPEED GROUND TEST CENTER IN PUEBLO

Mr. ALLOTT. Mr. President, Myles B. Mitchell, the Director of the Office of High-Speed Ground Transportation yesterday spoke to the Pueblo Chamber of Commerce. His speech was most enlightening. It details for the first time some of the more specific plans of the Department of Transportation in relation to the test track.

I was particularly pleased to note, as Mr. Mitchell explains, that the National Highway Safety Bureau is now also interested in the test facility as a possibility for some of its activities.

Because the test center has created national interest, I am sure my colleagues want to read the text of Mr. Myles Mitchell's address.

For that reason, I ask unanimous consent that it be included in the RECORD at this point.

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

ADDRESS BY MYLES B. MITCHELL

There is a great deal of interest—not only in Colorado—but throughout the country in the Department of Transportation's High Speed Ground Test Center in Pueblo.

As is customary in such large undertakings, it is virtually impossible to predict the long-range impact of our test site activities on transportation or project the economic effects on transportation support industries. That will depend on the degree of success we realize from our research and development programs here at Pueblo. It is also worthwhile to remember that this is the first such ground transportation center in the world embracing as it does conventional rail technology testing programs with development of sophisticated new systems such as the tracked air cushion vehicle.

It is possible, however, to provide you with some insights into what lies ahead in the immediate future. But first, let me briefly sketch for you the management structure of the Test Center and how this team will function within the Department of Transportation.

The Test Center is being managed by the Office of High Speed Ground Transportation—a part of the Federal Railroad Administration. The FRA is one of six operating administrations within the Department. The others are the Urban Mass Transportation Administration, the Federal Highway Administration, the Federal Aviation Administration, the Coast Guard and the St. Lawrence Seaway. There are other groups within the Department which are not defined as operational, but which have a continuing interest in our activities here. One such group, the National Highway Safety Bureau, was here yesterday to inspect the area and to assess its potential in their activities.

FRA, UMTA, and FHWA have one common, primary interest: each is concerned with ground transportation. Thus, UMTA, and FHWA are also interested in the Test Center and how they might further their own missions through its use. I am sure you can recognize the sense this makes in avoiding cost duplications and promoting cooperation between the administrations. Parenthetically, Secretary Volpe has announced that in 1971 the Department plans to present its National Transportation Policy recommendations Naturally, any such recommendations will be greatly dependent on efficiently meshing the various modes of transportation.

It is this effort—the defining of National Transportation Policy Goals—that is the promise and challenge of Pueblo. It is here that we will push our existing ground transportation systems such as railroads to their limits of efficiency. And it is here that we will be concurrently developing new systems such as the tracked air cushion vehicle which will eliminate some of the problems of the past.

I have been asked—"What is the future in all this for the Nation's transportation network and the many industries that have supplied it in the past and those just entering the ground transportation field, such as the Aerospace industry?" My best answer is the future of ground transportation is as big as the problem. And an easy way to visualize the problem is to realize that our estimates are that, in this country alone, we must double our present transportation capacity by 1990. In short, we need twice the capability we have created since the Nation was founded. Here at the Test Center we hope to develop many of the tools to do this in ground transportation.

We have under construction now a track at the Center for a linear induction test vehicle to run up to 200 miles per hour. By March 1972, we hope to have completed a portion of the 21.7 mile oval guideway for testing an advanced tracked air cushion vehicle up to 300 mph. But let me point out that in the same period, we also expect to have combined these two concepts of suspension and propulsion in somewhat simplified form in a series of vehicles that will be running along the route of the San Diego Freeway in Los Angeles at around 150 miles per hour. This 16-mile system will operate between Los Angeles International Airport and th San Fernando Valley. So, it is readily apparent that we are not talking about exotic, science fiction concepts that are years downstream, but of systems based on sound, proven engineering principles that can, and will, be turned into hardware as experience at the Test Center and elsewhere warrants the investments. After all, our business is moving people and goods and the Test Center is the means to that end.

Before getting into planning details for the Test Center over the next five years, let me clear up some points about research and development, and how it works specifically in Government programs.

In general, it is possible to define research and development goals. But not the specific routes that may be ultimately used to reach these goals over a period such as five years. Accordingly, periodic evaluations of various alternatives must be made—the least promising routes discarded, the more promising strengthened in terms of money and effort. In Government research and development, our efforts undergo constant review, not only within the Administration itself, but by the Congress as well. And as all of you know, the Congress controls our purse strings and must evaluate our programs and their progress each year. In this respect, may I point out the high speed ground program has no more effective champions than your distinguished senior Senator, Gordon Allott, and his able staff. The people of Colorado and of the entire Nation owe Senator Allott a considerable debt for his forceful work in the field of ground transportation.

With the clear understanding that these economic impact estimates are just that and subject to engineering and economic reviews, let me give you our projections of activities at the Test Center in the next few years and how they will affect Pueblo.

An initial contract for $756,000 for grading nine miles of the linear induction vehicle test track, which we announced last August, has been completed.

Our second contract for $772,000 for placing track on the previously graded roadbed is now under construction and we expect to complete it in January. The contractor is employing an average of about 55 men—most of them drawn from the local labor pool.

A third contract—which is being handled by the Garrett Corporation which built the LIM Test Vehicle—calls for installation on the test track of a reaction rail. Garrett will use a sub-contractor for this work scheduled to start in February and completed by April, with a local employment of about two dozen men.

We will require a temporary support facility for the LIM. This $60,000 building we will need by next March and work on it will require about 10 to 15 men.

We will require a permanent support structure to house administrative offices and other facilities. We estimate this building, to be started in April of next year and completed six months later, will cost about $450,000.

We are presently drawing up plans for portions of the earth fill work for which we expect to advertise bids in the spring. About 40 men will be required in that work force.

A major structure to house our rail dynamics laboratory and service our test vehicles must be built. We hope this $2 million building will be started next summer with completion the following summer.

We also must build a guideway for our tracked air cushion vehicle. We estimate this will cost $3 million. We want to start it next March and complete it next October. This should provide employment for about 75 men. Later on, we expect to extend this guideway to an oval, 21.7 mile loop.

I should note in passing in connection with my remarks earlier on the uncertainties of research and development, we will make a determination on whether or not to extend our LIM test track after six months of testing. This decision, if made in favor of extension, would mean another small track construction contract.

Finally, I will emphasize that you probably will be seeing some new people in your area sent here by contractors working on a variety of technical projects involved in our programs, as well as more Government people who will join Glenn Rieff in Pueblo. We expect that these highly skilled engineers will be welcomed as we were, even if their numbers grow to more than 100.

This, then, to the best of my ability to predict, will be the immediate impact of the Test Center on Pueblo. As Government goes, it may not seem vast in terms of people or huge facilities. The emphasis here ultimately will be on brains, not brawn as exemplified by a large, unskilled labor force.

But we think it will be an exciting place—one which will draw and retain the interest of much of the world in learning what the United States is doing about bettering surface transportation. Just as, obviously, it will be a magnet to those industries which are seeking the challenges we will confront.

We are happy to be in Pueblo.

I hope you will be equally happy to have us here.

DISTINGUISHED MAJORITY LEADER TAKES UP FIGHT FOR VICTIMS OF CRIME BILL

Mr. YARBOROUGH. Mr. President, last Thursday, the distinguished majority leader of the Senate, Senator Mansfield, introduced S. 4576, the Criminal Injuries Compensation Act of 1971. I regret that a previous commitment prevented me from being present on that occasion, for I would truly have liked to be able to compliment him in person at that time for his foresight and vision in introducing this piece of legislation.

I have sponsored similar legislation since the first session of the 89th Congress when I introduced S. 2155. This bill was not passed and in the 90th Congress, I introduced an improved bill, S. 646. In the current Congress, I introduced S. 9, the Criminal Injuries Compensation Act of 1969, and S. 2936, the District of Columbia Criminal Injuries Compensation Act. This latter bill applies to the District of Columbia only.

On December 9, 1969, the District of Columbia Committee, chaired by the able Senator from Maryland, Senator TYDINGS, held hearings on my bill, S. 2936. At this hearing, the bill received strong support from such authorities on criminal justice as Congressman ABNER MIKVA of Illinois, Dean Page Keeton of the University of Texas School of Law, Prof. Norval Morris, professor of law and director of the Center for Studies in Criminal Justice of the University of Chicago, and Prof. Gilbert Geis of the School of Criminal Justice at the State University of New York.

I have also authored many articles on the subject of victim compensation, the most recent of which appeared in the University of Southern California Law Review. Five States, New York, California, Hawaii, Maryland, and Massachusetts as well as New Zealand and Great Britain have adopted victim compensation plans into their criminal justice systems. For the past 5 years, I have been urging that the United States follow the lead of these other jurisdictions and adopt such a plan. It is heartening to know that my hope will not die when I leave the Senate at the end of this Congress and that the distinguished majority leader of the Senate will take up the fight after I am gone.

TRIBUTE TO THE COAST GUARD

Mr. PELL. Mr. President, as a Coast Guard Reserve officer, and as one whose son is a Coast Guard officer, I have been particularly grieved at the tragic error made by the Coast Guard in its handling of the attempted defection to the United States by a Lithuanian seaman off Martha's Vineyard on November 23. I have previously stated—on December 9—here in the Senate my views on this incident, and my thoughts on how repetition of such an incident might be avoided.

I think it would be most unfortunate, and unfair to the Coast Guard, however, if that service were to be judged on the basis of that one incident. Instead, I would hope that this error, dreadful as it was, would be placed in the perspective of the Coast Guard's record of saving lives, helping defectors, and providing selfless, sensitive service to our country.

Indeed, in the specific area of providing assistance to defectors seeking asylum in this country, the Coast Guard, with only 38,000 people, has a truly remarkable record. During the past 12 years, it has given direct assistance to 14,631 refugees who fled their homes in Cuba seeking haven and protection in the United States. These refugees have either been on small vessels that fled Cuba and were escorted into U.S. ports by the Coast

Guard, or were transferred to Coast Guard vessels from merchant ships that picked up the refugees at sea, or in some cases the refugees were literally rescued from the waters of the Florida straits by the Coast Guard.

During the past year alone, 270 defectors from Cuba have been assisted by the Coast Guard in reaching the safe haven of the United States.

But even this impressive record is not fully representative of the Coast Guard's day-and-night, year-around service to our country. During fiscal year 1970, it is estimated that the Coast Guard responded to some 50,000 requests for assistance, aided about 125,000 persons, and saved the lives of 3,764 persons. In addition, the Coast Guard aided vessels and aircraft with an estimated property value of $2.1 billion.

On the very day of the unfortunate incident off Martha's Vineyard, we find—

Two Coast Guard icebreakers, the *Burton Island* and *Staten Island*, were en route to a vital mission in the remote Antarctic. Their ice breaking capability is essential to the success of Operation Deep Freeze, the annual scientific mission of the United States at the South Pole.

At six far removed locations in the Atlantic and the Pacific, six Coast Guard cutters stood lonely vigils collecting vital weather and oceanographic data. Their capability to provide mid-ocean rescue service gave an extra measure of safety to passengers on the sea or in the air.

Off the California coast, at the mouth of the Noyo River, two men were saved after their boat capsized crossing the rough bar. A 16-foot Coast Guard boat rushed to the scene and found one man floating face down in the water. A Coast Guard seaman applied mouth-to-mouth resuscitation and revived the man. The second man was pulled to safety off the jetty.

Off the Florida coast, Coast Guard cutters and aircraft patrolled and watched for Cuban refugees, although none of the Cuban 14,631 refugees rescued or assisted by the Coast Guard was plucked out of the ocean that particular day.

Far to the north, off Greenland, the Coast Guard icebreaker *Westwind* was en route to a point off Thule, Greenland, to assist in the repair of an undersea cable, a vital communications link with the U.S. Air Force base at Thule.

Off the coast of North Carolina, Coast Guard aircraft, a helicopter and a C–130 transport, teamed up with a Coast Guard 44-foot rescue boat to save three people disabled in a 19-foot pleasure boat. The transport located the disabled boat in darkness. The 44-foot boat was unable to reach the pleasure craft in shallow water, so the helicopter was called in to assist. The helicopter towed the boat to deeper water where the Coast Guard rescue boat took over. By early morning, all were safe in port.

Far across the Pacific four Coast Guard cutters were patrolling off the coast of South Vietnam to prevent enemy forces from using water supply routes. Just 3 weeks ago, two of these cutters, the *Rush* and the *Sherman*, teamed up with a Navy minesweeper to sink an enemy ship loaded with guns and ammunition.

Those are just a few examples of what the Coast Guard was doing on the day of the *Vigilant* incident. By no means do these examples give a complete picture of Coast Guard activities. But they serve to show the kind of work the Coast Guard performs every day, in all seasons, all around the world. The Coast Guard has a marvelous record. For over 180 years, the Coast Guard has served our Nation capably, steadfastly, and heroically in peace and in war. Let us not lose sight of this fact.

The Coast Guard should be given credit for its fine record, just as surely as it has assumed the responsibility when it has erred.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a listing of statistics indicative of the Coast Guard's record of service.

I ask unanimous consent, also, that a letter to the editor by Dr. Frank R. Mark, which appeared in the Washington Daily News of Thursday, December 17, be printed at this point in the RECORD.

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

ESTIMATED FISCAL YEAR 1970 COAST GUARD SEARCH AND RESCUE EFFORTS

Number of responses (cases)—50,000.
Assisted—125,000 persons.
Saved an estimated 3,764 lives.
Aided vessels and aircraft valued at $2.1.

IN DEFENSE OF CG

As a former refugee whose fate would surely have been sealed had my family remained in Nazi Germany, I am obviously distressed by the recent episode regarding the Lithuanian defector, particularly if the facts are as we are led to believe by the news media.

Having served as a medical officer with the Coast Guard, I am greatly distressed by the unfavorable publicity that the whole Coast Guard is getting for what may possibly be the very poor judgment of one or two persons. The Coast Guard is a very small organization made up of highly capable, well trained and motivated persons working on problems which are providing services primarily for other people's safety and welfare. Often their assignments place their own lives in peril. Many of the assignments are in locations and of such nature that most of us would forego them. Certainly most civilians would not desire such careers.

I have become quite familiar with sacrifices that Coast Guardmen have made in the past due to service with them on weather patrols and elsewhere. Furthermore, I had reviewed most Coast Guard medical records at one time and served on disability boards and I have noted regretfully the illnesses and injuries sustained by many Coast Guardmen while serving their country.

Let us strive to free men everywhere. Let us not besmirch the name of a service whose men and women and families contributed and are contributing continuously to the saving of lives both in the United States and elsewhere.

FRANK R. MARK, M.D.

CTA: A NOBLE EXPERIMENT

Mr. ALLOTT. Mr. President, Tom Buck, a seasoned Chicago transportation reporter, has written an excellent article entitled "CTA: A Noble Experiment," for the September-October 1970 issues of Commerce magazine. The article is worth reading, not only because it provides a very reasonable chronology of the development of the Chicago Transit Authority, but especially because it details the effect that inflation and wage increases have had on the authority's ability to operate out of the fare box

I well recall a private conversation I had with CTA's able and distinguished chairman, Mr. George DeMent, several years ago. This was before the passage of major urban transportation legislation. I asked Mr. DeMent what the transit authority needed most of all from the Federal Government. He replied:

Senator, if you and your colleagues could do something about the terrible inflation problem, it would more than make up for any other kind of Federal assistance you could give us. Inflation is killing us!

I think it is necessary to understand this point before we can understand why so many transportation systems are finding themselves in bankrupt condition in this country.

For that reason, Mr. President, I ask unanimous consent that this article be made a part of the RECORD at this point.

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

CTA: A NOBLE EXPERIMENT

(By Tom Buck)

The Chicago Transit Authority (better known as CTA, and sworn at or by)—operator of the city's public transportation system—represents a noble experiment that is now threatened by disaster. The threat may not be total collapse. But the prospects, at least for the near future, appear almost as severe.

A quarter century ago, the CTA was recognized throughout the country as an exciting and practical new approach, first for saving and then for modernizing ailing transit systems. Chicago's new transit authority became a national model at a crucial turning point in public transportation history.

For some years, beginning in the 1920's, public transportation in Chicago, and elsewhere, was headed for serious roadblocks. Once highly profitable for private industry operators, transit no longer offered the opportunities to produce even a minimum return on investment. The growing use of the automobile already had an adverse effect on transit riding. A major problem also developed involving wages and fares.

Responding to demands by transit unions, a private transit company would negotiate new contracts, with wage increases. Then, the company would petition the State Commerce Commission, as the public regulatory body, for fare increases to offset the increased operating costs. All too often, the commission, under suspicion of yielding to political pressures, would wait months before they acted upon the petition for higher fares. Then, when the company's petition finally was acted upon, authorized fare increases usually would be insufficient to offset higher wages and operating costs.

This cost squeeze between higher labor costs and insufficient fare increases led primarily to the demise of Chicago's two major private transit companies. In 1927, Chicago Surface Lines Co. was placed in receivership. Five years later, in 1932, the Chicago Rapid Transit Co. went bankrupt.

There actually had been a series of attempts, as early as 1904, to bring about public ownership of transit in Chicago. But it

was not until the 1930's—after both major private companies had plunged into bankruptcy—that an all-out effort for public ownership began. Even then it would take 15 years before the new public authority became operative. Meanwhile, equipment on both the surface and rapid transit systems deteriorated further. By the time the new transit authority began to operate, Chicago ranked last among the country's major cities in modern equipment. Only 240 of the 3,270 streetcars in operation then could be considered modern.

CREATION OF CTA

As a lesson from the past, it should be noted that the Chicago Transit Authority came about only after two top public officials of opposite political parties—Gov. Dwight Green, a Republican, and Chicago Mayor Edward J. Kelly, a Democrat—had given their bipartisan leadership to enactment in 1945 of the Metropolitan Transit Authority Act authorizing the CTA's creation. Final authority was then given by a referendum on the proposal. The CTA, which began operation on Oct. 1, 1947, was created to acquire and operate the private transit systems, unify and coordinate those systems, and to bring about a long overdue modernization of transit equipment and facilities.

However, the new authority was unique in that it was to operate almost solely on the concept of private industry, but with the exception that it should not make a profit. The CTA was given no taxing power and, with minor exceptions, no government subsidies. As minor exceptions, it has had indirect subsidies by being exempt from state and federal motor fuel taxes and the city vehicle tax. In recent years, the CTA also has received $3.5 to $6 million in state funds each year to transport school pupils at half fare. But this money has been considered a reimbursement rather than a subsidy.

In other words, the Chicago Transit Authority must depend almost entirely upon the fare box—the fares it collects from its riders as its only real source of revenue. In fact, the state enabling legislation makes it mandatory that the CTA charge fares sufficient to pay all operating costs and charges. This requirement also is reiterated in the CTA's trust agreement with its bondholders. This requirement means that the Transit Authority must charge fares high enough to pay not only operating and maintenance expenses, but also meet its obligations for pensions and a damage reserve fund, for debt service and for a modernization and depreciation fund.

The CTA also may use revenues for a bond amortization fund (for the early retirement of bonds), an operating expense reserve fund, and for municipal compensation to the City of Chicago for the use of streets. For many years, however, money has been provided for these funds, particularly for municipal compensation. Incidentally, to enable the CTA to adjust fares readily to meet its obligations under the law the Transit Authority was freed from the very start from regulation by the Illinois Commerce Commission.

Until a few years ago, the CTA had rolled along relatively smoothly as a public agency, living out of the fare box under private industry guidelines. However, it continued to be troubled by its long-established adversary—the automobile. Like other transit systems throughout the country, the CTA has suffered an almost constant loss of riders, mostly because of the competition of the automobile, from the very beginning of its operations in 1947.

A few statistics show the drastic effects of the private automobile on the CTA. In 1947, the year CTA began to operate, transit riding in Chicago totaled 1,120,124,468 rides. Last year, the CTA's total was 420,095,500 rides—down more than 62% from 1947. Thus far this year, there has been a further loss of at least 3%. Some additional loss also has occurred since the basic adult fare was raised to 45 cents and the transfer charge doubled in July.

While transit riding has declined, use of the private automobile has increased. In 1947, Chicago had 512,810 registered automobiles, or one car for every 6.4 persons. In 1969, Chicago registration totaled 957,121 automobiles, or one auto for every 3.6 persons.

AUTOS AND INFLATION

Bad as competition from the auto has been, the CTA might well have continued to live from the farebox were it not for another adverse factor. The added adversary is inflation—inflationary pressure on payrolls which earlier this year caused the first operating loss in CTA's history, and which still threatens, unless major remedies are forthcoming, to plunge the CTA into bankruptcy.

The inflationary pressures that are reflected in higher wages and spiralling operating costs began to build up in the early 1950's. But the really severe blows against CTA's financial structure from this source did not come until about four years ago. Throughout much of the 1950's, the Transit Authority minimized the effects of inflation by several major economy moves. The biggest one was a conversion of what had been primarily a surface system of streetcars to buses. This complete changeover brought substantial reduction in operating personnel. It was a matter of simple arithmetic. Most streetcars required two operating employes, compared to one for a bus.

Another economy move was installation of automatic door controls for elevated-subway cars so that each train would need only two employees—motorman and conductor. Previously, there had been a conductor on each car. Other economies included reduced personnel in CTA shops and offices. As a result of economies, CTA reduced its original staff of 23,368 employes to a present 12,561.

WAGE INCREASES

From the very beginning, the CTA was in the position of having to raise wages in negotiations for new transit union contracts, which traditionally run for three years. For the most part, wage increases were not considered excessive, and conformed to national wage patterns. Although wages increased with each new three-year contract, not until 1957 did CTA have to make a substantial jump in fare—from 20 to 25 cents. Until then, fare increases had only been a penny or two. At the start of the CTA's operation in 1947, the fare was 10 cents on surface lines and 12 cents on the elevated-subway system. Incidentally, one of the CTA's original objectives was to set the same fare schedule for both surface and rapid transit systems. It accomplished this not long after it began operating.

In addition to basic wage increases in union contracts, the CTA's payrolls since 1951 also have been escalated by a cost-of-living factor. This means that wages are raised every three months if there is a rise in the cost-of-living index as computed by the U.S. Bureau of Labor Statistics. It also has been a practice to "freeze in" existing cost-of-living wage increments as part of the basic wage scale when new three-year union contracts are negotiated. As of Aug. 31, the hourly wage of CTA bus drivers was $4.55, of which $1.05 is cost-of-living increases over the last 19 years. To show how transit wages have risen, the driver wage of $4.55 an hour represents an increase of 75 percent over a gross hourly wage of $2.60 paid in 1959.

The effect of cost-of-living factors has become especially pronounced in the last few years. Of the $1.05 cost-of-living in the wage scale, 35 cents was added in the last 21 months, for a total of 68.5 cents in the last four years. This year alone, cost-of-living allowance was 7 cents on March 1 and 4.5 cents June 1. Each penny of increase in the wage scale adds nearly $300,000 a year to CTA's payroll costs. In retrospect, some transit experts now believe that the cost-of-living factor for union contracts was a mistake. This factor for labor contracts was first instituted by large manufacturers who could either pass along higher costs in increased prices, or absorb some of them through automation.

By no means, however, are there the same opportunities to cope with cost-of-living boosts in a service industry such as public transportation. A transit system depends upon a large corps of operating personnel with few, if any, opportunities for automation. To a certain extent, a cost-of-living factor for transit wages might be considered a self-serving cycle, inasmuch as cost of transportation is a factor in computing cost-of-living indexes. Thus, a cost-of-living increase in transit wages could lead to higher fares, which in turn might help to boost the cost-of-living index, which in turn would again raise transit wages.

HIGHER FARES

Traditionally, too, the transit industry has been cursed with general public resistance to increased fares, regardless of how well justified such increases might be. There may be only individual grumbling when the price of milk, bread or meat go up. But a mass outcry is likely when transit fares rise. In fact, in recent years, resentment against higher fares has been reflected in decreases in riding of as much as 10% after an increase. No one on the CTA board or staff ever really wants to raise fares. For one thing, they realize that increases put added burdens on "captive transit riders"—people who can't drive an automobile or can't afford one. Many "captives" have marginal employment, earn minimum wages and are the least able to pay higher fares.

A greater reluctance among CTA board members to vote fare increases is apparent in recent years. For instance, the board voted in November, 1967, to boost the fare from 30 to 35 cents; then again in December, 1968, to raise it another 5 cents. Actually, these votes came many months later than they should have, if the board had followed previous financial yardsticks in recognizing danger signals sooner. Any such delay in voting fare increases reduces their effect. Except for an emergency increase of 5 cents, and doubling of the transfer charge last July 8, all fare increases have been made when deficits mounted in depreciation and modernization funds. Thus, if an increase is delayed, as in both 1967 and 1968, the depreciation fund deficit may be too large to overcome.

The recent severe effects of inflation and spiralling wages on the CTA's financial structure perhaps can be best shown by this comparison: until a few years ago, direct payroll costs consumed 66% of gross revenues. This year, payrolls will require 82.5% of gross. Another measure of the CTA's precarious financial status is its deficit in the depreciation and modernization account. Under the trust agreement with bondholders, the authority is required to set aside 8% of gross revenues for depreciation and modernization. Over the years, this has produced over $220 million for new equipment and improvements. In addition, CTA and predecessor companies benefited from expenditures of $96 million by the Chicago city government and $172 million for rapid transit improvements, including the State and Dearborn street subways and rapid transit routes in the Eisenhower, Dan Ryan and Kennedy expressways.

In the past, CTA was especially alert in making certain that fares were sufficient to provide for the depreciation fund, since this fund is the source for new equipment. This fund, for instance, enabled CTA to make the big changeover, in the 1950's, from streetcars to buses. Also, this fund enabled the authority to convert the "green hornet" streetcars

(newest at the time) into elevated-subway cars. Because of concern for the depreciation fund, the CTA board never allowed this fund a deficit of more than $2.5 million before they voted a fare increase. Such prompt action always erased the depreciation fund deficit and restored it to sound condition.

POVERTY LEVEL REACHED

Now, however, a deficit of more than $28 million has accrued in the depreciation fund—so great it could not possibly be made up by higher fares. Because of this shortage, the CTA stopped buying new buses in 1968. Other necessary improvements have been postponed, with the capital budget cut to a bare minimum. Such a poverty-level existence means that CTA operations, particularly its bus system, are in danger of falling apart. Actually, more than 1,400 buses of the CTA's total fleet of 3,123 buses are now over-age. These over-age buses, 15 to 20 years old as compared with a normal life of 12 years, are especially costly to operate. Operating costs, including fuel, repair and maintenance, are three to four times greater for over-age buses than for buses under the 12-year limit. Because of its over-age equipment, the CTA now spends at least $2.2 million a year in excess operating costs.

Needless to say, lack of funds for capital improvements on a transit system also increases safety hazards. To avoid potentially dangerous operating conditions, labor and material expenditures must be made to replace trolley bus wires and other electrical equipment and to replace worn rails and structural members for the rapid transit system. A more immediate threat to the CTA's well being is the fact that it began to incur operating deficits early this year. As a stop-gap measure, the board raised the adult fare to 45 cents and doubled the transfer charge (to 10 cents) on July 8, after the state legislature in special session failed to come to the rescue.

The July 8th fare increases are a minimum and temporary action that, at best, would barely hold off bankruptcy until the legislature convenes in January. Meanwhile, it still is too early to determine if this temporary action will be effective in maintaining a status quo for the CTA. Summer always is a poor riding and revenue period, and officials hope that a Fall and Winter pickup in riding, together with the temporary fare change, will see the authority through early 1971.

DEBT OBLIGATIONS

Meanwhile, one major concern of CTA is to meet debt obligations. The principal debt consists of about $50,700,000 from original issues of $135 million in revenue bonds, sold mostly to acquire properties of the former transit companies. This revenue bond debt requires $662,000 a month in interest and principal debts. However, if revenues fall short, CTA has a reserve of more than $7 million to service this debt for almost a year. Of utmost concern is a second debt of more than $9.5 million in outstanding equipment trust certificates. Here is a touch-and-go situation, for this debt requires $141,800 to service—and there is no reserve for it.

In all of the uncertainty facing the CTA, one point is clear—namely, that CTA can no longer survive from the fare box alone. To operate almost entirely from fare collections was indeed a noble exepriment that served Chicago well for 23 years. But public transportation here, and in other major cities, is at another turning point in history. A universal opinion among transit experts throughout the nation is that fares now must be supplemented by public subsidies—both for operating and capital improvement expenditures.

No one believes that the CTA problem will be neglected to the point of collapse. Instead, fear is that a permanent and continuing solution to the problem may be delayed, thus leaving the CTA to suffer a hand-to-mouth existence. Such prospects would lead only to a deteriorated system, one much more difficult and expensive to correct in the long run.

Public officials, state legislators and civic leaders will be faced with an especially critical question in the immediate months ahead: "What should be done to solve the problems of surface passenger transportation both within the City of Chicago and the metropolitan area as a whole?"

How effectively—and how quickly—these problems can be solved not only will have great bearing upon the continued economic vitality, the so-called "quality of life" or environment, and the growth of Chicago and environs, but also it might well prove to be the key factor in the actual shaping of the city and the metropolitan area for the coming 21st century. Without continued good public transportation, for instance, Chicago's downtown area could not long survive—at least in its traditional form as the metropolitan hub of business, professional, financial and governmental activity. In fact, there would be no downtown to amount to anything were it not for the buses and subway-elevated trains of the Chicago Transit Authority, the trains of the six commuter railroads who serve the metropolitan area and the buses of private suburban companies.

PUBLIC TRANSIT VITAL

Hard as it is to realize when you see expressways jammed bumper to bumper, the fact is that the automobile is of relatively little importance to the Loop, which on a normal weekday has a peak population of 292,264 According to official traffic counts, only 15% of this daytime population travels to and from downtown by automobile or taxi. The other 85% of those who make their livelihood, shop or do business in downtown Chicago travel by public transportation.

CTA buses and subway-elevated trains alone account for 46% of the downtown volume of passenger travel. In a 24-hour period on a typical weekday, it is estimated that CTA buses and subway-"L" trains carry nearly 287,000 persons to and from the Loop. A research expert at CTA was asked what would happen if they were to discontinue downtown service. He first explained that, according to traffic counts on expressways, average use of the automobile now amounts to only 1.4 persons per car. With that figure as a rule of thumb, he explained that it would take 204,928 autos to carry the nearly 287,000 Loop-bounded persons who now use CTA. "To get those additional 204,928 autos downtown you would first have to build 136 additional in-bound lanes of expressways, as compared with a present 30 in-bound lanes of expressway," the expert said.

"Then, to park those 204,928 antos, there would have to be 61 million square ft. of new parking space downtown. The space is roughly equivalent to four times the ground area of the presently defined Loop, as bounded on the north and west by the river and the south by Roosevelt Road. In other, words you would have to tear down all the buildings in this Loop area, create four levels of parking over the whole area, and then build new buildings on top of this mass of four-level parking facilities. But even if you were able to do all that, it still wouldn't work," the CTA man added. "No one probably could live because of the pollution." This is only one of many analogies that could be given on the importance of public transportation. In general, public transportation in a large city such as Chicago is an absolute necessity for thousands of persons, including the young and old who can't drive a car and persons of modest incomes or marginal employment who cannot afford to own a car.

The downtown travel statistics, along with the analogy of the importance of the CTA's services to downtown, are cited to point up the gravity of the problems of public transportation. Failing to obtain relief in the form of some kind of a public subsidy from the regular and special sessions of the Illinois legislature this year, the Chicago Transit Authority on July 8 increased the basic adult fare by 5 cents to 45 cents and doubled the transfer charge—to 10 cents—as stop-gap measures. Failure of the legislature to act in special session came after Governor Ogilvie had proposed an extra half-cent tax per gallon of gasoline exclusively to aid the CTA and other transit systems in the state. Mayor Daley also spoke publicly in favor of tax subsidies for transit operations. But the question bogged down in politics—in the traditional stalemate of political wrestling that features Chicago vs. downstate Illinois.

Incidentally, the use of an extra gasoline tax to aid the CTA first was proposed at least 15 years ago by the late Virgil L. Gunlock, then chairman of the Transit Authority. That proposal, calling for gasoline tax funds to help with the CTA's capital improvement program, was defeated three times by the legislature. As it turned out, this CTA proposal was many years ahead of its time, for there still is no place in the country where gasoline taxes are being used directly to help transit, whether to subsidize capital improvements or operations. However, there now is a growing movement in metropolitan areas and the larger states—particularly among transit operators and the public transportation industry—for a sharing of gasoline taxes. The principal reasoning for this tax-sharing idea is that all transportation facilities—highways, transit or commuter railroads—should be treated as a coordinated public effort, and thus should share the same tax resources. It also is argued that gasoline taxes used for off-street transit, such as subways and elevated routes, actually helps the motorist by minimizing street traffic congestion.

PUBLIC FUNDS REQUIRED

But regardless of the source of subsidy, the CTA will need some type of public funding for its operations by early 1971, or face the need to raise fares again. At present, the Authority barely skimps along as a result of the stop-gap increases of July 8. With known cost rises in the offing, CTA is headed toward virtual bankruptcy next year if additional funds are not obtained from some source. No one—the transit rider, CTA management, or political leaders—wants any further increase in fares. While producing more revenue, each fare increase always results in a loss of riders. The CTA has not yet reached a point of diminishing returns, but its management is more and more alarmed about a continuing loss of ridership. There also is concern at the CTA about the burden of higher fares on the "capture" riders, those who don't or can't afford to drive an automobile.

As already indicated by the newspapers, and other media, a renewed effort to gain some type of public subsidy for operations of the CTA, as well as other transit operations in the state, will be made when the legislature convenes for its regular session in January. In addition, an entirely new element in the public transportation problem is expected to be injected in the consideration by the legislature, as well as by the top city, county and state governmental leaders, early in the new year.

METROPOLITAN AUTHORITY PROPOSED

This additional element embraces a broad-scale proposal to create a metropolitan or regional public transportation authority with jurisdiction over all bus, rapid transit (subway-elevated) and commuter railroad operations. The possibility of such an authority has been mentioned from time to time, but no serious proposals came forth until this year. Last February, such a proposal for an area-wide transportation authority was made public by Larry S. Provo, president of the Chicago and North West-

ern Railway. In May, the proposal again was brought to public attention by the Chicago Association of Commerce and Industry in a report on a special study of public transportation needs. Then, in September, the first definitive proposal for an area-wide authority was outlined in a brochure published by the six commuter railroads who serve the area.

As one of several recommendations, the Chicago Association of Commerce and Industry, in its report of last May, stated that "a plan for the establishment of a regional transit operating authority should be completed as soon as possible in order to avoid further duplication of transportation facilities and to identify possible economies of scale." The Association's report explained that more specific recommendations on a regional authority would be included in a further study of long-range transportation planning. Realizing a need for solving public transportation problems, the Association of Commerce and Industry, in 1969, had retained the consulting firm of Cresap, McCormick & Paget for a special study.

CACI RECOMMENDATIONS

Because of the financial crisis of the CTA, the Association, in the interim report in May, issued a statement with the following suggestions for giving financial relief to the Transit Authority: 1. "A subsidy utilizing local revenue sources should be provided to meet operating deficits. The subsidy could be generated by general revenues of the City of Chicago and the County of Cook, by a parking lot tax, or by motor vehicle fuel tax funds. The role of Cook county is underscored by ridership estimates which show that one-fourth of daily rapid transit ridership involved a suburban origin or destination.

2. "The CTA should be relieved of its fixed obligation burden. The relief can be provided by governmental assumption of both the bond interest and principal payment obligations. Some combination of city, county and state resources should be used to accomplish this step. (The CTA's annual interest and principal payments amount to $8,060,000 on outstanding revenue bonds and $1,700,000 on equipment trust certificates.)

3. "A program of aid or matching funds for equipment replacement purposes should be made available to the CTA as well as other transit companies in Illinois. Such a program should probably be administered and funded by the state."

The latter recommendation was a reference to the federal government's transit aid programs which require "one-third local matching funds" to qualify for federal grants of two-thirds of the cost of capital improvements, including the purchase of new buses and subway-elevated cars. The largest federal grant program of this type thus far is now pending in Congress. The latest program, proposed by the Nixon administration with major bi-partisan support, would provide $3.1 billion in transit improvement aid over the next five years. However, the grants would go only to those cities, metropolitan areas and states able to provide the one-third local matching funds.

FEDERAL TRANSIT AID

It was this type of federal aid that the City of Chicago used for two-thirds of the cost of the new Kennedy and Dan Ryan rapid transit routes, as well as air-conditioned rapid transit cars for the new routes. A newly organized Chicago South Suburban Mass Transit District also has acquired more than $26 million in federal transit aid for 130 modern commuter cars for the Illinois Central. The first of these new cars are scheduled for delivery in December. An allocation of public funds on the basis of sound planning and coordination was one of the prime reasons cited by the six commuter railroads in their proposal for the creation of a new metropolitan transportation authority.

According to the railroads' proposal, the new authority, known as the Chicago Metropolitan Area Transportation System (CMATS) would embrace the present bus and rapid transit operations of the CTA, operations of six commuter railroads and the suburban bus companies. The railroads who made the proposal include Chicago and North Western, Illinois Central, Milwaukee Road, Burlington Northern, Rock Island and the South Shore. Initially, the new authority would have jurisdiction in six Illinois counties—Cook, DuPage, Lake, McHenry, Kane and Will. Ultimately, it would be extended to include the Lake and Porter counties in Indiana. Such an extension would require a bi-state compact created with the approval of Congress as well as the state legislatures of Illinois and Indiana. The area-wide authority would control all public transportation in the area either through acquisition or contracting for such operations. In addition, it also would control and coordinate the planning of major highways in the area and set priorities for the expenditure of public funds for transportation purposes.

FUNDING AND FUNCTIONS

On the question of subsidies, the railroads' proposal states that the new metropolitan transportation authority (CMATS) "should be established with appropriate initial and continuing public funding provisions whereby it can adequately assume the functions proposed herein . . . Since the need for urban mass transportation is essentially area-wide and not local in character, funding of the agency should be from sources other than local real estate taxes." The railroads explain that a "primary function and purpose of CMATS will be to establish priorities for public investment in transportation facilities, both fixed and moving, and to bring about meaningful coordination where uncoordination now exists."

"CMATS should have power to establish fares and routes, including appropriate joint fares and joint routes for multimodal trips and coordinated service by highway, rail and bus," it is stated. Another part of the railroads' proposal reads as follows: "CMATS, as the official intermodal transportation agency for the six counties, should be ultimately eligible and responsible for all federal aid, transportation planning, capital and demonstration (experimental) project grants in these counties. The regional scope of this agency would permit enlarged and meaningful research and development transportation projects, with the assistance of federal funding, not now possible with the fragmented private and public agencies of transportation in the area. The time is at hand to gear now to create a strong, well-staffed regional transportation agency to be eligible for increasing amounts of federal monies for mass transportation grants and research development."

SENSE OF URGENCY

A sense of urgency to create such a metropolitan transportation authority was implicit in the railroads' proposal, copies of which were sent to Governor Ogilvie, Mayor Daley, members of the legislature, and other public officials and agencies involved in transportation planning and operations. "Only a single agency can avoid the costly duplication of service and competition for public funds which now exists between about 20 public and private agencies," the railroads contend. "One agency must coordinate all elements of transportation . . . The CTA's financial crisis, the financial difficulties of several local bus lines and commuter rail lines and the new competition of the CTA's Dan Ryan and Kennedy rail services are but the first stages of transit problems that will increasingly plague the overall transportation capabilities of the various means of mass transit in Chicago."

The railroads explain further: "We have three choices: (1) to oppose subsidies to CTA for further extension of competitive median strip transit lines (such as to O'Hare on the Kennedy and farther south on the Dan Ryan); (2) to demand subsidies to permit continuation of our services; or (3) to propose a rational approach in solving the total urban transportation problem. We choose the last of the three . . . The need is urgent to allocate public monies in the most effective way. The Chicago area simply cannot afford the inefficiencies of piecemeal plans, stop-gap subsidies and transit agencies who compete with each other for less-than-adequate public funds. The Chicago area will get a proportionate share of available federal funds only if it can demonstrate it knows how to effectively use such funds—through coordinated transportation.

"In the final analysis, the beneficiary of coordinated transportation planning and operation, which only a single agency such as CMATS can provide, will be the public which pays for all personal transportation, whether it is good, bad or mediocre," the railroads conclude.

AUTHORITIES OPERATING ELSEWHERE

At first glance, from a national viewpoint Chicago might be criticized as having fallen behind in the solution of its public transportation problems. In recent years, for instance, new metropolitan transportation authorities have been established for the central cities and suburbs of New York City, Boston and Philadelphia. Subsidies in one form or another are being provided these new metropolitan authorities. In the Boston area, for example, 78 suburbs along with the city of Boston provide proportionate shares of real estate tax subsidies for the annual operating deficit of the Massachusetts Bay Transportation Authority.

Actually, Chicago can well claim considerable credit for its public transportation record up to now. The Chicago area has enjoyed perhaps the nation's best commuter rail service, as operated by the private companies. Until only recently, the CTA, as a public agency, had operated quite successfully almost solely on private enterprise principles. Now, there appears to be no doubt about the need for subsidies for public transportation. The CTA's urgent need for help has been well publicized. The commuter railroads have now sounded a second note of urgency—for the creation of a new metropolitan transportation authority.

TRIBUTE TO SENATOR YOUNG OF OHIO

Mr. HARTKE. Mr. President, I report with pleasure that I recently read in two leading metropolitan newspapers in Ohio published interviews with our colleague, the senior Senator from Ohio (Mr. YOUNG) who is retiring voluntarily from the Senate following his two terms in this body and four terms as Congressman-at-Large from his State.

The Toledo Blade in its Sunday magazine section of December 6, 1971, published an article by Frank Kane of the Blade Washington bureau under the caption "Postscript for Senator Young—Peppery Ohioan Produced A Picturesque Career." Also, the Dayton Daily News of December 14, 1970, published an article regarding Senator YOUNG under the caption "YOUNG Leaving Senate With All Guns Blazing." Mr. President, I ask unanimous consent that these two newspaper articles be inserted in the RECORD at this point as a part of my remarks.

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

[From the Toledo (Ohio) Blade, Dec. 6, 1970]

POSTSCRIPT FOR SENATOR YOUNG—PEPPERY OHIOAN PRODUCED A PICTURESQUE CAREER

(By Frank Kane)

WASHINGTON.—"I said to myself that I'm going to walk out of here with my regimentals still on, my back straight, and my head up. I've seen too many of them go out of here defeated."

Stephen M. Young of Ohio, with 20 years of service in Congress, including 12 in the U.S. Senate, plans to do just that in a few weeks—leave the Senate undefeated, with his head high.

There is no doubt that Ohio and the Senate will miss him, for this peppery little man has never been afraid to take a stand and announce it loudly, sometimes in blistering language. On the eve of his retirement from the Senate, at age 81, he is still perennially young at heart.

The other day, Mr. Young, sitting in his fourth-floor office in the old Senate Office Building, reminisced about his political career with this reporter. He also talked about his future.

"My way of life has been to work, so I'm going to practice law in Washington. I may have a desk in Cleveland (his home town) but I'll live in Washington and do most of my work here."

Recalling his younger days as a successful trial lawyer, much of it handling criminal cases, he mentioned that a Cuyahoga County common pleas judge already has offered to name him as defense counsel in the next first-degree murder case that comes his way.

"But trying crimina. cases is hard work and I try my cases to the hilt. If my defendant was convicted on a murder charge, I'd want to appeal it all the way. So I turned him down."

But he did indicate that if something exceptional came along in the criminal field—"like defending Kent State students"—he'd probably take it.

He is proud of his role in the controversy over the May 4 shootings at Kent State University.

"Right from the start, I was on the side of the kids, and it had me coming out smelling like a rose." (Others, who take the position that the Ohio National Guard was justified in the actions taken at Kent State, disagree vehemently.)

The senator related that he was invited to speak last summer at Marietta College of Ohio and that supporters of Howard Metzenbaum, the long-time friend he was backing to succeed him in the Senate, urged him not to mention Kent State because it might hurt the Metzenbaum campaign.

"I said it was impossible not to mention Kent State. I talked about Kent State at Marietta, and I never got such an ovation in my life as I did from those 2,000 kids down there."

He went on to accuse Governor Rhodes of having made an "abominable blunder" by sending "that tired-out guard unit" to Kent State, but the senator added that the students who burned down the ROTC building at Kent "should be punished" even though the mayor of Kent himself had said that the building was an eyesore.

Discussing his own upset victory over John Bricker in 1958, which first brought him to the Senate, Mr. Young recalled how former President Truman volunteered to campaign for him in Ohio.

"I went right over to Ray Miller (then the powerful Democratic boss in Cleveland) and said this would be a wonderful thing. No one else thinks I can be elected. I guess you don't either, Ray. He just looked at me and didn't say anything.

"Anyway, I proposed to Ray that we hold a $100 a plate dinner, with Truman speaking, and split the profits 50–50 between my campaign and Ray's county Democratic organization. Ray said, 'Not on your life; any funds raised in this county go strictly to the organization.'

"So I went to Akron in the next county and rented a hall myself. We jammed them in with 3,000 people yelling, 'Give 'em hell, Harry,' and he did.

"After I was elected, the first request for a federal judgeship came from Ray Miller, who wanted one for his brother. Ray Miller's brother is still not a federal judge in Cleveland."

After Mr. Truman had made five speeches for him in Ohio, Mr. Young took him to the airport where the former president spotted a plane "with a number something like 90,000 on it and said, 'Steve, that's how much you're going to win by.' On election night I called him and said, 'You underrated me—I won by 150,000.'"

Then there was 1964, when he beat Robert Taft, Jr., by a very narrow margin, and a Cincinnati political columnist wrote that God must be Steve Young's precinct worker.

"I said that I've done a lot of fantastic bragging in my life but I never went that far."

Speaking of those past elections, Senator Young reached in his desk and pulled out a little rhyme that he had penned for a party given recently by Sen. Edmund Muskie of Maine for Mr. Young and the other Democratic senators who were first elected in 1958. Here's one stanza:

"The economy had grown sour
But them were the days of Eisenhower.
They did what they could to patch the crack
And everybody waited for Joe's son, Jack.
That class of '58."

He also found a file of those famous letters to constituents that he has written over the years. He laughed over some of them.

For example, there was a postcard from a Lima man who said that "only a low-down, destructive pro-Commie skunk like you would call the Chicago police "Fascists" for trying to maintain law and order during the Chicago convention."

In typical Young style, the senator replied, "If you really wrote that insulting postcard signed with your name and address, I denounce you as a skunk and a liar." Then he added a typical postscript, "It may be that some stupid crackbrain wrote this postcard and used your name and address. If so, you'll probably wish to take action to protect your name."

And there was the letter from a Cleveland suburbanite complaining that Jacqueline Kennedy's horse had been given free transportation from overseas by the army and asking if he could get the same free transportation if he purchased a horse abroad.

Senator Young replied: "Acknowledging your letter wherein you insult the wife of our president, I am wondering why you need a horse when there is already one jackass at your address." This brought him a telephone call from President Kennedy, who said that his wife had "got a big kick out of what you wrote."

Senator Young got a call from another president, Dwight Eisenhower, shortly after the Ohioan arrived in Washington in 1959. 'He got on the line and he started talking very fast about some farm project in North Dakota that he was sure we could reach an agreement on.

"I finally managed to break in, and I told him that he wasn't talking to Sen. Milton Young (North Dakota Republican) but Sen. Stephen Young of Ohio.

"There was a silence and then he said, 'God damn.'

"That was the only time President Eisenhower ever talked with me."

Switching to a more serious topic, he discussed his career in the Senate.

He has never faced what he regards as a really tough vote, although his was the deciding one in some close and important ones, because "I vote in accord with my conscience and my judgment. I don't count to see if there is a majority in favor or against when they come to my name."

He reiterated his belief that the most important vote he ever cast in the Senate was in favor of the U.S.-USSR nuclear test ban treaty because it was "the first step on the long journey toward peace."

He takes pride in his service on the Aeronautical and Space Sciences and the Armed Services committees, although for years he has been a minority voice on the Armed Services Committee because of his intense opposition to the Vietnam war.

One thing that came out of the space committee work was an accord with the Soviet Union for joint scientific work in Antarctica, and he hopes that this principle can be applied to joint exploration of outer space, with America and the Soviet Union sharing costs. This could greatly reduce the financial burden on American taxpayers, Senator Young adds.

He feels that he saved the taxpayers a lot of money also through his battle against civil defense.

Mr. Young was one of the first senators to oppose the Vietnam war "after having been a little hawkish on it." He did so, he said, because he believed that President Johnson had "changed the character of the war by putting American combat troops into a situation where his predecessors had been employing U.S. military men only as advisers."

How has Senator Young labeled himself in his years in the Senate?

"Every now and then I'm referred to as a liberal. That doesn't give me high blood pressure."

"But I'm simply an unhyphenated Democrat, without prefix or suffix."

[From the Dayton (Ohio) Daily News, Dec. 14, 1970]

YOUNG LEAVING SENATE WITH ALL GUNS BLAZING

(By Doug Walker)

WASHINGTON.—Stephen Marvin Young, the pixie rebel of the U.S. Senate, has been described as a political happenstance.

The 5-8-inch verbal giant, who walks in a choppy side-to-side motion, is leaving the Senate at year's end with all guns blazing.

During just one routine day last week he took the Senate floor to denounce the Nixon administration's support of Franco's Spain; he was critical of the treatment of North Vietnamese prisoners, called for a United Nations supervised prisoner exchange and attacked the military for having too many generals and promoting incompetence.

Happenstance, accident, courageous liberal. Call him what you will, and many have, Young leaves the Senate at the age of 81 with one of the most remarkable political careers ever gathered in one wiry frame.

His career began in 1912 as a 22-year-old state legislator. Woodrow Wilson was elected the same year. Coincidentally, in 1932, when Young was first elected congressman-at-large from Ohio, Franklin Delano Roosevelt was also being elected to a first term as President.

After service in World War II, Young sought to return to Congress when Harry S. Truman, another underdog, was campaigning for the Fair Deal.

Young was already in the Senate when John F. Kennedy was elected President, and he won re-election the year Lyndon B. Johnson won his full term in office.

Young's trademark is a sharp temper.

His bombastic nature extends to the written word and reaches its heights in letters

to constituents who have roused the Young ire.

However, his constituents sometimes strike back.

One suggested that Young consult a psychiatrist "to have your tongue and brain synchronized."

Young has avoided attacking fellow congressmen because the rules forbid it.

But when a pair of Ohio congressmen suggested that the senator's sharp criticism of the Vietnam war was giving aid to the enemy, Young took the floor to inquire:

"Would it be a violation of the rules of the Senate were I to assert in this chamber at this time that Rep. Hays of Ohio and one-term Rep. Sweeney of Ohio are guilty of falsely, viciously and maliciously making stupid, lying statements?"

He was told it would be a violation. He replied:

"I, of course, will abide by the rule of the chair. If, however, on some future occasion a similar contemptible attack is made on me with insert-like buzzing of lying allegations by either or both of these publicity seekers, I shall surely embalm and imbed them in the liquid amber of my remarks."

Many times a loser in those years since 1912, Young counts his greatest moment as that when he defeated white-maned John W. Bricker in 1958.

"I thought I was going to beat him, but apparently I was the only one," Young said.

He explained that Truman offered his help and Young asked Cuyahoga county Democratic Chairman Ray Miller Sr. to sponsor a fund-raising dinner with Truman as guest speaker.

Miller refused, Young recalled, "He looked at me with a cold fishy eye and said, 'No indeed. If there is any fund-raising dinner in Cleveland, every cent will go to the Democratic party.'"

Young spent $500 to hire an armory in Akron, took Truman on a parade from Cleveland to Akron. Truman told the crowd, "When you hear a politician calling himself 'Honest John,' run home and lock the henhouse door."

He credits Truman's speech in Akron and several Southern Ohio speeches with getting his successful campaign off the ground. The right-to-work issue on the ballot, which brought Democrats out in droves, also helped.

After beating Republican idol Bricker, Young found himself up against another mystical name six years later—Robert Taft. In a disastrous Republican year, Young won again.

He likes to tell one story about the Taft campaign. Young said that Taft was a gentleman, but many young Republicans supporting Taft were saying that Young was a "senile old man."

It was this charge that caused Young to debate Taft, even though he knew the harm it might cause. He points out that Taft is much younger and looks even younger.

The Senator said he arrived at a television studio and was approached by an attractive blonde who offered to put makeup on him for the cameras.

At some point, Young's wife intervened and said she would makeup the senator. He said his wife handed him a glass of ice water and whiskey and said, "Here, Buster, this is your makeup."

"I did very well in the debate," he said, and later learned that the blonde was a Taft partisan.

Young laughs a lot. He enjoys recalling the past and he enjoys politics. "Politics was fun in 1912, but it's more fun now," he observed.

He is obviously sad about stepping out, but he said seriously, "You can't sweep age under the rug."

However, he doesn't plan to retire. He will open law offices, one in Washington where he will continue to live and a second in Cleveland. "My name will be on the door," he asserted.

One of his favorite topics is cats. A favorite is named "Pinky," which he calls "the small cat of many lives."

The senator estimated that he has spent more than $1,000 on medical expenses for the small animal he picked up as a starving kitten. She has even had one eye removed.

The veterinarian has recommended putting Pinky to sleep on more than one occasion, but, Young said, "Something would go out of my life if they killed that little cat."

Once when Pinky was gravely ill he devised a formula of one-third warm milk, one-third warm water and one-third bourbon whiskey. He gave it to Pinky frequently with an eye dropper.

THE BIG THICKET: LAND OF BEAUTY AND MYSTERY

Mr. YARBOROUGH. Mr. President, last Wednesday this body unanimously approved my bill creating a Big Thicket National Park in southeastern Texas. The bill has now been referred to the House and I am hopeful that they will act favorably upon it in the precious few days remaining in this Congress. House approval of this bill would be most timely, for likewise, there are precious few days remaining for the Thicket—the area is being systematically destroyed at the rate of over 50 acres a day.

Although the Thicket is best known and loved for its vast pristine beauty, beauty that encompasses huge trees, dense undergrowth, rare and beautiful birds—including possibly the last ivory-billed woodpecker—deer and wildcats, the fast vanishing alligator, and over 21 varieties of wild orchids to mention just a few, it is also known for its many legends and mysteries. One, the Mysterious Ghost Light of Saratoga, is reviewed in a fascinating article by Marge Crumbaker in the December 13, 1970 issue of the Houston Post entitled, "Saratoga Mysterious Ghost Light: It Turns People On." According to local folklore, this eerie illumination which appears along the lonely logging road that connects the near-deserted town of Saratoga with the rest of the world, is the eerie glow of a lantern held by a headless railroad engineer who met his unfortunate demise when the road was used as a railroad trunk line. This hypothesis along with some scientific observations are intriguingly presented in the article by Miss Crumbaker.

In this Houston Post article, Archer Fullingim, editor of the Kountze News, described how private interests are systematically cutting down anything with value.

Mr. President, I ask unanimous consent that this article along with an editorial concerning the Thicket that appeared in a recent issue of the Port Arthur News be printed at this point in the RECORD.

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

BIG THICKET PARK IS MAKING HEADWAY

Despite foot-dragging by the Department of the Interior (during the regime of its recently departed Secretary, Walt Hickel) the Senate's Interior committee came through last week with highly encouraging action in favor of a National Big Thicket park.

The committee approved Senator Ralph Yarborough's bill sanctioning a park of not less than 100,000 acres. Considerably smaller acreage had been discussed, and the larger area is sure to be questioned by timber interests.

The measure still must tread a path toward adoption by the whole Senate. However, with the "lame duck" session in its final hours, there is little likelihood of further progress until the new Congress organizes in January. If Senate passage is achieved, the long-awaited park proposal will start its trip through the House.

Senator Yarborough boldly stuck by his gun for the national recreational complex and personally engineered its acceptance by the Senate panel.

Among Port Arthurans doing yeoman duty for the park was Mrs. Edna Jagoe. As Big Thicket chairman for the Texas Federation of Women's clubs, she rallied that formidable segment of womanpower behind it. Mrs. Jagoe led a statewide campaign in behalf of telegrams and letters to Senators in the park's behalf. We acclaim her efforts.

She won't rest on her laurels now, and all advocates of preserving what's left of this picturesque forest must join her and other leaders in pushing the project to reality.

IT TURNS PEOPLE ON

(By Marge Crumbaker)

Has Saratoga—that quiet town surrounded by the majestic beauty of the Big Thicket—lost its fabled ghost light? Did Saratoga, in fact, ever have a ghost light to lose?

Well, one thing is certain about that eerie, on-again-off-again apparition: Regardless of whether it is or isn't, was or wasn't, the controversy about its existence never vanishes.

This very week end, the woods are filled with persons who have seen the ghost light. The woods also are filled with those who looked and looked and never caught even a glimpse. There will be a few out there tonight, making their first attempt at tracking it down, and there are those who scoff and maintain there never was a light to begin with.

Well, something is out there. Something that has been shot at, shouted at, screamed at, run from and pursued.

Those who say they have seen the light are pretty much in agreement on what they saw: A moving glow which changes in intensity—from a soft and mellow luminosity to a bright, white intensity. Sometimes, they say, when the nights are foggy and damp and moonless, the light changes to shades of blue with touches of red.

Some observers have watched it glide slowly, slowly, just barely moving along. Others, their mouths open, have seen it racing like the wind, darting across the road, chasing back and forth, jumping through the trees.

The light, they say, likes to fool those who invade its domain. Sometimes it appears in front, the next moment it approaches from behind. Once it perched on the windshield of a parked car, and the passengers—who described themselves as cool and collected disbelievers *before*—began yelling and kicking and screaming, and switched to scared-stiff but-ghost-light-fans forever.

Alice Griffith of Baytown is one of those who has seen the ghost light and is not reluctant to share her experience and others. She led our group of ghost light hunters, including Peggy Foreman of Baytown; Peggy's brothers, Teague and Ronnie; Sunshine Tucker of Houston, a record company executive; and photographer Bill Goodwin. Our destination: A lonely road near Saratoga, the only road the ghost light travels on its mysterious journeys.

Saratoga—site of the first oil well in Texas and the headquarters of the Big Thicket Association—was sound asleep at midnight when we reached its outskirts and turned west on State Highway 105. We drove a mile

and a half in silence, passing the first tower brooding in the night, then turned north on a narrow blacktop road. The blacktop portion soon veered to the left, ending at a dump site, but the sandy, two-lane road flowed on ahead, straight as an arrow.

This sandy road, it seems, once was a railroad spur, but the ties and the rails were removed long ago, leaving a ribbon of earth flanked on both sides by towering monarch pines. We drove about two miles, parked the two cars, and got out. We were in ghost light territory.

There was no moon, yet the night was not black black. Millions of stars were twinkling overhead, and the whispering pines seemed to be stretching to touch them. Crickets were chirping and tree frogs were croaking, but otherwise there wasn't another sound except our half-whispered comments to each other. You could almost HEAR the silence beyond the chirping and the croaking. And suddenly I was apprehensive: This place was spooky.

Peggy Foreman was looking to the north. Once, she said, she was looking south and the ghost light had come up from the north and had frightened her almost to death.

"The first time we saw it, we got very scared," she said, her voice soft but sounding strangely loud in the still night. "It starts off as a little red glow. Then it gets to be a big haze and lights up real big. Just glows real big. It looks kind of like a car light, except it is just one light."

Teague Foreman observed that he had heard the mystery light was created by swamp gas—"or something."

Ronnie Foreman, who has seen the light "maybe 20 times in all kinds of weather," thinks it resembles the glow of a Coleman lantern. "I've never failed to see it," he said. "Once or twice it has taken longer than at other times. But when it comes, it appears to move rapidly."

He was in the car on which the light once perched. "It came up to the windshield, and it was scary. It just floated there. All I could see was a glow. There were some kids with me, and they started yelling and screaming, 'Start the car! Start the car!' They were kicking and jumping all over. I was too scared to start the car, and finally the light just went off into the trees."

Any ghost light worthy of the name has to have a legend, and Saratoga's phenomenon is no exception. Listen to Alice Griffith's version:

"They call this the Bragg Road. They say Mr. Bragg used to live on this road when the train ran up and down, and he was walking along the tracks one night when the train ran over him and killed him. They found his body, but not his head. Well, anyway, they buried him. The people around here say this light is Mr. Bragg out here on the road, looking for his head."

Sunshine Tucker swallowed hard. Goodwin's teeth clamped onto his pipe stem. I was nervous, just plain nervous.

"The light," Alice continued, "is supposed to be from the lantern Mr. Bragg is carrying as he walks along, looking for his head."

Gulp.

"It gets real quiet when the light appears," Alice said. "That makes it a lot scarier. Just all of a sudden—nothing! No sound. Just the light."

We stood there in the middle of Bragg Road, silently watching. Watching for WHAT? It was, maybe, 15 minutes later that Teague Foreman said suddenly, sharply, "There it IS ! !"

If he had set off a firecracker, the result would have been the same. All of us jumped. There WAS a bluish light, a small light, so small that it was barely visible back down the road, back in the direction we had come from, about a mile away. It moved slightly, sometimes up and down, sometimes seeming to cross the road.

We stood there, fascinated, in the middle of Bragg Road for perhaps 20 minutes. And then the intensity of the light increased; it flared into reds and blues. Suddenly, frighteningly, it seemed to be charging at us. "Good grief!" Ronnie Foreman exclaimed. "We'd better get off this road! That must be a car, it's coming so fast!"

Bumping into each other, we stampeded to the side of the road. The night was so quiet, except for our heavy breathing, that the silence seemed to be pushing itself into us. Sunshine Tucker was the first to realize that although the light still was moving toward us, there was no motor noise. "This scares me," she said from somewhere out there in the dark. "If it's a car, why can't we hear it? And why is the light just ONE glow, not two headlights?"

Nobody answered. The light was dimming. It moved from one side of the road to the other. It was withdrawing from us—and then it disappeared.

Ronnie Foreman cleared his throat. "That doesn't look right," he said. "It usually comes from the north, not the south."

He suggested that we all walk down the road and take a closer look, but no one volunteered to join him. We moved back to the middle of the lane they call Bragg Road and stood there in the dark, close together, very close together. For two hours we waited and watched. The light appeared once, glowing softly, but it was small and distant. "Perhaps Mr. Bragg isn't feeling too well tonight," Alice suggested.

A car came down the road. No mistake about it: This WAS a car. We heard the motor and saw the headlights. It approached us, came almost to the spot where we stood, but turned around and retracted its path. We seven light-hunters were tired and, frankly, strained. We decided it was time for us, too, to leave, to get back to the highway. And if we saw the light again, we agreed, we would not stop.

The drive back to Highway 105 was made in silence. The ghost light did not emerge again. The sight of the highway was a welcome one, the sound of the tires on its smooth surface was comforting. Nobody looked back.

A few days later, I returned to Saratoga—in the daytime. Surely someone there could furnish some clues to the ghost light's origin. But Saratoga's residents have mixed feelings about discussing it.

W. V. Trahan Jr admitted that he has seen the light—once. "It was a real foggy night," he recalled reluctantly. "It moved right to my car, then veered off into the woods. It's just a soft blue and red light, that's all I know. Kids come up here and look at it and drink beer and park."

L. L. Hoffman, changing a tire at a service station, said the light was well-established in Saratoga lore when he moved there 30 years ago. "Some people see that light and some don't," he said, wiping the grime off his hands. "It's more available on a dreary, foggy night than it is on a clear one. Dampness seems to play an important part in how well you can see it.

"It looks like, well, a ball of fire. Sometimes it's bigger than others, about the size of the moon, I'd say. It moves about. I've always thought it's something like gas that comes out of the ground with dampness."

Bragg Road, the ghost road, is lovely to behold in the daylight. The forest smells clean and fresh after a night-long rain. Shafts of sunlight make patterns on the ground between the trees, and birds sing loudly.

The road is nine miles long, and only two families live along it. Mr. and Mrs. T. J. Chessher were sitting on their front porch, enjoying the sun, when we arrived. They grinned when mention was made of the ghost light.

"Come on up here on the porch and have a seat," Mrs. Chessher urged. "We were just laughing about the ghost light and all that yelling and screaming we heard down there the other night. Sometimes there is so much traffic on this road, you can't get in or out."

The Chesshers have lived there 10 years and they never have seen the ghost light or any other kind of mysterious glow.

"There's no ghost light," Mr. Chessher said. "It's the reflection from car lights which come over a slight rise on Highway 105."

"There is no ghost and no light," his wife agreed, "but you can't convince people of that. Somehow the story got started and kids drive out there and park and scream and cry until dawn. Why, there's so many cars down there at times, there have been wrecks!"

It's a wonder, she commented, that somebody hasn't gotten hurt, because someone is always shooting and some of the shots come from high-powered rifles.

"Last week, I got pretty scared myself," she admitted. "It was dark, and I went outside with the flashlight to check on my chickens. I guess some kids had been parked in our road, because even down here I heard a boy yell, 'There's that ghost light!' and the car started up and came roaring down here. I turned out the light and went to the back of the house and waited perfectly still until they finally left."

We thanked the Chesshers and walked back to the car. "Listen," Mr. Chessher called from the porch, "if you write about all this, please say in there it is just a joke. The light is just a joke. That newspaper editor over at Kountze started all of this by writing about a ghost light. He got everybody stirred up. But it's just a joke."

Heading north on Bragg Road, the car crosses a blacktop which runs between Thicket and Honey Island and connects with Highway 105. But you keep on driving north, go round a curve and across the railroad tracks, and you spot a wonderful old two-story structure still wearing some of its barn-red paint. A fence keeps strangers out and two friendly dogs in. The grass and shrubs are neatly cut and trimmed. The aroma of cooking drifting from the house is mouth-watering. You've arrived—at Bragg, Texas.

This is the Bragg Hotel. It is the only structure remaining in the community and it is the home of Bragg's sole resident, Mrs. Margaret Ayres, 86, was preparing her lunch of fried sweet potatoes and pork chops, but she was wiliing to talk about the old road and the town and the mysterious light.

"I came to Bragg in 1908," she said, poking a big fork into a thick slice of sweet potato sizzling in a huge cast-iron skillet. "Santa Fe built the track between Bragg and Saratoga in 1903. The train hauled freight and timber and people; Honey Island was a lumber camp. There was great activity all over this country in those days. Lots of people working in timber, building railroads."

Mrs. Ayres bought the hotel in 1908 and had a flourishing business. She cooked, managed the hotel, and nearly cornered the business market in Bragg when she owned the only store, boarding house and hotel, and ran the post office.

"Bragg never amounted to much in the way of permanent buildings," she said, removing the browned sweet potatoes and starting the pork chops in another skillet. "There was a section house and a depot and a few other things, in addition to my hotel. But at one time, 1,200 people got their mail here. The Santa Fe had lots of cars on sidings, and workers lived in the cars."

The oil fields were bursting with gushers, the timber barons were chopping their way to riches, and boom times came to Bragg and Saratoga. Then the boom vanished, and as suddenly as it all had started, it all ceased. Bragg now is Mrs Ayres. Saratoga is tiny and quiet. The tram railroad has been torn up.

And the ghost light? "I'm sorry," Mrs Ayres said. "I've never seen it.

"I don't mind all of the kids who come out to look for it. I kind of enjoy all of the cars. But I don't think there is a ghost light. I tell the kids that, and they say, 'Now, Mrs Ayres, we just don't believe that. There IS one.' "

It can get awfully lonesome in Bragg, Mrs. Ayres admitted, and when she gets lonesome, she feels sad. That is when she sits out on her porch and rocks and thinks about how times used to be in Bragg. And the people who accidentally drive up in search of the mystery light help break the silence . . .

Archer Fullingim, editor and publisher of the Kountze News, was on the line.

Hello, Archer. Have you ever written anything about a ghost light at Saratoga?

"I certainly have. Reams and reams and reams of stuff."

Archer, a man up in Saratoga mentioned the other day that your stories have caused a lot of people to look for something that doesn't exist.

"Ha!" snorted Fullingim. "Oh, there's a light all right. I've seen it a million times. It isn't there anymore. Recently, they've cut down almost all the trees on the tram road from Bragg to Saratoga. I went out there lately and I can't see it and nobody else has seen it. You see," and now the voice was that of a man warming to a cause, "the timber companies are systematically cutting down anything that has scenic value . . ."

Pardon me for interrupting, Archer, but would you describe the light?

"Well, it bounces down the road," he said. "It was scary at first until I got the experts in there and found out what it was. That was three or four years ago. I got men from the University of Houston, Rice and Lamar Tech to come out and take looks, and they said it came from conditions there."

Was the light known before the days of automobiles?

"Oh yeah, yeah, yeah. It was there forever. A lot of people think it was a car light shining down the road from Saratoga, but I've seen the light when there wasn't a car on the road and I had people helping me.

"It's a chemical thing that rises from the ground, there's no doubt about that. You see, this is Spindletop country, and wonderful things are under the ground. But when they cut the trees down, it took some of the dampness away and the ground is just as dry as a bone in some places, and it has changed the conditions under which the light was best seen."

Well, the light apparently has survived the timber cuts, Archer, because it was there just nights ago.

"Still there, huh?" The editor's tone softened a bit. "Well, I'm glad. Best thing that ever happened to Saratoga, that light. They ought to be proud of it. It's an eerie sort of thing, the way it bounces down that road. Real eerie. But it's something very special."

And so it goes with the ghost light of Saratoga. Did we see it? Or was it something else? T. J. Chessher's words keep invading our thoughts:

"If you write about all this, please say in there it is just a joke. The light is just a joke."

But is it?

THE WARSAW TREATY—A RIFT THROUGH THE GERMAN PEOPLE RATHER THAN RECONCILIATION

Mr. ALLOTT. Mr. President, the influential West German newspaper publisher, Dr. Axel Springer, has written a penetrating and soul-searching, signed editorial in Die Welt, one of the largest West German daily papers.

The editorial concerns West German Chancellor Willy Brandt's "Ostpolitik" and the effects these policies are having on the German people.

The editorial greatly reflects my own thinking on this matter, as evidenced by the recent speeches I have made on the floor of the Senate on this very subject.

I urge all Senators who are concerned with the stability of NATO and the future of the free world in Western Europe to study this editorial, which was printed in the December 12, 1970, edition of the paper.

Mr. President, I ask unanimous consent that the editorial entitled "Warsaw Treaty—A Rift Through the German People Rather Than Reconciliation," be made a part of the RECORD.

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

WARSAW TREATY—A RIFT THROUGH THE GERMAN PEOPLE RATHER THAN RECONCILIATION

(Translation of an article by Axel Springer)

No cause for celebration, commented Willy Brandt as he was about to take off for Warsaw to sign the treaty with Poland. Did he intend to correct an unfortunate remark by his Foreign Minister?

For on the day he initialled the treaty, ceding a quarter of divided Germany's territory, Walter Scheel had said he was very happy.

Ten million of his compatriots felt a stab of pain at the loss of their homeland. A decision which by definition was to be reserved for a European peace treaty has been anticipated under no compulsion whatever. A Communist government is empowered by a freely elected German government to annex a part of Germany. And the German Minister, reaching for his pen to initial the document, talks of happiness!

Perhaps because, as Willy Brandt keeps asserting, this treaty is a step towards understanding between Poles and Germans? Were it that, were it a step towards understanding with the Polish people, then even most of the Germans exiled from the ceded territories would support such an act, though with a heavy heart at the loss of their homeland.

But that is just where opinion is divided: the agreement signed this Monday by the Social-Democratic German Chancellor and the Communist Polish Prime Minister in the Radziwill Palace is grist to the Warsaw regime's mill, but not a step towards understanding with the Polish people.

Many Germans who were not supporters of Hitler approved the "Anschluss" with Austria in 1938. And many Poles who hate their government will approve the frontier treaty. But that does not bring understanding from people to people, just as the Anschluss was not followed by a period of peace but by the most frightful of all wars. In politics itself, wrong does not pay.

The Warsaw treaty, which the west German Government acclaims as a work of peace, does not bring reconciliation with the Poles. It tears a deep rift through the German people.

Loyalties, which can unite a people even where opinions divide it, now collide. Suspicion grows, opposite views degenerate into enmity.

Willy Brandt used to point out, tirelessly, that recognition of the Oder-Neisse line as Polands' western frontier put recognition of the "DDR" out of the question—and vice versa. He was right when he said that if the "DDR" were recognized as a sovereign state, west Germany would have no common frontier with Poland. But now both are to be recognized.

Who was it who sat year after year at meetings of exiles and applauded their right to a homeland? Who promised them not to recognize the Oder-Neisse line before a peace treaty was signed?

It wasn't only the CDU/CSU party. Social Democrats and Liberals vied with them in doing so.

"Breslau, Oppeln, Gleiwitz, Hirschberg, Glogau, Grünberg—these are not merely names, but living memories rooted in the minds of generations and ceaselessly knocking at the door of our conscience.

"Cession is betrayal—who would deny it? . . . The right to a homeland cannot be sold for a mess of pottage—there must never be any double dealing behind the backs of our exiled and refugee compatriots."

Thus the late Erich Ollenhauer, Willy Brandt and Herbert Wehner in a joint statement in 1963.

Only Wehner worded it even more clearly: "It is decisive that there is the legal title in the Potsdam agreement according to which the areas east of the Oder-Neisse are placed under provisional administration (by Poland). I hold to this legal title. Frontier questions can only be settled in a peace treaty with the whole of Germany."

And Thomas Dehler, the doughty Liberal from north Bavaria, went even further, saying: "We lay claim to the German eastern territories . . . and in doing so can appeal to the United Nations Charter."

And finally when the "DDR" recognised the "Oder-Neisse line" as a "peace frontier", Paul Loebe, the venerable Social-Democrat and former President of the Reichstag, who was mishandled by the Nazis, stated in the Bundestag:

"In accordance with the Potsdam agreement", said the Doyen of the House in the name of all members except the Communist parliamentary party, "the part of Germany east of the Oder and Neisse has been handed over to the Republic of Poland as part of the Soviet Occupation Zone for interim administration only. The area remains a part of Germany.

"No-one has the right to surrender land and people or to pursue a policy of abandonment on their own authority. These, like all frontier questions, east or west, can only be settled by a peace treaty, which must be signed by a democratically elected German government . . ."

Despite all this there is now official recognition for the loss of the eastern German territories. What has changed to lead to this new situation? The answer is not forthcoming, because there is no answer.

The Bonn coalition's Ostpolitik is laid down as though the Communist bloc were an immutable power whose norms preclude any turning point in history. Such pessimism ignores the historic experience that dictatorships always only look as though they were built for eternity. Germans of all people should know that.

It was this conviction which since the war has strengthened our people and their responsible politicians in resisting the temptation to pledge their future to the forces of tyranny.

Thus anyone who recoils at Walter Scheel's happiness today, or fills with bitterness at Willy Brandt's signature in Warsaw, is not necessarily a diehard right-winger. He stands by a conviction jointly held by all democratic parties in the Bundestag and their electors before this Government, without reason, broke it.

Those who utter warnings today speak with the stilled voices of departed and living Social Democrats and Liberals. But whoever points a finger at the warners denounces Erich Ollenhauer, Paul Loebe, Ernst Reuter, Thomas Dehler, the earlier Willy Brandt and the earlier Herbert Wehner. They knew the difference between asserting their own legal standpoint and revenge. The warners of today know it still.

We have been made to hear a great deal about the "missed opportunities" of the Adenauer era. Now Adenauer had opportu-

nity at any hour during his years of government to underwrite the "realities" so advantageous for Moscow and to sign a treaty of surrender with Poland. If that had been his intention, Kurt Schumacher and Erich Ollenhauer, Theodor Heuss and Thomas Dehler would rightly have prevented him, with the reproach that he was acting against the interests of his country.

It is said that the times have changed. Are the times the only motive for the change of heart accomplished in the new Ostopolitik?

The times have brought enhanced power to the Soviets despite persistent economic failures; they have brought the Wall, the invasion of Czechoslovakia, a rapid spread of Russia's sphere of military influence in the Middle East, and an escalation of strategic armaments in the arsenals of the Kremlin. The times have brought renewed persecution of Polish Jews and, instigated by the Soviets, a serious threat to Israel—whose fate should concern Germany's politicians more than the good humour of a Willi Stoph.

Those who see among these portents the opportunity for fruitful collaboration confuse political occultism with a sense of reality, however much they talk of the "realities."

Walter Scheel mentioned that "there is now no cloud in the sky". But the sky is black.

And what the Chancellor and his friends take for the dawn is the Red Flag of Soviet imperialism, which menaces all of Europe.

Whoever sees cause for happiness in this imperils more than his own happiness.

NEED FOR EARLY DIAGNOSIS OF HEARING LOSS NARRATED BY NEW YORK TIMES

Mr. YARBOROUGH. Mr. President, since I first came to Washington as a Senator, I have had the great privilege of working for legislation to improve and extend opportunities for the deaf. Some of the recent legislation in this area includes the model secondary school for the deaf—Public Law 89-694—the National Technical Institute for the Deaf—Public Law 89-36—and S. 4083, a bill which I introduced in the second session of this Congress to maintain and operate the Kendall School, located on the campus of Gallaudet College, as a demonstration elementary school for the deaf. S. 4083 has been passed by the Senate and has been ordered reported to the House of Representatives by the Committee on Education and Labor.

I also have the honor of serving on the board of directors of Gallaudet College.

Approximately 3,500 profoundly deaf children are born in this country each year. Another 100,000 or so newborn infants have moderate to severe hearing loss. The first step toward providing these children with an opportunity for a normal way of life is early recognition of their deafness, or degree of hearing loss. Unfortunately, however, the deafness of many children is not recognized at an early age, and this delay in diagnosis lessens the effectiveness of speech and hearing training that would aid in their progress toward successfully living in a hearing world. An additional important factor in early diagnosis is that if a child is diagnosed as having adventitious hearing, a hearing loss that will grow progressively more severe if not treated, early treatment will preserve some degree of hearing. Lack of diagnosis and treatment can lead to severe or profound deafness.

Early recognition of deafness and hearing loss contributes in two ways: First, it increases the chances for acquiring usable speech; and second, it helps in diagnosing associated medical problems, such as eye and heart defects, mental retardation, and neurological problems that are often associated with congenital deafness.

My bill, S. 4083, would not only implement but would stress early diagnosis of children suspected of having a hearing loss.

Mr. President, I wish to call to my colleagues' attention an article in the New York Times Magazine for Sunday, November 29, 1970, entitled "They Hear the Sound of Silence." This article tells of some of the problems faced by hearing-impaired children and by their parents, and also tells of progress being made in early testing and training for hearing losses. I ask unanimous consent that this article be printed in the RECORD.

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

THEY HEAR THE SOUND OF SILENCE

(By Samuel Moffat)

The audiologist knew they were terrified. He wished he could prepare them for what he had to say.

"I'm sorry to confirm your suspicions. Brad is profoundly deaf."

This scene is repeated thousands of times a year at hearing and speech centers or in the offices of otologists, the physicians who specialize in ear diseases. Approximately 3,500 profoundly deaf children are born in this country each year. Another 100,000 or so newborns have moderate to severe hearing loss. The deafness of many children is not recognized at an early age, however. In some it is not confirmed until after they are 10 years old.

The Youngs were fortunate they learned the truth about Brad's condition when they did. Today, with a hearing aid and continuous training since the age of 10 months—principally by his mother—he is progressing toward living in a hearing world.

Contrast him with another boy who came to the San Francisco Hearing and Speech Center at about the same time. Robby, 5 years old, proved to be just as deaf as Brad, and there was every reason to believe he was born that way. Since he could not hear, he had not begun to speak nor had he developed other language skills normal for his age. At the age of 9, he still cannot talk. He can understand some speech, thanks to his hearing aid and lip reading. But the only way he can communicate with others, except by writing, is with hand language—the hand signals and finger spelling used by the deaf.

Why can Brad use sound, while Robby lives largely in silence? Their hearing did not make the difference. Dr. Rayford C. Reddell, director of the hearing and speech center who tested both boys, says they are both profoundly deaf. This means that without hearing aids they cannot detect sounds of less than 85 decibels. (Normal conversation is about 60 decibels; a motorcycle engine produces about 85 decibels when you are standing beside it.)

Early recognition of Brad's problem contributed greatly to his rehabilitation. Early recognition is important for two reasons: First, it increases the chances for acquiring normal or at least usable speech. "A child usually starts learning a few simple words before he is a year old," Dr. Reddell says. "He progresses considerably between the ages of 1 and 2. If a hearing defect can be corrected before the age of 2, or if a deaf child can be stimulated during this period of natural readiness, the possibility of helping him is much greater."

And second, detecting deafness early often helps in the diagnosis of associated medical problems. According to studies by Dr. Robert J. Ruben and his associates at Albert Einstein College of Medicine, as many as 20 per cent of congenitally deaf children may have other defects, such as serious neurological problems, mental retardation, eye defects, and heart defects.

Parents of a deaf child are not always responsible for late detection of the hearing loss. Many are dealing with their first child. Since they do not have the experience of watching previous children develop, they do not know what to expect. And quite often the medical profession must share the responsibility.

Dr. Reddell notes that many times a pediatrician will say, "'Your child's not ready to talk yet. Leave him alone and he'll come along.' But it sometimes turns out that the child has not begun to speak because he cannot hear."

The Youngs themselves faced this problem. Brad was six weeks premature and two of his sisters had German measles early in the pregnancy, so the parents were watching for problems. When he was 3½ months old they decided he might be deaf. The major clue was that he never moved when the other children slammed the front door, even though it was only about 20 feet from his bassinet. (Other clues parents might look for: Does your baby turn to see where a sound comes from? Between 6 and 9 months, does he sometimes repeat sounds you make to him, like a series of echoes?)

In the next few weeks the Youngs consulted four physicians, including the family pediatrician and a hearing specialist. All four medical men advised them to wait until Brad was 4 or 5 to see whether he had any hearing problem.

Fortunately for Brad, Mr. Young then happened to hear a radio program about deafness and learned that very young children could be tested for hearing loss. The program mentioned the San Francisco Hearing and Speech Center, and the Youngs promptly called for an appointment.

Early recognition was not the only factor that altered Brad's future. There were children his age in the classes he attended at the center who have not progressed nearly as rapidly in hearing and speaking.

The difference between Brad and these other children is a second critical factor—parental determination. "Behind every deaf child who has learned to speak there stands a persistent adult, usually his mother," says Dr. Redell. Mr. Young looks back at the four years of daily effort by his wife and confirms this: "It is strictly her success. If it hadn't been for her, there would be no success.

Before parents can become motivated to help their child, however, they must get over the shock of learning that the youngster is deaf. "I couldn't think about it at first," Mrs. Young reports. "Whenever I did, I ran to the bedroom and cried."

Ursula Jacobs, the psychologist in the San Francisco hearing center, says that the parental reaction can be described as a period of mourning. And they have to go through it before they can help their child.

One way to help parents accept that their child cannot lead a really normal life is to let them observe the psychological, social maturity, and developmental tests given the child. These tests show the professional staff where the youngster stands and where he can go next. They also show the parents that their youngster is already living a life that is different from normal.

Speech and hearing training can begin as soon as a child gets his hearing aid. Brad got his when he was 10 months old. He had two sessions a week with a therapist, and in between Mrs. Young spent from 30 to 60 min-

utes a day following the therapist's instructions. At first she taught Brad to string beads and stack blocks; later she showed him pictures and said the words for the objects over and over again. And all the time she talked to him, talked to him, talked to him. "I found a dozen ways to talk about cereal when I was feeding him," she remembers.

But it was difficult. She recalls that on their second visit she was "bawled out" by the therapist, Susanna Baltzer, who now teaches at Gallaudet College in Washington, D.C., a college for the deaf. "You haven't been talking to this child. What do you do with your other children?" Miss Baltzer demanded.

Psychologist Ursula Jacobs says: "Parents frequently assume that because their child doesn't hear they don't have to talk to him. You talk because the child must learn to focus. If he doesn't understand the content, he can learn the facial expressions."

It took 13 months for Mrs. Young to see the first tangible evidence of her work. Brad was 23 months old when he could recognize five vehicles in a puzzle and hand her the proper piece on command. She was so excited she called in the neighbors. "Brad can do it!" she exclaimed.

Brad still could not speak. He was over 2 when he first said "Momma." But by 2½ he was talking a great deal, and his vocabularly had expanded to 125 words.

The Youngs have had many trying moments. More than once Bard's mother fought him for 15 minutes until he was so exhausted he fell asleep. At other times he will take a whole hour's instruction without any objection. Today she uses the trick of placing a blackboard across both their laps, so he cannot get away until she lets him up. But she tries not to overwork him—because she does not want to destroy his urge to learn.

Exasperation and frustration are part of bringing up children, but they can be escalated with a handicapped child. It is healthier if the parents acknowledged these feelings instead of denying them. A good way to minimize the effects of such emotions is for the parents to give themselves some time away from the deaf child—a night out each week, or an afternoon alone, for example.

Brad's parents do not believe his older brother and sisters have been slighted for attention and affection. "I devoted as much time to each of them when they were young," his mother said. She admitted it might have been different had there been another baby after Brad.

In general, however, healthy children tend to be short-changed in a family with a deaf child, says Mrs. Jacobs. "All other things being equal, the handicapped one draws attention away from the other children. This is particularly true when the parents have not successfully passed through the mourning period and are still shopping for some sort of treatment. Their energies will go into this instead of providing a healthy family setting."

Excessive attention also tends to "infantilize" the deaf child. "These kids are not allowed to become independent as early and to as great a degree as they should," Mrs. Jacobs says, "because the parents feel guilty and do too much for them."

Relatives and neighbors can be a great help—or a hindrance—depending upon whether they foster the right sort of behavior or not. The Youngs live in a neighborhood with lots of children, and their presence has greatly benefited Brad. "They don't show him any favoritism, but they're realistic about how much he can understand," Mrs. Young said.

Mrs. Jacobs says that "parents have an obligation to educate their relatives and neighbors about the needs of a deaf child. They have to be very specific about such matters as talking to the child and expecting him to speak to them when he becomes able to."

Brad entered a kindergarten for the deaf this fall at the age of 4 years and 9 months, a year earlier than most youngsters because of his progress. But this struggle to speak and be understood still goes on.

He is at least a year behind normal children in language skills. It's hard to understand him because sometimes he sounds as if he has a cleft palate, and he tends to talk too loudly. But these seem minor problems after the strides he has made.

School alone will not solve Brad's remaining problems. The Youngs already notice disadvantages in having him attend classes for deaf children. "Deaf classes are so quiet," Mrs. Young said, and this affects him. "When he's with deaf children he seems deafer. When he's with talking kids he talks more."

What will happen to Brad as he grows up? We can get an idea of his future by looking at another deaf child who is now approaching adulthood. Liz Browning is an attractive 19-year-old who is a sophomore at college. Liz dates a lot, loves movies and dancing. She wears her blond hair long over her shoulders but it does not always hide her two hearing aids. There are other clues to her deafness, too. She watches you speak with complete absorption, because she cannot understand you unless she sees your lips move while she hears your words. Accordingly, her eyes never leave your face while you are talking.

Her speech has an unusual quality. She lengthens her vowels and shortens or softens her consonants as if she had learned English from someone who had never heard it spoken by a native. This can probably be explained by the fact that a hearing aid does not recapture all the hearing a deaf person has lost.

Liz is handicapped—yes. But she doesn't seem to feel handicapped. Oh, she cannot understand anyone but her mother on the telephone. She misses the words in popular music but gets the beat, so she can dance to it. She does not understand the conversations in movies but likes going anyway.

Her parents have lived through 14 years the Youngs still must face. But Liz is proof that Brad can live in the hearing world if he wants to. Parent and child determination are essential. Liz is a tremendously outgoing person, and she has worked hard at getting out of her handicapped world. She has practically no deaf friends because she finds hearing people more stimulating.

Her parents helped her too, of course. Her mother followed a correspondence course from the John Tracy Clinic in Los Angeles and did all the things that Mrs. Young has done for Brad. The family moved twice to be able to put Liz in good local schools. By junior high school only two of her seven classes were with deaf children. Since ninth grade she has been in regular classes. She did receive private speech lessons all through elementary school and has continued them sporadically since then.

The Brownings capitalized on Liz's naturally sociable nature. They signed her up in Brownies and Girl Scouts, for tap dancing and piano lessons, and in a mid-week church group. Mrs. Jacobs stresses the importance of getting a deaf child out with normal children.

Liz herself preferred regular classes, even though she hears as poorly as Brad. "Being in a deaf school hinders your development," she said. "You don't learn to cope. You feel like you're not part of the world."

She was definitely part of the world in high school. Friends helped her get assignments straight and her teachers were aware of her hearing. College has been more difficult. Still, she gets A's and B's.

In a few months Liz plans to consult a genetic counselor at a nearby medical school for advice about whether or not she should have children.

The cause of deafness, in fact, should be an immediate concern of any deaf child's parents if they expect to have more children. Dr. Ruben and his associates at Albert Einstein consider pinpointing the cause one of the most important functions they have to perform when they study a deaf child.

Infections (principally rubella, or German measles, which often goes undetected in pregnancy), prematurity, blood incompatibility, and similar acquired conditions are responsible for about half of congenital deafness. The other half is brought on by genetic conditions. "It is essential to separate the genetic from the acquired conditions whenever possible," Dr. Ruben says, "We must warn parents of genetically deaf children about the potential danger of having a second deaf child." Equally important, the parents will then be able to tell their child what the cause was when he grows up and wants children of his own.

Dr. Reddell and his associate at the San Francisco center, Dr. Ronald R. Calvert, have devised a simple test that can be used in a hospital nursery to screen every newborn baby for hearing losses. In a trial run the test was used on 5,380 infants and detected hearing problems at a rate more than 50 times the California detection rate for the genetic condition phenylketonuria (PKU). PKU screening is mandatory in a majority of states, including New York, New Jersey, and Connecticut, as well as California.

Since publication of professional articles about this test, Dr. Reddell and Dr. Calvert have received several inquiries from hospitals and physicians in the New York metropolitan area, but they do not know how many hospitals have instituted the service. A national directory * of clinical services also lists 30 clinics and hearing centers in New York, New Jersey, and Connecticut where newborns may be screened. Five of these institutions are in New York City.

Until newborn screening is available in every hospital, though, parents will still be the first to detect deafness in most children. Dr. Ruben advises parents: "If there is any question in your mind about your child's hearing, make sure that he is taken to an otologist or a hearing and speech center. No child is too young for a hearing test.

"And if your child is deaf or partially deaf, insist that he be thoroughly examined by a pediatrician or pediatric neurologist for other possible defects commonly associated with hearing loss."

Early recognition, combined with parental determination, will give a deaf child the greatest opportunity for approaching a normal way of life. Not all children or parents will accomplish what the Youngs and Brownings have, but the limits are set as much by the family as by the handicap.

If the parents are lucky they may even be able to say to their child's therapist, as Mrs. Young did when Brad was 2½, "You taught us how to get him to talk. You didn't tell us how to keep him quiet."

RECESS UNTIL 9 A.M. TOMORROW

Mr. KENNEDY. 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 recess until 9 a.m. tomorrow.

The motion was agreed to; and (at 8 o'clock and 8 minutes p.m.) the Senate recessed until tomorrow, December 22, 1970, at 9 a.m.

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* "A Guide to Clinical Services in Speech Pathology and Audiology." Copies are available by writing American Speech and Hearing Association, 9030 Old Georgetown Road, Washington, D.C., 20014.