resentment build up in a young man who is wasting away the best years of his life? is the question asked by those who know him.

How much must one individual endure?

THREE IRONS IN LEGAL FIRES—BUT FREEDOM FOR DENZIL ALLEN SLOW

What's ahead for Denzil Allen?

Facing a 20 year sentence imposed for the slaying of five Vietnamese, which Allen still regards as Viet Cong, the young Lebanon Marine can look forward only to a release after a minimum of eight years behind bars.

The only hope he and his family have is the efforts of his attorney and public sentiment.

Allen's attorney, George Martz, Indianapolis, is hopeful that either the civilian courts or the military review tribunal will give careful thought to his clients actions leading up to the incident May 5–6 at Hue or the allegedly faulty defense which followed in the case.

"Some type of organized effort with responsible leadership could help us immensely," Martz said. "We need a pressure group which can keep the issue alive."

Martz, who has made 11 trips to Portsmouth in the past eighteen months, has at least three irons in the fire. Martz hope first rests with the Court of Military Appeals which could grant a review of the case. There is a petition on file with this court claiming Allen's defense was faulty and that a fraud was committed in not allowing the young Marine a psychiatric examination before he was counseled to plead guilty to the charge.

Second, the First Circuit Court of Appeals has before it a petition for a writ of Habeas Corpus which asks that a civilian body look into the sentence. This court has refused to act earlier until the military remedies have been exhausted.

And thirdly, the Clemency Board of the U.S. Navy has been asked to review the case which could act if the Board of Clemency refuses.

Should the U.S. Court of Appeals refuse to consider the case, Martz says the door then would be open to see whether the U.S. Supreme Court will grant a hearing.

"It's a slow process and sometimes we get the feeling that there must be a quicker way," Martz said.

The secretary of the Navy won't intercede until others have reviewed the case and President Nixon, who was shown petitions bearing the names of 50,000 Hoosiers has declined to get into the matter until other avenues have been exhausted.

But, despite the delays, there seems evidence that the American public is aware of the imprisonment of the 22-year old combat veteran. "There isn't a day goes by that someone—a cab driver or a man on the street—doesn't ask me what's being done for Denzil," Martz says. The Indianapolis attorney believes the majority of the people—those called the silent majority—support American forces and what they do in a war called the most bizzare in the country's history.

Faith in the courts has not waned for the parents of Allen, Mr. and Mrs. Earl Allen, of Lebanon, who write to their son regularly. They are the only ones who can receive mail from Denzil although anyone may write to him by addressing their correspondence to Denzil Allen, 7462, Building 93, Naval Activities, Portsmouth, N.H. 03801. "We believe it would do much to cheer him up . . . to let him know that someone is thinking of him," Mrs Allen said.

Allen himself has his doubts.

When his attorney left him this week saying, "I'll see you again as soon as I can get back," Allen responded: "Don't worry . . . I'll be here."

SENATE—*Tuesday, March 10, 1970*

The Senate met at 10 o'clock a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

O God, our Father, without whose help we can do nothing great or good, help us so to live that we may bring help to others, credit to ourselves and to the Nation we serve.

Help us to be patient with those who are slow to learn and slow to understand. Give us a good disposition Lord, that in all our difficulties we may be part of the solution and not part of the problem. As we strive to follow Thee, wilt Thou follow us with Thy goodness and mercy that we may abide in Thy love eternally.

For Thy name's sake. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 10, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence,

RICHARD B. RUSSELL,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 9, 1970, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

ORDER FOR ADJOURNMENT UNTIL 10 O'CLOCK TOMORROW MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

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

(Subsequently, this order was modified to provide for an adjournment until 9:30 a.m. tomorrow.)

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.

ORDER OF BUSINESS

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DEFENSE CONTRACTS AND LOCKHEED AIRCRAFT CORP.

Mr. PROXMIRE. Mr. President, by letter of March 2, 1970, Lockheed Aircraft Corp. informed Deputy Secretary of Defense David Packard that unless there was a quick resolution between Lockheed and the Department on a variety of differences between them amounting to $600 million, it would be "financially impossible for Lockheed to complete performance of these programs."

The company stated that for it to complete the delivery of 81 C–5A aircraft during 1971 and 1972, "an additional $435 to $500 million will be required to cover production expenditures."

This is a shocking and scandalous situation. But it is not the final event in a series of shocking and scandalous events which have shattered public confidence in defense contracting and in the military procurement system.

I rise to warn the Congress and the public that the Air Force and Department of Defense may once again take action which is not in the public interest. That they have done so in the past is attested to by a myriad of actions. Their unwise and improper actions include signing a bad contract, withholding information, providing misleading and erroneous data, and firing A. E. Fitzgerald, to name only a few.

The possible alternative answers to the Lockheed plea for a bailout proposed by Secretary Packard on behalf of the Pentagon, gives very little confidence that either the taxpayers' interest or the security of the country will be served.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

All of the proposed actions by Secretary Packard leave much to be desired. He proposed as one course that the issues between the company and the Pentagon be resolved by "established procedures." He gave two possibilities under that course of action.

One was the use of "V" loans. That means essentially that the Government would be a cosigner with Lockheed of a note to the banks. If Lockheed goes under or continues to meet further financial difficulties—which one can confidently predict—Uncle Sam foots the bill.

This is a particularly inadequate solution as the company has a net worth of only $300 to $400 million, already is in deep trouble over its commercial "air bus," and has a $400 million line of credit from a consortium of banks for the commercial side of its business. That means that prior creditors appear to have claims on the company in excess of its net worth.

A "V" loan for $600 million, or a large portion of $600 million, hardly protects the public interest. All that really means is that if Lockheed goes under, the Government holds the bag.

The second possible action under "established procedures" was that the national defense contracts provision of title 50, chapter 29 of the United States Code, be invoked. All that section does is to give the Defense Department the right to enter into or amend or modify contracts in virtually any way it wants to provided only that the action would "facilitate the national defense."

That method, listed as a possibility by Secretary Packard would merely legalize a bailout for Lockheed by advancing them the funds or amending or modifying the contract in a way which would otherwise not be allowed. It would merely legalize the bailout.

Secretary Packard also suggested that the Government might "negotiate an overall settlement with the company." Since the problem Lockheed faces is the vast difference of opinion between Lockheed and the Government over what Lockheed should be paid, it would be impossible to "negotiate" a settlement in which Lockheed's financial problems were solved without the Government ending up as the big loser. How could the Department of Defense "negotiate" a settlement without losing much, if not all, of the $600 million in dispute.

These are the only methods proposed by Secretary Packard. It would be difficult if not impossible, to carry out any one of them and yet protect the public interest. He dismisses other possibilities, including the reorganization of the company, merger possibilities, and bankruptcy proceedings. He states that they do not "appear to offer very attractive solutions to the problem, either from the standpoint of the Government or of the company."

Why is the Secretary proposing those alternatives? Mr. Packard admits that on the biggest single item, the C–5A costs have grown astronomically. Not including spares, the Secretary stated in his testimony that 115 C–5A's—excluding five research models—were to have cost $1.9 billion. That grew to $3.2 billion for the same 115 planes. Now, 81 planes are to cost almost $3.2 billion, excluding spares, and excluding the five research and development planes.

The Government, however, claims that it owes the company only $2.5 billion.

But where do we stand? The Government has already paid out $2.04 billion. Only 11 planes have been delivered. Only 26 more are in the final stages of assembly and are scheduled to be delivered before the end of July 1970. But that is a total of only 37 planes. And by then another large sum of money will have been eaten up.

This means that in July we will have only 37 of the 81 planes but will have paid out almost the entire $2.5 billion which the Government claims is the maximum amount it owes to Lockheed for 81 planes.

Thus, after having paid Lockheed everything we owe them on the C–5A contract, we will have less than half the planes contracted for.

Last September in the Senate, I warned that if we approved the $500 million in that bill as a downpayment on the fourth squadron of the C–5A, the company would be back again asking for $500 million more after the end of the year for the C–5A. The year has ended. That has now happened.

I want to warn now, that if another $435 to $500 million is advanced to the company for the C–5A, they will be back again for additional funds to complete the 81 planes. Even the $500 million the company asks for cannot provide 81 planes.

This plane is built in a Government-owned plant. Much of the machinery is owned by the Government. The Government has made progress payments of 90 percent of the "costs incurred," or according to the General Accounting Office's informal report to me, $2.04 billion of $2.27 billion of the costs incurred through March 6, 1970. Yet we have only 11 planes with 26 more in the pipeline.

In these circumstances, it appears impossible that the courses of action proposed by Secretary Packard could serve the public interest.

I think it is vital that no agreement be made by the Pentagon with the company for the outlay of another $600 million without the express legislative approval of the Congress. We should not be faced with a fait accompli. This should not be done behind closed doors between the Pentagon and the company. But we need more imaginative possible solutions than those proposed yesterday in Secretary Packard's testimony if the public interest in the investment in this company is to be served.

ORDER OF BUSINESS

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

SENATE RESOLUTION 367—SUBMISSION OF A RESOLUTION TO EXPRESS THE SENSE OF THE SENATE RELATIVE TO SANCTIONS AGAINST RHODESIA

Mr. EASTLAND. Mr. President, yesterday the Secretary of State announced that the consulate in Salisbury, Rhodesia, will be closed on March 17. This decision will unquestionably be recorded as one of the most colossal and stupid follies of this administration. Not only does this decision represent a significant step backward in the effort to bring the rule of reason and law into our foreign policy, but it is absolutely preposterous in the context of international law. Rhodesia has clearly achieved sovereign status and its recent declaration of a republic, which apparently has unduly upset the State Department, was only the outward manifestation of a preexisting fact. Yet, even in light of indisputable evidence, which I shall later outline in detail, that Rhodesia has achieved sovereign status, we continue to insist that Great Britain is the lawful sovereign in Rhodesia. This position reflects our continuing unwillingness to abide by the principles of reason and international law in this situation. Rather we blindly follow the emotional dictates of African politics and ignore our own best interest. This type of foreign policy, Mr. President, is unquestionably stupid.

The irony of the decision to close the consulate in Rhodesia is that it was made in London and not at home. Once again we are dancing to the tune of Whitehall's Pied Piper in a game of follow the leader diplomacy. The time has now come to stop this blind adherence to the bidding of Great Britain, who has continually defied the best interests of the United States by trading with Cuba, maintaining a consulate in Hanoi, and according full and complete diplomatic honors to Communist China. We must put our own interests first.

We are courting disaster, Mr. President, when we let tiny African nations, through London, dictate our decisions. Our State Department has never been independent of British policymaking and it is now time to quit being the tail on Britain's kite. The record is abundantly clear that Rhodesia has achieved its sovereignty and that our own interests can only be protected by recognizing and establishing a business-as-usual relationship with Rhodesia.

The significance of Rhodesia's struggle and our own part in this historical conflict gained a new perspective when on November 11, 1969, Rhodesia marked the fourth year since its people declared themselves free and independent of the symbolic rule of the once mighty British Empire. In a document remarkably similar to that issued by the American colonists in 1776, the people of Rhodesia claimed their right to determine their own destiny unhindered by a foreign power. The Rhodesian people have exercised this right and for the past 4 years have prospered, even in the face of economic sanctions imposed by the United Nations. In fact, Mr. President, after deducting a 2½-percent inflation factor, the Rhodesian gross national product for

this fiscal year is forecast to show an increase of 10 percent. The Salisbury stock exchange index has risen from 171.3 in October 1965 to a high of 434.2 attained in May 1969, and the record high number of visitors in 1968 showed a 17-percent increase in 1969.

Yet, Mr. President, in spite of the fact that Rhodesia has grown and prospered over the past 4 years and established effective and continuous control over its legal territory, the United States continues in its stubborn adherence to the United Nations imposed sanctions and as exemplified in its action yesterday, it unrealistically continues to refuse to recognize the existence of the Government of Rhodesia. This unrealistic approach in handling our foreign affairs is a self-defeating policy which has worked to the advantage of our enemies and to the detriment of our own interests. I submit, Mr. President, that the time has come for us to lay aside the myths and fictions surrounding the United Nations imposed moral and political condemnation of Rhodesia and adopt an enlightened position of full recognition of this tiny country which bears us no ill.

Mr. President, on September 25, 1969, the Senate passed Senate Resolution 205, which was submitted by the distinguished junior Senator from California (Mr. CRANSTON) and the senior Senator from Vermont (Mr. AIKEN). This resolution declares:

That it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not of itself imply that the United States approves of the form, ideology, or policy of that foreign government.

Upon introducing this resolution, Senator CRANSTON made a number of pertinent comments concerning our present recognition policies. He pointed out that:

The evidence is overwhelming that our present policy of withholding recognition from governments of which we disapprove, and with whom our relations are particularly hostile, has failed totally to advance our values or to achieve any other of its most significant intended purposes.

Senator CRANSTON, in calling for a return to our traditional liberal recognition polices very eloquently emphasized a number of valid points parallel to those which have long been a part of the dialogue of supporters of Rhodesian recognition. He said:

In our diplomatic relations, we have become all too prone to take self-righteous and moralistic positions unrelated to the realities of power in the world . . . and as we have grown to be an enormous world power, we have become increasingly tempted to impose our moralistic views on our neighbors although our international responsibilities and our own security requirements do not really necessitate our acting as sheriff or ideological censor.

In calling for a more sensible basis to our recognition policy through a return to America's original recognition doctrine, Senator CRANSTON noted:

We are by nature an idealitsic people, and this is all to the good. We cannot lose sight of the fact, however, that we are just one member of the world community, with finite resources. We cannot right all the injustice in the world. We cannot persist in our self-appointed role as the moral arbiter of other governments, a posture that puts us in the position of trespassing upon the sovereignty of other nations.

Thus, Senator CRANSTON said at the time of final passage of Senate Resolution 205:

It is the withholding of recognition accompanied by statements stating that we do not recognize because the nation is deemed to be evil that substantiates the case that caused Senator Aiken and me to introduce the resolution.

Mr. President, these statements by my distinguished colleague, Senator CRANSTON, are applicable to the controversy over the recognition of Rhodesia. They reflect a rational solution to a problem surrounded by irrational words and deeds. Even the New York Times editorially endorsed Senator CRANSTON's position when on June 4, 1969, it stated:

Traditionally, moral judgments of a government's worth have not been criteria for recognition in American and international practice. It was enough that a government had established itself, controlled its territory, enjoyed the support or acquiescence of its population and had prospects of permanency.

But during this century, the United States Government and some others have broken with traditional practice from time to time, withholding recognition on moral grounds in an attempt to bring political pressure to bear on governments of which they disapprove. Such attempts almost invariably fail to achieve meaningful results.

A Senate Resolution disavowing the approval doctrine could help eliminate some embarrassing contradictions in American diplomatic relations. . . .

Mr. President, I submit that the time has come for the Government of the United States to recognize the Government of Rhodesia. There is no justification for the position which our Government has taken in this matter and the sooner we recognize this small, friendly, pro-Western government, the closer we will be to returning to a sound, rational policy governing our foreign relations.

Even if our Government continues to refuse to recognize the Government of Rhodesia, there is precedent for the recognition based on the length of existence alone. As Senator CRANSTON said in introducing Senate Resolution 205:

Over a rather predictable course of time, we generally recognize new governments if they last—not because of what they have done, but often in spite of what that (sic) have done, and our non-recognition policy, generally, has no effect on whether or not they last, nor on what they do or do not do.

Mr. President, surely 4 years of existence and progress under circumstances far more difficult than those faced by most other new countries, entitles Rhodesia to recognition by the United States.

Finally, Mr. President, the words of the distinguished Senator from Rhode Island (Mr. PELL), in endorsing the Cranston resolution and position, express a principle squarely in concurrence with the argument for recognizing Rhodesia. Senator PELL said:

At this time, I am convinced that it is in our national self-interest to return to our original concept of recognition, and to recognize that when a government controls its people, and is in *de facto* control, it ought to receive *de jure* recognition. This applies to rightwing governments as well as to left-wing governments. . . . With any government in the world, whether we disapprove of it because it is too far to the right or the left for our tastes, we are better off having direct relations and open lines of communications.

Senator PELL further added:

To my mind, the policy that we as a nation have followed in the past has been one, very often, of cutting off our nose to spite our face.

Time, Mr. President, as well as the rule of reason, dictate that our Government recognize the existence of the Government in Rhodesia and refrain from participating in the disastrous sanctions imposed by the United Nations. To do less is to deny our own self-interest as well as to put us in the position of trespassing on the sovereign rights of another state.

I have on many occasions in the past, Mr. President, pointed out to the American people, as well as to the Members of this distinguished body, the dangers and hypocrisy of the position which the United States has taken on the Rhodesian question in the United Nations. I have noted that our policy toward Rhodesia is inconsistent with our policy toward the rest of Africa and the Communist world. I have speculated that the continuing adherence to the United Nations' position on Rhodesia would be economically and militarily unsound for the United States and finally, Mr. President, I have pointed out that the executive branch, in applying economic sanctions and reprisals against Rhodesia, has actually violated the Constitution of the United States.

But not only has the United States violated its own laws in applying sanctions against Rhodesia, Mr. President, the United Nations itself has shown no desire to adhere to the principles of international law which are allegedly the guiding doctrines of this world body and are embodied in its own charter. By administrative interpretation and sheer avoidance, the United Nations has distorted the principles of international law which it purports to uphold.

Mr. President, I have researched this matter and have found no less than six blatant examples of how the United Nations has violated its own charter in applying sanctions against Southern Rhodesia.

Article 2 of the Charter of the United Nations sets out a number of principles upon which the United Nations is supposedly founded. Section 1 of article 2, Mr. President, states that the organization is based on the principle of the sovereign equality of all its members. The fact that a country such as Rhodesia is not a member of the United Nations does not mean that it lacks sovereign equality with all the other nations of the world. International law has long been dependent on the principle of sovereignty as a basis for ordering the relationships among nations. To decree that nonmembers of the United Nations have a status less than sovereign equality is, prima facie, a violation of the principles of international law as embodied in the Charter of the United Nations. Section 4 of article 2, Mr. President, points out

that all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state. It is obvious, Mr. President, that Great Britain violated this provision of the charter before it ever brought the situation to the United Nations. Great Britain, did, in fact, bring force, short of war, against the territorial integrity and political independence of Rhodesia. Upon failing to bring down the government of Mr. Ian Smith, Great Britain then turned to the United Nations to handle a situation which it could no longer control. Further, Mr. President, the Organization of African Unity, comprised of states which are members of the United Nations, is openly supporting, training and equipping guerrillas and terrorists who are presently involved in armed attacks against Rhodesia.

Article 2, section 7, of the United Nations Charter, Mr. President, is the most blatant example of how the United Nations has violated its own charter. This section says:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter 7.

I am aware, Mr. President, that many of those who support the United Nations' Rhodesian sanctions try to give a narrow definition of the term "state" as found in article 2, section 7. These people claim that because other countries fail to recognize the Government of Rhodesia, it is thus not a state. But what these people fail to recognize is that the rebellious regime of Mr. George Washington, and others, in 1776, was only recognized by one country, France. And yet, there is no question in these people's minds that the United States had, in fact, achieved the status of a state at the time it declared its independence. The history of Rhodesia closely parallels the history of our own country and our breakaway from the British Commonwealth. Just as in our country in 1776, there is a stable government in Rhodesia today which is elected according to the established laws of the country and is capable of entering into relations with other states; and there are definite boundaries and permanent populations which owe allegiance to that government and over which the government exercises effective control.

The necessary qualifications which a state must possess in order to be considered as a state were outlined in the 1933 Montevideo Convention of Rights and Duties of States. Article 1 of that convention says:

The State is a person of international law should possess the following qualifications: (a) a permanent population (b) a defined territory (c) government and (d) capacity to enter into relations with other states.

Rhodesia, Mr. President, clearly meets the qualifications of a "state." And there is even another factor, Mr. President, which must be considered in the current controversy over whether or not Rhodesia is a state. That is the fact that Rhodesia has continued to exist and prosper for a period of 4 years despite the sanctions brought against it by the United Nations. There can be no question that the de facto situation which existed in Rhodesia in 1965 has evolved into a de jure status for the government.

On August 9, 1968, Rhodesia High Court Justice Harold Davies ruled that the government has achieved internal de jure status and that the court was not bound by a judgment of the privy council in London that the Smith government and its laws were illegal. Justice Davies said:

It is my view that the present government has achieved internal *de jure* status and that the court sits by virtue of its authority derived from recognition by the government in terms of the 1965 constitution.

This decision rendered by Justice Davies was reinforced on September 13, 1968, when Rhodesia's highest appeal court ruled that the government of Mr. Ian Smith is the only de jure administration and the 1965 constitution is the country's only constitution. This decision undoubtedly clears the air of any questions concerning the legal authority of the present government in Rhodesia as well as pointing out that the British do not have any surviving legal jurisdiction in relation to Rhodesia.

It might also be noted, Mr. President, that the British Government prior to 1965 had informed the United Nations on several occasions that it regarded Rhodesia as a self-governing territory in terms of the charter.

It is quite clear to those who recognize and understand the criteria upon which recognition is based that Rhodesia has, in fact, gained the status of a state as defined in article 2, section 7, of the United Nations Charter. This brings us back to the problem, Mr. President, of intervention by the United Nations in the domestic affairs of a state.

Article 2, section 7, notes that the principle of nonintervention does not prejudice application and enforcement measures under chapter 7. Under chapter 7, articles 39, 41, and 42, the Security Council is obligated to make a determination that there exists a threat to international peace and security and that upon this determination the Security Council may then take measures to avert an international crisis. It is upon the basis of a determination that Rhodesia presented a threat to international peace that the Security Council imposed economic sanctions against the Government of Rhodesia. It is beyond question, Mr. President, that Rhodesia is not the threat to international peace and security, but rather the some 39 other nations in Africa which threatened to break the peace unless the Government of Rhodesia is destroyed. This was amply shown when, on December 5, 1965, members of the Organization of African Unity threatened to declare war on Rhodesia if Britain failed to put down the revolt within 10 days. Rhodesia itself has never had aggressive designs on the rest of Africa, nor has it by covert or overt means sought to inflame the tensions already present in Africa. It is inconceivable how the Security Council could find such a country to be a threat to international peace and security and thus justify its intervention in this country's domestic affairs.

Mr. President, even former Chief Justice Earl Warren recognized the limitations of jurisdiction on the United Nations. In a speech which he made September 16, 1968, at the Palais des Nations in Geneva, Switzerland, on the occasion of the International Observance of World Law Day, he stated, while discussing the principles of the United Nations:

But, it must be remembered that the United Nations is not endowed with the authority to enforce these principles. It is not an international code of laws enforceable as such. It is a Universal Declaration of Human Rights, and the only sanction the United Nations can exact is the influence it can bring to bear on world opinion. The remainder must come from the self-discipline of nations themselves and the aspirations of their people.

I submit that no clearer case could be made for refraining from participating in the interference with the Government of Rhodesia.

Intervention by force of arms or force short of war has been denounced by the United States in its relations with the Communist countries. We have adopted a hands-off attitude toward these countries, yet we blindly go along with the United Nations in this blatant attempt to overthrow the Government of Rhodesia.

Article 24 of the charter, Mr. President, says that the Security Council, in discharging the duties placed upon it, shall act in accordance with the purpose and principles of the United Nations. We pointed out that in article 2, the Security Council has violated one of the principles of the United Nations, thus the Security Council has also violated article 24 by not discharging its duties in accordance with the purpose and principles of the charter.

Article 32 states:

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute.

Not only has Rhodesia not been invited to participate in the many discussions relating to the dispute, but it has been denied that right even though the government of Mr. Ian Smith has specifically requested that it be heard at the United Nations.

I have already dealt, Mr. President, with articles 39 and 42 which outline the procedure by which the Security Council can take action to alleviate a situation which is a threat to international peace and security. The assumption that Rhodesia presents a threat to international peace and security cannot be justified in terms of articles 39 and 41, as well as article 42, which provides for armed measures to enforce the decisions of the Security Council.

The interpretation and meaning of the before-mentioned articles is clear, Mr.

President, and I submit that these have been violated.

I challenge each Member of this body to study these articles, which I have briefly outlined, and determine the consistency of the United Nations' action with the requirements of international law.

In addition, Mr. President, I ask unanimous consent that there be printed in the RECORD a special supplement edition of "Rhodesian Viewpoint" which answers the State Department's official position on the question of Rhodesia.

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

RHODESIAN VIEWPOINT—U.S. RHODESIA POLICY: A COMMENTARY ON OFFICIAL ATTITUDES

The Rhodesian Information Office has been made aware from time to time of the contents of a State Department letter addressed to American citizens (including Members of the Congress) who enquire into the motivations of official policy towards Rhodesia. The rationalisation offered in the letter is open to serious challenge on a number of grounds. It is the purpose of this publication to comment on the letter section by section in order to provide concerned Americans with another side of the Rhodesia story.

The State Department's position is set out in italics. The comments of the Rhodesian Information Office follow in regular type.

"The United States supports the United Nations and the United Kingdom in their continuing efforts to restore constitutional authority in Southern Rhodesia."

There is neither U.N. Charter authority nor precedent for the United Nations to take coercive action to restore what is described as *"constitutional authority"* in any national situation or in any situation in which a colonial territory asserts its independence from a colonial power. These are questions which are essentially within the domestic jurisdiction of a state and therefore immune from intervention by the United Nations. (Article 2, paragraph 7 of the United Nations Charter.)

Many countries today enjoying full membership in the United Nations have governments which came to power by rebellion, coup d'etat or other unconstitutional action. Historically the United States achieved its independence in this way. In a listing of 42 African governments in January 1969 "Africa Report" notes that 14 of them came to power by military coup or other unconstitutional means. None of them is subjected to hostile action or international disability on that account. Recently the constitutional government of Libya was overthrown by an act of rebellion. The new government was quickly recognised by the United States and other countries. No question of restoring the constitutional authority of the former government arose.

The present Rhodesian Government has exercised effective authority over the country before and for four years since its declaration of independence. It is more than a year since Rhodesia's independent judiciary declared that Mr. Ian Smith's Government must be regarded as the 'de jure' Government of Rhodesia.

Senator Cranston, introducing in the Senate in May of this year a resolution dealing with U.S. recognition policy, pointed out that 'the original American doctrine of recognition was quite simple. During the Jeffersonian era and up to the end of the 19th century, we used fairly objective tests in determining whether to recognise a new government. We merely ascertained whether or not it existed and was capable of sustaining itself. This policy (reflected) a belief that we had no right to interfere in the internal affairs of other nations.'

"The basis of our support (for the United Nations and the United Kingdom) is our concern for the threat to the peace in southern Africa posed by the denial of political rights to the 4.4 million Africans who comprise some 94 per cent of the territory's population. The present regime in Southern Rhodesia not only denies the African majority an effective voice in government but has proposed a constitution which seeks to perpetuate white minority rule and institutionalise racial separation."

There is no denial of political rights to Rhodesia's African population. Under the 1961 and 1965 constitutions there is a non-racial qualified franchise providing equal opportunities for all citizens to qualify and register as voters. Most of the more stable democracies have evolved through a qualified franchise, and it is perhaps worth recalling that at the time of America's independence about six per cent of the white population voted. (There was no question of extending the franchise to include black or Indian Americans.)

Rhodesia's proposed new constitution does not seek to perpetuate white minority rule. It provides for an immediate increase in black representation in the legislature (approximately doubling the present representation) and a progressive extension of this representation, based on income tax contributions to the national exchequer, until parity with white representatives in the legislature is reached.

"U.S. News and World Report" noted in January 1967 that at least 37 member nations of the U.N. had governments based on minority rule and at least 25 other members were open to suspicion in this respect. Fewer than half of the U.N. members had governments clearly based on majority rule.

As to the suggestion that Rhodesia's new constitution will *"institutionalize racial separation"*, it is of interest to note that Prime Minister Ian Smith has described it as "a multi-racial set-up in a multi-racial country." It is a fact that the proposed new constitution provides for the separate representation of the races in Parliament and for a basic division of land between the races. This may offend integrationists sentiment but is hardly a justification for offensive international action conceived as a penalty for aggression. The reservation of tribal lands is not unknown in the United States. Moreover, according to the Washington Post, a representative meeting of American Indians at Denver last August decided that they "want the right to be Indians, to preserve their tribal identities and tribal lands, to make their own mistakes, to have a say about their destiny." The separatist elements in Rhodesia's constitution stem from an acknowledgement of the same instincts in Rhodesian society.

The suggestion that Rhodesia's domestic policies constitute a threat to the peace in southern Africa cannot be regarded as a serious proposition. Mr. Dean Acheson describes it as reasoning worthy of the Red Queen in "Through the Looking Glass". "Rhodesia", he says, "in doing what the U.N. has no jurisdiction to forbid, annoys African members to the point where they may transgress against the first commandment of the U.N. (Chapter 1, article 4):

"All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."

"Since Rhodesia, by doing what it has always done and with which the United Nations cannot constitutionally interfere, incites less law-abiding members to violate their solemn obligation not to use force or the threat of force in their international relations, Rhodesia becomes a threat to the peace and must be coerced."

Mr. Acheson concludes: "If this reasoning leads the reader to ask, 'who's loony now?', don't blame Rhodesia, blame the Security Council and Harold Wilson."

Mr. Charles Burton Marshall, Professor of International Politics at Johns Hopkins School of Advanced International Studies, takes a similar view. He points out that Rhodesia has done literally nothing except sever its connection with the British Government. Mr. Marshall says that "this, while rebellion, is certainly not aggression. Rhodesia has made no attack or threat of attack against anyone."

Mr. Marshall's research of the United Nations record reveals that the original British resolution calling for mandatory sanctions against Rhodesia did not contain any finding of a threat to the peace, although such a finding is an essential condition for the imposition of sanctions. When the omission was pointed out, the desired conclusion was inserted without any supporting facts. Supporters of the U.N. position take refuge in the argument that the existence of a threat to the peace may not be questioned once the Security Council has made that determination. Professor Marshall asks if it is enough to stop criticism of a pie to say that a baker made it.

Dr. Walter Darnell Jacobs, Associate Professor of Government and Politics at the University of Maryland, concludes in an article in "World Affairs" (April/June 1967) that "Rhodesia, whatever her sins and shortcomings, cannot be said to represent a threat to the peace."

In spite of the danger of terrorist incursions over her northern border, Rhodesia spends a smaller proportion of her national income on defence than most countries. This is revealed in an analysis published in Britain by the Institute for Strategic Studies in September 1969. Rhodesia's 1968/69 expenditure of 1.9 per cent of gross national product is lower than all but a handful of the fifty-two nations enumerated. Britain's expenditure is 5.3 per cent of G.N.P. The United States and Russia both exceed 9 per cent.

The Organisation of African Unity (representing underdeveloped countries generally in receipt of foreign aid) is reported to have allocated over a million dollars in its current budget to equip guerrilla fighters for subversive operations in and against southern Africa, notwithstanding that the U.N. Charter enjoins member nations to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."

Clearly Rhodesia represents no threat to the peace. Equally clearly the United Nations Organisation, if it is mindful of its Charter principles, has a plain responsibility to restrain the Organisation of African Unity and its members from initiating and subsidising forceful attempts to overthrow the government of Rhodesia.

An alternative and devious presumption suggests that the "threat to the peace" in Rhodesia derives from the danger of an internal upheaval in the country that would have repercussions outside its borders. It might be noted in passing that the same consideration has not been applied to Nigeria, which remains immune from U.N. intervention notwithstanding that for the past two years she has been experiencing a real and not merely presumptive internal upheaval. There has been a death toll in excess of a million and a half people but no threat to the peace has been inferred.

Many recent visitors to Rhodesia have testified to the country's conspicuous tranquility, to the absence of racial tension, to the fact that Rhodesia's unarmed police force is seldom seen and even more rarely needed. The Nigerian Editor-in-Chief of the Lagos Daily Times has said that the overseas pic-

ture of Rhodesia as a grim, tense, police state is a "massive fraud."

South African liberal Laurens van der Post who visited Rhodesia since independence with what he described as "a profound emotional and intellectual bias towards finding nothing but evidence of impending Greek tragedy," found nothing to substantiate his apprehensions. Instead he found "a general preference among them (black Rhodesians) for an evolutionary rather than a violent revolutionary change of Rhodesian society."

Congressman John Ashbrook and two American colleagues who visited Rhodesia in 1966 found that the Rhodesian Government commanded "the virtually unanimous support of the white population and the respect of a preponderance of the Africans," also that "the tell-tale signs of racial tension are nowhere to be seen." They concluded that "American policy on Rhodesia represents the triumph of ideology over actuality."

In a letter to the Washington Daily News on December 23, 1966 Mr. Frank Johnson of the American Security Council refers to a cartoon implying that Rhodesia is an oppressive white police state. He writes: "I have just returned from a visit to Rhodesia and can personally vouch that the contrary is true. The few people to be seen on the streets are black as well as white, and none carry guns. Ian Smith drives his own car, has no bodyguard and is quite careless of the most elementary personal security. Perhaps one of the most impressive testimonials of African support for the Smith Government is the fact that communist-trained terrorists entering the country from Zambia are either killed or reported to the border guards by the local African population."

Another testimonial of black Rhodesian support for the Rhodesian Government is contained in a statement issued November 2, 1966 by the Council of Chiefs, recognised traditional leaders of tribal Africans under the British approved 1961 constitution. Part of the statement reads: "We wish to state quite clearly that we support the Government of Rhodesia and we do not accept the claim by the British Prime Minister that he has continuing responsibility and authority for and over our people through the Government and Parliament of the United Kingdom."

In January 1967 veteran Chief Simon Sigola sent letters to U.N. Secretary-General U. Thant, President Johnson and President de Gaulle inviting them to visit Rhodesia to see for themselves that it is not a "bad country and a threat to the peace."

Militant leaders of the Organization of African Unity have expressed diappointment at the apathy and lack of co-operation shown by black Rhodesians towards "freedom fighters" come to "liberate" them. Zambian Foreign Minister Reuben Kamanga was quoted as saying in April 1968—"Reports reaching us indicate that the Rhodesian African masses are accepting the Smith regime." In reporting this statement an AP correspondent noted that "Africans in Rhodesia have been relatively prosperous and their lack of enthusiasm for an anti-white revolution probably grows out of a desire to be left in peace to attend to their own affairs."

"The United States has supported a variety of peaceful measures designed to influence the Smith regime to change its policies and move towards majority rule. The United States voted for the Security Council's resolution of November 12, 1965, which condemned the illegal Smith regime. It also supported the Council's resolutions of December 16, 1966 and May 29, 1968, which called on all member nations to impose economic sanctions against Southern Rhodesia. Executive orders were subsequently issued to carry out the mandatory provisions of those two resolutions with respect to the United States."

It is open to very serious question whether it is a legitimate objective of national policy to seek by coercion to change the purely domestic policies of another country. Senator Cranston quotes with approval Daniel Webster: "From President Washington's time down to the present day it has been a principle, always acknowledged by the United States, that every nation possesses the right to govern itself according to its own will, to change institutions as discretion, and to transact its business through whatever agents it may think proper to employ."

There may be some who are willing to overlook a want of principle in public policy provided that it effectively serves an expedient purpose. Rhodesian policy is deficient on both counts.

In his book "The Discipline of Power" former Under Secretary of State and U.N. Ambassador George Ball shrewdly perceives the futility of sanctions, describing them as "a romantic delusion." "In the modern world," he says, "sanctions are not likely to work even when the siege of an economy is enforced by military power. Where military power is not employed and the enforcement of an embargo depends merely on the agreement of nations—whether or not expressed in a United Nations resolution—the result will more likely be annoyance than hardship. As disappointing as it may be to admit it, the siege of an economy is never total, the options of the beleaguered party are too broad, and the phychology of the besieged is too perverse and complex to make such sanctions more than a blunt instrument."

Reporting from Rhodesia, Mr. Ray Vicker confirms Mr. Ball's judgment in a recent issue (September 11, 1969) of The Wall Street Journal: "What happens when the United Nations leads a world-wide economic boycott of a little country with only 4.8 million people? If the country is Rhodesia, it has the biggest boom in its history, with a net inflow of new settlers, an economic revolution that launches dozens of new industries, sets off a boisterous stock market advance, and strengthens wills all around. That's the picture that emerges after talks with dozens of government figures, business men, bankers, farmers and ordinary citizens in this ruggedly individualistic land."

Mr. Vicker notes that U.S. support for sanctions is forcing American chrome buyers to deal with Communist Russia at prices 50 per cent higher than Rhodesian chrome. (Rhodesian chrome mines, possessing the free world's largest supply of high grade ore, are owned by American corporations now forbidden either to finance or export their production.)

The conclusion is inescapable that sanctions against Rhodesia have had a bizarre effect from the viewpoint of the sanctioneers. Whilst consolidating political support behind Mr. Smith's government they have somewhat discouraged the inflow of investment capital and thereby diminished job opportunities for black Rhodesians.

"The United Kingdom considers the territory of Southern Rhodesia to be in a state of rebellion and the United Nations has declared the Smith regime to be illegal. Not a single country has accorded recognition to the regime, and the continuing sovereign authority of the United Kingdom in Southern Rhodesia is universally recognised."

This is repetitive.

In addition to the comments made earlier, which include reference to the Rhodesian High Court's findings in September 1968 that Mr. Ian Smith's government must be regarded as the legitimate government of Rhodesia, it is worth noting that the Chief Justice concluded that he could "now predict with certainty that sanctions will not succeed in their objective of overthrowing the present government and of restoring the British government to the control of the government of Rhodesia."

In July 1968 Mr. Thomas McElhiney, a Senior State Department official, was asked in testimony before the Senate Foreign Relations Committee if he believed that the latest round of U.N. sanctions directed against Rhodesia would have more success than past efforts. Mr. McElhiney replied that he did not think there was likely to be any added effect "in the sense of forcing the present Rhodesian regime to come to terms with the British, which is the object of the sanctions."

Subsequent events have confirmed these judgments, and there can be no reasonable doubt that, four years after its declaration of independence, the Rhodesian government satisfies internationally accepted criteria for the recognition of governments holding office in these circumstances.

Testifying before the Senate Foreign Relations Committee on June 17, 1969 Mr. Adrian Fisher, Dean of Georgetown University Law Center, expressed the relevant rule of law as follows:

"So that is the situation you normally deal with when you have a recognition of a new government, and that (Mr. Chairman) only requires a determination that the regime is in control of the territory and population, or a substantial portion of it, and it has a reasonable likelihood of retaining control either of the part already in control or of the entire state."

It is of interest also to note that on September 25, 1969 the United States Senate resolved by a vote of 77 to 3 "that it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not of itself imply that the United States approves of the form, ideology or policy of that foreign government."

In commending this resolution to the Senate on May 27, 1969 Senator Cranston spoke as follows:

"And in the end the policy of nonrecognition is doomed to failure. It did not deter Japan. It did not isolate the Soviet Union. It has not isolated Red China. All too often it has tended to isolate us as much as, or more than, it has isolated various regimes we have not approved. It has never really succeeded in bringing hostile regimes either down or to terms. Often nonrecognition actually strengthens a regime it is supposed to weaken, causing the people to rally to the support of their government against the apparent threat posed by hostile foreign powers."

"The Smith regime represents an attempt by a minority to maintain its control over the great majority of the population. The question is not the right of Southern Rhodesia to independence and self-government, but whether a small minority should be allowed to prevent the achievement of these objectives for all the Rhodesian people. Current British proposals to end the impasse provide for British recognition of Southern Rhodesia independence under the present leadership, provided there are effective guarantees of unimpeded progress toward eventual majority rule. The regime has so far rejected these terms."

This is largely repetitive.

It is true that no agreement has been reached between the British and Rhodesian governments. The Rhodesian government considers that the British government has declined its reasonable proposals for a solution of the conflict between them. It has now decided, following a referendum, to proceed with the implementation of new constitutional proposals which will lead not to majority rule but to parity between the races in the legislature.

"Repressive legislation adopted by the Smith regime to bolster its position, such as that authorizing the arrest and detention of political opponents without benefit of bail or trial, creates its own climate for violence. African nationalist groups, denied peaceful

political expression within the colony, are increasingly inclined to resort to more violent methods, including the infiltration into Southern Rhodesia of guerrilla bands."

The methods used by states to protect themselves against subversion do not constitute grounds for taking punitive action against them. Many countries enjoying United States recognition resort to the practices mentioned. In some of these countries the government uses its powers to punish political nonconformity. This is not the position in Rhodesia. Persons are only detained or restricted if the government is satisfied beyond any reasonable doubt that they are prepared to resort to violence in order to achieve political objectives. Provision is made for regular review of these cases, and there has been a progressive reduction in the number of persons held in detention or restriction over the past four years.

There is an active parliamentary opposition, and there is no impediment to the formation of political parties with lawful objectives.

There have been terrorist incursions over Rhodesia's border in recent years with substantial communist backing. The terrorists have received no support from the local population, which has rather cooperated with government security forces in combating the intruders. This may account for a sharp decline in guerrilla activity. There have been no significant incursions for the past twelve months.

"We see no present direct communist threat to Southern Rhodesia, but we believe that the rebel regime, by seeking to perpetuate minority rule, creates conditions under which extremism, including communist influence among anti-regime groups, is almost certain to increase."

Whilst the compilers of the statement may not see any present direct communist threat to Rhodesia, other observers can. In 1968 military journalist Colonel Daniel T. Brigham was invited by the American-African Affairs Association to conduct an investigation into the nature, extent and origins of terrorist activity in southern Africa. Colonel Brigham carried out an intensive six-week survey of the terrorist fronts in Mozambique, Malawi, Rhodesia, Botswana and the Caprivi Strip of South-West Africa. He interviewed scores of officials, prisoners and others in possession of relevant information. His report, published by the Association in February 1969 under the title "Blueprint for Conflict," says:

"Backstage in this development of a blueprint for conflict are the Soviet and Chinese Communists. However their political and ideological quarrels may affect their actions elsewhere in the world, they are pooling technical, military and economic resources to set the stage for one of the bloodiest wars in history—one which they hope and believe will open the road to Cape Town, from which they can dominate the western gateway to the Indian Ocean. Their latest target date for that war is late 1970. Strategically, Red control of Cape Town would end the threat of Free World naval interference with communist long-range planning for conquest of the Far East, the Persian Gulf, and the African east coast. The critical importance of Cape Town has been amply demonstrated during the prolonged closure of the Suez Canal in the wake of the Israeli-Egyptian Six-Day War.

"Military analysts are, of course, aware of the strategic importance of southern Africa. Diplomats in the field have cabled warning reports on the African situation to their home governments, urging a cautious and realistic reappraisal of policy decisions. Free World intelligence is in possession of ample information concerning communist machinations in Africa, including the existence of a joint Red high-command headquarters in Dar-es-Salaam, capital of Tanzania. Judging from actions, however, there are few indications that warning signals have been getting through to top policymaking levels; or, if they have, no one up there seems to be listening. Quite the contrary. Both London and Washington have continued policies of outright hostility to the white-ruled countries of southern Africa, and through careless and injudicious public pronouncements in the United Nations have seemed to endorse the promotion of terrorist war by the Liberation Committee of the O.A.U."

The London Sunday Telegraph's Close-up Team of investigators, after completing a similar intensive survey, reported (April 1969) that "many of the so-called liberation movements are now largely controlled by the communist powers, and in many cases riddled with Communist party members. Guerrillas are armed with the Russian designed Kalashnik or AK 47 automatic rifles; they are steeped in the revolutionary war theories of Peking or Moscow." The report goes on to refer in detail to the guerrillas' communist affiliations.

U.S. military historian Brigadier General S.L.A. Marshall has pointed out (June 1969) that the small arms of the terrorists "are identical with what our troops are up against in Southeast Asia. Most are of Chinese Communist manufacture. Some are of Soviet make."

Mr. Dean Acheson has criticised (April 1969) "hostile harassment with our help of three friendly countries in southern Africa." "These countries," says Mr. Acheson, "were our allies in two world wars. Today with the Russian Navy in the eastern Mediterranean and the Indian Ocean they are more important to us and, as President Banda keeps telling his sub-Saharan black neighbors, more important to them than all the rest of Africa put together."

It is not unnatural that there should be communist influence in extremist groups seeking to overthrow western aligned governments. It may perhaps be questioned whether that is a good reason for the United States to offer the governments concerned a hostile confrontation.

"We feel a continuation of the present situation is likely to exacerbate racial tensions throughout southern Africa. The attempt by a racial minority to institutionalise and perpetuate its domination over the majority of Rhodesians threatens to lead to chaos and civil strife. Such violence might spread across international boundaries and involve other parties, including extremist elements on both sides. This would be a serious blow to African development and to world peace and security."

Unsubstantiated forecasts of future turmoil within the boundaries of a foreign country cannot by any stretched interpretation of international law or practice be held to justify coercive action against that country to compel a change in its political structure or government.

As to the validity of the forecast itself, it is possibly relevant to note once again the manifest evidence of racial harmony in Rhodesia, where not more than 35 lives have been lost in civil riot since the beginning of the century. (43 lives were lost in a few days of rioting in Detroit in July 1967). By any pragmatic test racial tensions in Rhodesia are minimal.

Mr. Ray Vicker, reporting from Rhodesia in The Wall Street Journal (September 22, 1969) shrewdly observed that "African nationalism never was a widespread yearning for liberty from black Africa's 230 million people. Rather it was the creation of Africa's thin stratum of Western educated intellectuals, a group never more than a tiny fraction of the total population."

It may be worth recalling in conclusion that several of America's leaders have acknowledged the diversity of political institutions across the world and have evinced a spirit of tolerance towards them. President Kennedy considered that "it is a mistake for the United States to fix its image of Africa in any single mold." President Eisenhower believed that "there is no single, best way of life that answers the needs of everyone, everywhere." President Johnson declared that "in Africa and Asia . . . we seek not fidelity to an iron faith but diversity of belief as varied as man himself."

In his Inaugural Address President Nixon spoke as follows:

"Let all nations know that during this Administration our lines of communication will be open. We seek an open world—open to ideas, open to the exchange of goods and people, a world in which no people, great or small, will live in angry isolation. We cannot expect to make everyone our friend, but we can try to make no one our enemy."

Mr. EASTLAND. Mr. President, up to this point in my discussion relating to the situation in Southern Rhodesia, I have dealt mainly with questions of an academic nature. However, simple reality points out the uselessness of the United Nations as an organ of world democracy, as well as an administrator of justice. On August 20, 1968, Mr. President, the imperalistic forces of the Warsaw Pact, led by the Soviet Union, invaded and crushed the struggling liberal regime of Alexander Dubcek in Czechoslovakia. Never has the Fascist nature of the Soviet Union been revealed so clearly than in this move of desperation to preserve its own power without respect for the rights of others. This is the same Soviet Union, Mr. President, which accuses the United States and other Western democracies of imperialism, colonialism, and neocolonialism. This is the same Soviet Union, also, Mr. President, that has vigorously worked to bring down the Government of Rhodesia for the simple reason that Rhodesia represents, along with South Africa, the best hope on the dark continent for the preservation of Western ideals. I share the concern of my distinguished colleague, Senator GOLDWATER, who has been reliably quoted as saying:

> I was dumbfounded when my country went along with the U.N. position of boycotting Rhodesia. I disagreed when it happened . . . The boycott cannot be rationally or morally sanctioned so far as I can see. If moral, we would have to apply similar sanctions to such nations as the Soviet Union which practices barbarism far beyond even the wildest accusations against Rhodesia.

This brings me, Mr. President, to an issue which I feel is of vital concern to the United States, both economically and militarily. While we continue to trade with the Russians, knowing full well that Russia is supplying arms and materiel to North Vietnam, we have established sanctions against the little country of Rhodesia which has even offered troops to aid in our struggle against Communist aggression in Southeast Asia.

In addition, Mr. President, the recent easing of trade curbs with Red China has thrown new light on the inconsistencies of the U.S. policy toward Rhodesia. I ask unanimous consent that there be printed at this point in the RECORD,

an article written by Willard Edwards in the January 13, 1970, Chicago Tribune.

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

DOUBLE STANDARD IN U.S. POLICY

(By Willard Edwards)

WASHINGTON, January 12—When Congress reconvenes next week, some penetrating questions are going to be asked about the Nixon administration's warming up of relations with communist China.

At least one of them is going to be highly embarrassing and virtually unanswerable. It will be couched like this:

"Why are we easing trade curbs and resuming diplomatic talks on a cordial basis with a bloodthirsty and aggressive giant which threatens world order while we continue to boycott Rhodesia, a small land-locked African county, on the absurd claim that it is a threat to international peace?"

Some important new voices may be heard in noting the ludicrous nature of this double standard. Many in Congress have been hitherto reluctant to discuss the issue because they feared the appearance of seeming to advocate white minority rule in Rhodesia.

But a substantial number are reported now to be ready to recognize the hypocritical nature of sanctions designed to force the one-man, one-vote principle on an independent nation. They are ready to join former Secretary of State Dean Acheson in branding our position a bog into which we have been led by British folly.

It can be reported that many high government officials will hear congressional calls for a reappraisal of this policy with private approval. Only the state department continues to insist that Rhodesia must be strangled because it will not immeditaely thrust unconditional voting rights on 5 million tribal Africans.

Congress has been warned that the embargo is hurting the United States far more than Rhodesia, which seems, as a matter of fact, not to be hurting at all. Its economy is booming.

Meanwhile, supplies of chrome ore from Rhodesia have been cut off from the United States, leaving it totally depenednt on Russia for an ore vital to defense. The defense and commerce departments, plus the office of emergency preparedness, have warned Congress that this condition has placed the nation in peril.

President Johnson placed the country in this predicament with an executive order after the United Nations approved the sanctions, justifying the action with a nonsensical claim that Rhodesia threatened world peace. Constitutional authorities, led by Sen. Sam J. Ervin (D., N.C.), assert that Johnson usurped and exercised a power he did not possess.

Congress will have its first opportunity, when it returns January 19, to express an opinion on President Nixon's attempts to thaw the icy relations between Red China and the United States which have persisted for nearly two decades.

He announced December 19, as Congress was preparing to adjourn, a partial lifting of the embargo on trade imposed at the height of the Korean war. No quid pro quo was demanded or even suggested.

This was followed last week by the report of a "cordial" discussion between Chinese and American representatives which had led to agreement to resume former ambassadorial meetings in Warsaw January 20. They had been broken off by Peking two years ago.

Many in Congress will withhold judgment on these steps which may or may not improve national security. But a substantial group will call attention to the inconsistency of liberalizing trade with a nation which poses a genuine threat to world peace while furtively maintaining an embargo on trade with a small, friendly nation which threatens no other country.

A joint resolution, calling for the end of sanctions against Rhodesia, has been introduced by Rep. Thomas M. Pelly (R., Wash.). It will attract growing support. He rightly calls the present policy "sheer folly."

Mr. EASTLAND. Mr. President, these strange and inconsistent positions are reflected in an article by Ray Vicker in the Wall Street Journal on September 9, 1969, in which he quotes Prime Minister Ian Smith:

"Why is America persecuting us?" he asks. "The United States is one of the most active countries in enforcing sanctions against us. Yet we are holding the line here against Communist encroachment in Africa through Zambia and Tanzania."

Shaking his head again, he says: "We've fought alongside Americans in World War II. Now we've found the same weapons on Communist armed guerrillas here as are killing American boys in Vietnam. We aren't asking for a single dollar or a single American life or a single gun to help us. All we ask is that you leave us alone."

"America is one of the worst in trying to make sanctions hurt us," says Prime Minister Smith. "The U.S. is even forcing American chrome buyers to deal with Communist Russia at prices 50% higher than Rhodesian chrome."

Mr. President, this country's stubborn insistence in observing the United Nation's sanctions against Rhodesia has caused us to lose our principal source of high grade metallurgical chromite ore, which we heretofore imported from Rhodesia. As a result, Mr. President, we have become almost wholly dependent on the Soviet Union for our supply of chromite ore. This fact is clearly pointed out by E. F. Andrews, vice president of Allegheny Ludlum Steel Corp., when in August 1969, he said:

Outside of Rhodesia the Soviet Union has the best ore and we now get 70–80 percent of our needs from the Russians, with the balance almost entirely coming from Iran and Turkey.

Yet, Mr. President, our dependence on the Soviet Union for this militarily and industrially important chromite ore did not come as a surprise to our Government. In a letter to Congressman THOMAS B. CURTIS on July 1, 1968, William B. Macomber, Jr., Assistant Secretary for Congressional Relations, wrote that the Department of State expected imports of Soviet metallurgical grade chromite to "increase significantly." Mr. Macomber's expectation was correct, Mr. President. Soviet exports in 1968 showed an increase of 12.3 percent over 1967 and the current figures indicate that the increase for 1969 over 1968 will be approximately 20.4 percent. The United States, Mr. President, cannot count chromium as one of the resources with which it is blessed. We presently do not mine any high-grade metallurgical ore and, thus, are wholly dependent on imports to supply the necessary quantities of this vital material. In fact, testimony was given on October 31, 1969, by Fred J. Russell of the Office of Emergency Preparedness before the House Subcommittee on Africa to the effect that—

There is no way to see the chromium ore needs of the United States being met without chromium ore from Rhodesia.

Yet, in the name of some undetermined national interest we are willing to prostrate ourselves at the feet of our enemies. This was clearly demonstrated in Mr. Macomber's letter to Congressman CURTIS in which he said:

Your third question asks whether it is in the best interest of the United States to be dependent on the USSR for more than half of its metallurgical grade chromite imports. Generally speaking, we would not want to be overly dependent on any single source for any important commodity. We decided, however, that it was in our own national interest to support the December 16, 1966, Security Council resolution and forgo purchases of Rhodesian chromite.

If I interpret this reply to Congressman CURTIS' letter correctly, the State Department has accepted our dependency on the Soviet Union to supply chromite ore. Perhaps the administration feels that it is more in our overall national interest to support efforts to bring down the government of a small African country struggling to break the bonds of colonialism than it is to prevent our dependency on the Soviet Union for the supply of a strategic material. This position, Mr. President, is obviously both economically and militarily unsound. It is obvious also, Mr. President, that it is in the best interest of the Soviet Union to support the efforts to enforce the economic sanctions against Rhodesia because it is increasing its position as a supplier of chromite while increasing its balance-of-payments position which is necessary to build a strong and viable economy.

The Russians have taken advantage of the sanctions and the United States willingness to abide by them and have raised the price of Soviet ore to a minimum of $48 a ton. The deliveries coming from the Soviet Union are slow and subject to cutoff at the discretion of the Soviets. In fact, Mr. President, the profiteering by the Soviets is better labeled "extortion." Testimony given before the Subcommittee on Africa of the House Foreign Affairs Committee on October 31, 1969, by J. Clayton Stephenson, president of the mining and metals division of Union Carbide Corp., reveals how the Soviets are taking advantage of our position. Mr. Stephenson noted:

Due to the Rhodesian sanctions, Union Carbide, like other free world ferroalloy producers, has become heavily dependent on Russian ore. Not only have the Russians substantially increased exports to the United States, but also they have taken advantage of their position to tie the purchase of undesirable ore to high grade ore. For instance, in 1969, Union Carbide had to take one ton of run-of-mine Russian ore in order to obtain one ton of high-grade lump Russian ore.

Yet, we continue to refuse to deal with the Rhodesians even though we are very nearly the only major industrial country which takes the sanctions seriously. Our European allies are said to be buying from the Rhodesians at a price of $25 per ton and thus undersell American producers in the ferroalloy industry by nearly 20 percent.

Even the Soviets, Mr. President, are allegedly buying Rhodesian chrome and selling it to us at a profit of almost 100 percent. The economic absurdity of

blindly continuing our adherence to these sanctions in light of the overwhelming evidence that we are compromising the national security and literally wasting money has been protested by two of the most distinguished members of this body.

Senator GORDON ALLOTT, chairman of the Republican policy committee, said in May, 1969:

I suppose it doesn't occur to many people how much chrome we use in the United States, but look around you and you will see. There are two principal producers of high-grade chrome in the world: one is the Soviet Union and the other is Rhodesia. In recent years we have purchased chrome exclusively from the Soviet Union at a greatly inflated price.

Recently, news accounts have indicated that the Soviets have been purchasing chromium mined in Rhodesia through Mozambique and have apparently been re-selling it to the United States at a high profit. In effect, therefore, we are subsidizing the Soviet economy just to get around the purchase of chrome direct from Rhodesia. The chromium mines in Rhodesia, by the way, are owned by American firms. So, obviously, the policy we have adopted and have been pursuing over the last few years, does not make sense.

The distinguished ranking Republican member of the Senate Foreign Relations Committee (Mr. AIKEN) said on September 25, 1969, during the debate on Senate Resolution 205:

I think it is ironic for the United States to discontinue its purchases of precious minerals—titanium, platinum and chromium—from Rhodesia, thus forcing Rhodesia to put those minerals on the world market, where they can be purchased by Russia and sold to us at a substantial profit. It does not make sense. In private business, that would not be considered good business at all.

It is also worth noting, Mr. President, that the United States, in refusing to buy Rhodesian chromite ore, is helping to destroy the investments which American firms have poured into the Rhodesian chromite mining industry.

At the time the sanctions took effect, American firms were prohibited from taking delivery on 200,000 tons of ore already mined and paid for. These firms continue to be forbidden to import the products of the mines which they operated before the sanctions. Obviously, since the sanctions their mines have become useless to them and the American economy because of the unavailability of obtaining the products of these investments. In addition, this nonoperation of their mines has created other problems for the two major American firms in Rhodesia—Foote Mineral Co. and Union Carbide Co. In the words of James J. Kilpatrick in the Evening Star on May 6, 1969:

This lunacy has other aspects. The peculiar geological nature of Foote's serpentine mine demands continued operation. The hard-pressed government of Ian Smith has been providing some maintenance, but it is sheer folly—dangerous folly—to risk the loss of this important source of chromium.

For roughly $1,000,000 a year, a sum too small to matter to anyone, the Foote mine could be saved. All that is required is a common sense decision on the part of our Government to let Foote spend it in Rhodesia. A second common sense decision would permit the companies to import the ore they already have stockpiled.

Yet, Mr. President, even in light of the traditional policy of the U.S. Government to provide tax relief for American interests which suffer losses as a result of international crises, the Treasury Department has so far refused to grant applications for relief by firms which were doing business in Rhodesia before the sanctions. It almost seems, Mr. President, that these firms are being punished for doing business in Rhodesia and with the Rhodesian Government before it was illegal to do so. Such action by our Government smacks of a bill of attainder—a clear violation of the Constitution.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article from the September 8, 1969, edition of the American Metal Market magazine which outlines the problem facing ferrochrome producers in this country as a result of the sanctions against Rhodesia, an article entitled "Soviet Export Strategy" which appeared in the November–December 1969 issue of Ordnance magazine, and an editorial entitled "Sanction for Deceit" which appeared in Barron's magazine on November 10, 1969.

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

CHROMIUM EMBARGO HURTING UNITED STATES MORE THAN RHODESIA?

(By Lillian Tarpey)

Because of the Rhodesian embargo, ferrochrome producers have been caught in a web of political strategy which has backfired on the British Government at the expense of this country. The result is that U.S. ferroalloy producers are buying chrome ore from Soviet Russia at $48 a ton while France and West Germany are buying theirs at just about half the price from Rhodesia.

The current chromium ore squeeze had its origins in November, 1965. Britain had pressured Rhodesia to live up to its 1961 constitution and gradually give equal representation to blacks (who make up 95 percent of its population). The white-supremist Rhodesia government would have none of it and unilaterally declared independence.

In dealing with the rebels, the British government was caught between two fires: nonwhite Commonwealth nations demanding that Rhodesia be crushed with British troops and the British electorate which would not support a war against their white Rhodesian cousins. A middle course was decided upon: Britain would topple the Rhodesian government through economic sanctions (no British trade, an oil embargo, etc.). That was nearly four years ago and the sanctions have almost toppled the British position. Meanwhile, the Rhodesians have gotten on tolerably well (belt-tightening and rationing but no sign of collapse).

The United States has supported Britain's sanctions. At first, U.S. firms were asked not to deal with Rhodesia. A month after the official U.N. sanctions in December, 1966, U.S. firms were forbidden to deal with Rhodesia. While somewhat bolstering the U.S. image with non-white Africa, the action has had a damaging affect on the ferroalloy industry.

Unfortunately, Chromium is vital to the United States (i.e. used in alloy and stainless steel) and is not one of the resources America can count among its blessings. All Chromium ore must be imported.

Prior to Independence, Rhodesia supplied the United States with roughly 22 percent of its total Chromium ore imports (including half of the ore bought by the metallurgical industry). Rhodesian ore is of high quality (48 percent and sold for $31–35 per long ton before the embargo. Britain and the United States are very nearly alone among the major industrial nations in taking the embargo seriously. France and West Germany still deal with Rhodesia. Rhodesia still manages to export Chromium ore at about 70 percent of the pre-independence level but takes a beating on the price down to $25 a ton.

The lower ore price in Europe plus higher ore prices in the United States plus cheaper European labor have added up to put domestic ferroalloy producers in an extremely unfavorable competitive postion. The Europeans can under-sell American producers by nearly 20 percent and now account for 35–40 percent of the domestic ferroalloy market. The industry is prodding the Office of Emergency Preparedness (and failing that, Congress) to institute import quotas on the basis that a healthy ferroalloy industry is vital to national security.

The affects of the embargo on Rhodesia were not immediately felt because of a government stockpile surplus. Now, however, all surplus chromium ore has been sold for delivery through 1970. U.S. stockpile objectives will likely be raised and the government will become a purchaser rather than a supplier of ore. Such a move will further tighten the market for domestic firms and there could be a deficit between ore supply and alloy consumption amounting to about one-third of industry's demand this year.

When the Rhodesian embargo took effect, American firms were prevented from taking delivery of 200,000 tons of chromium ore already mined and paid for. Also, a number of American Firms, Union Carbide among them, operate mines in Rhodesia. If the mines are not properly maintained, a reserve of 100 years of high quality chromium ore could be permanently lost. Traditionally, the U.S. government has provided tax relief for American interests suffering losses during foreign upheavels (as in Cuba and Peru) but, so far, no applications submitted to the Treasury Department have been accepted. Likewise, the government has not approved any licenses for the importation of the paid-for Rhodesian ore.

The embargo has forced American ferroalloy firms to import more Russian chromite. The Russian ore is high grade (54–56 percent) and chiefly used in metallurgy. Taking advantage of the Rhodesian embargo, the Soviets have raised their chromite price to $48 a ton. Deliveries are slow and the supply may be cut off at any time due to diplomatic developments.

To some observers, our national policy with regard to Rhodesia seems increasingly contradictory in the light of Zambia's announced intention to take over 51 percent of the copper interests of Roan Selection Trust and Anglo-American Corp. L. G. Bliss, president of the Foote Mineral Company, one of the two American firms which own chromium mines in Rhodesia, points out that the Rhodesian government has made no move to expropriate American-owned property despite our continued boycott.

"The Rhodesian government has never questioned our ownership and has been consistently willing to release ore belonging to American-owned companies without any additional payments," Mr. Bliss said. "Rhodesia is willing to permit the rightful owners to have access to their property, whereas Zambia, a nation which we have attempted to befriend, is expropriating American-owned assets. In effect, we are penalizing those who honor their commitments and accept the responsibilities of a free enterprise system, in favor of those to whom private ownership is meaningless. Our experience in Cuba should provide some insight into where the game of expropriation can end."

As one ferroalloy producer, who wishes to remain anonymous, put it: "The rationale becomes hard to follow; we boycott Rhodesia because we don't approve of its white su-

premist government. If we boycott governments we don't approve of, we must approve of governments we do trade with. Therefore, we must approve of South Africa and the Soviet Union."

He added, "this business of approving of governments could be dangerous, particularly if other governments decide to take the same tack. For example, if South Africa and the Soviet Union should simultaneously decide that they don't approve of us, we might suddenly find ourselves cut off from 75–85 percent of our chromium ore supplies."

CHROMIUM PROFILE

Chromium is a hard, brittle, tough, silvery metal that melts at 3,434 F. It was discovered in Siberia and first isolated by the French chemist Vauguelin about 1797. It provides the brilliance and corrosion resistance for stainless steel and plated metals. And most of its compounds have various bright colors. One day these may be the key to stainless steel in colors. Atomic weight of Cr is 52 as compared with 55.8 for iron:

Supply: Annual world production of chromium ore or chromite concentrates has been in the area of 4.5 to 5.4 million short tons in recent years.

U.N. sanctions against Rhodesia have resulted in no shipments to the U.S. Two ferro chromemakers seek ore which they own in Rhodesia.

The U.S. must depend practically entirely on imports. There has been no U.S. production in recent years although U.S. has low grade reserves of about 8 million tons. The principal producing areas and estimates in thousands of short tons are:

	1965	1966	1967	Reserves	Percent Cr
South Africa, Republic of	1,038	1,169	1,267	2,000,000	+44
Philippines	611	617	463	6,000	+30
South Rhodesia	625	550	(1)	600,000	35–50
Turkey	625	583	678	10,000	40–48
Other estimate	900	931	1,000	22,000	20–50
Russia	1,565	1,600	1,731	+15,000	35–55
Total, estimate	5,370	5,450	5,110	2,662,000	

[1] Not available.

The U.S. currently accounts for roughly one-third of the world's consumption of chromite. World production has been in a rising trend since 1945 and may have increased more than 5-fold in that period, but U.S. imports only about doubled.

Africa, Asia and possibly Russia have substantial reserves. Albania and Yugoslavia probably have moderate reserves.

U.S. imports of ore during 1961–66 ranged from about 1,330,000 short tons to 1,864,000 tons. They slipped in 1967 to about 1,240,000 tons. The leading ore suppliers to the U.S. are Russia, So. Africa, Rhodesia, Turkey, Iran and the Philippines. Two U.S. ferroalloy producers have mines in Rhodesia. Ferrochrome production is expected to be stepped up in So. Africa.

Consumption: U.S. consumption has been increasing steadily. In 1961 the figure was 1.2 million tons and in 1965, nearly 1.6 million tons. By 1967 it slipped to 1,200,000 tons. Stocks have ranged between about 1 and 1.7 million tons.

In 1967, the metal industry used about 827,000 tons of ore (49% average content), refractories took about 439,000 tons (34% gr.) and the chemical industry used 194,000 tons (45% gr.). Consumption in 1968 showed a modest decline.

Imports of ferrochromium have at times hurt the American alloy producers. Imports in 1967 were around 68,000 tons. In 1966 imports of Fe-Cr were nearly 98,000 (66,500 tons cont. Cr) in 1965. Generally imported items are not as well sized as domestic grades and may require more handling. There is an import duty on Fe-Cr but not on chrome ores.

Prices: Prices of ferroalloys have experienced changes in the past several years. Former price weakness was due partly to cut-price imports and relatively low demand from the steel industry. The chromium grades felt these influences, but there was firming in the past few years. Ore prices were increased this year.

Prices are influenced by labor costs and chromite ore values which have strengthened in the past few years. They were at very low levels in 1963. High quality chrome ore from Russia at low cost disturbed some of the traditional ore supplies, but it probably benefitted the American stainless steel industry.

Approximate long ton prices on chromite ore are shown here:

Source	Percent	1964	1965–66	1967–68	1969
Southern Rhodesia	48	$30–33	$31–35		
South Africa, Republic (Transvaal)	+44	18–19	19–22	$20–23	Norm. 27.
Turkey	48	30–32	31–34	33–35	Norm. 39.

Ore prices can vary considerably depending on sources, impurities, delivery time, transport costs, contract period, etc.

In 1966, Russia supplied about 5,866,000 tons of high grade ore (54–56%) to the U.S. probably at around $31.75 per ton. Last year the amount brought in was considerably lower, U.S.S.R. ore is now about $41 to $48.

Uses: In 1968 the metallurgical industry (seven ferroalloy makers) consumed about 61% of the ore supply. Eleven refractories companies took 25% and four others producing chemicals accounted for about 14%.

Chromium is used in stainless steels, other alloy steels, in some cast irons, in many kind of superalloys and other alloys. Chromite is used in refractory bricks for furnaces and in making many kinds of chemicals and pigments. Chromic acid is vital for plating and chromate films for anodizing aluminum.

In 1967 the consumption of chromium ferroalloys and metals was in short tons—

	LoC FeCr	HiC FeCr	FeCrSi	Total
Stainless steels	109,657	72,438	63,028	247,330
High-speed steels	766	1,617	51	2,447
Other tool steels	1,052	1,591	620	3,276
Other alloy steels	14,098	40,155	5,926	72,987
Gray and malleable castings	628	3,883	21	5,474
High-temperature alloys	8,669	1,012	509	13,344
Nickel-base alloys	509	30		615
Miscellaneous	6,213	11,030	1,230	22,196
Total	141,592	131,756	71,385	367,669

U.S. Stockpile: At the end of last year continued 1,426,671 tons refractory grade ore; 1,043,814 tons chemical grade and 4,151,690 tons metallurgical ore.

Because the metallurgical grade stock is theoretically rated 165% of the required objective stockpile further sales are indicated. The stockpile also contains about 787,000 tons of Fe-Cr alloys.

Growth: Industry projections indicate that stainless steel shipments will increase by 1970 to about 1,258,000 tons. Some forecasts are even more optimistic. One places stainless output at 2.3 million tons in 1980. Of course this means a substantial rise in needs for chromium since many stainless grades contain 16 to 20% Cr.

Chromite requirements for chemicals and refractories will also increase. Thus, it is possible that the U.S. may consume over 2 million tons of chromite before 1980. The metallurigcal needs might top 1.5 million tons.

Outlook: Future use may involve more dependence on fines and concentrates of lower grade ores. Some reserves—especially good refractory grades—may be seriously depleted within a decade.

Rhodesia, South Africa and U.S.S.R. have been major suppliers, but technical, economic and political problems could be disturbing. They might relate to government policy, transport, price fluctuations and switching from traditional sources to new supplies. There may be less dependency on ore with 48% dichromium trioxide. It is questionable whether low grade minerals in North America will be used in the near future because of economic factors. Maybe the Philippines will supply more?

Ferrochromium producers include Union Carbide, Airco Alloys, Foote Mineral Co., Ohio Ferro-Alloys, Shieldalloy Corp., Chromium M&S and Interlake Steel.

SOVIET EXPORT STRATEGY

(By A. C. Sutton)

Major Gen. A. N. Lagovskiy of the Red Army, a doctor of military science and a leading Soviet specialist in economic warfare, is also author of "Strategiya i Ekonomika"—a text of economic warfare recommended for study in the Soviet armed forces. Given Lagovskiy's considerable status and wide influence, it is conceivable that the strategies outlined in "Strategiya i Ekonomika" consitute, at least in part, the basis for the operational directives of Soviet foreign economic policies.

The purpose of this article is to relate one Lagovskiy principle—the "weak-link principle"—to the pattern of recent U.S. trade with the Soviet Union and thus to test a stated Soviet strategic principle against empirical observations.

In a section discussing foreign trade as a weak link in the economy during a war, Lagovskiy notes the great dependence of modern warfare on certain raw materials—such as chrome and platinum—and, simultaneously, notes the lack of major deposits of such raw materials in the United States and other capitalist countries.

As a consequence, he suggests, "the strategic material situation continues to be an urgent problem in war production for the U.S.A."

A clear distinction is drawn by Lagovskiy between such "weak-link" strategic minerals and machinery with a technological component. Application of Lagovskiy's principle would require the Soviet Union to avoid import of weak-link mineral commodities—while simultaneously encouraging a potential adversary, such as the United States, to accept such exports from the Soviet Union.

On the other hand, the Soviet Union would deny exports of its own technology embodied in machinery and equipment, while

maximizing imports of a potential adversary's technology.

As for the technological side of U.S.-Soviet trade, there is no question that export of worth-while Soviet technology to the West (or even to fellow socialist countries) is virtually nil, while Western and East European export of technology to the Soviet Union is not only both historically and currently of immense proportions but also of critical importance to Soviet economic and military development. Therefore, it is only the "weak-link"—import aspect which is now of interest.

Except for synthetic rubber, the Soviets do not import such mineral commodities from the United States; i.e., they have avoided any strategic dependence on their own part. In distinct contrast, the U.S. is a remarkably heavy importer of "weak-link" commodities from the U.S.S.R.

Let us first review the argument in detail.

Lagovskiy takes an American jet plane as his principal example and lists the amount of critical materials required in construction of a single aircraft (see Table I).

TABLE I.—CRITICAL MATERIALS IN A U.S. MILITARY JET AIRPLANE (FROM LAGOVSKIY)

Material	Weight (pounds)	Percentages of material imported
Chrome	3,659	92.0
Nickel	2,117	97.0
Alumina (bauxite)	46,831	76.0
Cobalt	436	88.0

It is therefore clear, says Lagovskiy, that a jet aircraft cannot be produced in the United States by utilizing only domestic raw materials, "since domestic production of the most important types of raw materials for it amounts to only 3 to 24 per cent of requirements." This example of dependence on imported materials for military aircraft is followed by a listing of United States imports of these materials (see Table II).

TABLE II.—*Percentages of critical materials imported by the United States for military aircraft (after Lagovskiy)*

Material:	*Percentage imported by U.S.*
Natural rubber	100
Tin	100
Industrial diamonds	100
Chrome ore	99
Platinum	99
Manganese	95
Cobalt	80
Tungsten	72
Bauxite	70
Mercury	66

Many, but not all, of these raw materials *do* have imperfect substitutes: synthetic rubber, is more important to industry in the United States and butyl synthetics are equal in physical properties to natural rubber. It is rather the Soviet Union that is dependent on natural rubber as its own development of synthetics (it has no natural rubber) is backward.

On the other hand, although substitution is possible for materials like chrome, manganese, and tungsten, such substitution is not complete and would be difficult to undertake on short notice. It is in U.S. imports of these minerals that Lagovskiy's argument has some force.

It is interesting that Lagovskiy avoids any further discussion of rubber but devotes a full page of discussion to U.S. dependence on imported chrome and emphasizes that "the U.S.A. has almost no chrome in its own country."

Chrome is required for production of alloys for jet engines, gas turbines, guns, and armorpiercing projectiles; it is used in both aircraft and motor vehicle manufacture. The United States accounts for about two-thirds of the entire Western-world consumption. Lagovskiy points up as a "weak link" the "enormous geographic disparity" between world production and consumption regions:

"The imperialist countries, considering the enormous significance of chrome in war production and the lack of deposits of it in places where it is consumed, do not spare funds for the development of chrome reserves. However, this does not free them from the necessity of importing chrome ore in wartime as well."

Clearly, then, Lagovskiy lays great faith in his "weak-link" theory, and he might be expected to recommend its use in Soviet economic relations with the United States.

Although we have no direct way of knowing whether the Soviets have indeed made use of the principle, we can examine the structure of U.S. imports from the Soviet Union to determine if the structure conforms, or does not conform, to Lagovskiy's theory.

If it does not, then either the Soviets have made no attempt to utilize the principle, or—conversely—they have attempted to do so, but the United States, aware of its potential weaknesses, has avoided dependence by diverting its purchases elsewhere. This is possible, as there are free-world as well as Soviet sources.

Table III contains U.S. imports of Lagovskiy's "weak links." While Lagovskiy lists "platinum," the table includes "platinum group" metals. Nickel and titanium are not in Lagovskiy's listing, but fulfill the Lagovskiy criteria.

This table contains data for the first half of 1968 (latest available in the Quarterly Reports on Export Control). U.S. imports of weak-link commodities constituted no less than $20 million out of a total import from the Soviet Union of $35 million of all goods. *A remarkably high percentage—84 per cent—of our total imports from the U.S.S.R. fall within the very narrow range of commodities covered by the Lagovskiy weak-link principle.*

TABLE III.—*U.S. imports of Lagovskiy's "weak-link" commodities, January–June 1968*

Weak-link commodity:	*Amount of U.S. imports from U.S.S.R.*
Chrome ore	$3,433,000
Diamonds, cut but unset	5,681,000
Platinum	518,000
Palladium	15,540,000
Rhodium	2,348,000
Nickel	1,092,000
Titanium	899,000
Lagovskiy's "weak links"	29,511,000
Total U.S. imports from U.S.S.R.	35,359,000

SOURCE: U.S. Department of Commerce, *Export Control*, 85th Quarterly Report, p. 19.

If the comparison is extended to cover the previous full year (1967), 65 per cent of our imports from the U.S.S.R. fall into the category.

In brief, our import structure is almost unbelievably consistent with a principle of economic warfare that is advanced by a general of the Red Army.

The next relevant question concerns the proportion these imports from the U.S.S.R. constitute of U.S. *total* imports from *all* sources for specific commodities. In 1966 about one-third of U.S. chrome ore imports came from the Soviet Union.

In the same year, about one-half of palladium imports and just less than one-third of the rhodium imports came from the U.S.S.R.; in the case of other platinum-group metals, the Soviet proportion was somewhat less. However, it cannot be argued that the relative dependence is in any way a minor matter.

In general, it may seem improbable that the dependence is critical. Alternate sources of supply are available, stockpiles presumably are adequate, substitution is possible—and in time of war there would be diversion from considerable civilian end uses to military end uses.

But the Soviets, in case of war, also could divert these Russian deposits (developed with the aid of Western equipment and peacetime purchases) to their own military use. Such diversion would be relatively more important to them, as civilian uses in the U.S.S.R. are much smaller and they do not have the same range of substitution options. Further, free-world sources are in areas earmarked for "liberation" by the Soviets—Rhodesia, for example.

It cannot be argued that this coincidence between a Soviet strategic principle and its implementation is accidental. The Soviets have a foreign trade monopoly and can bring about, by manipulation of price and quantities marketed, a militarily desirable pattern of trade.

Any trade pattern therefore must reflect a conscious objective on the part of the Soviet Union. It has not resulted from the free play of market forces in international commerce.

The evidence suggests that the Soviets adopted the weak-link theory and have endeavored to put it into practice. Private American firms then responded (as they have every right to do) to the lower Soviet prices and more favorable offers. This pattern was encouraged by the Johnson Administration when Rhodesia was cut off as a source of supply for chrome.

The United States therefore is becoming increasingly dependent on Soviet raw materials of a critical nature. The only valid conclusion is that this was a conscious effort on the part of the Soviet Union as part of a wider scheme. If not, the patern of U.S. imports from the U.S.S.R. would be distributed far more widely.

This also explains why the Soviet Union continued to ship chrome and manganese to the U.S. after the 1948 embargo and during the current Vietnamese war—*i.e.*, as a long-range effort to increase U.S. dependence. A few U.S. observers have noted the continuing import of Soviet chrome and concluded it is a sign of Soviet benevolence—a completely mistaken interpretation, inconsistent not only with Soviet strategy but also with our own defense posture.

For example, J. M. Chambers, testifying before the Senate Subcommittee on Banking and Currency (May 1969), argued: "The metallurgical-grade chrome consumed in the United States normally comes from two main sources; Rhodesia furnishes one-third, Russia one-third, and the balance from the rest of the world. With Rhodesia under sanction we cannot rely on them for any chrome and therefore the . . . availability of chrome ore from Russia is essential. . . .

"Since the importance of these materials to our industries is well known to the Russians, I think that some of those who worry about our 'national interest' should take heart that Russia has continued to supply us . . ."

There are indeed two ways of looking at dependence on the Soviet Union for strategic materials. One way—put forward in the early 1960's in the Rock report—is to accept a strategy of interdependence as leading to peace.

Unfortunately, it has never been explained how interdependence between two countries leads to absence of conflict. Indeed, the argument is refuted by Soviet actions and their reasons for these actions in Vietnam.

Examination of the trade history of the past decade suggests certain firm conclu-

sions. As the "bridge-building" policy took hold in the mid-1960's, the Soviets had an opportunity to make a reciprocal response according to the prevailing theory of "graduated reciprocation in tension reduction." How did they respond?

If Soviet actions had been guided by responsive reciprocity, they would have increased neither their trade in weak-link commodities nor their logistic supply of world revolution. They would have made a determined and conscious effort to deemphasize any action capable of misinterpretation, and so have marked their intentions to reciprocate.

Given the monopoly of foreign trade in the Soviet Union, such a policy could have been effected very readily, and it would have shown up long before 1966–1967.

The facts presented complement the evidence provided by Soviet logistic support of the Vietnamese war and the Middle East conflict—that the Soviets not only made no effort at reciprocity, but also seized the opportunity to further an over-all offensive strategy, an *economic* strategy with *military* objectives.

It appears that the United States, under the illusion that it was making an initial invitation for reciprocal disarmament and trading for peace, actually may have traded and reciprocated itself into a potentially dangerous corner.

The coincidence between Soviet strategic objectives and our imports from the Soviet Union is too great and has continued for too long a period of time to be dismissed as accidental. There is little question that Soviet offers have been attractive enough to U.S. firms to induce such a dependence.

In "Strategiya i Economika," Lagovskiy makes explicit reference to this question: "Our strategy is a strategy of bold daring, always realistically considering the material, morale, and political capabilities of its accomplishment. In the Soviet Union, where economics and strategy are developed in an indissoluble dialectical unity under the leadership of the Communist Party, where the planned system of economy dominates, there is no expenditure of resources without plan, and never can be . . ."

It is the psychological effect on Soviet planners that contains a degree of danger. Although given to great realism, Soviet planners cannot help but observe the significant fulfillment of a strategic objective. If this be so, then it must weigh in the scale in consideration of future hostilities with the United States.

From the viewpoint of a Soviet planner it is a distinct signal of United States weakness, and as such is generally considered a sufficient invitation to initiate aggression. It makes little sense, then, to defend ourselves at a cost of $X billions against Soviet missiles, without accompanying this move by the logical action—taken at the almost negligible cost of shifting supply sources—to remove a potential source of Soviet miscalculation.

SANCTION FOR DECEIT: IT'S TIME TO END THE ECONOMIC WAR ON RHODESIA

Elder statesmen, in or outside of government, have one thing in common with middle-aged editors: unlike ordinary mortals, they can speak their mind and generally get away with it. After a long and distinguished diplomatic career, Dean Acheson, adviser to Democratic Presidents and one-time Secretary of State, lately has been making the most of the privilege. In an eyebrow-raising newspaper interview last month, Mr. Acheson took deadly pot shots at such sacred cows of the liberal establishment as John Kenneth Galbraith, J. Robert Oppenheimer, the Bulletin of the Atomic Scientists ("the greatest bit of nonsense since The New Republic") and Dr. Spock. Turning to foreign affairs, the ex-diplomat was savagely quotable: "France is more deeply split than appears, Italy is hardly a country and the Germans have a Government with a parliamentary majority of two . . . the British are a bankrupt people conducting a banking business, and they should get out of it." The world, he concluded waspishly, is "very largely a struggle" between long- and short-term views, between "intelligence and stupidity."

Vintage Acheson, and pretty heady stuff. For our money, however, nothing cited above, or in his new book, "Present at the Creation" (Norton, $12.50 until December 31, $15 thereafter), matches the force of his scathing denunciation 18 months ago of U.S. policy toward newly independent Rhodesia. "It will surprise some of our fellow citizens," so the senior partner of Covington and Burling told the American Bar Association, "though hardly anyone here, to (learn) that the United States is engaged in an international conspiracy, instigated by Britain and blessed by the United Nations, to overthrow the government of a country that has done us no harm and threatens no one." Since then, of course, Lyndon Johnson has left the White House, while Arthur Goldberg, renegade Democrat, is no longer U.S. Ambassador to the U.N. Late last month the Subcommittee on Africa of the House Committee on Foreign Affairs held hearings on the impact, at home and abroad, of Washington's sanctions against Salisbury. For perhaps the first time since they were imposed nearly three years ago, someone in authority is questioning their wisdom.

High time, too. By any standard of power politics, not to mention international law, sanctions have been a disaster. For one thing, they have dismally failed to achieve their purpose: far from bringing Rhodesia to her knees in a matter of "weeks, rather than months," as Prime Minister Harold Wilson once cockily forecast in London, they have served to unify the country and to stiffen its resolve. Today, on the eve of the fourth anniversary of independence, Rhodesia is richer and stronger than ever. What is worse, as executives of Foote Mineral and Union Carbide—as well as an Assistant Secretary of Commerce and the Deputy Director of the Office of Emergency Preparedness—testified the other day, sanctions have cut off the U.S. from its principal supply of strategic chromite, thereby raising the threat of a serious shortage by the end of next year and making industry and the national security dependent on the Soviet Union, which happens to be the only other major source. Finally, to appease the so-called Afro-Asian bloc, whose anti-Americanism is legion and whose racism makes any other look pale, Foggy Bottom, in Dean Acheson's eloquent words, has pursued a course of "barefaced aggression, unprovoked and unjustified by a single legal or moral principle." Even in the Parliament of Man, that's too much to pay for votes.

The Great Society evidently felt otherwise. Pursuant to a resolution of the U.N. Security Council in December 1966 (reaffirmed and strengthened in May 1968), President Johnson by Executive Order promptly imposed sanctions on Rhodesia, violations of which are punishable by fines of $10,000 and prison terms up to 10 years. Thereby Washington actively sought to oppose—"overthrow" in the Acheson view—a government the existence of which, by U.N. lights, constitutes an affront to humanity and a threat to world peace. Rhodesia, you see, rejects the concept of one man, one vote; indeed, in its newly approved constitution, it has taken pains to provide that the huge black majority, while amply represented in the legislature, can never rule. That's not apartheid; white and black mingle freely, in and outside of Parliament. It is white supremacy, enforced by a regime with perhaps more emergency power than it should have (Salisbury not long ago is reported to have jailed a financial editor for allegedly revealing state secrets, a move that strikes uncomfortably close to home). In liberal circles, not to mention those with more sinister motives, it is anathema.

Hence the sanctions, about which the first thing to note is their failure ("utter," according to the Secretary-General of the Organization of African Unity). True, they have had an impact, notably on Rhodesian tobacco farmers and their native help (many of whom, doubtless in their own best interests, have been thrown out of work). By and large, however, the country has never enjoyed greater prosperity. Industrial production last year increased by 5%, while consumption of electricity rose 15%. Compared with $986 million in 1965, the year of independence, gross national product in 1969 will reach an estimated $1.2 billion, up 10% from 1968. In foreign exchange markets the Rhodesian pound (still officially valued at $2.80, by the way) is firm, while local stocks have boomed. Foreign goods, supposedly banned by the U.N. resolution, are plentiful. Here is a recent first-hand account of Salisbury by a foreign correspondent of The Wall Street Journal: "The O.K. Bazaar, like other of the city's department stores, teems with shoppers. Appliance stores display Grundig and Zenith radios, Sony and Akai tape recorders and various other electronic gadgets from major nations of the world. New French-made Citroen and Peugeot automobiles vie with German-made BMW cars. There are so many automobiles on the streets that parking is a problem. A gasoline station attendant scoffs at suggestions of fuel rationing . . ."

From the U.S. standpoint, indeed, sanctions—to judge by last month's Congressional testimony—have backfired. Thus, according to the vice president, purchases, of Corning Glass Works, a growing scarcity of petalite, a unique lithium-bearing mineral available in commercial quantity only in Southern Rhodesia, threatens the continued output of glass-ceramic products and the jobs of over 20% of its 18,000-man domestic work force. Far more serious is the looming shortage of metallurgical-grade chromium ore, which, in ferro alloys, is vital to the production of stainless and high-temperature alloy steel. Since sanctions were imposed, U.S. industry has grown heavily dependent on chromite from the USSR; like the most rapacious capitalist, Moscow charges all that the traffic will bear (prices for a product of dubious quality have doubled). Nonetheless, according to industry and federal officials alike, the U.S. by the end of 1970 will face a shortfall of 200,000 tons, or roughly one third of total demand. Government stockpiles have been depleted to the point where cessation of Soviet shipments—such as occurred nearly a decade after the outbreak of the Korean war—would leave industrial users empty-handed barely in 12 months' time.

By boycotting Rhodesia, in short the U.S. has fostered trade with the Soviet Union, a mortal enemy in Vietnam and elsewhere, and a totalitarian state which denies its people freedom of any kind. There's a triumph of hypocrisy of which the State Department might well be proud. Any alleged threat to world peace, moreover, comes not from Salisbury (it wants only to be let alone), but from hostile neighbors which time and again have mounted terrorist forays across the border (while simultaneously doing a brisk business, in transportation, tourism and tobacco with the "racists"). As for Rhodesia's blacks, their plight periodically moves The New York Times to righteous wrath. Yet somehow—as even African Nationalist leaders concede—they shun their would-be liberators and line up with their alleged oppressors. Perhaps—like some in more progressive lands—they can't tell friend from foe. Perhaps they can.

In any case, as Dean Acheson has persau-

sively argued, it's nobody's business but their own. President Nixon, another good lawyer, seems to agree. Thus, in his Inaugural Address, the Chief Executive observed: "Let all nations know that during this Administration our lines for communication will be open. We seek an open world—open to ideas, open to the exchange of goods and people, a world in which no people, great or small, will live in angry isolation. We cannot expect to make everyone our friend, but we can try to make no one our enemy." Rhodesia is a fine place to begin.

Mr. EASTLAND. Mr. President, the time has come for the Congress to take action in this matter. It is foolish for this country to be party to a scheme which destroys American investments abroad, which destroys a pro-Western ally on a continent theatened by Communist infiltration and subversion, which makes us dependent on the Soviet Union for a strategic military and industrial material and which puts us in the position of supporting the development of a major Soviet industry.

Accordingly, Mr. President, I submit a resolution which expresses the Sense of the Senate that the United States should forthwith abandon its adherence to the United Nations sanctions and accord full recognition to the Government of Southern Rhodesia.

The ACTING PRESIDENT pro tempore. The resoltuion will be received and appropriately referred.

The resolution (S. Res. 367), which reads as follows, was referred to the Committee on Foreign Relations:

S. RES. 367

Whereas the constitutionally elected Government of Rhodesia, with the full support of the Council of Chiefs, declared Rhodesia's independence on November 11, 1965;

Whereas on November 11, 1969 the Government of Rhodesia observed its fourth anniversary of continuous, effective and peaceful control over its legal territory and population;

Whereas Rhodesia has shown continuous economic growth and stability during the past four years while being subjected to unprecedented economic sanctions;

Whereas the Government of Rhodesia has clearly established itself as the *de jure* sovereign over the legal territory and population of Rhodesia;

Whereas Rhodesia is not hostile to the United States nor an enemy of the United States either under international law or under the laws of the United States;

Whereas United States citizens continue to be warmly welcomed in Rhodesia and our Government representatives there are still accorded full consular privileges;

Whereas Rhodesia is one of the very few countries in Africa which pays her own way and receives no United States aid and that trade between our two countries before sanctions had been running two to one in our favor, all on a commercial basis with no subsidies, thereby assisting our balance of payments;

Whereas, according to the Constitution (article I, section 8, paragraph 3), only the Congress has power to regulate commerce with foreign nations and the Executive has no legal authority to block trade except under laws which control trading with the enemy;

Whereas the United States Government, without any authority from the Congress or the American people, has adopted and encouraged a stringent policy of economic sanctions and has broken all diplomatic and consular contacts with Rhodesia;

Whereas these sanctions have caused the United States to lose a major source of high grade metallurgical chromite ore which is militarily and industrially vital to the security of the United States;

Whereas the United States has become almost wholly dependent on the Soviet Union for its supply of this high grade metallurgical chromite ore;

Whereas the United States and firms doing business therein are forced to purchase high grade metallurgical chromite ore from the Soviet Union at prices ranging as high as 100% greater than that at which high grade metallurgical chromite ore produced in Rhodesia can be purchased;

Whereas United States citizens have extensive commercial interests in Rhodesia which have been severely damaged by the arbitrary application of economic sanctions;

Whereas said United States citizens have even been prevented from performance of valid contracts and other legal and moral obligations, to their present and future great loss;

Whereas the economic sanctions have deprived Africans in Rhodesia and from neighboring countries of employment in occupations directly affected by the sanctions: Therefore be it

Resolved by the Senate, That it is the sense of the Senate of the United States that the United States Government immediately cease its inhumane, imprudent and economically and militarily disastrous policy of economic sanctions against Rhodesia; take necessary steps to restore normal trading relations; and accord full recognition and all diplomatic and consular rights attached thereto to the legal Government of Rhodesia.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

ESTABLISHMENT OF THE COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

A communication from the President of the United States relating to Senate bill 2701, an act to establish the Commission on Population Growth and the American Future, and requesting the names of the two Members of the Senate that are recommended be appointed to said Commission; ordered to lie on the table.

REPORT ON CONTINGENCIES, DEFENSE APPROPRIATIONS

A letter from the Deputy Secretary of Defense, reporting, pursuant to law, on disbursements made against the "Contingencies, Defense" appropriation for the current and prior fiscal year's obligations during the period July 1–December 31, 1969; to the Committee on Appropriations.

REPORT ON REAPPORTIONMENT OF APPROPRIATIONS

A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting, pursuant to law, a report stating that the appropriations to various departments and agencies have been apportioned on a basis which indicates a necessity for supplemental estimates of appropriations, in order to permit payment of pay increases granted (with an accompanying report); to the Committee on Appropriations.

PROPOSED AUTHORIZATION TO DISTRICT OF COLUMBIA COMMISSIONERS TO UTILIZE VOLUNTEERS FOR ACTIVE POLICE DUTY

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation to authorize the commissioners of the District of Columbia to utilize volunteers for active police duty (with an accompanying paper); to the Committee on the District of Columbia.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on an examination into the transfer of 52 Federal supply classes from the Department of Defense to the General Services Administration, dated March 9, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

A letter from the Chairman, American Revolution Bicentennial Commission, transmitting, pursuant to law, a financial report of the commission (with an accompanying report); to the Committee on the Judiciary.

PROPOSED AMENDMENT OF THE FEDERAL YOUTH CORRECTION ACT

A letter from the Attorney General of the United States transmitting a draft of proposed legislation to amend the Federal Youth Corrections Act, 18 U.S.C. 5005 et seq., to permit examiners to conduct interviews with youth offenders (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED LEGISLATION ON NONTESTIMONIAL IDENTIFICATION PROCEDURES

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend title 18, United States Code, to authorize courts to issue orders requiring the appearance of certain persons for the purpose of having these persons participate in nontestimonial identification procedures (with an accompanying paper); to the Committee on the Judiciary.

REPORT OF RAILROAD RETIREMENT BOARD

A letter from the chairman, Railroad Retirement Board, transmitting, pursuant to law, the annual report of the board for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT ON THE ADMINISTRATION OF THE WELFARE AND PENSION PLANS DISCLOSURE ACT

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on the administration of the Welfare and Pension Plans Disclosure Act covering the calendar year 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A resolution of the Legislature of Guam; to the Committee on Banking and Currency:

"RESOLUTION NO. 423

"Resolution relative to respectfully requesting the Congress of the United States to increase the ceiling for the Federal Special Assistance Program 2(Guam) so that home construction can continue in Guam and the many desperately needing residential housing can obtain amortgage financing

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the Legislature is advised that under the present ceiling of $22 million in Federal Special Assistance Program 2(Guam) administered by the Government National Mortgage Association, the territory will soon run out of funds, even if all the $22 million authorized is made available since the total funds needed to support the construction and sale of homes and housing units which

are scheduled to start within the immediate future are approximately $8 million while the balance of the fund is only $5 million; and

"Whereas, figures submitted to the Legislature further demonstrate that in fiscal year 1971 an additional $15 million will be required to maintain Guam's residential home construction program, and thus the increase of the ceiling under this Special Assistance Program is a matter of crucial importance, Guam being critically short in safe, sanitary, and decent homes, and at the same time having no credit facilities available for conventional mortgage financing, no local lending institution being willing to finance home construction unless the mortgages can be sold to the Government National Mortgage Association; and

"Whereas, the Congress of the United States in the past has always responded to the problems of Guam's people and has, when necessary, increased the ceiling under the Special Assistance Program to permit the residential construction program on Guam to continue, and therefore the people of Guam are hopeful that once again Congress will act to keep alive the availability of home construction loans on Guam; now therefore be it

"Resolved, that in view of the foregoing, the Tenth Guam Legislature does hereby on behalf of the people of Guam respectfully request and memorialize the Congress of the United States to increase substantially the ceiling under Federal Special Assistance Program 2 (Guam) so that the many families in Guam desperately needing housing and qualifying for FHA loans can obtain the homes they need and can afford; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the Senate, to the Speaker, House of Representatives, to the Chairmen, Committees on Interior and Insular Affairs, United States Senate and House of Representatives, to the Chairman, Committee on Housing, United States Senate and House of Representatives, to the Honorable Daniel K. Inouye, Senator from Hawaii, to the Honorable Hiram Fong, Senator from Hawaii, to the Honorable Spark Matsunaga, Representative from Hawaii, to the Honorable Patsy Mink, Representative from Hawaii, to Guam's Washington Representative, and to the Governor of Guam.

"Duly and regularly adopted on the 10th day of February 1970.

"JOAQUIN C. ARRIOLA,
"Speaker.

"JAMES T. SABLAN,
"Legislative Secretary."

A resolution of the Legislature of Guam; to the Committee on Finance:

"RESOLUTION NO. 350

"Relative to memorializing the Congress of the United States to enact welfare legislation to make uniform the national standards for all welfare assistance and to otherwise reform the national welfare programs

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the question of welfare assistance is of paramount importance to the entire United States of America; and

"Whereas, the disparity of payments among the several states and territories and the lack of national standards of assistance have created crisis situations in states and territorial fiscal management; now therefore be it

"Resolved, that the Tenth Guam Legislature does hereby on behalf of the people of Guam respectfully request and memorialize the Congress of the United States to take action to enact legislation which will include the following: the financing by the Federal government of all welfare payments throughout our nation; the establishment of uniform national standards for all welfare assistance; the continued administration by the individual states, territories, and towns of welfare on the local level with emphasis on training and incentive programs as well as programs designed to reunite families receiving welfare assistance; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker of the United States House of Representatives, to the President, United States Senate, to Guam's Washington Representative, and to the Governor of Guam.

"Duly and regularly adopted on the 4th day of February, 1970.

"JOAQUIN C. ARRIOLA,
"Speaker.

"JAMES T. SABLAN,
"Legislative Secretary."

A resolution of the General Assembly, State of Rhode Island and Providence Plantations; to the Committee on Finance:

"S. 60

"Resolution memorializing Congress to increase deductions allowed for mentally retarded and physically handicapped children

"Whereas, There are many physically handicapped and mentally retarded children who are unable to provide for themselves; and

"Whereas, Such unfortunate children oftentimes necessitate additional care and additional expense to their parents; and

"Whereas, Parents who bravely bear this additional burden of caring for their family should be given some assistance from the federal government by allowing for a $1,200. per year exemption for each mentally retarded or physically handicapped child; and

"Whereas, Congress should immediately begin a study of the feasibility of extending this helping hand to these parents by conducting public hearings; now, therefore, be it

"Resolved, That the general assembly of Rhode Island and Providence Plantations now requests the Congress of the United States to act with dispatch to increase the deductions allowed for mentally retarded and physically handicapped children up to $1,200. per child per year; and be it further

"Resolved, That the senators and representatives from Rhode Island in said congress be and they are hereby earnestly requested to use concerted effort to bring about this greatly needed assistance to parents of mentally retarded and physically handicapped children; and the secretary of state is hereby authorized and directed to transmit duly certified copies of this resolution to the president of the senate, and speaker of the house, and the senators and representatives from Rhode Island in said congress."

Two joint resolutions of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"SENATE JOINT RESOLUTION NO. 2

"Resolution relative to gas and oil drilling

"Whereas, The recent Santa Barbara oil disaster provided an unforgettable example of the terrible destruction an offshore oil leak can cause to the marine environment anywhere along the California coast; and

"Whereas, All new offshore oil wells are more than three miles offshore and therefore are not subject to strict California drilling regulations which might prevent such spillage; and

"Whereas, The federal government recently established a precedent in the field of environmental protection by allowing California to establish stricter automotive exhaust standards than existing federal standards; and

"Whereas, The State Lands Commission has imposed a moratorium on further gas and oil drilling operations and leasing of state tidelands and submerged lands for any such operation in state waters in the Santa Barbara Channel; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby endorses the moratorium imposed by the State Lands Commission on drilling operations on state tide and submerged lands in the Santa Barbara Channel and commends the commission for such action; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, and the Secretary of the Interior to allow California to control and apply stricter state regulations to all oil and gas drilling in federal waters more than three miles off the coast of California; and be it further

"Resloved, That with respect to oil and gas drilling on federal tidelands in the Santa Barbara Channel, the Legislature respectfully memorializes the federal goverment to act immediately to halt such drilling permanently; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"SENATE JOINT RESOLUTION NO. 4

"Resolution relative to marine sanctuaries

"Whereas, The California Legislature, during the 1955 General Session, enacted a bill creating the Santa Barbara Oil Sanctuary in tidelands adjacent to the City of Santa Barbara; and

"Whereas, The Legislature has subsequently caused similar sanctuaries to be created in which leasing of state-owned tidelands for oil and gas development is prohibited or controlled; and

"Whereas, These sanctuaries and the coastal lands adjacent to them will be in serious jeopardy of pollution of disastrous proportions, such as occurred in the Santa Barbara Channel, if leases are granted for oil, gas, or other minerals exploration and exploitation in federal submerged lands oceanward of the existing state sanctuaries; and

"Whereas, The President's panel on oil spills, the Dubridge Panel, stated, 'as a general practice it would seem advisable that the federal standards for safety and possible environmental damage should be at least as strict as the standards in the state whose waters are contiguous to the federal waters'; and

"Whereas, After due and careful consideration of the public interest, legislation was introduced in the United States Senate, 91st Congress, which would create marine sanctuaries from leasing pursuant to the Outer Continental Shelf Lands Act in areas off the coast of California adjacent to state-owned submerged lands when California suspends leasing of such submerged lands for mineral purposes; and

"Whereas, Legislation was introduced in the House of Representatives, 91st Congress, which provides, in general, that when California notifies the Secretary of the Interior that it has enacted a law that provides that leases will not be issued by it for the exploration or extraction of oil, gas, or any other mineral in specified areas of the coastline of California, the secretary shall suspend, for the duration of such state law, any further leases, pursuant to the Outer Continental Shelf Lands Act, for the exploration or extraction of any such minerals seaward of any such state areas; and

"Whereas, The Subject will be heard by the Subcommittee on Oil, Gas, and Minerals of

the Committee on Interior and Insular Affairs on March 13, 1970, and March 14, 1970, in Santa Barbara, California; and the Legislature of this state strongly urges action in this area; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact the legislation that provides for creation of marine sanctuaries in federal submerged lands off the coast of California adjacent to marine sanctuaries that are in state-owned submerged lands; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the General Assembly of the State of Georgia; to the Committee on the Judiciary:

"RESOLUTION RATIFYING AND APPROVING THE NINETEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA; AND FOR OTHER PURPOSES

"Whereas, during 1970 the League of Women Voters of Georgia will observe its 50th anniversary; and

"Whereas, the State of Georgia is proud of the outstanding record compiled by the female citizens of this State in the effective and informed use of the right to vote; and

"Whereas, the Nineteenth Amendment to the Constitution of the United States of America reads as follows:

" '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 sex.

" 'Congress shall have power to enforce this article by appropriate legislation.'; and

"Whereas, it is only fitting and proper that the Nineteenth Amendment to the Constitution of the United States of America be ratified and approved.

"Now, therefore, be it resolved by the General Assembly of Georgia that the Nineteenth Amendment to the Constitution of the United States of America be and the same is hereby ratified and approved.

"Be it further resolved that a certified copy of this Resolution be forwarded by the Governor of Georgia to the Secretary of State of the United States, to the Presiding Officer of the United States Senate, and to the Speaker of the House of Representatives of the United States.

"Senate Resolution 304 By: Senators Plunkett of the 30th and Webb of the 11th.

"Adopted in Senate February 18, 1970.

"Adopted in House February 20, 1970.

"GEORGE T. SMITH,
"President of the Senate.
"LEO L. SMITH,
"Speaker of the House."

Resolutions of the Commonwealth of Massachusetts; to the Committee on Labor and Public Welfare:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION INCREASING THE FEDERAL MINIMUM WAGE FOR FARM WORKERS AND EXTENDING COVERAGE TO ALL FARM WORKERS

"Whereas, Massachusetts, through the action of the General Court, has become a leading state relative to the establishment of minimum wages paid farm workers; and

"Whereas, Other states and the Congress of the United States have failed to enact legislation bringing the state and federal minimum wages for farm workers in line with those paid such workers in Massachusetts; and

"Whereas, Agricultural employers in Massachusetts are placed at an economic disadvantage by low minimum wages or the absence of minimum wages in other states; therefore be it

"Resolved, That the General Court of Massachusetts hereby urges the Congress of the United States to take such action as may be necessary to raise the federal minimum wage to one dollar and fifty cents per hour for farm workers and to extend coverage to all farm workers; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the State Secretary to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

"House of Representatives, adopted, February 18, 1970.

"WALLACE C. MILLS,
"Clerk.

"Senate, adopted in concurrence, February 23, 1970.

"NORMAN L. PIDGEON,
"Clerk.

"Attest:

"JOHN F. X. DAVOREN,
"Secretary of the Commonwealth."

BILLS INTRODUCED

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

By Mr. YOUNG of North Dakota:

S. 3572. A bill for the relief of Erika Frieda Bruntjen; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 3573. A bill to credit certain service for purposes of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement; and

S. 3574. A bill to provide a 5-percent increase in certain civil service retirement annuities; to the Committee on Post Office and Civil Service.

(The remarks of Mr. STEVENS when he introduced S. 3574 appear later in the RECORD under the appropriate heading.)

By Mr. McGOVERN (for himself and Mr. HART):

S. 3575. A bill to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure environmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation and enhancement of the environment; to the Committee on Commerce.

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

By Mr. FONG:

S. 3576. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to increase the limitation on the total amount of indebtedness applicable to loans made or insured under subtitle A of such act; to the Committee on Agriculture and Forestry.

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

By Mr. DODD:

S. 3577. A bill for the relief of Licia di Paola; to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 3578. A bill to give the consent of Congress to the construction of certain international bridges; to the Committee on Foreign Relations.

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

S. 3574—INTRODUCTION OF A BILL TO PROVIDE A 5-PERCENT INCREASE IN CERTAIN CIVIL SERVICE RETIREMENT ANNUITIES

Mr. STEVENS. Mr. President, at the time Public Law 91–93 was passed, employees had until October 31 to take advantage of the opportunity to retire under its 5-percent annuity increase provisions. A main feature of this law was this opportunity to receive an additional 5 percent in retirement benefits.

Just before the deadline arrived, the Federal Government began what proved to be a continuing reduction of Federal employees in an effort to curb inflation and promote efficiency in Government. These RIF actions are still underway.

Many employees now affected by RIF actions could have elected to retire under Public Law 91–93 but chose not to prior to October 31, 1969. On a recent trip through my home State of Alaska, I talked with a large number of Federal employees on this situation. Each said, in effect:

Had I known I was about to be RIFFED, I would have elected to retire in order to receive the 5% annuity increase.

Under the present circumstances, Mr. President, it would appear that those employees affected by RIF actions should be given the opportunity to retire under the provisions of Public Law 91–93. Therefore, I am today introducing a bill that would extend to those employees, who retire as a result of an involuntary separation, a 5-percent increase in their annuity.

Certainly these affected employees, who have given many years of loyal service to the Federal service and are now forced to retire, deserve special consideration. My bill will give this consideration to those employees so affected.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD at the end of my statement.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3574) to provide a 5-percent increase in certain civil service retirement annuities, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 3574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each annuity payable from the Civil Service Retirement and Disability Fund as the result of involuntary separation and having a commencing date after November 1, 1969, but before December 31, 1970, shall be increased, from the commencing date of the annuity, by 5 per centum.

S. 3575—INTRODUCTION OF THE ENVIRONMENTAL PROTECTION ACT OF 1970

Mr. McGOVERN. Mr. President, we are all, by now, keenly aware of the environmental crisis that our technological progress has generated.

Crisis is often a phrase too soon and too much used to describe many of the problems we face. Sometimes it is employed to dramatize a problem that is not of the gravest nature.

"Crisis," in the context of our environmental problems, on the other hand, may be coming into play too late, instead of toon soon, and is not overreaching, to summarize our situation.

Perhaps the most disturbing aspect about the current public discussion on environmental issues is a sense of uncertainty. Not uncertainty about the sense that something is terribly wrong. But uncertainty about why it is wrong, what is causing the destruction of our environment and what or whether anything can be done to reverse the damage that has been done and is being done, or to prevent the damage that will be done.

There is no question that we are beginning to move but, in this, as in so many other areas, there is the uneasy feeling that we are like a man in a kyak suddenly aware he is approaching a waterfall, back-paddling furiously to keep from going over, but coming closer and closer to the edge of disaster.

In an interview recently with a national news magazine, the President's Science Advisor, Lee DuBridge, discussed the probabilities of two technologically caused environmental catastrophes for mankind. In the one instance, a steady buildup of carbon dioxide in the atmosphere would turn the earth into a hothouse, melt the polar ice caps, raise the levels of the oceans, and innundate the continental coastlines. In the other instance, an increase of particulate matter would screen out the warmth of the sun, cool the earth and create a new ice age.

When I consider these two equally unpleasant prospects, I am reminded of a particularly appropriate poem, "Fire and Ice" by Robert Frost:

"Some say," wrote Frost, "that the world will end in fire. Some say in ice. * * *"

These prospects of doomsday, of course, are more real to the scientific community than the average citizen. The average citizen is obviously less concerned with the survival of the entire earth in the long run, then he is with the survival of himself, his family, his community, in the short-run. He is aggravated daily by cars and buses that blow choking exhaust into his face and an irritating din into his ears, by plants and factories that turn a blue sky black or gray, by inadequate or absent sewage treatment facilities that infuse his rivers and streams with offensive odors, and by the mountains of garbage, junk, and trash that litter the land everywhere he looks.

The Government has begun to respond to these daily concerns of our citizens. The Congress is enacting laws setting quality standards for our air and water, subsidizing facilities to treat pollution to meet the standards, creating new regulatory agencies and strengthening the authority of existing regulatory agencies to enforce the standards. Recently, various colleagues in the Senate, particularly Senators NELSON and MUSKIE, for many years leaders in the fight to save our environment, have proposed further broad ranging legislation to insure every American his right to a livable environment, to clear the air of dust and dirt and take the soapsuds out of our streams and the oil out of the oceans, to plan for an intelligent use of our natural resources.

Responding to public concern and congressional leadership, the President has promised a priority effort on environmental problems. His message to the Congress outlined a 37-point program, including 23 major legislative proposals, embracing problems ranging from water and air pollution to parks and public recreation as well as administrative reorganization.

I intend, of course, to support every worthwhile proposal to protect and restore our natural heritage. I hope, also, to be able to make an individual contribution. It is, in this regard, that I am introducing today on behalf of myself and Senator HART, a bill that we believe can add an important tool to those already existing and recommended to protect the environment. The authority that we envision creating would flow from the activities of industry in or affecting interstate commerce, and would extend to environmental factors, including but not limited to land, water and air quality, noise levels, fish and wildlife, natural scenic and recreational assets and other factors affecting the environment.

I think it might be helpful in explaining this proposal by Senator HART and myself to first quote from the President's message.

The President said:

> The task of cleaning up our environment calls for a total mobilization by all of us. It involves governments at every level, it requires the help of every citizen. It cannot be a matter simply of sitting back and blaming somebody else. Neither is it one to be left to a few hundred leaders. Rather, it presents us with one of those rare situations in which each individual everywhere has an opportunity to make a special contribution to his country as well as his community.

I agree wholeheartedly with the President. Protecting our environment is the responsibility of each and every one of our citizens. Certainly it is a responsibility that more and more of our citizens, particulraly our young people, are ready and willing to take on. The environmental teach-ins taking place on campuses all across the country this month and next are clear evidence of that willingness to assume responsibility.

Our citizens are ready and willing to join the fight. Unfortunately no matter how willing, they are not always able to do so. Individual citizens, on their own behalf or on behalf of other citizens, have been prevented from exercising their responsibilities because of legal prohibitions raised against them by Government itself.

At this point, some history is useful.

Traditionally, environmental protection has been left to the Federal and State Governments and their regulatory agencies. They were supposed to act to protect the environment on behalf of the public. The individual citizen was prevented from intervening and participating in the regulatory process by a variety of legal and administrative roadblocks. Leave this business, the individual was told, to the experts. The individual citizen, it was said, has no right to challenge governmental action on their behalf.

More recently, however, these rigid prohibitions against individual citizens acting on their own or on behalf of others have begun to loosen. It has become, in certain instances, possible, though still exceedingly difficult, for citizens to challenge the actions of various regulatory agencies. Citizens are bringing suit to challenge highway departments on the locations of roads, pollution control agencies for not enforcing the law and private industries for activities that degrade the environment.

These cases indicate the discontent that many citizens feel with the public agencies that are supposed to be protecting the public interest. They indicate the widespread feeling the public agencies regulating private interests often end up not regulating but representing that private interest. This recognition of the inadequacies of much of the administrative process has reached into the courts as well. Before his elevation to the High Court, the present Chief Justice of the United States, wrote in a case involving a suit by citizens against a regulatory agency:

> The theory that the Commission can always effectively represent listener interests . . . without the aid and participation of legitimate . . . representatives fulfilling the role of private attorneys general is one of the assumptions we collectively try to work so long as they are reasonably adequate. When it becomes clear . . . that is no longer a valid assumption . . . neither we nor the Commission can continue to rely on it . . .

So we can see that private citizens are getting their foot in the door. But the doors is not yet really open and, more often than not, the door is still closed in their face on the traditional grounds that the public interest is being adequately protected by the regular proceses of responsible agencies. The unfortunate results of this closed door situation are sometimes painfully clear, such as in the Santa Barbara oil spill.

The citizens of Santa Barbara were worried about the oil leases for offshore drilling from the outset. They questioned the Department of the Interior and were informed that "maximum provision" was being made to protect the local environment. Behind closed doors, however, the Interior Department was being pressured by the Budget Bureau to issue the leases and was opposing plans for a public hearing by the Corps of Engineers.

An Interior Department official, describing in a memorandum his conversation with the corps, said he had warned the corps that a public hearing might "stir up the natives. . ."

The citizens of Santa Barbara were aware that all was not well. They were desperate to find the facts. They consulted with attorneys about the possibility of going to court to force the Interior Department to level with them.

Their attorneys told them that, unfortunately, they did not have the right to take the Interior Department into court to protect their own interests. The Interior Department was the protector of their interests.

Despite this discouraging advice, the citizens went into court and their case was rejected immediately on the grounds that they did not have standing to sue.

After the disastrous blowout occurred, one Santa Barbaran, looking back on how powerless they were to protect themselves, said:

> We are so ——— frustrated. The whole democratic process seems to be falling apart. Nobody responds to us, and we end up doing things progressively less reasonable. Nothing seems to happen except that we lose.

If the proposal that Senator HART and I are introducing today had been effective during that period before the Interior Department granted the leases, the citizens of Santa Barbara would not have been frustrated. They would have been able to take their case to court. They could have, if they had convinced the court, stopped the granting of the leases until it could be demonstrated that the Interior Department was taking adequate safeguards to protect the local environment. At the very least, just the threat of having to go into court and present its case, might have spurred the Department onto instituting the necessary safeguards.

If this proposal had been in effect, the democratic process, instead of falling apart, would have actually worked.

This proposal would essentially do three things.

First, it would grant all citizens a federally guaranteed right to a pollution-free environment which they have not previously had;

Second, it would give all citizens an effective means of enforcing the right by opening up the Federal and State court system to antipollution suits by ordinary citizens against other citizens or Government agencies.

Third, it would give citizens a standing in Federal and State courts to challenge administrative decisionmaking where it is lax and in the implementation of environmental policy generally.

I recognize that this proposal will not be without controversy. I know that it will give pause to many government agencies responsible for protecting the environment and to industries struggling with the problem of pollution. I want to assure them that this proposal has been drafted, not to take any of their just rights away, but to grant long overdue rights to Americans at large.

This proposal, I hope, will be viewed not as a threat to existing procedures to protect the environment, but as a supplement, as an additional tool to protect us all. I think that it opens up another avenue, the judicial avenue, to resolve some of the difficult questions that we must face.

I introduce, on behalf of the Senator from Michigan (Mr. HART) and myself, this bill, entitled the Environmental Protection Act of 1970, and ask unanimous consent to have the bill and a detailed section-by-section analysis of the bill printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 3575) to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure environmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation, and enhancement of the environment, introduced by Mr. MCGOVERN, for himself and Mr. HART, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3575

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

SEC. 2. (a) The Congress finds and declares that each person is entitled by right to the protection, preservation, and enhancement of the air, water, land, and public trust of the United States and that each person has the responsibility to contribute to the protection and enhancement thereof.

(b) The Congress further finds and declares that it is in the public interest to provide each person with an adequate remedy to protect the air, water, land, and public trust of the United States from unreasonable pollution, impairment, or destruction.

(c) The Congress further finds and declares that hazards to the air, water, land, and public trust of the United States are caused largely by persons who are engaged in interstate commerce, or in activities which affect interstate commerce.

SEC. 3. (a) Any person may maintain an action for declaratory or equitable relief in his own behalf or in behalf of a class of persons similarly situated, for the protection of the air, water, land, or public trust of the United States from unreasonable pollution, impairment, or destruction which results from or reasonably may result from any activity which affects interstate commerce, wherever such activity and such action for relief constitute a case or controversy. Such action may be maintained against any person engaged in such activity and may be brought, without regard to the amount in controversy, in the district court of the United States for any judicial district in which the defendant resides, transacts business or may be found: *Provided,* That nothing herein shall be construed to prevent or preempt State courts from exercising jurisdiction in such action. Any complaint in any such action shall be supported by affidavits of not less than two technically qualified persons stating that to the best of their knowledge the activity which is the subject of the action damages or reasonably may damage the air, water, land, or public trust of the United States by pollution, impairment, or destruction.

(b) For the purpose of this section, the term "person" means any individual or organization; or any department, agency, or instrumentality of the United States, a State or local government, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States.

SEC. 4. (a) When the plaintiff has made a prima facie showing that the activity of the defendant affecting interstate commerce has resulted in or reasonably may result in unreasonable pollution, impairment, or destruction of the air, water, land, or public trust of the United States the defendant shall have the burden of establishing that there is no feasible and prudent alternative and that the activity at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the paramount concern of the United States for the protection of its air, water, land, and public trust from unreasonable pollution, impairment, or destruction.

(b) The court may appoint a master to take testimony and make a report to the court in the action.

(c) The court or master, as well as the parties to the action, may subpena expert witnesses and require the production of records, documents, and all other information necessary to a just disposition of the case.

(d) Costs may be apportioned to the parties if the interests of justice require.

(e) No bond shall be required by the court of the plaintiff: *Provided,* That the court may, upon clear and convincing evidence offered by the defendant that the relief required will result in irreparable damage to the defendant, impose a requirement for security to cover the costs and damages as may be incurred by defendant when relief is wrongfully granted: *Provided further,* That such security shall not be required of plaintiff if the requirement thereof would unreasonably hinder plaintiff in the maintenance of his action or would tend unreasonably to prevent a full and fair hearing on the activities complained of.

SEC. 5. The court may grant declaratory relief, temporary and permanent equitable relief, or may impose conditions on the defendant which are required to protect the air, water, land, or public trust of the United States from pollution, impairment, or destruction.

SEC. 6. This Act shall be supplementary to existing administrative and regulatory procedures provided by law and in any action maintained under the Act, the court may remand the parties to such procedures: *Provided,* That nothing in this section shall be deemed to prevent the granting of interim equitable relief where required and so long as is necessary to protect the rights recognized herein: *Provided further,* That any person entitled to maintain an action under this Act may intervene as a part in all such procedures: *Provided further,* That nothing herein shall be deemed to prevent the maintenance of an action, as provided in this Act, to protect the rights recognized herein, where existing administrative and regulatory procedures are found by the court to be inadequate for the protection of such rights: *Provided further,* That, at the initiation of any person entitled to maintain an action under the Act, such procedures shall be reviewable in a court of competent jurisdiction to the extent necessary to protect the rights recognized herein; *and provided futher,* That in any such judicial review the court shall be bound by the provisions, standards, and procedures or sections 3, 4, and 5 of this Act, and may order that additional evidence be taken with respect to the environmental issues involved.

The material presented by Mr. MCGOVERN for himself and Mr. HART is as follows:

SECTION-BY SECTION ANALYSIS

Section 1 establishes a short title for the Act. For the purpose of citation and reference, it shall be known as the "Environmental Protection Act of 1970."

Section 2 sets out Congressional findings and declarations with respect to the air, water, land and public trust of the United States. In Section 2(a) Congress find and declares that each person is entitled to the protection, preservation and enhancement of the environment of the United States, and

that each person has a responsibility to contribute thereto. In Action 2(b) Congress finds and declares that the public interest necessitates that each person be provided with an adequate remedy to protect the air, water, land and public trust of the United States from unreasonable pollution, impairment or destruction. In Section 2(c) Congress further finds and declares that hazards to the air, water, land and public trust are caused largely by persons who are engaged in interstate commerce, or whose activities affect interstate commerce.

Section 3(a) establishes the right of any person to maintain a judicial action for declaratory or equitable relief, relief that would order the defendant to desist or moderate the practice or act in question, either individually or in behalf of a class of persons, without regard to the amount in controversy, to protect the environment or public trust from pollution, impairment or destruction which results from or reasonably may result from any activity and such action for relief constitute a case or controversy, a real issue with adverse parties. Section 3(a) also provides that such actions may be maintained against any person whose activities affect interstate commerce, and may be brought in any district court of the United States for any judicial district in which the defendant resides, transacts business or may be found. Section 3(a) further provides that State courts shall not be prevented or preempted from exercising jurisdiction in any such action. However, it is not the intent of Congress that actions brought in the United States District Courts shall be remanded to the State courts when jurisdiction is otherwise proper. Section 3(a) further provides that complaints in such actions shall be supported by affidavits of at least two technically qualified persons affirming that the defendant's activity damages or reasonably may damage the environment or public trust of the United States. This requirement for affidavits, which is not required by the Federal Rules of Civil Procedure will eliminate frivolous actions and alleviate the burden upon the courts. Section 3(b) defines the term "person" as any individual or organization; or any department, agency or instrumentality of the United States, a State or local government, the District of Columbia, the Commonwealth of Puerto Rico or a possession of the United States.

Section 4 prescribes the judicial procedures and standards under which the act is to be administered by the courts. Section 4(a) provides that when the plaintiff has made a showing that on first appearance the activity of the defendant has or reasonably may damage the air, water, land or public trust by unreasnoable pollution, impairment or destruction, the defendant then has the burden of proving that there is no feasible and prudent alternative and that the activity at issue is consistent with and reasonably required for promotion of the public health, safety and welfare when viewed in light of the paramount concern of the United States for the protection of the environment and the public trust. Section 4(b) authorize the court to appoint a master to take testimony and make a report to the court in the action. Section 4(c) grants to the court, master and the parties authority to subpoena expert witnesses and require the producing of records, documents and all other information necessary to a just disposition of the case. Section 4(d) provides that costs may be apportioned to the parties if the interests of justice require. Section 4(e) exempts the plaintiff from posting bond, except in those instances where clear and convincing evidence is presented to the court by the defendant that wrongfully granting relief will result in irreparable damage to the defendant. However, if requiring the plaintiff to post bond would unreasonably hinder the plaintiff in the maintenance of the suit or would tend unreasonably to prevent a full and fair hearing on the activities complained of, a bond shall not be required of the plaintiff.

Section 5 grants the court authority to provide declaratory relief, temporary and permanent equitable relief, or to impose conditions on the defendant's operations which are required for the protection of the air, water, land or public trust of the United States from unreasonable pollution, impairment or destruction.

Section 6 provides that the act shall be supplementary to existing administrative and regulatory procedures provided by law and grants the court authority to remand the parties to such procedures. Section 6 also provides that nothing in the section shall prevent the granting of appropriate interim equitable relief to protect the rights recognized under the act for as long as is necessary and further provides that any person entitled to maintain an action under the act may intervene as a party in all such administrative and regulatory procedures. Section 6 provides further that nothing in the section shall prevent the maintenance of an action to protect rights recognized in the act where the court finds existing administrative or regulatory procedures to be inadequate for the protection of such rights. Section 6 further provides that at the initiation of any person entitled to maintain an action under the act, such procedures shall be reviewable in a court of competent jurisdiction to the extent necessary to protect the rights recognized in the act. Finally, Section 6 provides that in any such judicial review the court shall be bound by the provisions, standards and procedures of Section 3, 4 and 5 of the act and may order that additional testimony be taken on the environmental issues.

Mr. HART. Mr. President, we are all consumers, not only of the products men make, but of the land and air and water around us.

For some time many of us have sought to give the consumer legal weapons to protect himself against unfair trade practices.

It seems to me that individuals should have the same type of weapon—a concerned citizen's lawsuit—to defend against practices unfair to the environment.

The bill that Senator McGOVERN and I introduced today will do just that.

Before discussing in some detail the provisions of the bill, I would first like to pay tribute to Prof. Joseph Sax, of the University of Michigan, who previously has drafted a similar bill for introduction in the Michigan State Legislature. We are indebted to Professor Sax for much of the language of this bill.

Mr. President, although much of the pollution which afflicts our environment can be traced to facilities or services involved in or which affect interstate commerce, many of our legislative and administrative restraints in this area have not been used effectively against pollution.

This failure is due, at least in part, to the difficulty of utilizing one of our most effective mechanisms—the concerned citizens' lawsuit.

Removal of traditional barriers to citizen suits dealing with environmental issues could make quick, decisive, and far-reaching relief possible.

Those barriers include:

First. Limits that courts traditionally have imposed on the standing of citizens bringing such suits, and

Second. The reluctance of courts to consider suits questioning decisions of governmental administrators affecting the environment.

Our bill would lower these barriers, making it easier for individuals to do something other than just complain about pollution which robs them of clear air or streams to swim or fish in.

Clearly, the bill would have broad ramifications in the fight against pollution.

In introducing the bill I endorse its objective while recognizing that the proposal must be the subject of extensive hearings to determine what safeguards may have to be added.

Mr. President, the bill deals with barriers to citizen environmental suits in these ways.

With respect to standing of citizens to sue, the language of section 3 constitutes an instruction to the judiciary that it is to go to the constitutional limits in defining that concept. The Constitutions of the United States and of State governments lay down threshold requirements for those who may initiate lawsuits. Although our bill, of course, continues to respect those requirements, additional limitations on standing which courts have traditionally imposed will no longer be sanctioned. As a result, any citizen whose environment is polluted unreasonably will be able to seek direct legal redress against the perpetrator of that pollution.

As for administrative discretion, the bill makes clear that courts will no longer be forced to dismiss actions which question the judgment of Government administrators. In the past, administrative decisions have been accorded extraordinary respect in the courts because the subject matter of those decisions has been thought to be within the expertise of the administrative agency involved.

However, the environmental matters which such agencies adjudicate often bear no relationship whatever to an agency's expertise.

The Federal Power Commission is expert in the area of energy production and consumption; the Corps of Engineers, in the construction of dams, bridges, and canals; the Federal Aviation Administration, in the need for airport and airway development. The question is whether the environmental decisions of the same agencies which promote these activities should be open to judicial review. We think they should be.

Of course, seldom will any judge be able to claim expertise in environmental matters. Yet the courts decisionmaking apparatus in this area has consistently produced intelligent decisions uninfluenced by the industrial bias or responsibility too often associated with administrative proceedings.

The judicial process is highly conducive to the fair exchange of ideas and the sharpening of issues. Moreover, I believe the general public will, when permitted, make effective use of this process to inspire needed corrective action. This belief in the willingness of the citizen to take

effective action in court in his own behalf and in behalf of others similarly situated is the basis for proposing similar legislation for consumer protection.

The bill before us today and those bills which would establish the right to a consumer class action and an Independent Consumer Council all seek to give individuals the tools to defend themselves from incursions which have been tolerated too long.

The reliance which our bill places on the judicial process should not be taken to indicate any lack of concern on our part for reforms of other branches of government.

In the environmental area, this bill should be viewed as an extension of the efforts of many of us in Congress to improve administrative disposition of environmental issues. Last month, the Senate adopted two amendments I offered to major transportation bills which require both public hearings on environmental questions and determinations by the Secretary of Transportation on the environmental soundness of federally-financed projects. Under the terms of those amendments, no urban mass transportation or airport project may be approved until the Secretary has found, on the basis of a full and complete hearing record, that the proposed development is the best project possible from an environmental standpoint.

Today's bill would leave that procedure intact, but would allow citizens to initiate review of the Secretary's finding unfettered by the obstacles that have traditionally restricted such review.

Any disgruntled citizen would be able to require a Federal judge to review the record on which the administrative finding is based and to determine whether the former justifies the latter. If additional evidence is needed, the judge is permitted to call witnesses and take testimony necessary to decide whether the project will unreasonably pollute or impair the environment. His decision on that question is his own, and he is free to overrule the Secretary.

If the bill that we introduce today passes, the emergence of a common law of the environment will be a natural consequence. While the development of such a body of law will not, by itself put an end to our environmental problems, it holds considerable potential for helping to improve the quality of our environment.

The bill rests on the assumption that the courts, when prompted by concerned citizens, are fitting instruments for developing and enforcing society's rules of self-preservation.

It assumes people want a voice in determining the quality of their environment.

I believe the people should have that voice, whether they seek to defend themselves against unfair trade practices or seek to defend against practices unfair to the environment.

S. 3576—INTRODUCTION OF A BILL TO AMEND THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

Mr. FONG. Mr. President, I am introducing today for appropriate reference a bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1925), designed to increase the loan limitation for farm ownership program from the present $60,000 to $100,000. The limitation was established in 1961, and at that time it was considered adequate to finance the purchase of farm lands for individual family farmers who could not obtain credit from private sources. A higher loan limitation than the present ceiling is now needed to meet adequate credit requirements of eligible farmers who desire to buy new farmlands or to take over established farms but who do not have the cash, equity, or other financial resources.

The reasons are: First, the high cost of acquisition and development of land and increased building costs, as compared to the 1961 period, have combined for an urgent need for a substantial increase in the farm ownership loan limitation. Since 1961 changing economic conditions have increased land values and capital investments. According to studies of the USDA Economic Research Service, the national index of average value per acre was 176 on November 1, 1968, based on the 1957–9 index of 100 percent. Land values increased by 70 percent in the decade ending March 1, 1968, and increased 37 percent nationwide from November 1, 1962, to November 1, 1967. These studies show that commercial farms had an average value of $100,000, estimated on a 300-acre average size farm. Under Secretary of Agriculture J. Phil Campbell, in an address on May 2, 1969, in Swainsboro, Ga., stated that the average investment on 200 to 400 acres of land alone might run from $40,000 to $160,000. Buildings would cost from $20,000 to $40,000, and land improvements could cost an additional $20,000.

Second, because of varied investment costs and value of land for different farming enterprises in different sections of the Nation, the present loan limitation restricts the lending program more in some geographical areas than in others. For example, Hawaii farmland cost is one of the highest in the country, ranging from $2,500 to $12,000 per acre, whereas in continental areas the land cost per acre ranges from $25 to $2,000. In some sections of Hawaii the purchase of even a leasehold interest in land costs as much as $5,000 to $6,000 per acre. Accordingly, Hawaii farmers' credit needs are greater than the needs of other area farmers. Because of the present $60,000 limitation, however, interested Hawaii farmers cannot obtain adequate loans for the purchase of farmland.

Third, throughout the country an increasing number of young farmers are migrating to the cities because of difficulty of owning a farm. We must stop this trend for a better rural America. Unless the farm ownership loan limitation is increased substantially, to give opportunity to these men to become farmowners, more will migrate.

Fourth, the Department of Agriculture recognizes the great demand for ownership loans during the past several years. We should meet this demand. A ceiling higher than the present one would mean greater participation by our farmers.

For these reasons, my bill proposes to increase the loan limitation from $60,000 to $100,000 for farm ownership under the Farmers Home Administration real estate program.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3576) to amend the Consolidated Farmers Home Administration Act of 1961 to increase the limitation on the total amount of indebtedness applicable to loans made or insured under subtitle A of such act, introduced by Mr. FONG, was received, read twice by its title and referred to the Committee on Agriculture and Forestry.

S. 3578—INTRODUCTION OF THE INTERNATIONAL BRIDGE ACT

Mr. FULBRIGHT. Mr. President, I introduce for appropriate reference, a bill to give the consent of Congress to the construction of certain international bridges.

The basic text of this bill has been offered by me three times before and each time been passed by the Senate: as S. 3074 on August 4, 1964; as a substitute amendment to H.R. 10779 on October 13, 1965; and as S. 623 on August 4, 1967. Its intent is to relieve the Congress of the time-consuming process of having to approve each individual crossing of a river between us and our neighbors to the north and south. Such enterprises require the consent of the Congress because they involve dealing with a foreign nation.

I am introducing this bill again at this time because demands to obtain authorization for such bridges are again multiplying in the Congress and this bill would take care of these in an efficient and effective manner.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3578) to give the consent of Congress to the construction of certain international bridges; introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, and referred to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS OF BILLS

S. 3503

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Wisconsin (Mr. PROXMIRE), I ask unanimous consent that at its next printing, the name of the Senator from Maryland (Mr. TYDINGS) be added as a cosponsor of S. 3503, the middle income mortgage credit bill.

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

S. 3560

Mr. MANSFIELD. Mr. President, at the request of the distinguished Senator from Kentucky (Mr. COOK), I ask unanimous consent that, at the next printing, the name of the distinguished Senator from South Carolina (Mr. HOLLINGS) be added as a cosponsor of S. 3560, to provide for lowering the minimum age at which citizens shall be eligible to vote in elections.

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

S. 3566

Mr. BROOKE. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the names of the Senator from Kentucky (Mr. COOPER), the Senator from New York (Mr. GOODELL), the Senator from Minnesota (Mr. MONDALE), and the Senator from Maine (Mr. MUSKIE), be added as cosponsors of S. 3566, to establish, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture.

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

ADDITIONAL COSPONSORS OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 147

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from West Virginia (Mr. RANDOLPH), I ask unanimous consent that, at the next printing, the name of the Senator from Michigan (Mr. GRIFFIN) be added as a cosponsor of Senate Joint Resolution 147, proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of Senate Joint Resolution 147, proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older.

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

S. RES. 367—RESOLUTION SUBMITTED TO EXPRESS THE SENSE OF THE SENATE RELATIVE TO SANCTIONS AGAINST RHODESIA

Mr. EASTLAND submitted a resolution (S. Res. 367) to express the sense of the Senate relative to sanctions against Rhodesia, which was referred to the Committee on Foreign Relations.

(The remarks of Mr. EASTLAND when he submitted the resolution appear earlier in the RECORD under the appropriate heading.)

ADDITIONAL COSPONSORS

AMENDMENT NO. 545

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Wisconsin (Mr. NELSON) be added as cosponsors of amendment No. 545 to H.R. 4249, giving the vote to the 18-year-olds.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from New Mexico (Mr. ANDERSON) be added as a cosponsor of amendment No. 545 to H.R. 4249.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 10, 1970, he presented to the President of the United States the enrolled bill (S. 2910) to amend Public Law 89–260 to authorize additional funds for the Library of Congress James Madison Memorial Building.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

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

John A. Birknes, Jr., of Massachusetts, to be U.S. marshal for the district of Massachusetts for the term of 4 years, vice Albert A. Gammal, resigned.

Anthony T. Greski, of New Jersey, to be U.S. marshal for the district of New Jersey for the term of 4 years, vice Leo A. Mault.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, March 17, 1970, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON OBSCENE MAIL MATTER

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service has scheduled a public hearing on S. 3220, a bill to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender. The hearing will be held on Wednesday, March 18, 1970, in room 6202 of the New Senate Office Building beginning at 10 a.m.

ADDITIONAL STATEMENTS OF SENATORS

FORMER REPRESENTATIVE JOHN McSWEENEY, A GREAT OHIO STATESMAN AND PATRIOT

Mr. YOUNG of Ohio. Mr. President, it is with a feeling of sadness I report the death of a very great Ohioan who served our country in the Armed Forces and in the Congress of the United States and whose heroic career is a legend in my State of Ohio. John McSweeney was born in the beautiful college town of Wooster, Ohio, in 1890. His grandfather was regarded as one of the greatest trial lawyers in our State. John McSweeney, following his graduation from Wooster College in 1912, taught at Wooster High School. He volunteered for service in World War I serving in combat in France with the 37th Division.

He was awarded a commission and was promoted to captain and aide-de-camp to Maj. Gen. Charles S. Farnsworth, commanding the 37th Division. He was wounded in combat, awarded the Purple Heart, and later the Croix de Guerre from the French Republic.

Directly following the armistice in 1918, he studied law in the Inns of Court, London, as a U.S. Army officer exchange student. Then he returned home, resumed teaching at Wooster High School, and later served as president of the Wooster City Council. He completed his study of law in Ohio, was admitted to the bar in 1925, and practiced law in Wooster.

John McSweeney's Army service did not end with World War I. In 1942 he volunteered for service in the Army and served in combat in North Africa and Italy in World War II. He was honorably discharged in 1946 as a lieutenant colonel. His World War II decorations were Legion of Merit, Italian Red Cross Medal, the Order of Malta, and the Order of St. George.

John McSweeney became my personal friend in 1922, when we were both speaking at political meetings in Ohio. Our close personal friendship continued to the time of his death early this year.

John McSweeney represented the 16th Ohio District in Congress from 1923 to 1929. During that period he was coauthor of the McSweeney-McNary Forestry and Conservation Act. From 1931 to 1935 he served as director of the Department of Public Welfare of Ohio. In that position he put into operation Ohio's old age pension system. Following that he served as Ohio Congressman at large from 1937 to 1941, his final congressional service was as a Member of the 81st Congress. He was my colleague and close personal friend in that Congress throughout the years 1949 and 1950. In fact, he and his lovely wife, Abby, who died last year, and my wife of many years, Ruby, who died in 1952, became the closest of friends and companions. We lived in the same Washington apartment building, during most of the time he and I were both serving in the House of Representatives.

In addition to the outstanding service John McSweeney rendered in the U.S. Army and in Congress, he was the Democratic nominee for U.S. Senator in 1940 and the Democratic nominee for Governor of Ohio in 1942.

John McSweeney was a great patriotic American in every respect as his service to our State and Nation over many years attests. He was well beloved by those who knew him in Ohio and in Washington. It is with sorrow that I announce his passing.

THE SPACE PROGRAM

Mr. ANDERSON. Mr. President, last week the distinguished majority leader commented—in passing, I am certain—on the values of our Nation's space program. He said, in essence, that he was aware of no valuable returns, at least no tangible returns, from the great effort this country has expended over the past decade to reach and explore the moon

with men. He spoke somewhat disparagingly of "moon dust," and of "60 pounds of rocks."

The distinguished majority leader has many important matters on his mind. He is unusually well informed on all aspects of the national interest. His voice and counsel bear great weight. This is why I feel I must take issue—not with the leader, but with the summary judgment he expressed—and which, unfortunately, has gained some currency among those who have not informed themselves fully about the exploration and exploitation of space, who have perhaps forgotten why we have reached the moon and who it was that made it possible.

To go back to the beginnings of the age of space, remember the circumstances: The Soviet Union took the first step with sputnik in 1957. They took the second step, also in 1957, sending the dog, Laika, into space as a forerunner to their later manned space flight activities. In April of 1961 the Soviets orbited Yuri Gagarin, the first man in space.

What was the impact on America? Do you not remember the feeling of national discouragement, even of failure, that this seizure of the technological high ground engendered? For the first time in our lives, America was proven "second best," and, following 1957, the gap appeared to be widening. Not only our technology, our science, our skills, but most importantly our system of life and goverment were challenged—publicly and suceessfully.

This is what President John F. Kennedy found: A complacement Nation had overlooked a frontier of incalculable importance and had been caught napping. His Vice President, Lyndon Baines Johnson, as head of the Space Council, offered the President an alternative to national humiliation: A program commitment, on a national scale and for a decade, to land men safely on the moon and return them safely to earth. This challenge to the Nation was made explicit by John F. Kennedy in May of 1961. The Congress of the United States and the citizens of the free world saw and understood that here was an opportunity to test, with vigor and in the full light of public view, the values and courage of America.

Lyndon Johnson, as President, kept the faith with this Nation's proud past and its rich future. He supported the Apollo program from the White House as he had guided the creation of a U.S. space program from this Senate, in which he served with such distinction as the Democratic leader. His Vice President, as Chairman of the Space Council, enthusiastically and successfully pressed for continuing national support of the continuing national commitment. President Nixon has not turned his back on the heritage created through the vision and tenacity of his predecessors: Just this past Saturday he has laid down the broad guidelines for our future national space activities—guidelines only possible in the light of our great achievements over the past 10 years.

The space program, spearheaded and motivated by the Apollo goal, has come to maturity. It is now an integral part of the national scene, not because space exploration is spectacular but because it is a valuable and necessary part of this country's life.

We have heard that Apollo has produced no "tangible" values. Is national pride not tangible? Is international respect not tangible? Is proof of our country's ability to set a goal of enormous difficulty and then to stick to it and accomplish what we set out to do not tangible? I believe they are. In 1960, you may remember, a worldwide poll showed the majority of the world believing that the dominant force in international affairs would be the Soviet Union. In 1970, the same survey now indicates the majority of the world believes that the United States is—and will continue to be—without peer in power and influence. Can we say that this change of view came about because of the war in Vietnam? Can we say it was caused by our diminishing foreign aid budgets? Can we say it resulted from the image of internal strife, violence, and dissension we have grown to accept as normal? Can we say it was the outcome of our senseless environmental destruction? We cannot. We can say, however—as does every informed observer of the international scene to whom I have spoken—that the policy of peaceful use of outer space, the wholly open civilian space program, the tremendous strides in space sciences and the continuing application thereof to human problems here on earth, and above all, the Apollo lunar landing—the victory of man over his terrestrial domain—these are the events and achievements that have moved the minds of men around the globe.

These are not inconsiderable values. Are you also aware that it was an astronaut's pressure suit that saved a young woman's life in California last year? That artificial limbs are now using Apollo transducers? That a whole new set of fireproof materials and flammability standards are now available? That Hurricane Camille was spotted and tracked by satellite, and that authorities were therefore able to warn and evacuate gulf coast residents? That a NASA centrifuge was used to dislodge a bullet in a man's brain? These, too, are values—the kind we have called spinoff or applications. But is not the greatest value we can identify that of knowledge, of understanding the phenomena that created our world, our solar system, our universe? It is that kind of knowledge we are gaining, and it is only with that kind of knowledge that we can hope to do something about our own future on our own planet. Those 60 pounds of rocks are giving up the secrets of their past to the analysis of our scientists; they may hold the first hard answers to the formation of the earth, and therefore to some of the forces with which we must contend successfully if we are to manage our environment.

We learn too about man in the laboratory of space: How much is he a creature of the unique surface conditions of earth, how adaptable is he to wholly foreign conditions, what are the limits and extent of his capabilities.

We have created, by dint of stubborn will, dedication, and farsighted policy, a space capability for the United States. We have proven to the world our own confidence in that capability by sending men to the moon and back; we have exercised that capability for new communications systems and new levels of accuracy in weather forecasting. We have been using it for science, probing deeper into the nature of the world. We have just begun. The values already accrued outstrip the costs to date; the values to be harvested from now on are measureless—because they are limited, not by technology, not by science, but by our lack of imagination and our ignorance.

We are in a new world because space exploration has made it possible. We must recognize the change, seize the opportunities, and learn to live with a future that, in reality, is the present.

LIMITATION ON CANADIAN OIL IMPORTS

Mr. JAVITS. Mr. President, the State Department has informed me that the President will soon issue a proclamation limiting our crude oil imports from Canada. I ask unanimous consent that my statement on this matter be printed in the RECORD.

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

The President's imminent decision to limit crude oil imports from Canada, if viewed in isolation, cannot be quarreled with. However, this decision should not be viewed in isolation, but against the backdrop of our overall oil import policy. And I must conclude that it again re-affirms my conviction that the overall policy is outdated and invalid. The invalidity of this policy was clearly set forth in the brilliant report Secretary Shultz sent to the President which pointed up the need for sweeping revisions in the existing import quota program.

In New York State, the workings of the present policy periodically threatens the supply of heating oil in the middle of the winter; threatens to force the domestic petrochemical industry to re-locate overseas where considerably cheaper oil feedstocks are available; and now we have another example of the abuses the present system can and does lead to—abuses that do have domestic and international repercussions.

I would think that the handwriting on the wall should be increasingly clear to our policymakers. The present oil import policy should be changed, and the elements for such a change is already on the President's desk. The oil policy of this nation should transcend regional interests and reflect our national interest.

ALABAMA'S PARTICIPATION IN THE PARTNERS OF THE ALLIANCE PROGRAM

Mr. SPARKMAN. Mr. President, Alabamians have been helpful in many ways to bridge the gap of understanding in the Western Hemisphere. It is entirely fitting and proper that many of our citizens are participating in an effort to learn more of not only the hopes and aspirations of our neighbors to the south, but also of their many talents and contributions to our way of life. It is heartening to see increasing interchange

and interaction between people in North and South America. After all, understanding comes from knowing about problems and attempting to resolve them.

One of the important programs in which Alabamians participate is the Partners of the Alliance program. Alabama is one of 40 States joined in a citizen-to-citizen program now operating in 17 Latin American countries. It is logical that people in Alabama are playing an important role in the Partners because of our nearness to Central and South America.

Last May, in Salt Lake City, Utah, delegates to the fourth inter-American conference of the Partners of the Alliance selected Guatemala as the site for their next conference to be held in November of this year. We are especially happy with this selection because of the fact Alabama is joined in a strong partnership program with Guatemala. Numerous small projects have been implemented because of the involvement of Alabama citizens in the partnership with Guatemala. Self-help is the key to the partners program and the people of Alabama have shown a willingness to respond to self-help on the part of their partners. Thousands of ties are being established throughout the hemisphere under this program. It is therefore one of the more important efforts in establishing better relations and understanding among the peoples of the Americas. Last month, two outstanding citizens from Guatemala visited Alabama to discuss plans for the partners conference to be held later this year in Guatemala. The visitors were Sra. Mariflor de Solis and Hector Sanchez-Latour who spoke to service organizations in the State.

Mr. President, I ask unanimous consent that an article from the Birmingham News relating to the visitors and the plans for the partners conference be printed in the RECORD.

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

PARTNERS PROGRAM IS PEOPLE-BRIDGE TO BETTER UNDERSTANDING

(By Pat McGuire)

"Help your brother across, and you will find that your own boat has reached the shore."

This old Hindu proverb, read by Mrs. Elizabeth Horne, president of the Quota Club of Birmingham, exemplified the spirit of the program president at a joint meeting of women's service clubs hosted by the Quota Club Monday at the Downtown Club.

Alabama's participation in the Partners of the Alliance program was discussed by John W. Bloomer, managing editor of The Birmingham News and member of the Alabama executive committee of the Guatemala-Alabama Partners of the Alliance.

"Alabama is on the doorstep of Central and South America," Bloomer said. "We are building a stronger, more effective bridge with the Latin American countries through the Partners program than through any big government program. This concept involves people, and the more people involved, the more understanding there is."

About 40 states are involved in the program, associated in a partner relationship with 40 Latin republics or sub-divisions. Committees of individual citizens are currently carrying out beneficial projects in education, public health, business and commerce and agriculture.

Bloomer told of visiting a Guatemalan farmer who had raised and educated five children, and of his pride in his children. "This man started out as an illiterate porter and ended up as president of a 100-man farm cooperative, but the biggest thing was his pride in his children and their futures. In him I saw the same thing that I would see in a farmer in Alabama. Right there is the story of Guatemala and how we can help. The best thing about the program is that because of people in Alabama, people in Guatemala can have a better life."

Introducing Senora Mariflor Solis, secretary general, Federation of Partners of the Alliance for Central America and Panama, Bloomer said, "She as much as anyone made an effective organization in Alabama possible."

"I felt from the beginning there was a certain affinity for Alabama in Guatemala," Senora Solis said, "and now it has developed into a love affair."

Senora Solis feels very strongly about the people to people concept. "This is a program which I would call an investment in human relations. We are extremely fortunate in having you as a partner. We hope sincerely that we can return what you have invested in us."

A community development program in Guatemala was cited by Senora Solis as an example of the help Alabama has given in teaching the people various aspects of public health, agriculture and home economics. She mentioned the possibility of a team from Samford University working in Guatemala for a six-week period.

Hector Sanchez-Latour, president of the Guatemala Partners organization, was introduced by Senora Solis as "one of the finest minds in our country."

Sanchez-Latour issued an invitation to the women at the meeting to be present at Fifth Inter-American Conference of the Partners of the Alliance to be held in Guatemala Nov. 9–12. "We would like to have a hundred Alabamians there!" he said. The conference is being organized by the Guatemala-Alabama Partners of the Alliance.

Five service groups were represented at the meeting, including Altrusa, Pilot, Soroptimist, Zonta and the sponsoring Quota Club. A project of the Quota Club has been the Guatemala Partners' booth at the International Fair.

U.S. INVOLVEMENT IN LAOS

Mr. WILLIAMS of New Jersey. Mr. President, the situation in Laos is becoming more serious every day. It has become clear that the United States is involved in an escalating military operation there and, furthermore, that our involvement has been concealed from the American people. To some degree it is still being concealed. President Nixon, while proclaiming his desire to disengage American fighting men from conflicts in Asia, has increased our military operations in Laos.

I wish I could state with some certainty precisely what that involvement now consists of. Unfortunately, because of the President's policy of secrecy, I cannot do so. Neither the American people nor the Congress have had sufficient explanation of the extent of this country's involvement in Laos.

The President's much heralded statement on the subject last Friday did very little to improve that situation. To make matters worse, the authenticity of what the President did say was very quickly thrown into doubt by revelations regarding Americans killed in Laos which have given to Mr. Nixon his own credibility gap. The President's latest release of information about U.S. casualties in Laos is no more than what should have been done all along.

Most of what we know about what is happening in Laos comes from reporters on the scene. They have reported American planes flying combat missions at the rate of more than 200 a day in direct support of Royal Laotian combat troops. They have reported American soldiers who were mustered out of the Army so they could go on the CIA payroll as advisers to Laotian troops. They have reported an entire army, independent of the Lao Government, which was recruited, trained, and equipped by the United States. And they have reported that President Nixon himself approved bombing raids by American B–52's on the Plain of Jars.

Last July, and again in November, Mr. Nixon declared his intention to disengage the United States from the war in Vietnam and to keep our fighting men out of future conflicts of that nature. His actions with regard to Laos cast doubt on just how he is going about avoiding any new Vietnam-type involvements.

I am afraid that the United States stands today in Laos precisely where we stood 5 years ago in Vietnam. The rhetoric we hear today bears a frightening resemblance to the rhetoric which preceded the tragic escalation of U.S. involvement in South Vietnam.

Mr. Nixon blames "previous administrations" for our presence in Laos but fails to recognize that it is folly to let the policies of the past dictate our future.

He says we increased our combat air operations in Laos only when the North Vietnamese increased their aggression. But the President forgets that this was the same argument used to justify increasing our role in Vietnam.

The President justifies our involvement in Laos by saying the Laotian Government asked for our help. This, of course, was the same reason we were given for escalating American involvement in Vietnam. But at least Vietnam was a signatory to the SEATO agreement, providing some framework for our response. Laos has specifically avoided any such mutual defense pacts.

The 1962 Geneva agreement on Laotian independence, which the United States was a party to, prohibits foreign military intervention in Laos. The President now says we are justified in violating that agreement because North Vietnam has done so. That argument falls of its own weight; it is like saying two wrongs make a right.

And President Nixon plays on semantic niceties to hide the fact that American military men are fighting and dying in Laos.

The similarities to the things our Government said and did in Vietnam are appalling. Already we are reading reports of bewildered, homeless refugees pouring into Vientiane as they flee from bombing raids by U.S. planes. Refugees have been pouring into Saigon for 5 years, many of them for the same reason.

Last week I urged that secret testimony on Laos given to Senator SYMINGTON's subcommittee be made public. I no longer believe that would be enough. That testimony is 4 months old, and

events have progressed rapidly in that time. I believe the best informed administration officials, Secretary Rogers, Secretary Laird, and Mr. Helms, should report fully and publicly, to Congress and the Nation, on just what we are doing in Laos.

It is time that decisions regarding war and peace be returned from the administration to Congress. It is time that our administration stops committing our fighting men as an automatic response to decisions made in Hanoi. And, most important, it is time that Americans were filled in on just what their country is doing in Southeast Asia.

OIL IMPORTS AND 33 AFFECTED STATES

Mr. STEVENS. Mr. President, the debate concerning the U.S. oil import quota system is one that has been pursued with great interest and vigorous discussion both on the floor of the Senate and in the office of the administration. The President's Cabinet Task Force on Oil Import Control has now submitted the results of its review.

In response to the task force report, the Interstate Oil Compact Commission, representing 33 States, has voiced its opposition to the task force's proposed tariff concept by a statement and resolution adopted February 16, 1970.

I submit for the RECORD and call to the attention of Senators the statement and resolution adopted by the Interstate Oil Compact Commission. I ask unanimous consent that the statement and resolution be printed in the RECORD.

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

STATEMENT

The President's Cabinet Task Force on Oil Import Control has submitted to the President the results of its review of the oil import control system.

The Task Force majority reportedly favors replacing the 11-year old quota system with a phased-in differential tariff on foreign oil as the restrictive mechanism for the specific purpose of reducing or manipulating the domestic wellhead price of crude oil.

The Secretaries of Commerce and Interior and the Chairman of the Federal Power Commission dissent from the majority in their staunch opposition to the tariff concept and urge the continuation and refinement of the present quota system.

During its 35 years of existence, the Interstate Oil Compact Commission has consistently fostered petroleum conservation policies, including foreign oil import control principles, that promote the orderly and adequate development of domestic oil and gas reserves, the prevention of waste, and the protection of correlative property rights.

These sound and time-tested policies, nurtured in the economic, social, and political environment of this nation, have stimulated the conception and improvement of petroleum industry technology in use throughout the world.

Moreover, these same policies have helped immeasurably this nation to maintain its economic and military strength and its energy independence through two world wars, two Middle East crises, the Far East involvement and the current tensions in the Arab world.

It is the firm conviction of this Compact that these proved sound policies must be continued and improved and that the national interest must *not* be jeopardized by the imposition of a full or even partial tariff factor in the foreign oil import control mechanism.

While it is not the purview of the Interstate Oil Compact Commission to concern itself with petroleum prices, inasmuch as it is the announced intention of the report of the Cabinet Task Force on Oil Imports to artificially manipulate the price of crude oil by a selective, arbitrary, and variable tariff system, it is only fitting and equitable that the impact of such a program be called to the attention of those who will eventually pass judgment on the Cabinet report.

Any foreign oil import tariff that forces lower crude oil prices can only result in damage and harm to the entire nation. Some of the more prominent victims of such destructive forces will be:

1. CONSUMERS OF PETROLEUM PRODUCTS

The cost of petroleum products to all domestic consumers will increase by an amount equal to or greater than the tariff imposed. Consumers located distances from coastal refining facilities will also be faced with added product transportation costs.

2. STATE AND LOCAL GOVERNMENTS AND SCHOOL SYSTEMS

The inevitable loss in revenues from ad valorem, severance and production taxes that will result from reduced crude oil prices and premature well abandonments will do great damage to the economy and to the educational systems of all of the oil producing states.

3. NATIONAL DEFENSE

Forced crude oil price productions will reduce this nation's petroleum producing ability to an amount that is *less* than our present military and civilian day-to-day needs. Dependence on foreign oil will result.

4. NATURAL GAS RESERVES

For the first time in the life of this Compact recent natural gas shortages have jeopardized the flow of gas to manufacturing plants. Reduced explorations drilling that will result from reduced crude oil prices will accelerate this coming natural gas supply crisis.

5. PETROCHEMICAL INDUSTRY

Domestic oil and natural gas liquids are the predominant feedstocks for the petrochemical industry that has invested over $19 billion in plants and employs some 320,000 persons in many states.

The huge liquefied petroleum gas industry furnishes fuel to industries and remote consumers in practically every state.

6. NEW PETROLEUM PROVINCES

The imposition of a tariff on foreign oil, even if a quota system base of import control is retained, will reduce the tremendous amounts of capital necessary to effectively explore: the Arctic areas of Alaska; the offshore areas of the East Coast, the submerged Gulf Coast and the West Coast of the United States; and the deep petroleum provinces that yet remain to be tested within the Continental United States.

7. EXISTING PETROLEUM RESERVES

The older high-cost producing reserves that now supply large quantities of oil, natural gas and natural gas liquids to domestic markets, will be abandoned prematurely. Victims of this great loss will be the independent producers, the smaller refiners and their customers, many industries and the ultimate consumers.

8. ALTERNATE ENERGY SOURCES

Of all of this nation's economically recoverable energy sources—coal, shale oil, tar sands, uranium and petroleum, oil and gas are the most abundant, most flexible, most desirable and cheapest due principally to the laws and regulations under which this industry has operated for so many years.

Reduced crude oil prices will postpone, even stagnate, the urgently needed development of all alternate energy sources. Dependence on foreign oil is therefore assured and accelerated.

9. BALANCE OF PAYMENTS

The intended objective of any tariff plan is to reduce domestic crude oil prices which will force abandonment of domestic wells and increase the quantity of foreign oil imported.

The United States balance of payments will therefore be affected adversely and add to the economic instability of the nation.

10. UNITED STATES FOREIGN POLICY

The differential tariff concept, reportedly provides for "low" Canadian, "intermediate" other Western Hemisphere, and "high" Eastern Hemisphere tariff levels, regardless of the quality of the crude oil imported.

This categorization of trade policies with free world nations can only invite punitive retaliation and strain the foreign relationships with all nations.

In the light of these consequences:

Be it resolved: The Executive Committee of the Interstate Oil Compact Commission meeting this 16th day of February, 1970 in Dallas, Texas, reaffirms its past positions on the subject of the Mandatory Oil Import Control Program and further urges:

The President of the United States, and the Congress of the United States to reject any type of complete or partial inclusion of a tariff factor intended to supplant the present volumetric import control principle inaugurated by President Eisenhower nearly 11 years ago. We urge its continuation, its refinement and its constant review to the end that its administration will be accomplished with fairness and justice and in the national interest.

I, W. Tmothy Dowd, Executive Secretary of the Interstate Oil Compact Commission, do hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the Executive Committee of the Interstate Oil Compact Commission, in meeting duly assembled at Dallas, Texas, on the 16th day of February, 1970.

W. TIMOTHY DOWD.

SENATOR ELLENDER LAUDS CREATION OF NATIONAL EDUCATIONAL INSTITUTE FOR AGRICULTURE

Mr. ELLENDER. Mr. President, on December 16 of last year, representatives of each of our major agriculture commodity groups—that is, cotton, corn, wheat, and sugar—met in Washington to lay the groundwork for the formation of a nonpartisan National Educational Institute for Agriculture. A charter was drawn up, official bylaws were adopted and a Board of Directors was elected. Following the first meeting of the Board, a large number of producer and agribusiness groups have been contacted concerning the approach, aim, and purpose of the Institute. At this date, it appears that membership will be considerably broadened over the scope of American agriculture and agriculture-related organizations.

This Educational Institute for Agriculture is not another lobby to be based here in Washington, nor is it to engage in lobbying-type activities. As a matter of fact, its bylaws prohibit the organization from taking part in such activities. Its primary purpose will be to implement a program of public information designed to upgrade public understanding. It will attempt to further the national appreciation of agriculture, farmers, and

the small towns. The Institute will attempt to work closely with the national news media in an effort to change the almost constant focus on the negative picture which the producers of our food and fiber too often occupy in the public consciousness. The Institute will make every effort to develop and place before the public more positive themes to bring a fairer and clearer perspective to American agriculture and its contributions to our national greatness.

More specifically, the Institute plans to make research funds available for investigation of farm income problems, especially in such seldom-probed areas as the effect of farm income on total economic development. Other anticipated projects include an assessment of the attitudes of urban Americans toward agriculture and farmers, and how those misconceptions, which I know exist, may best be corrected.

It should be obvious that many interrelations and much overlapping exist between the problems of our rural areas and the problems which have grown up in our cities. The two cannot be separated. Too often, however, the bulk of the population—that is, the urban dweller—is totally uninformed, ill-informed, and misinformed concerning both the condition and contribution of those efficient food factories which our American farms have become.

I prefer to look to the future rather than to the past. But if fault must be found with the State that agriculture has come to occupy in the public's mind, I am forced to conclude that a large share of the blame must rest on the doorstep of the farm community itself. As chairman of the Senate Committee on Agriculture and Forestry, it seems to me, and I do not like saying it, that over the past few years American agriculture has endeavored primarily to make known the need for programs that directly affect only the farmer. Concern for issues that affect the Nation as a whole has been virtually excluded in the public debate on farm policies.

The word "polarization" has lately come to be overused. Nevertheless, as a partial result of the narrow view too often expressed by agricultural spokesmen, a polarization between urban dwellers and those who take their livelihoods from the soil has been allowed to grow up. To break down this polarity, to bring our people together again, in President Nixon's words, we must first establish in the public consciousness the fact that there is no real conflict between the interests of our rural and urban areas. The farmer can gain no benefit from large metropolitan areas that become more and more overcrowded and subject to decay. The urban dweller can gain no benefit from a system that allows its agricultural base to weaken and undermine our national wealth.

On January 27, in an address before this body, I cited figures detailing the pervasive influence of agriculture on our economy as a whole.

The point I would like to emphasize here today is that if properly maintained and improved, agricultural income can have a catalytic effect on national growth patterns. Farm income still represents the economic backbone of the small community and unless it is strengthened and improved, these communities cannot possibly offer the means for reducing present urban congestion, or preventing a serious deterioration in their conditions in the future.

These communities have much to offer, but their full potential cannot be developed while farm income still lags a full 40 percent behind city income. This, to me, underscores valid reasons why Senators from urban areas should seek to continue the fundamental agricultural support programs aimed at preventing not only further erosion of farm income, but also insurance of stable and plentiful supplies of excellent quality food and fiber.

In economic terms, the contributions of agriculture have a magnitude that is difficult to comprehend.

Yet, I would daresay any of us could leave this Chamber and ask the first person encountered to name the Nation's largest employer, and most likely the response would be autos, or steel, or utilities. The answer—agriculture—would earn a look of disbelief.

Yet, the most recent figures place agriculture far in front as the Nation's leading employer with about 5.2 million workers—more than the combined employment in transportation, public utilities, the steel industry and the automobile industry.

To measure agriculture's overall economic importance we find that:

It spends over $33 billion a year for goods and services to produce crops and livestock. In addition, farmers spend another $12 billion a year for the same items that others buy—such as food, clothing, drugs, furniture, and appliances.

Agriculture creates jobs for three out of 10 persons in private employment;

The industry ranks as one of our most important taxpayers, paying real estate taxes alone totaling more than $1.7 billion, and State and Federal income taxes of about $1.5 billion;

It also is the world's largest supplier of food, exporting the production from approximately 78 million of its 300 million acres of cropland. These exports have played an important part in keeping the peace in a number of nations.

In conclusion, I will state that at best, the farmer's story has been inadequately related in the past to the consuming public. I believe that all Senators will share my views that it is imperative that this story be told factually, and that much more stress simply must be placed on its positive aspects. Having been informed that the Educational Institute for Agriculture intends to face this problem squarely, I am not only encouraged that it has been formed, but I also intend to assist in every appropriate way to insure its success.

CITIZENS BANK OF JONESBORO, ARK., LOWERS PRIME INTEREST RATE

Mr. FULBRIGHT. Mr. President, I was most pleased to receive last week a telegram from Mr. Herbert H. McAdams, chairman of the board and president of the Citizens Bank of Jonesboro, Ark., stating that his bank has taken the initiative in our State in lowering the prime interest rate to 8 percent. I regard this as a healthy economic signal, and commend Mr. McAdams and the bank's board of directors for this leadership in this direction. I ask unanimous consent that the telegram from Mr. McAdams be printed in the RECORD.

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

JONESBORO, ARK.,
March 5, 1970.

Senator J. WILLIAM FULBRIGHT,
U.S. Senate,
Washington, D.C.:

In cooperation with President Nixon's efforts to stem inflation, the Board of Directors of Citizens Bank today voted to lower the prime lending rate from 8½ to 8 percent.

This bank has been a leader in banking—sensitive and responsive to the needs of the people.

The reduction of the prime rate is another way we can put citizenship to work—responding to the plea of the President in battling inflation and helping in the development of our rapidly growing area. This is the least we can do for our Nation, economy and customers of our bank.

HERBERT H. MCADAMS,
Chairman of the Board and President,
Citizens Bank of Jonesboro.

DOES THE U.S. NEED A KING?

Mr. McGOVERN. Mr. President, the current issue of Look magazine includes a perceptive article written by Mr. George Reedy, the able former press secretary to President Johnson. The article is based on years of observation, reflection, and study which have gone into the authorship of an important new book by Mr. Reedy entitled "The Twilight of the Presidency."

As a brilliant newsman of wide experience and from his unique post inside the White House, George Reedy explores the limitations and hazards which the presidential system imposes on our Chief Executives.

He especially notes and illustrates with cogent examples selected from recent administrations the tendency of Presidents to lose their sense of political reality because of their isolation from ordinary citizens.

I ask unanimous consent that Mr. Reedy's article entitled "Does the U.S. Need a King?" be printed in the RECORD.

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

DOES THE U.S. NEED A KING?

(By George E. Reedy)

I think we should consider turning the White House over to a king or presiding President and then name a manager, working out of a nearby office where the doors are always open, to handle our affairs. I know this would not be a very popular idea with the aides, past or present, at 1600 Pennsylvania Avenue who have found their experience around the President "exciting" and "inspirational." It can be all that and more. It can also stifle idealism, separate a man from political reality and render him incapable of communicating with others. The setting of a royal court, purged of all emotions save awe and ambition—and that

is what the White House has become—is not an appropriate place for the government of a free people.

Richard M. Nixon is still in a stage of the Presidency when the errors that flow from the White House environment are barely perceptible. He has the support—shallow perhaps, but very broad—of a majority of Americans. But I can already detect the beginnings of isolation from reality. The young, intense congressman I knew as a newspaperman in the late '40's could tell when to "shove in his stack." I can still recall the almost fruitless afternoon that I spent trudging the corridors of the House Office Building trying to find the members of the House Un-American Activities Committee after Alger Hiss had apparently smashed the case against himself. They had all taken off for the storm cellars, except one—Mr. Nixon. I found him without any trouble, and he was ready to fight. Even though I had some reservations at the time about the Committee's case, I admired the instinct that told him this was a time to persevere.

Judge Clement Haynsworth's nomination was not worth "shoving in his stack," and I do not believe the politically aware congressman of 1947 and 1948 would have done it. Senate animosities created by the traditional arm-twisting process may not seem important now, but they are going to plague him when he hits the lows that every President encounters sooner or later. He is going to be surprised how long such enmities last. His predecessor found that out—too late.

I do not believe President Nixon exercised political perception when he failed to take the initiative to arrange a personal meeting with the demonstrators against the Vietnamese war who assembled in Washington in November. He did not have to give in to them. He merely had to find some graceful way of listening. It would have been difficult and troublesome and probably not in accord with the feelings of most adults in this country. But the effort might have salvaged some of the leaders of a generation who left Washington with bitter feelings that "the system" would not even give them a hearing.

In a sense, they were right about "the system." Presidents all act remarkably alike when it comes to dealing with "people." Had Mr. Nixon even entertained the thought of some kind of meeting with the demonstrators (I hope he did; it would make me feel better), everyone in his vicinity would have assured him promptly that it was useless, dangerous and unbecoming the dignity of a President. I saw this happen to his predecessor when ten anti-Vietnam demonstrators staged a sit-down in the corridors of the Mansion. Lyndon Johnson's impulse was to go and talk to them. But both a majority of his staff and a couple of Cabinet officers advised him that Presidents do not do such things. The idea was dropped.

The White House has a habit of wrapping Presidents in a blanket of its own making. President Johnson tried to communicate with youth, and surrounded himself with young people whom he fondly imagined to represent the "real" spirit of this generation. They were progressive, mannerly, neatly groomed and ambitious. A stroll through the Executive Wing became very much like a walk through the corridors of the Harvard Business School. It was not a notably successful experiment, since the young people around Johnson seemed untouched by the passions that caused riots on college campuses across the country.

Lyndon Johnson was a victim of the inexorable White House mechanism that starts separating a man from political reality the day he enters the Mansion. As a Senate leader, he was superb, exhibiting the qualities, despite the differences in background and environment, that should have given him a place in history alongside Pitt, Disraeli and even Churchill. He was earthy, elemental and profoundly aware that the successful practice of democratic politics requires the recognition that every man, even the pariah, yearns for a place in the sun.

These were the qualities that enabled him to reassemble the shattered pieces of the Democratic party, torn by savage battles between North and South and liberal and conservative. These were also the qualities that made him such an eminent practitioner of the art of spreading good will among ordinary men and women in other nations. My fondest memories of my political years center around the fervent warmth with which he was greeted in Indian villages, the streets of Ankara and the shipyards of Naples. The people really responded to a politician who could communicate his sense of what it means to have your stomach flapping against your backbone.

As Senate leader, he was regarded as a "miracle" man who had somehow warded off conservative attacks against the health, education and welfare legislation and had succeeded, by means of some mysterious magic, in steering through the chamber the first civil rights bill passed in 82 years. There was neither miracle nor magic to it. The process consisted primarily of listening to people; probing what was in their hearts; finding out what really had to be done to put together effective majorities that could achieve worthwhile goals.

It was hard for me to reconcile the White House Johnson with the Johnson I had known in the Senate. The differences were not apparent to the public at first because he entered the office with "money in the bank"—the confidence he had inspired as a "can do" man whose moves might be difficult to comprehend but who usually wound up on the winning and the "right" side. Added to the customary willingness of Congress to give a new President almost anything he requests, it carried him to heights of popularity.

The first two years were years of triumph. An explosive argument with Panama was settled by an impulsive direct telephone call to the Republic's president. (I will never forget the startled look on the face of a holdover assistant who gasped: "You can't do *that!*" when Johnson picked up the telephone. "Why not?" was the unanswerable response while the call went through.) A serious threat by Fidel Castro against the American base at Guantánamo was deftly shoved into historical oblivion. A civil rights bill with teeth—unthinkable just two years earlier—went sailing through the Congress. Trailblazing antipoverty legislation, education legislation, welfare legislation, slum-clearance legislation became so commonplace that I am afraid the public almost lost interest in such accomplishments. The Great Society was sweeping everything before it, and the signs of approaching disaster were perceptible only in the press office, whose occupants must face the one part of the public that can enter the Mansion daily and say unpleasant things—the newspapermen.

At first, the signs were very small—what appeared to be minor crochets of no great significance. For example, there was the failure to send Vice President Hubert Humphrey to Great Britain to represent the United States at Winston Churchill's funeral. The President himself could not go because he had been confined to his bed a few days earlier with a bad cold and no one with any sense would expose him to the British weather. It was assumed automatically that he would send the Vice President instead. But I could not get an answer out of him—I do not know why to this day. At the last minute, he sent a routine delegation—a clear affront to the British—and I hastily recalled an unobtrusive aide I had sent to London, under conditions of secrecy that rivaled those that surrounded the atomic bomb in World War II, to handle vice presidential press arrangements. This is the one mistake I have ever known Lyndon Johnson to admit publicly, but he never said *why* he had stepped so heavily on the sensibilities of the British public.

Such lapses became more serious in events like the crisis in the Dominican Republic where, I am convinced, his instinctive policies were correct (at least, they ended in a free, democratic election and the restoration of stability to the island) but where his explanations were so confusing that I don't believe historians will ever straighten out the facts. One day the marines were going in to protect American lives; and another, to forestall a Communist takeover; at another point, the American ambassador was crouching under his desk ducking bullets flying into the window; and at another, hundreds of innocent civilians were having their heads chopped off. The whole thing culminated in an evening presidential television announcement that burst without previous notice, into the middle of a soap opera. He would not wait even ten minutes for a station break. It did not require a psychologist to come to the conclusion that the American people would be left in a state of complete bewilderment.

Protests by the press office were answered by designating the Pentagon as the only source of Dominican news. Then, when newspapermen in Washington relayed the nasty questions sent up by reporters in the Dominican Republic, who could look at the Embassy and count the bullet holes, the Pentagon could not give what the Washington press considered helpful or informative answers. The whole episode was quite a contribution to White House credibility.

There was also the strange statement implying that he hardly knew Bobby Baker when the former Majority Secretary of the Senate got into trouble. In many respects, this was the oddest of all. As close as I was, I could never find the faintest shred of evidence that Lyndon Johnson had any connection with Bobby's extracurricular activities, but he had certainly worked closely with him as a Senate official, and every newspaperman in Washington knew it. When I argued the point, I discovered I had reckoned without the predisposition of Presidents to believe that any of their statements automatically becomes a fact, not to be challenged by lesser mortals.

Somehow, he had lost his instinctive sense of what people would and would not believe. He had become accustomed to substituting command for persuasion. And he was not comfortable having around him people who would argue against an impulse, even though the same people would not reveal their disagreement in public.

That he had lost touch with political reality did not become publicly apparent until 1966. This was after I left, and I can only guess what happened when he brought the negotiations of the machinists' strike into the White House. It was a bad idea that culminated in the rejection, by members of the union, of a settlement that had been announced two days earlier with great fanfare by the President himself. The problem was that he had talked to nobody—and plenty of people were available—who would have told him that the rejection was inevitable. Somehow, things never went right for Johnson after that episode. The announcement of a settlement was the high-water mark of the euphoria, although not the power, of the Great Society. What had appeared to be invincible force diminished, not gradually, but in torrents. Proposal after proposal was watered down, conveniently lost or rejected altogether by Congress. The tempo of the war in Vietnam—and the opposition to it—stepped up sharply. A valid history of the Johnson Administration would have to dwell on the machinists' strike—not because it was

the cause of the subsequent deterioration but because it was the turning point in his presidential career.

The trouble is that so many things can be obtained with a snap of the fingers —a cup of coffee; a massage; a telephone line to the Prime Minister of Great Britain; a jet flight to Hawaii. It is all too easy to slide into the feeling that *all* people can be moved by a few quick commands. Everyone is reluctant to tell a President "home truths," and therefore he does not learn how strongly others feel about a proposal until he has committed himself to it irrevocably and it is even too late to make sensible changes that might meet the objections.

I believe that President Kennedy, by his handling of the abortive steel-price increase in 1962, set in motion forces that would have been very troublesome if the tragedy of Dallas had not intervened against his almost certain candidacy for reelection in 1964. It was not what he did but how he did it. His moves were almost incomprehensible from my quiet vantage point of the Vice President's office.

The situation was messy. The President thought he had an agreement that the steel companies would keep their price structure within the economic guidelines. His anger, when a far higher increase was announced without previous notification to him, was understandable. However, a nation cannot be unified by angry leaders. The reaction was swift and sharp. The companies were denounced on nationwide TV. The wheels of the Justice Department's antitrust division began grinding. The increase was rescinded, despite the announcement, even before it went into effect. The President had won a battle he had to win. But he had won it at the price of striking terror into the heart of America's industrial community. It was a heavy, and needless, price to pay. There were other ways of doing it without humiliating the corporate heads and driving a wedge between them and the White House. The grandson of "Honey Fitz" had forgotten the most elementary lesson of politics—in order to win a point, it is not necessary to humiliate a man.

The examples can be pushed back through history—Harry S. Truman's inept handling of the Communist spy issue, which left this country in a state of paranoia; Franklin D. Roosevelt's futile effort to purge the Democratic party of dissidents and to pack the Supreme Court with pro-New Deal judges. Only Dwight D. Eisenhower seems to have been exempt from such mistakes, and that was probably because he devoted himself to the function of presiding and left the job of management to men who felt more immediate responsibilities than the pressure of history.

None of this is to suggest that we launch what would be a foredoomed effort to find mistake-free political leaders. Actually, when we take into account the type of decisions our Presidents are called upon to make, it is amazing that the errors are so few. The problem is that the mistakes are so irreversible and invariably leave in their wake a quality of abrasive bitterness that erodes the confidence of the people in their government. Other political leaders survive their bloopers; Presidents rarely do. There are many reasons for this situation. One point that is central is the dehumanizing influence of the White House itself as an institution. It *is* a court, and the decisions that emanate from it are made in the atmosphere of a throne room and issued with the air of a Czarist ukase. It is not an environment that fosters the supreme essential of the politicians' art—the capacity to sense the feelings of people—and a poll, which tells where they stand, is no substitute.

With the passage of a few years, my memories of the White House have lost some of their cutting edge, probably a defensive psychic mechanism. But the quality of life within its walls is unforgettable. It is governed by one overriding rule—the overwhelming drive to stand or walk in the closest possible proximity to the President when he is in a good mood. The spectacle of a euphoric President striding through the Mansion, followed by assistants shoulder-to-shoulder in quick lockstep, like bodyguards in a grade-B gangster movie, should be immortalized in film. Left, right! Left, right! Column right to the Rose Garden, column left to the gardener's room, company halt! It is a difficult exercise, as no one wants to be more than one pace to the rear and no one wants to step on the President's heels. Further, the commands only come by some form of extrasensory perception, a faculty White House aides develop to a fantastic degree.

When the presidential storm flags are flying, the picture is quite different. Then the President walks alone, observed only by the quietly competent White House police and Secret Service men, both of whom are secure in their mastery of an essential function and who need not compete in the scramble for crumbs from the royal table. It is the occasional glimpse of such moments that drives home the true pathos of the Presidency, a position so lonely that its occupant can only have sycophants or followers—not friends. Unfortunately, the mood of the walk is also the mood in which far too many decisions are made. A meeting of the Cabinet or the National Security Council is far different from the type of gathering in which men normally seek to arrive at a decision. This is inevitable from the very nature of the group. It comes together not to reach an agreement but to help one man make up his mind. And that man is not just presiding; he is the only person in the room whose opinion really matters.

Cabinet officers tend to be men of genuine distinction and forceful personalities. To bring them together under any other circumstances for a discussion of life-and-death issues would certainly provoke heated exchanges and face-to-face confrontations out of which there would be a modification of views. It should be an exciting experience to sit in on such a gathering. The reality, however, is agonizingly dull, the kind of session that fills any sensitive man with an almost overpowering desire to scream a four-letter fragment of the Old Saxon language.

The presentations are couched in the most aseptic of neutral words. The opening statements are like the first few rounds of a professional fight in which the boxer keeps vital points of his body covered while he seeks to gauge the reactions of his opponent. The first hint of approbation from the President determines the course of the meeting. There is a shift, which I believe to be subconscious, to the indicated position, and after that, the question becomes *how* a thing can be done; not whether it should be done at all.

Of course, there is always a dissenter, and some men glory in that position (although I would caution some skepticism for outsiders trying to determine who it is). But somehow, the dissent is rarely cogent, and never cutting. It is always welcome as evidence that "both sides" of an issue were discussed. I would feel considerably better about it if I knew of an occasion where such "dissent" actually had an impact on the course that was followed.

Inadequate as they may be, such meetings are still superior to what emerges from the White House staff. Cabinet officers at least have the inner security that comes from status and encourages a degree of independent thought. The presidential assistant does not have that blessing. His position depends entirely upon his capacity to please one man, and he either succeeds in doing so or leaves. This is basically the factor that gives life in the Mansion the air and the appearance of a Byzantine court in the early 15th century.

A day in the life of a successful White House assistant is a day in the successful practice of one-upmanship. It is like moving through a booby-trapped jungle where guerrillas lurk behind every banyan, armed with deadly memoranda and ready to open fire with verbal bullets first rubbed in garlic. Survival depends upon the ability to jump—jump when the red light flashes on the telephone; jump when the buzzers warn that the President is on his way from the Mansion to the Executive Wing; jump when the Cabinet is assembled, and at least be in the corridor if not in the Cabinet room itself.

The central figure is the President himself, the man for whom the whole structure was designed and built. It is *his* Rose Garden, *his* swimming pool, *his* kitchens, *his* State Dining Room. At his instant command is every luxury that human ingenuity can devise, and his slightest whim is met with immediate gratification, as long as the circumstances are within the physical control of the hundreds who surround him. It is an environment that would delight any immature personality and enhance any neurotic drive that a man possessed already.

Unfortunately, very few of the problems that a President must face are amenable to command. They involve human beings, most of whom do *not* jump at the snap of fingers and who have a tendency instead to dig in their heels when they are ordered. Despite all of the facilities with which we provide a President, what he needs most is withheld and, indeed, cannot be granted. It is an environment that will give him some "feel" of the reaction of ordinary people to their government. This he can only read in the newspapers—an institution that all Presidents come to distrust simply because the pictures of the world that they paint do not accord with what those in his vicinity assure him is the reality.

He does not have the personal adversary relationships with other human beings that keep most of us in touch with reality—the little signs of rising irritation; the necessity of dealing directly with unreasonable people; the invitation to "Go soak your head!" None of us enjoys such episodes, but they are as essential to our psychic health as exercise is to our physical well-being.

Nor is this simply a matter of the respect that is always given leaders. Every politician has his sycophants and hangers-on, and moves through a world where his entourage acts as a buffer against the harsher aspects of life. But he also has peers, other men who treat him with no awe whatsoever and don't mind telling him at once when either he or his staff steps over what they regard as "the line." Some Chief Executives go out of their way to invite dissent. But it is futile. No one is going to say what he really thinks, unless it is pleasant.

The trouble is that the President's status was built into the Constitution by the Founding Fathers. They established the position as a variety of monarchy when they combined in one man the functions of chief of state and chief of government—in more direct language, king and prime minister. They did not set up a dictatorship because they limited and divided the powers of government itself. But when they concentrated all executive authority in one pair of hands, they decided, in effect, that the U.S. would be run from a royal court, complete with all the trappings—save a monarchial studbook.

Can the situation be changed? Yes. There are many governments in this world that successfully divide the functions we combine in our President—in fact, there are very few governments outside the Western Hemisphere like ours. However, the necessary changes would be complex and profound. Much more would be necessary than merely moving the executive offices out of the White House, although this would be a good and healthy first step. But I have no illusions

that it could be done easily and few hopes that it will be done at all.

The examples I have discussed are part of a pattern that is making deep inroads into the confidence that people should have in their government. Part of the reason for the loss of confidence is that we are in one of those frightening periods of history when we are beset by problems to which no one seems to have any answers and when all leaders look inadequate. But I am convinced that an equally important factor is the growing realization of the deep gulf between the Government and the people.

Like every other White House assistant, I hear most frequently one question: Do I miss the place? The answer is a heartfelt "No," without any reservation whatsoever. To me, it is a place of dull and tawdry intrigue, an institution that fosters the pettiest ambition and deprives men and women of normal instincts. I do not believe it makes great men; I only think that great men sometimes survive it, and I am not certain that the country can.

It is time to bring government out of the aura of sanctity with which we envelop our Presidents. It is time to restore their capacity to walk the streets that other men walk and to breathe the air that other men breathe. The government of a free people requires much more than computers and technicians. It rests upon the instincts of politicians who are sharing the daily lives of the people whom they govern. Such instincts cannot flourish in the atmosphere of a sacred shrine. Let us bring our Executives to the era of the open-door policy.

THE PROPOSED NATIONAL OCEANOGRAPHIC AND ATMOSPHERIC AGENCY

Mr. COOK. Mr. President, the remarks of the distinguished Senator from South Carolina (Mr. HOLLINGS), presented on the floor of the Senate last Thursday, concerning his National Oceanographic and Atmospheric Agency proposal have caused me some concern. I certainly agree with the Senator that the importance of our national effort in the oceans should not be minimized or spread too thin and that some reorganization for oceanography at the Federal level may well be necessary.

However, his remarks have caused me some dismay because in the past and present administrations the mood of Congress has remained one of bipartisan support for a strong and viable national program for marine affairs.

I recognize the interest of the Senator from South Carolina in seeing his bill pass, but I believe that a loftier goal would be to take a more statesmanlike position and attempt to analyze all of the alternatives available for an improved U.S. effort in marine affairs. I, for one, do not feel that the current NOAA bill is broad enough, for I believe our inland waterways and lakes are also a part of a bigger picture, and I have been disturbed by the lack of emphasis on such an important segment of our total marine environment.

As a result, I regret that the Senator did not take an objective view of the alternatives we have been discussing to improve the coordination of marine affairs among Federal agencies. Instead, he relied on an old lawyer's trick of proving his point by shooting down all other alternatives. And so, one by one, he considered these alternatives and with the use of the hyperbole attempted to decimate them.

His remarks with respect to my good friend, Secretary of the Interior Walter Hickel, were unfortunate, for I believe that Secretary Hickel was sincere when he spoke to our Subcommittee on Oceanography about the Interior Department's interest in and competence for assuming additional responsibilities in the field of marine affairs. Here the Secretary's interest is personal and longstanding, dating back to his experience as Governor of Alaska. Secretary Hickel took the time to discuss with us the varied activities of his department in this field, particularly the work of his own blue ribbon advisory group on oceanography, the Marine Affairs Action Group. In his testimony, the Secretary specifically referred to the work of the Commission on Marine Science, Engineering, and Resources and the request in his own order—a part of the record—creating the Marine Affairs Action Group—that it review the Stratton Commission Report.

With respect to the Senator's reference to the Santa Barbara oil spill, I should like to point out that it was Secretary Hickel who acted vigorously to preserve the environment. He ordered the drilling stopped and directed a sweeping review of the rules and regulations under which the work was being done. As a result, these have been tightened and are in effect today. It is important also to bear in mind that these leases and rights made prior to Secretary Hickel's appointment are still in effect and cannot be canceled by administrative action.

That Mr. Hickel was slighted last Thursday by the distinguished Senator from South Carolina was disappointing.

Mr. President, if we deviate from the bipartisan effort that we have faithfully and steadfastly adhered to, and if we convert this important matter into a petty partisan effort, no one will gain anything. Worse yet, those who are interested in a greater effort on the part of the Federal Government in marine affairs will be the losers.

A SOLDIER IN VIETNAM WRITES TO HIS MOTHER

Mr. FULBRIGHT. Mr. President, I have just received a letter from Mr. Randy Southern, forwarded to me by his mother in Michigan. It is such an honest, straightforward letter by a young soldier that I think it should be placed in the RECORD. I may say that the feelings he expresses are shared by many of his fellow soldiers in Vietnam. I ask unanimous consent that the letter be printed in the RECORD.

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

FEBRUARY 18, 1970.

HELLO, MA: I know I wrote you yesterday but I am going to write again because I miss you and everyone else. Ma, I wish I had never joined the Army. Today we killed 18 V.C. If I would have known it was like this over here, I would have gone AWOL before I came over here. I know it is a job that has to be done. But I never thought I would have to take someone's life. And I don't care what anyone says, I will never think it is right. I know I have done some wrong things in my life, but never something like this. I don't see why we don't leave these people alone, and let them live the way they want to. They don't want us over here. All they want is our money. They hate us. We burn their homes and tear up their gardens. But they think we are trying to hurt them but we're not. Ma, you understand, don't you. I hope this war ends so Skeetar won't ever have to come over here. Well, Ma, how is everyone doing. The only letter I have received is from Becky. I can't wait to get back to the shop and get a new Corvette. Well, Mom, I guess I had better try and get a little sleep. I love you.

Randy.

P.S. Tell Skeetar I got him a knife like he wanted. I found it on a V.C., but I don't know if I can send it home. I may have to carry it home, but tell him I will get it home to him.

U.S. POLICY IN THE MIDDLE EAST

Mr. RIBICOFF. Mr. President, more Americans have been expressing their deep concern over the new direction of our Government's policies in the Middle East. The refusal, to date, of the Arab States to negotiate peace with Israel has created a situation with which the Israelis appear able to contend. However, our own country has recently displayed impatience with the lack of movement toward peace. By undercutting Israel's bargaining stance we have actually lessened the chances for an eventual settlement agreed upon by the parties directly concerned.

Last Sunday, I had the privilege of addressing a conference convened by the Connecticut Jewish Leadership on Peace in the Middle East. In my remarks I explained why Israel should be treated by the United States as a valuable asset which should not be squandered.

I ask unanimous consent that my remarks be printed in the RECORD.

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

U.S. POLICY IN THE MIDDLE EAST

The past three months have witnessed a number of significant developments in the Middle East and elsewhere. They affect all of us as Americans and as Jews.

Hitting closest to home perhaps was the Swissair tragedy which took the lives of Yale's Dr. Richard Weinerman and his wife, and Merton Myerson of Stamford.

Many of you, I am sure, were privileged to have been friends of these fine people. I had known Dick Weinerman for many years. I am impresed with the work he had done in the field of public health. His loss is a personal one for me.

It seems so strange that the voices which were so prompt and loud in their denunciation of the bloodless Israeli raid on the Beirut airport were so deafeningly silent here.

A lack of firm action by the international community against the Arab governments harboring these warped assassins could lead to more mass murders in the sky.

President Pompidou has come and gone. I would think he had considerable explaining to do concerning France's anti-American postures not only in the Middle East, but elsewhere in the world.

Monsieur Pompidou in his address to the Congress, I am told by those who were there,

made a point of stressing the durability of Franco-American friendship. But, it takes *two* to make friends—and certainly French actions in recent years with regard to gold, Vietnam, NATO, and now jets to Libya have made many Americans perplexed and unhappy.

The Pompidou government's actions to date has shown that Gaullism has unfortunately survived De Gaulle. No wonder many Americans are asking—Lafayette—where are you?

French maneuverings in the Middle East since the 1967 war have been outrageous. There is a yawning gap between France's avowed neutrality and her actual deeds. At least the Russians are candid in their support of the Arabs.

The French government's speed in taking over American interests in Libya has truly been amazing. They might not even have to cut the grass around the runways at our Wheelus Air Force Base after we depart.

In much of the recent public discussion of United States policy towards Israel, emotion, and a lack of perspective have characterized much of the debate.

Too often overlooked is the bedrock issue of how Israel serves American interests in the Middle East: Israel's role as a definite strategic asset to the United States cannot be stressed strongly enough.

If we look at the basic interests of all the parties involved—what do we find?

It is clearly in the interest of the Soviet Union to aid and encourage Arab hostility against Israel stopping short of an armed confrontation with the United States.

It is in the interest of the Arab rulers to stoke the fires of hatred against Israel. This conceals their own shortcomings in caring for the needs of their own peoples. This also provides the only basis for the facade of Arab unity.

It is in the interest of Arab terrorist groups to perpetuate the illusion of the Middle East as a powder keg. Of all the parties concerned, they have the least to lose—and with this realization goes their cowardly and uncivilized behavior.

It is in the interest of Great Britain and France to preserve the illusion that they are on the same international level with the United States and Russia by promoting continued "Big Four" talks. At the same time, these two peace-makers are actually pursuing their own selfish interests in the area by selling French Mirage jets and British Chieftan tanks to the Arabs—while denying these weapons to Israel.

And, finally, we can describe Israel's overriding interest in one word—survival.

Israeli comments on the Administration's recent initiatives have been made more in sorrow than in anger. After all, what is there to do when a well-meaning but perhaps too nervous friend tries to do what he considers is best for everybody by giving away your most valued possession as a start?

In Israel's case, her trump card and crucial bargaining point in trying to get her Arab neighbors to negotiate has been the territory it occupied in June of 1967.

In essence, our government's latest proposal would pull the rug out from under Israel's feet.

By proposing a detailed, comprehensive settlement, including specific border arrangements, little is left to the parties themselves to hammer out.

These proposals represent a definite change from our previously stated positions since the Six-Day war. If peace is to finally come between Israel and the Arabs, it must be based upon explicit mutual recognition and respect—if not full reconciliation. This can be achieved only through negotiated agreements by the parties involved.

With the best of intentions and good faith, our State Department has allowed itself to be outclassed and outmaneuvered by the Soviets in the past few months.

We have been left with egg 'a la Russe on our faces as a result of the Soviet backtracking. The Israelis are faced with a serious undercutting of their bargaining position. Fortunately, is not too late to reverse ourselves and face up to the facts of life—and death in the Middle East. If this means countering lavish French and Russian arms shipments to the Arabs by selling more Skyhawks and Phantom jets to Israel—this must be done.

The planes aside—the message will not be lost on Israel's enemies. It is not necessary to invoke sentiment, guilt-feelings and past history to justify American support for Israel. In the cold light of international politics, Israel is America's most valuable asset in the Middle East today.

To get an understanding of this role, Israel may be viewed as a dam preventing Soviet pressures from building up against Turkey, Iran, and Ethiopia—as well as the more moderate Arab governments. But, it should be equally obvious that only a well-armed Israel, within secure borders, and with a strong economy can withstand the Soviet pressures.

If we attempt to abate the Soviet flood southward by punching small holes in the dam, temporary results might be achieved. But inevitably, the barrier would be weakened and the Russian tide would sweep throughout the Middle East and Africa.

Any deterioration of Israel's position as a result of American actions would be viewed by the Arabs as a *Soviet* triumph and a sign of Soviet strength. Unless the U.S. were to completely repudiate Israel and assume an active role in preparing for Israel's destruction, we cannot hope to compete on even terms with the Soviets in currying favor with the extremist governments in the Arab world. It is inconceivable that the United States should want to compete on these terms.

There is another aspect of U.S.-Middle East policy which is overemphasized and misunderstood—oil.

A basic truth here is that the United States is *not* dependent on Middle Eastern oil.

We hardly use any of it now—and there is little reason to think we ever will. Just look at our own vast resources and those of nearby Venezuela, Canada, and Alaska, for the reasons why.

For years now there has been a glut of oil in the world markets—and the prospects are that it will remain so. New oil development is proceeding rapidly all over the globe—in Indonesia, Nigeria, Alaska and the Soviet Union, just as a few examples.

Western Europe to be sure, would suffer somewhat from a cut-off of Middle East supplies. But past experience has shown that it is the "have-nots" of the Arab nations who shout the loudest—and the "haves" who sell their oil to the West because no one else will buy it.

The big American oil companies are in business to make profits. We cannot quarrel with them about this—even if they do pollute our beaches occasionally. They would seem to be ill-equipped and lack the proper perspective to make "even-handed" judgments on the national interests of the U.S. There is more to American foreign policy in the Middle East than the protection of oil investments.

There is another myth, sometimes expressed in the vicinity of Foggy Bottom—where our State Department is appropriately located. This is that Israel is at the root of the troubles plaguing our so-called "friends" in the Middle East.

Without a strong Israel these past twenty years, what would have been the chances of the Jordanian and Lebanese governments surviving until 1970? The winds of change sweeping over the Arab world probably would have toppled more Arab governments by now if not for Israel.

If our policies toward Israel are to be truly more "even-handed" this must mean that Israel will not be left "empty-handed".

At tremendous sacrifices to her economy and her people, Israel has been paying cash on the barrel-head for the sophisticated weaponry she needs to counter the huge number of planes and tanks in the hands of her enemies.

If our government is truly seeking a "better balanced" policy in this area, let it pay closer attention to the arms balance. The U.S. in its own best interests must assure that Israel does not fall behind in this critical race. How long can Israel bear the burden of spending 25% of her Gross National Product on defense? We spend 7%.

Courage, skill and blood can make up for vastly inferior numbers of weapons and men—but not forever and not without damage to the quality of Israeli society. I would hate to see another generation of Israelis growing up to be fighter pilots, tank commanders and artillerymen rather than physicists, musicians and doctors. But, as the Israelis say—"ein brera"—there is no choice for the time being, anyway.

With the realization of how Israel is steadfastly serving the interests of the United States in the Greater Middle East, a small investment now by our country in ensuring Israel's future security would yield considerable dividends.

If Israel is willing to endure until the Arab governments she has beaten three times on the battlefield are ready to negotiate, why is the U.S. in such a hurry? Israel is merely asking our country to be patient, and not to lessen her support.

The Russians have always shown an appreciation of military power as a factor in international relations.

They are not blind to the military prowess of the Israeli defense forces and the lack of it on the part of their own clients. The U.S. should exploit Israel's strength, not seek to dissipate and squander it in vain efforts to placate the Arab regimes.

While the United States in its global chess game with the Soviet Union can afford to "win a couple, and lose a couple", the Israelis with an area the size of New Jersey and a population roughly that of our own state of Connecticut lack this flexibility.

If Israel is pressured into a mistake by our own country at this critical juncture in her history, it could mean another 2,000 years of the Diaspora.

MILITARISM IN AMERICA

Mr. FULBRIGHT. Mr. President, the January issue of the Center magazine, published by the Center for the Study of Democratic Institutions, contains an article written by Donald McDonald, entitled "Militarism in America." It is a thoughtful and thorough study of the influence of the military on our society, our Government, and our foreign policy I commend it to the attention of Senators and other readers of the CONGRESSIONAL RECORD 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:

MILITARISM IN AMERICA

(By Donald McDonald)

Is the United States a militarized society? Two quick—and contradictory—answers can be given to this question. The "yes" answer is usually based on a few pieces of evidence; military expenditures and the Vietnam war are the ones most often cited. The "no" an-

swer rests on the fact that a civilian is Commander-in-Chief of our armed forces and that another civilian, the Secretary of Defense, exercises direct authority over the administration of these forces. The "yes" proceeds from insufficient evidence; the "no" evades the issue because it assumes that civilians really do control our armed forces and that the mere fact of civilian control—constitutional and/or actual—proves that the control is not leading to a militarization of American society.

Neither of the answers, of course, is satisfactory. I suspect that what must be done is to treat this question as a genuine query. That means we must let our answer develop out of an understanding of the meaning of the key term, "a militarized society," and out of an examination and critical analysis of the contemporary American experience to determine whether our experience fits the definition of such a society.

I

The following seem to be major characteristics of a militarized society:

(1) *A militarized society is an authoritarian society.* Free expression is a threat, dissent cannot be tolerated, and disobedience is met with swift repression.

(2) *In a militarized society, stability is a cardinal virtue.* Questions of social justice and human rights, when they are not altogether ignored, are viewed with sour suspicion because they cannot be entertained, even abstractly, without at least implying that in certain circumstances stability is not a virtue but a vice.

(3) *The militarized society is a fearful society.* The ultimate justification for a militarized society is that it is surrounded by enemies. In such an atmosphere, human trust withers, paranoia becomes a national disease, and it is never possible to have too many weapons.

(4) *The militarized society is a self-righteous society.* It regards its motives as the purest, its values as unquestionable, its ideals as unsurpassable. When it wages war or intervenes in the affairs of another people, it is sure it does so only to protect these qualities or enables others to enjoy them.

(5) *In a militarized society, the military is not a means to an end, it is the end itself.* Whatever is good for the military is good for society. Military logic is the national philosophy.

(6) *A militarized society gives to the military the highest priortiy in claims on the national resources.* In practice, the military consumes the lion's share of the government's revenues from taxes on the people; a substantial part of what is left over is spent to placate a restless people and to repress those who will not be placated.

(7) *A militarized society has an unchallengeable claim on the lives of its young men.* Conscription into military service becomes a natural—and, in time, almost an unnoticed—part of the political and social landscape.

(8) *In a militarized society, the military are beyond effective criticism and control.* The institutions that ordinarily exercise such critical control—legislative bodies, courts, press, universities, churches—are silenced, ignored, or drawn into acquiescence.

(9) *In a militarized society, deception is accepted as a normal fact of life.* Foreign and domestic espionage, sabotage, subversion, and other para-military activities are carefully cultivated within the military; these have the twofold effect of keeping the enemy off balance and one's own citizens ignorant and therefore unable to ask critical questions.

(10) *A militarized society perceives most political problems as military problems and the militarized solution is, therefore, the only realistic solution.* The options confronting such a society in a world community are determined and defined by the military. Civilian policymakers who consider other options do so at the risk of being labeled "soft-headed" if not "disloyal."

(11) *In a militarized society, the economy is dependent on the military.* The military constitutes the single biggest "industry" and its dissolution would be as catastrophic for the nation as the dismantling of the single industry in a one-industry town.

(12) *The militarized society is a sterile society.* Because it turns human and material resources into instruments of death and consequently neglects problems concerned with the quality of life, and because, in the process, it either suppresses or buys off with enormous rewards of money, prestige, and power the possibility of divergent views and voices, the militarized society deprives itself of the life-quickening energies of its artists and its philosophers, its critics and saints, its youth with their idealism, and its elders with their wisdom and experience. The result is sterility, emptiness, barrenness.

(13) *The militarized society is a barbaric society.* The barbarian is not necessarily covered with blood, nor does he have to wear a military uniform. In a technologized military society, it is possible for decent people to perform tasks at drawing boards and in laboratories that will insure the death of hundreds of thousands of people halfway around the world; it is possible for pilots and technicians, pressing buttons and switching on computers, to complete the killing process without seeing the faces of those they are killing. *Militarization inevitably makes one indifferent about taking human life.* A technologized militarization simply makes it easier and less painful to cultivate that indifference.

II

If the above is an accurate profile of a militarized society, the question is: To what extent is it matched by the contemporary American experience? A review of the evidence is in order.

The size of the establishment

The most obvious evidence is the size of the military establishment itself. The Department of Defense has 3.4 million men in the armed forces and 1.3 million civilian workers; its defense contracts give jobs to another 3.8 million industrial workers. Altogether, the D.O.D. furnishes one out of every nine jobs in the United States. The eighty-billion-dollar Defense budget accounts for half the total annual expenditures of the national government. If one adds to this the cost of past wars (in veterans' pensions, military hospitals, etc.), the military receive seventy cents from every dollar of taxes levied on the American people. Military weapons projects backed up and awaiting the end of the Vietnam war carry an estimated price tag of one hundred billion dollars.

As the largest single activity in the country, the military has contracts with twenty-two thousand prime contractors and one hundred thousand subcontractors. It subsidizes research in hundreds of universities. Its money flows into three hundred and sixty-three of the nation's four hundred and thirty-five congressional districts. Some fifty-three hundred cities and towns have at least one defense plant or company. Entire towns are wholly dependent on military-industrial activity for their economic life.

Department of Defense research activities

As a measure of the extent to which the Department of Defense is involved in foreign policy, the Department spends 7.3 million dollars a year for foreign-area social and behavioral science research, and another six million dollars a year for policy-planning studies in foreign politico-military problems. This compares with the one hundred and twenty-five thousand dollars a year set aside for the State Department's research budget.

The total research budget for the Defense Department in 1968 was eight billion dollars, of which 1.6 billion was earmarked for basic research (as contrasted with, for example, research in weapons development). This 1.6 million dollars was about six times the two hundred and eighty million dollars allocated to the National Science Foundation for basic research in the same period of time.

Under pressure from some congressmen, the Department of Defense is trying to transfer several of its social and behavioral science research projects in foreign-policy problems to other agencies of the government. But Defense officials are opposed to any deep cutback in their own research activity.

The Department of Defense spends several hundred million dollars a year in funding research at American universities. In 1966, the top six were: Massachusetts Institute of Technology, $35,078,000; Stanford, $21,930,000; Michigan, $21,579,000; Columbia, $14,829,000; Illinois, $14,075,000; and the University of California at Los Angeles, $11,492,000.

According to Senator Eugene McCarthy, defense and space programs since 1960 have amounted to fifty-four per cent of total expenditures on research and development in the entire country. Undoubtedly the most controversial Defense-funded research program was Project Camelot, a 1.5 million dollar annual operation of American University's Special Operations Research Office (now its Center for Research in Social Systems, or CRESS). Through American University, the Department of Defense sought to recruit social scientists from the University of California, M.I.T., Princeton, and Michigan in order to discover ethnic and other motivational factors concerned with the cause and conduct of small wars. The social scientists' assigned mission was to build a model of a developing society, showing its breakdown possibilities as well as its manipulability. While some American researchers were surveying Chile in 1965, to see whether that country might not serve as a model, word of the project got to the press, some American social scientists started an uproar at finding their colleagues engaged in a project to help the American military manipulate people in small impoverished countries, and the United States canceled Camelot. But CRESS continues, and presumably such research activities are also continuing on American campuses across the country. When, for example, student and faculty protested the connection between a dozen of the top American universities (M.I.T., Stanford, California Institute of Technology, Princeton, et al.) and the Institute of Defense Analyses, the universities severed their institutional ties to the I.D.A., but they kept in touch with the defense organization through individual professors and university officials, who were ostensibly representing only themselves and not their institutions, on I.D.A.'s board of trustees. An estimated thirty to forty university professors continue to spend up to a fifth of their time doing I.D.A. work (analysis of defense problems, primarily) for fees of as much as two hundred dollars a day, plus expenses.

An indication of the extent to which universities have become dependent on the military for their operating budget was seen in October last year when the president of Stanford University revealed that as a result of some cutbacks in military research Stanford would have a budget deficit of six hundred thousand dollars this year with no prospect of making it up from other sources.

Despite the Defense Department's insistence on conducting social and behavioral science research, Admiral Hyman Rickover has testified before the Senate Foreign Relations Committee that the Department of Defense" has been able to involve itself in research having only the remotest relevance to the problems encountered by the armed

services—matters at no previous time, nor anywhere else in the world, deemed to lie within the province of the defense function—just because it has the money; it has more money than any ther public agency. . . . Already the State Department is, to all intents and purposes, but a junior partner. . . . Although Congress alone has the constitutional authority to declare war, other branches of the government may confront it with situations that make war inevitable." Speaking of the entire social science research program funded by Defense, Rickover said: "No harm would have been done to the Republic if none of it had been done."

A global military presence, open and otherwise

Admiral Rickover's denial of the relevance of military research in social and psychological areas may have been technically valid a generation ago. Given the military's commitment to both conventional and paramilitary warfare and the military's massive and multifarious activities around the world, however, military logic alone would demand the support of this global presence with researched activity.

The United States now maintains three hundred and forty major bases and 1,930 minor bases abroad at an annual cost of five billion dollars. A million-and-a-half men staff these bases and U.S. fleets; two-thirds of these men are in Asia and the Pacific, the others are in Western Europe and Latin America.

Early in 1968, Senator William Fulbright asked the Department of Defense to make public a study done for it by Douglas Aircraft Corporation at a cost of $89,500. Senator Fulbright had a copy of the report of the study and wanted the American people to share it with him. The report was on how the United States could "maintain world hegemony in the future." It was originally titled "Pax Americana." But when the nature of the report became known, Defense renamed it "Strategic Alignments and Military Objectives." The D.O.D. refused to make its contents public.

American military pursues its tasks overseas in a variety of ways, some of them hidden from the scrutiny of both congressmen and citizens. Senator McCarthy revealed that in 1967, in addition to uniformed men under arms, the United States had 4,681 "military agents" scattered throughout the world under our military assistance program. These men, he noted, "are sent without any kind of formal congressional examination" and they "carry on, without publicity and without public awareness in the United States, missions which have strong political overtones."

Although the usual rationale for the American military presence in other countries is that it is in our national interests to be there and that we want to insure the freedom and the right of other peoples to choose their own form of government, a Senate Foreign Relations subcommitee revealed last June that U.S. armed forces had taken part in at least two major exercises in Spain in the last two years. The purpose of the exercises was to perfect techniques for the quelling of a possible internal insurrection against the Franco government. Several months before this disclosure, the full Senate Foreign Relations Committee warned that the United States, by its very military presence in Spain, had assumed a "quasi-commitment" to defend the Franco regime, possibly even in a civil war. The Committee disclosed that a high-ranking American officer had assured the Spanish government that "the presence of American armed forces in Spain constitutes a more significant security guaranty to Spain than would a written agreement."

Last October, Senator Fulbright revealed that the Department of Defense on its own motion had sent additional jet fighter planes to a base in Spain without informing either the State Department or the Defense Department's Section of International Security Affairs. The increase, he said, meant the stationing of two hundred and forty-two American servicemen and eighteen more fighter aircraft in Spain, adding up to a half-million-dollar "blow to our balance of payments." Fulbright said that the lesson of this incident is that "foreign policy has, in all too many instances, become the captive creature of decisions made by planners in the Defense Department."

Another method by which the American military plays a direct role in the affairs of other nations is by engaging in arms sales. According to Jack Raymond, in a *Harvard Business Review* article (May–June, 1968), from 1949 to 1962 the U.S. government alone sold 16.1 billion dollars worth of military arms to other countries and gave away about 30.2 billion dollars. "Since 1962, when the current arms-sales program began, Pentagon officials have been as aggressive as private arms merchants, with the result that the United States has sold over 11.1 billion dollars worth of arms. In a speech in Los Angeles in the spring of 1966, the Pentagon official in charge of the sales program proudly estimated that it had yielded one billion dollars in profits for American industry and 1.2 million man-years of employment for companies throughout the country." Despite the Congress's imposition in 1967 of a limit of twenty-five million dollars worth of arms sales to Africa and a fifty-million-dollar limitation on arms to Latin America, the arms business abroad, Raymond said, remains "very big."

As a result of the Pentagon's arms-sales program, it is not unusual for both sides in international disputes to be waging combat with American weapons: the Turks and the Greeks; the Pakistanis and the Indians; the Israelis and the Arabs. Military expenditures in poor and underdeveloped countries are now said to be rising faster than their gross national product. A study sponsored by the Stockholm International Peace Research Institute revealed last November that the world spent approximately one hundred and seventy-three billion dollars for military purposes in 1968. Of this, the United States spent about eighty billion dollars and the Soviet Union forty billion dollars. The share of the poor countries is small but rising faster than the average: arms spending in developing countries is rising at a rate of 7.5 per cent a year compared to the world average of six per cent. These figures must be put alongside the average annual rate of increase in the world's gross national product, which is five per cent. The Institute found that world production of non-military goods and services has multiplied about five times in the last fifty years, but that arms spending has multiplied about ten times in that period.

Perhaps the most far-flung, potentially the most lethal, and certainly the most difficult to verify of American military activities in other countries is the work of the secret Central Intelligence Agency. The C.I.A. was established in 1947 by the National Security Act, which placed the armed services under a new Department of Defense and created the National Security Council. Its original assignment was primarily that of gathering, coordinating, evaluating, and disseminating intelligence on behalf of the government, specifically the National Security Council. Today, the C.I.A. employs fifteen thousand persons, it has an annual budget of a half-billion dollars a year, and its activities go far beyond intelligence work.

Two years after it was established, the C.I.A.'s secrecy was officially sanctioned. By a specific act of Congress, the C.I.A. was allowed to:

Disregard laws that required disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the agency.

Expend funds without regard to laws and regulations governing expenditures, and with no other accounting than the director's vouchers.

Make contracts and purchases without advertising.

Transfer funds to and from other government agencies.

Contract for research outside the government.

Provide special expense allowances for staff abroad.

Admit up to one hundred aliens and members of their families a year.

In the twenty-two years of its existence, more than one hundred and fifty resolutions have been introduced by congressmen to exercise tighter control over the C.I.A. Every one of these resolutions has been either defeated or tabled.

The uneasiness of congressmen centers on the suspicion that C.I.A. activities that go beyond intelligence work actually create international situations which then sharply limit the options of American civilian policymakers. Senator Stephen Young has charged that the C.I.A. has, in effect, been making foreign policy. Senator McCarthy echoed this charge and added that, in so doing, the C.I.A. "has assumed the roles of President and Congress." James Reston of *The New York Times* once flatly asserted: "The State Department does not know what the C.I.A. is doing."

Two kinds of evidence indicate the strongly interventionary and para-military subversion role played by C.I.A. agents in other countries. The first is found in the book *To Move a Nation*, By Roger Hilsman, an official of the State Department during the Kennedy Administration. Although he asserted that C.I.A.-type operations are justified by the need for national security, Hilsman said that too often the C.I.A. has been "over-used as an instrument of foreign policy." Elaborating, Hilsman referred to C.I.A. actions which included the instigation and carrying through of a coup in Iran against Premier Mohammed Mossadegh, the thousand-man invasion of Cuba, the "covert boost" to Ramon Magsaysay in the Philippines, the unsuccessful effort to create another "Magsaysay" in the person of the unpopular and weak General Phoumi Nosavan in Laos.

According to Hilsman, by the end of the Eisenhower Administration in 1960, secret C.I.A. political action had become a "fad" and United States agents abroad were as "ubiquitously busy" as communist agents. The cumulative effect of several hundred such covert actions, he added, was to tarnish the American image in the world community. "[It] corroded one of our major political assets, the belief in American intentions and integrity."

The second kind of evidence of interventionary (as distinguished from intelligence-gathering) activity by the C.I.A. came in the wake of the disclosures in 1966 that the C.I.A. had operated under cover of American universities, labor unions, book publishers, student organizations, and cultural and religious organizations. Following these stories, American wire services and newspaper correspondents overseas began filing dispatches telling of discontent in foreign capitals, a new wave of anti-American feeling, and allegations of C.I.A. intervention. These reports came from Chile, India, Mexico, Bolivia, West Berlin, Switzerland, France, Spain, British Guiana, and Canada.

Arms accumulation

One of the most accurate indices of its militarized state of mind is the size of a society's arsenal. According to Jeremy Stone, a member of the Institute for Strategic Studies in London and a Fellow of the Council on Foreign Relations, each of forty-one nu-

clear submarines will soon have the capability of destroying one hundred and sixty Russian cities. In addition, we have more than one thousand land-based intercontinental ballistic missiles which can take out those same Russian cities six times over. Finally, when, as appears likely, we attach from three to ten thermonuclear warheads to each ICBM, converting them to multiple independently targetable reentry vehicles (MIRVs), we again will have increased by up to tenfold our overkill capacity with regard to the Soviet Union.

Last March, after closed congressional hearings with Army spokesmen concerning the chemical-biological warfare arsenal in this country, Representative Richard D. McCarthy of New York told newsmen that the United States has enough of one deadly nerve agent—a substance labeled "GB" by the Army—to kill one hundred billion people, or to wipe out the present world population of 3.4 billion thirty times over. While Representative McCarthy was expressing alarm over both the existence and transportation by railcar of such deadly agents in the United States, Representative Robert L. F. Sikes of Florida told newsmen he thought the United States was not doing enough in this field. The Russians, said Sikes, have seven to eight times the capability of the United States in chemical-biological warfare. "I think our capability should be expanded," he said.

Last October, Robert M. Smith reported from Washington in *The New York Times* that the Army has produced and stockpiled more than twenty thousand poison bullets in the Pine Bluff Arsenal in central Arkansas. The bullets are "reliably reported" to contain botulin—a toxin that produces an acute, highly fatal disease of the nervous system. An Army manual says that "through repeated purification procedures [the toxin] has been obtained in a crystalline form and is one of the most powerful toxins known. Botulism is characterized by vomiting, thirst, general weakness, headache, fever, dizziness, double vision, and dilation of the pupils. Paralysis is the usual cause of death." The *Times* reporter added: "Knowledgeable sources indicate that the poison bullets could logically serve only one purpose: assassination. To kill an enemy leader with a poison bullet, it would be necessary to do no more than nick him."

In the face of mounting disclosures of the extent to which chemical poisons are stockpiled at eight bases from Maryland to Oregon, and against the background of the accidental killing of sixty-four hundred sheep in March, 1968, in Utah's Skull Valley as a result of an Army nerve gas test at the Dugway Proving Ground twenty-seven miles away, Secretary of Defense Melvin Laird is reported to have submitted, last October, a secret memorandum to the National Security Council urging that the United States stop producing biological agents for use in warfare. The position of the Joint Chiefs of Staff on the issue was not clear. Also not clear was whether Mr. Laird's recommendation, if approved, would leave intact the overkill capacity of our chemical and biological germ arsenal and whether only biological but not chemical production would be halted. Diseases which can be spread by weapons in Army warehouses now include the plague, anthrax, tularemia, psittacosis, Q-fever, botulism, Rocky Mountain spotted fever, brucellosis, and Venezuelan equine encephalitis. It is estimated that a single ounce of Q-fever rickettsia is enough to infect twenty-eight billion people with its debilitating symptoms. Pneumonic plague is close to one-hundred-per-cent fatal if treatment is not begun within twenty to twenty-four hours after exposure.

As recently as a month before Secretary Laird's reported recommendation to the National Security Council, Army officials insisted on the need to maintain chemical production on the ground that the best way to dissuade the enemy from using chemical weapons is to have a chemical retaliatory capacity of one's own. Last July, Secretary Laird himself, during a question-and-answer period with student interns in Washington, was quoted as saying that "as much as we deplore this kind of a weapon [chemical and biological], if we want to make sure this weapon is never used, we must have the capability to use it." He noted that the Administration was then conducting a review of the chemical and biological warfare program and said that he did not want to prejudge its results but that he "strongly believed the United States had to continue to develop offensive chemical and biological weapons."

Then, on November 25, 1969, President Nixon announced that he was renouncing the use of all biological warfare weapons, that he would destroy existing stockpiles of such germ weapons, and that he was renouncing "first use" of chemical warfare weapons that could either kill or incapacitate their victims. Excluded from his prohibition were chemical weapons such as defoliant herbicides and riot-control gases.

Although Mr. Nixon's announcement was generally received with favor in both the United States and foreign capitals, enthusiasm was guarded for the following reasons:

The huge American chemical-warfare arsenal will remain intact.

Renouncing "first use" of lethal and incapacitating chemical agents can be meaningless under wartime conditions; a desperate, or callous, nation can always claim that the other side initiated chemical warfare and, without proving its claim, launch a chemical attack of its own.

The United States will continue its research into biological weapons for "defensive" purposes, but in recent years universities and university research professors have justified their Pentagon-sponsored development of germ warfare weapons on precisely this ground—that they were needed in order to develop defensive immunization programs. Indeed, the line between what is offensive research and what is defensive research in this area is extremely difficult to draw. (An anonymous spokesman for the Nixon Administration has said that as much of this biological warfare research would be transferred from the Pentagon to the Department of Health, Education, and Welfare as possible.)

Unnamed Army officers told an Associated Press reporter that they "do not regard the present quantities of germ materials as weapons stockpiles, but rather as limited components for biological testing." If this view prevails, there will be no destruction of germ warfare stockpiles, despite Mr. Nixon's announcement.

One of the American riot-control gases, CS–2, is far more than a simple tear gas of earlier years; it is a lung gas causing extreme pain and is used in Vietnam to flush out enemy soldiers so they can be shot.

In addition to CS–2 gases and napalm, the United States will continue to use herbicides, as in Vietnam, chemicals that the *The New York Times* has called "triply reprehensible" because they "destroy food supply far into the future, upset the ecology, and threaten future generations with deformity."

Arms racing and war gaming

According to columnist James Reston, "the control of military arms is undoubtedly the most important political question in the world today, for the arms race devours the money and influences all other questions of poverty, race, jobs, and housing, both here and abroad." It is estimated that American taxpayers have contributed, since 1946, more than one trillion dollars for national security. The technique of arms racing and war gaming is fairly well known. The military, given the task of defending the nation, research, develop, and produce weapons and weapon systems. They must, they say, immediately assume that since our side can produce and has in fact produced a particular weapon or system, a potential enemy can produce the same weapon. Therefore, we must research, develop, and produce defensive weapons to counter these putative offensive weapons. At that stage, we must further assume that since we have produced a defensive system, the potential enemy can devise a similar defense. Therefore, our next task is to research, develop, and produce a new offensive weapon system which will overwhelm any possible defense devised by the enemy.

With this offense-defense pattern, there is no theoretical limit to the quantity or quality of weapon systems that the military may deem necessary to insure national security The only limits are, on the one hand, the imagination of the war gamesmen and war planners and, on the other, the amount of tax money that can be placed at their disposal. The actual development and deployment of weapons by Soviet Russia, for example, is not ultimately a limiting factor in our own weapons program. If the Russians do not have a particular weapon, we must assume that they may soon have it, or certainly that they *should* have it in the future.

These "strategic assumptions" are open-ended and self-justifying. When, for example, American military men claimed in the mid-nineteen-sixties that the U.S.S.R. was building a thick anti-ballistic missile system, we proceeded to increase our offensive nuclear striking power by developing multiple warheads for both our submarine and landbased missiles. But when former Defense Secretary Robert McNamara reported in late 1967 that Russia in fact had no significant ABM capability, the Department of Defense did not halt its development of multiple warheads designed to counter the nonexistent Russian ABM threat. Instead, the D.O.D. said: "Nevertheless, knowing what we do about past Soviet predilections for defensive systems, we must, for the time being, plan our forces on the assumption that they will have deployed some sort of an ABM system around their major cities by the early nineteen seventies."

Mr. McNamara described this arms-racing approach to national security as a "kind of mad momentum" intrinsic to the development of all new nuclear weaponry. "If a weapon system works—and works well—there is strong pressure from many directions to produce and deploy the weapon out of all proportion to the prudent level required." The former Defense Secretary added that if the United States were to deploy a heavy anti-ballistic missile shield, that would constitute a "strong inducement for the Soviets to vastly increase their own offensive forces. That . . . would make it necessary for us to respond in turn—and so the arms race would rush hopelessly on to no sensible purpose on either side."

Since Mr. McNamara left the Defense Department, Congress has approved a "thin" ABM system. The MIRV system—fitting multiple warheads to our thermonuclear missiles—has gone ahead. Once MIRVs are fully deployed the Soviet Union will not know or have any way of knowing whether we have five thousand or ten thousand warheads in our offensive arsenal. We will be similarly ignorant about Russian offensive capabilities. It will then be difficult, if not impossible, to have meaningful strategic-arms limitation talks because there will be no way for either side to be sure that the other one is not cheating in any agreement.

Waste, profits, and accountability

In an activity of the magnitude of the Department of Defense, it would be sur-

prising if there were no waste, no corruption, no profiteering. However, it may be worth looking at some of the evidence in this area as a reflection of a more significant side of the American military—that which concords its restraints and the extent to which it can be held in fact accountable under the constitutional prescription of civilian control.

Walter Adams, an economist at Michigan State University, in an important article entitled "The Military-Industrial Complex and the New Industrial State" (*The American Economic Review*, May, 1968), reported that "a summary of General Accounting Office studies covering the period from May, 1963, to May, 1964, [revealed] ascertainable waste of five hundred million dollars in a five per cent sample of procurements." He added that Merton Peck and Frederic Scherer found in their study (*The Weapons Acquisition Process*) that in twelve major weapon-system development programs, actual costs exceeded predicted costs 3.2 times on the average, with a range of actual versus predicted costs of from seventy to seven hundred per cent. Recent prediction errors in the F–111 and Apollo programs, Scherer reported, are of the same order of magnitude.

The Senate Committee on Government Operations, looking into the matter of the "pyramiding of profits and costs in the missile procurement program," concluded in 1964 that "even the most reputable and ethical contractor is placed in the conflicting position of managing a program where the feasibility, technical and economic decisions which should be made by the customer-government are made by the producer-contractor. . . . The absence of competition, coupled with the urgency to get the program under way, removes normal safeguards against large profits and weakens the government's negotiating position."

In 1965, the Comptroller General, an Eisenhower appointee, singled out the following characteristics of the military contract system for a House committee looking into the matter:

Excessive prices in relation to available pricing information,

Acceptance and payment by the government for defective equipment,

Charges to the government for costs applicable to contractors' commercial work.

Contractors' use of government-owned facilities for commercial work for extended periods without payment of rent to the government,

Duplicate billings to the government,

Unreasonable or excessive costs,

Excessive progress payments held by contractors without payment of interest thereon.

In the five years since the Comptroller General disclosed these practices in defense contracting, there has been little or no change in the system. In 1969, the "cost overrun" on the C–5A transport plane alone was a *cause célèbre*, but not, as it turned out, enough of a *cause célèbre* to reform conventional procurement procedures. The original price for one hundred and fifteen of the Lockheed C–5A's was 3.2 billion dollars. Final cost to the government was 5.2 billion dollars, or sixty-seven per cent more. Colonel A. W. Buesking, former director of management systems control in the office of the Assistant Secretary of Defense, has said that control systems essential to prevent excessive costs simply do not exist. According to Senator William Proxmire, "defense spending is out of control. The military-industrial complex now writes its own budgetary ticket."

Some samples of out-of-control defense procurement practices:

Richard A. Stubbing, a defense analyst with the Bureau of the Budget, after a study of the performance of complex weapon systems, concluded: "The low, over-all performance of electronics in major weapon systems developed and produced in the last decade should give pause to even the most outspoken advocates of military hardware programs." He found that in thirteen missile and aircraft programs produced since 1955 at a cost of forty billion dollars, more than sixty per cent of the electronic components failed to perform acceptably.

Defense Department figures in November, 1968, disclosed that over the past fifteen years, a total of 8.8 billion dollars has been invested in sixty-seven major military contracts which were subsequently canceled either because the weapons did not meet specifications or the military decided it had no use for them.

The cost of the Minuteman-2 missile increased from 3.2 billion dollars to seven billion dollars.

The cost of a rescue submarine increased from three million dollars to eighty million dollars (a 2,700% increase) but only, testified Barry Shillito, Assistant Secretary of Defense, because the submarine had been so improved it was "almost totally different from the one we embarked on."

A system to keep track of fuel sent to Vietnam broke down in 1967 and the Air Force was unable to account for twenty-one million dollars worth of gasoline and oil.

The cost of the Short-Range Attack Missile rose from three hundred and one million dollars in January, 1968, to six hundred and thirty-six million dollars in December, 1968.

When General Dynamics' plane, the F-111B (the Navy's fighter-bomber version of the T.F.X.) was found to be too heavy to meet the altitude and range requirements of the military, the government reimbursed 216.5 million dollars to the company to cover most of its costs, and imposed a small penalty.

A. E. Fitzgerald, former deputy for management systems of the Air Force, testified before the Joint Economic Subcommittee on Government Economy that Air Force officials in 1967 had submitted to then Defense Secretary Robert McNamara a cost estimate for the Mark II—the electronic "brain" system of the F-111—that was two hundred and twenty-nine million dollars below the figure they knew to be correct. They lied, he said, because they feared Mr. McNamara would abandon the system if its true costs were known.

The technique of "buying in" is the proximate explanation for the phenomena of excessive costs, high profits, and low product-reliability in the weapons industry. A defense contractor "buys in" on a prospective new weapon program by grossly underestimating the cost he quotes to the government, by overestimating the performance capability of the weapons, and by promising to deliver the weapon long before he knows it can be done. Ordinarily this would be a sure formula for going bankrupt. But in the defense industry the government and the industrialists have found ways to make sure that does not occur. "The defense industry," according to Richard Kaufman, a member of Senator Proxmire's staff, "is the most heavily subsidized in the nation's history. Thanks to Pentagon procurement policies, large contractors find their defense business to be most lucrative."

The government's subsidization and protection of the defense contractors take a number of forms. As Kaufman put it: "There are many ways to succeed in the defense business without really trying." For example, thirteen billion dollars worth of government-owned property, including land, buildings, and equipment is in contractors' hands, thereby greatly reducing—in some cases eliminating—the need for any fixed-capital investment by a defense contractor. Working-capital needs are also sharply reduced for the contractor through what is called "progress payments," which have no relation to progress in terms of contract objectives achieved, but correspond only to costs incurred. These two government-subsidized provisions minimize the contractor's investment in the defense business and permit him to use his assets for commercial business or for securing additional defense contracts.

There is also little or no supervision over the way in which contractors use government money and property. Some use it for their own purposes. As an example, Kaufman cited the case of Thiokol Chemical Corporation, Aerojet General (a subsidiary of General Tire & Rubber Company), and Hercules, Inc.: "From 1964 through 1967 they received a total of 22.4 million dollars to be used for work on the Air Force Minuteman missile program. Government accountants found that the three contractors misused more than eighteen million dollars of this money, spending it for research unrelated and inapplicable to Minuteman or any other defense program."

When a contractor's costs run higher than he had estimated (and they inevitably do when he has under-estimated them in order to get the contract), the Pentagon agrees to pay for the increased costs through the device of "contract-change notices." On a complex weapon system, the changes from original specifications will number in the thousands. Some of these changes are ordered by the Pentagon, some are authorized by the Pentagon at the request of the contractor. Kaufman reports that the opportunities for hiding real or phony cost increases in this system are obvious, "so much so that in defense circles contract-change notices are sometimes referred to as 'contract nourishment.'"

Contract nourishment comes under the more general heading of the "get well" strategem in defense-contracting circles. No matter how much difficulty a contractor may get into because of his "buying in" promises, he knows that the government will see to it that he "gets well." If his weapon program turns out to be unacceptable to the Pentagon, a contractor stands to lose tremendous sums should the contract be canceled for reason of default. However, if the government cancels his contract for "convenience," the contractor is reimbursed for the costs he has incurred. A classic example of a default overlooked by the government occurred in the case of General Dynamics' F–111B. When it became obvious that the F–111B would simply not come up to performance specifications, Gordon Rule, a civilian procurement official with responsibility for the plane, recommended that General Dynamics' contract be terminated for default. It was Paul H. Nitze, Deputy Secretary of Defense, under pressure from Assistant Secretary of the Air Force Robert H. Charles and Roger Lewis, chairman of General Dynamics, who made the 216.5 million dollar reimbursement to the company.

Mr. Rule has testified before a congressional subcommittee that he encountered opposition from both civilian defense officials and the Naval Air Systems Command in 1967 while he was conducting an investigation of inefficiency at the Hartford, Connecticut, plant of the Pratt and Whitney Aircraft Division of the United Aircraft Corporation. He had been sent there when the then Defense Secretary Robert McNamara had learned that Pratt and Whitney's price for F–111 engines had grown from an estimate of $273,910 each to $750,000.

According to Kaufman, profits on defense contracts are higher than those on related non-defense business, they are higher for the defense industry than for manufacturing as a whole, and the differential is increasing. The General Accounting Office found that the average negotiated profit rate had increased twenty-six per cent from the 1959–63 period to late 1966. Admiral Hyman G. Rickover has testified that makers of propulsion turbines are insisting on profits of

from twenty to twenty-five percent, compared with ten per cent a few years ago, and that profits on shipbuilding contracts have doubled in two years.

Kaufman explains that even these profit figures, however, are not a true reflection of actual profits. It figured as a return on investment, rather than as a return on costs, true profits are often phenomenally higher. "An example of the difference was demonstrated in a 1962 tax-court case, *North American Aviation* vs. *Renegotiation Board*. The contracts provided for eight percent profits as a percentage of costs; the tax court found that the company had realized profits of six hundred and twelve percent and eight hundred and two percent on its investment in two succeeding years."

The reason for this tremendous return on investment was the Defense Department's policy of furnishing both fixed and working capital to large contractors. "In some cases," Kaufman wrote, "the amount of government-owned property exceeds the contractor's investment, which is sometimes minimal. It is no wonder that contractors prefer to talk about profits as a percentage of costs." A study by Murray Weidenbaum (now Assistant Secretary of the Navy) disclosed that between 1962 and 1965 a sample of large defense contractors earned 17.5 percent net profit (measured as a return on their investment), while companies of comparable size but doing business in the commercial market earned 10.6 percent.

If the proximate causes of excess cost, waste, inefficiency, and profits in the defense industry can be found in the operating arrangements and practices that have been developed by the Pentagon and the industrialists, the deeper causes of why these practices have been allowed to continue must be sought elsewhere.

Senator George McGovern touched on two of these causes in his statement in the Center Occasional Paper, *ABM: Yes or No?:* "Politically, the ability to get support for highly dubious multi-billion-dollar projects such as the ABM rests on two factors: first, exploitation of the national feeling of insecurity that comes anytime we debate a proposal with a defense label attached to it; and second, the perfectly legal and very substantial rewards the military sector can bestow upon communities and states whose congressmen are cooperative."

Thus, after the two-billion-dollar cost overrun on the C–5A plane had become a matter of common knowledge, the Senate defeated by a vote of sixty-four to twenty-three an amendment by Senator Proxmire to the 1970 military authorization bill which called for a reduction of five hundred and thirty-three million dollars in further procurement of the C–5A until the General Accounting Office could complete a comprehensive study of its cost—the study was to be finished within ninety days.

Again, after months of hearings disclosing the practices described above, the Senate passed a 20.1 billion dollar authorization bill for new military procurement last fall; the House passed a 21.3 billion dollar authorization bill (allowing its members two days to read the 2,660 pages of Armed Services Committee hearings on the bill, and forty-five seconds speaking time to each representative during the debate of the bill). The final compromise authorization bill came to 20.7 billion dollars. It included, at Representative Mendel Rivers' insistence, four hundred and fifteen million dollars for Navy ships that the Pentagon had not even requested. Senator John Stennis, chairman of the Senate Armed Services Committee, said: "No major weapon has been left out of this bill, and none has been seriously affected."

Just as significantly, the joint conference struck down or seriously impaired every amendment that senators had attached to the authorization bill to curb some of the excesses of the defense industry and the Pentagon and make them more accountable for their actions. The joint conference eliminated one amendment which required that all major Pentagon weapons contracts be subjected to an independent quarterly audit by the General Accounting Office, which is an arm of Congress. The joint conference did retain one amendment providing for the Comptroller General to study defense profits, but the amount of information defense contractors would be required to supply was limited, and the Comptroller General would have to go to the congressional Armed Services Committees (notoriously favorable to the Pentagon) in order to be able to subpoena the contractors' records. Also, a twenty per cent cut in the Defense Department's budget for independent research was reduced to a seven per cent cut.

Senator Proxmire identified two further factors serving to explain the resistance of military-procurement practices to reform. The procurement system, he has said, "permits almost ninety per cent of all contracts to be negotiated rather than awarded on a formally advertised competitive basis." This, coupled with the fact that the number of high-ranking retired military officers now working in defense industries has tripled in the last ten years (from seven hundred and twenty-one in 1959 to two thousand and seventy-two in 1969) represents, the Senator said, a "distinct threat to the public interest. How hard a bargain will officers involved in procurement, planning, or specifications drive with contractors when they are one or two years from retirement and have the example to look at of over two thousand fellow officers doing well on the outside after retirement?"

For a deeper probe of the causes of the present Pentagon and weapons-industry practices, we must turn our attention to their formal relationship.

The military-industrial interlock

The American military and American industry need each other. The military depends on industry to furnish its arsenal. Industry depends on the military for weapons ordered to maintain and improve its earnings. It would be surprising if there were an absence of a close, cooperative relationship between the two. The best brief description of this relationship has been provided by Walter Adams. In that relationship, Adams wrote, "government not only permits and facilitates the entrenchment of private power but serves as its fountainhead. It creates and institutionalizes power concentrations which tend to breed on themselves and to defy public control. The scenario of events should be familiar. The 'mad momentum' of an international weapons race militates toward large defense expenditures. This generates a demand not only for traditional, commercial, shelf items like food, clothing, fuel, and ammunition but also for the development and production of sophisticated weaponry. Lacking a network of government-owned arsenals, such as produced the shot and cannon in the days of American innocence, or having dismantled the arsenals it did have, the government is forced to buy what it no longer can make. It becomes a monopsonistic buyer of products which are not yet designed or for which production experience is lacking. It buys at prices for which there is little precedent and hardly any yardsticks. It deals with contractors, a large percentage of whose business is locked into supplying defense, space, or atomic energy needs. It confronts powerful oligopolists in a market where technical capability rather than price is the controlling variable—in an atmosphere shrouded by multilateral uncertainty and constant warnings about imminent aggression.

"In the process, government becomes almost totally dependent on the chosen instruments, i.e. creatures of its own making, for effectuating public policy. Lacking any viable in-house capabilities, competitive yardsticks, or the potential for institutional competition, the government becomes—in the extreme—subservient to the private and special interests whose entrenched power bears the government seal.

"This unique buyer-seller relationship, which defies analysis by conventional economic tools, lies at the root of the military-industrial complex and the new power configurations generated by it. The complex is not a conspiracy between the 'merchants of death' and a band of lusty generals, but a natural coalition of interest groups with an economic, political, or professional stake in defense and space. It includes the armed services, the industrial contractors who produce for them, the labor unions that represent their workers, the lobbyists who tout their wares in the name of 'free enterprise' and 'national security,' and the legislators who, for reasons of pork or patriotism, vote the sizable funds to underwrite the show. . . . Given the political reality of such a situation and the economic power of the constituencies involved, there is little hope that an interaction of special-interest groups will somehow cancel each other out and that there will emerge some compromise which serves the public interest." [*The American Economic Review*, May, 1968]

The example of Lockheed-Georgia illustrates the pervasive economic influence of a defense industry on a city, region, and state. Located at Marietta, Georgia, Lockheed does more than two billion dollars of defense business a year. It pays about two hundred million dollars a year in wages to twenty-six thousand workers who come from about one-third of the state's one hundred and fifty-nine counties. According to Jack Raymond in the *Harvard Business Review*, "Lockheed buys everything from soft drinks to metal parts from Georgia suppliers. Last year, the company spent one hundred and thirteen million dollars with about 1,730 suppliers, many of them small businesses."

Despite the economic rewards and the national-security argument, which have traditionally kept the military budget on an ever onward and upward course, revelations of waste, excess profits, and plain gouging have become widely known. So many congressmen have become outraged that, for the first time in many years, the future of military spending recently became uncertain. As a result, Secretary of Defense Laird was reported in June of last year to have determined to take a tougher approach toward both defense contracts and the military services.

Mr. Laird and Deputy Secretary David Packard were said to have begun to take steps to slow down the weapons-development cycle so that difficult technical problems could be solved before funds are freed to begin production. It was also reported that they intended to prohibit defense contractors from making unrealistically low bids in order to "buy into" a program and would order the armed forces to tighten up their supervision of contracts and not make costly change-orders once a production contract has been granted. As evidence of the sincerity of Mr. Laird's desire to eliminate gross losses, "knowledgeable sources" in the Pentagon pointed to the cancellation of a multi-million-dollar contract with Lockheed for the Cheyenne helicopter because of costly delays in its development, and the cancellation of several ships authorized by Congress in order to absorb a six-hundred-million- to seven-hundred-million-dollar cost overrun on Navy ships already under construction.

It was also pointed out that Mr. Packard had told an Aerospace Industries Association meeting: "You have to eliminate this business of 'buying in.' Neither the Department of Defense nor the Congress will continue to tolerate large cost overruns which relate to unrealistic pricing at the time of award, or to inadequate management of the job during the contract. In simple terms,

you will find it much more difficult for us to consider upward price revisions—and you should plan your affairs accordingly."

However, to judge the sincerity of these *en famille* moves, one should consider the later actions by top Defense officials. The man who played a key role with his testimony disclosing billions of dollars of waste in defense contracting, one A. E. Fitzgerald, was relieved of his job in the Pentagon and was assigned to review construction of a bowling alley in Thailand. Then, in the fall of 1969, when Secretary Laird announced cutbacks in military bases and expenditures, Mr. Fitzgerald was among the first to lose his job.

Last July, Mr. Laird announced the formation of a blue-ribbon panel to make a twelve-month study of the Department of Defense and recommend reforms in its operation. An analysis of the composition of the blue-ribbon panel and its defense-industry connections was made by Senator Proxmire and published in the October 28, 1969, *Congressional Record*. Chairman of the panel is Gilbert W. Fitzhugh, who is also chairman of the board of Metropolitan Life Insurance Company. Metropolitan Life, the Wisconsin senator noted, "holds $34,000,783 worth of common stock in twenty-four of the one hundred largest companies doing defense business. The Metropolitan also has outstanding loans to twenty-four of these same defense contractors totaling over 1.3 billion dollars. Of the fifteen panel members selected, eight, representing a majority of the panel membership, still hold official positions with twelve different companies which have a combined total of over eight hundred and fifteen million dollars in defense contracts." Although the other panel members are "not plagued by direct personal interests in defense business," Senator Proxmire said, "a number of them lack the needed knowledge of defense procurement practices to counterbalance the long experience in these matters which the eight-man majority brings to the panel."

Senator Proxmire added that he was sorry to report that the panel's top staff man is not an outside critic, but a Pentagon official, J. Fred Buzhardt, a graduate of the U.S. Military Academy, and special assistant to Assistant Secretary of Defense Robert Froehlke. Senator Proxmire concluded, "The inescapable impression one gets . . . is that the panel is caught in the embrace of the very individuals it is supposed to evaluate and constructively criticize. . . . I have seen all this happen before. The script has become all too familiar. The final report will be carefully noted and highly publicized [for] a few weeks, only to be relegated to the shelf once its publicity value for the Pentagon has been exhausted. . . . The panel is at best a sham, at worst an indication of how powerful the Pentagon has actually become, so powerful that it is able to control those who would criticize it."

In the light of what is still a warm and symbiotic relationship between the military and the defense industries, it becomes for both a matter of the highest importance to keep public and congressional opinion favorably oriented toward "national security." The thousands of public-relations men employed by the defense industry are reënforced by the Pentagon's own public-relations manpower. Currently, the Pentagon has 6,140 public-relations men around the world. Within Washington itself the Pentagon employs another three hundred and thirty-nine "legislative liaison" lobbyists with an annual budget of more than four million dollars. The next biggest government-worker lobby in Washington is the postal clerk's union, which spent $277,524 in 1967.

The mutality of interest between Pentagon and industry was underlined last summer with the appearance of a prominently circulated newspaper advertisement to promote the Nixon Administration's antiballistic missile proposal. An analysis by *The New York Times'* Neil Sheehan of the business connections of the three hundred and forty-four persons who signed the full-page advertisement disclosed that fifty-five had defense-industry associations. Fourteen of these were directors, officers, or lawyers for companies already doing anti-ballistic missile business to the extent of more than one billion dollars in contracts awarded by the Defense Department. Another twenty signers of the advertisement had similar connections with companies among the top one hundred defense contractors in the country. The advertisement, which claimed that eighty-four per cent of the American people were in favor of the ABM (a figure publicly disavowed by Opinion Research whose poll, it said, had been misrepresented) made no mention that any of the signers had any defense-business connections.

The widely announced Pentagon cuts in defense spending last fall (e.g. three hundred and seven military bases to be "consolidated, reduced, realigned, or closed") were to effect a three-billion-dollar saving as part of a reported plan to keep total defense spending, after June 30, 1970, to seventy-one to seventy-three billion dollars a year and to enable the United States to fight one major war and one minor war simultaneously, instead of the two major and one minor war doctrine under which the Defense Department had been operating since 1959. However, several aspects of the new "austere" look clouded the picture and served to dampen the enthusiasm of economy advocates. For one thing, Air Force officials said that some of the reductions in missiles, planes, and bases were an acceleration of part of a modernization program announced in 1967; presumably the modernized weapons would be far more costly than the old and the reduction in the arms budget would be temporary, and true only until the new weapons were in production. For another, even though such planes as the B–58 Hustler were being retired, a new fighter-bomber which could cost as much as nine billion dollars was being recommended. Also, as Senator Proxmire was quick to point out, the Navy, to give the illusion of sharper and more extensive cutbacks, had announced on five different occasions the mothballing of several old ships while virtually ignoring the fact that new ships authorized by Congress would far exceed in cost the savings of those being retired. Finally, Defense Secretary Laird himself, two weeks after the first announcement of a military budget cutback, made what, under the circumstances, seemed a most curious public statement, when on October 31, 1969, he addressed an audience of eight hundred defense contractors and aerospace industrialists at the Los Angeles Chamber of Commerce aerospace luncheon. According to the *Los Angeles Times* report of the meeting (by its political writer, Richard Bergholz), Mr. Laird "called on the aerospace industry . . . to help him convince the American people they should not expect big spending cuts when the Vietnam war ends. . . . Laird said many of the defense contractors and aerospace industrialists had supported the Defense Department in its past policies 'and I know that we can count on this audience for the same kind of support in the future.' "

How foreign policy becomes militarized

American foreign policy becomes militarized in a number of ways. One of the most obvious is that a President of the United States and/or his Secretary of State want to militarize it. They have become convinced that, under certain circumstances and in some areas of the world, it is in the national interest to shoot or subvert first, and talk later. Or they become convinced that it is in the interest of the United States to send troops and planes into neutral countries and from there wage war against elements within those countries deemed dangerous to our interests or to wage war against other nations. These troop deployments are accomplished without the advice and consent of the Senate. The troops are deployed without a formal declaration of war, though they are used in the waging of war and their very use invites reprisal and the enlargement and inflaming of hostilities into a general war. Or a President and his Secretary of State may decide that it is in the interest of the United States to make secret commitments and have private understandings with dozens of nations (as the late Secretary of State John Foster Dulles did), which make the United States liable to an armed defense of those nations without a formal declaration of war.

Foreign policy also becomes militarized when a President is misled by his armed services and the Central Intelligence Agency into thinking that a particular military action (e.g. the 1961 invasion of the Bay of Pigs) is a viable option. President Kennedy said he would never again trust the C.I.A. as he had on that occasion.

Foreign policy becomes militarized when the C.I.A., in addition to its intelligence work, undertakes operational initiatives (as in the early years of the American intervention in South Vietnam; as in the Dominican Republic in 1965; as in the Congo) which present *faits accomplis* to Washington and from which Washington can extricate the country only with the greatest difficulty.

Foreign policy becomes militarized when the arms race escalates on both sides in the familiar action-reaction phenomenon—the "mad momentum," as Mr. McNamara described it. The continual piling up of thermonuclear, chemical, and biological weapons, with the consequent "catching up" always present, now on one side, now on the other, makes it increasingly difficult, politically and psychologically, to form a foreign policy in which strategic-arms limitation, and then gradual and progressive disarmament, will be both cornerstone and goal.

Foreign policy becomes militarized when both major American political parties seek partisan advantage in Presidential campaigns by accusing the other of permitting a "bomber gap," a "missile gap," or a "security gap" to develop. Even though each of these accusations has been found later to have been false and misleading, the winning party, to make good on its campaign promises, authorizes enormous new increments to the strategic-weapons stockpile and further deepens the militarization of policy.

Foreign policy becomes militarized when, at critical moments, it is the military who seem to offer the crisp, definite, tangible options—while those who argue for negotiation, diplomacy, and respect for the decent opinion of mankind seem to be offering the unattractive, endlessly prolonged, and inconclusive options. Arthur Schlesinger, Jr., recalling the Bay of Pigs crisis, once wrote: "I could not help feeling that the desire to prove to the C.I.A. and the Joint Chiefs that they were not soft-headed idealists but were really tough guys, too, influenced State's representatives at the Cabinet table."

Foreign policy becomes militarized by the national security managers, the men who have served as secretaries and assistant secretaries of Defense, State, Air, Army, and Navy; chairmen of the Atomic Energy Commission; directors of the C.I.A. Richard Barnet, in his book *The Economy of Death*, noted that out of ninety-one men who have held these offices from 1940 to 1967, seventy have come from the ranks of big business or high finance. The Brookings Institution revealed that eighty-six per cent of the Secretaries of the Army, Navy, and Air Force, from 1933 to 1965, had come from the ranks of either business or the law. The Washington assumption is that there is an inherent correlation between the ability to run a bank,

a business, a defense industry, and a law firm, on the one hand, and, on the other, the ability to define the nation's interest and devise a program calculated to enhance it.

It is not easy to determine at what point the President or his Secretary of State, on their own motion, militarize foreign policy, and at what point they are merely responding to a set of conditions and options which are basically militaristic and are presented to them by persons, agencies, and institutions that have no constitutional authority to make foreign policy. Confronted by such options, a President, unless he is extraordinarily well informed, adroit, and agile, cannot go around the options but must work within them.

Authoritarianism, actual and potential

According to one view, military conscription, which has been in existence for almost thirty years, cannot be classified as evidence of authoritarianism. The Selective Service law is a law, democratically enacted, and like any law, it can be removed by due process. But to young men subject to induction into the armed forces and liable to be sent to fight in the Vietnam war which various senators have described as "insane," "immoral," "illegal," and "unconstitutional," the military draft and its five-year prison sentence for refusal to serve constitute an unquestioned example of authoritarianism and an unwarranted violation of the human conscience.

In actual practice, as Senator Edward Kennedy has pointed out, government and draft-board officials have used the Selective Service System to punish young men who protest against the Vietnam war and the draft itself by reclassifying them 1A and accelerating their call-up. Here, says Senator Kennedy, "the fundamental issue is whether the Selective Service System has the right to supplant the courts and substitute an administrative form of punishment."

With respect to freedom of speech and assembly, Americans—judging from the massive turnouts in the moratoriums late last year—do not find it necessary to summon heroic courage to register criticism and dissent on such issues as the Vietnam war. On the other hand, the House Committee on Internal Security (formerly the House Un-American Activities Committee) continues to be funded and it continues to pursue self-styled revolutionaries among the dissenters, such as Thomas Hayden, by holding hearings in the style of the Joseph McCarthy period of the nineteen-fifties. Also the Justice Department has instituted a number of "conspiracy" trials against pacifist leaders (e.g. Dr. Benjamin Spock, the Reverend William Sloan Coffin) which, regardless of their legal outcome, may well have the effect of intimidating other citizens and sharply reduce their activity in the peace movement.

Another possible portent of authoritarianism can be found in a report of Army teams which, in the summer of 1968, visited more than one hundred American cities to discuss riot-control plans with local officials. A hundred-and-eighty-man Directorate of Civil Disturbance Planning and Operations in the Pentagon maintains "city profile" books containing analyses of population composition, trouble spots, and layouts of police precincts and communications. More than a half-million Regular Army servicemen, reservists, and national guardsmen have been given riot training. Former Attorney General Ramsey Clark has said he is opposed to a federal police force and that the American tradition is against it because "there's no telling which way a monolithic military-police organization might go." While the Constitution empowers the federal government to "protect" a state against "domestic violence," the existence of half a million riot-trained troops, a directorate in the Pentagon, and the development of closely coordinated plans between Pentagon and city officials mean that the instruments of quick and massive military suppression are at hand should government officials interpret the constitutional provision in an authoritarian way.

In that connection, statements by Vice-President Spiro Agnew and actions by other members of Mr. Nixon's Administration last fall take on ominous overtones. After Mr. Agnew's widely reported New Orleans speech in which he described peace-protest leaders as an "effete corps of impudent snobs," Mr. Nixon said his Vice-President had "done a great job for this Administration." Later, Mr. Agnew, at a meeting of Republicans in Harrisburg, Pennsylvania, said that peace-protest organizers are "merchants of hate" and "parasites of passion" and asserted that the nation "can afford to separate them from our society with no more regret than we should feel over discarding rotten apples from a barrel." After Mr. Nixon's November 3rd speech on the Vietnam war, Mr. Agnew criticized the three national television networks for, among other things, their analysis and commentary following the speech. Although he affirmed that "every American has a right to disagree with the President of the United States and to express publicly that disagreement," Mr. Agnew said that "the President of the United States has a right to communicate directly with the people who elected him, and the people of this country have the right to make up their own minds and form their own opinions about a Presidential address without having a President's words and thoughts characterized through the prejudices of hostile critics before they can even be digested." Finally, Mr. Nixon's newly appointed chairman of the Federal Communications Commission, Dean Burch, telephoned the heads of the three national television networks two days after Mr. Nixon's Vietnam speech, asking for complete transcripts of the remarks of their reporters and commentators. Jack Gould, television editor of *The New York Times*, said that this procedure "was reported by many radio and TV station owners to be the first time an F.C.C. chairman departed from the protocol usually followed by the regulatory agency in handling complaints. Normally, the broadcasters noted, a complaint is forwarded by mail by Ben F. Waple, secretary of the F.C.C. The complaint is in written form, and the networks are allotted twenty or more days to reply."

Another potential extension of military authority, if not authoritarianism, lies in the Defense Department's involvement in domestic problems relating to the economy and to the health, education, and welfare of American citizens. Before leaving office, former Secretary of Defense Clark Clifford outlined an extensive Defense program—in being and in prospect—which would place the Defense Department directly into the business of building model housing and hospitals, using defense contracts to stimulate job opportunities in economically depressed areas, and educating hitherto neglected young men. The Nixon Administration kept several parts of this program, notably the involuntary induction of one hundred thousand poorly educated (and therefore ordinarily non-inductible) men each year into the armed forces and educating them under military auspices before returning them to civilian life.

A final indicator of authoritarian style and substance: In 1966, Senator Edward Kennedy demanded that the State Department explain its legal authority for "shadowing" American citizens traveling abroad. A *New York Times* dispatch from Washington (March 23, 1966) said that the Massachusetts senator had sent a "sternly worded letter" to Secretary of State Dean Rusk expressing his dismay on learning that some American travelers are subjected to surveillance by their government because of their political beliefs. "'I would have assumed that the granting of a passport carried with it for each citizen the privileges given to all citizens and that all passport bearers would have their privacy assured and be able to travel without embarrassment,' the Senator wrote." The *Times* explained that Mr. Kennedy's protest had been prompted by the disclosure that the State Department earlier that month had ordered the American embassies in Paris and Moscow to impose surveillance over the activities of H. Stuart Hughes, a professor of history at Harvard University, because of the Federal Bureau of Investigation's suspicions about his political beliefs. The State Department's order for surveillance was sent to its two embassies on March 8th, but was rescinded March 16th. The earlier message said that Dr. Hughes "reportedly in the past has had strong convictions toward communism." In his letter to Mr. Rusk, Senator Kennedy said: "'While I have had serious disagreements with (Professor Hughes) on matters of policy, I have always considered (him) to be a gentleman of integrity who has expressed his convictions in an honest and forthright fashion. . . . I feel it is most important to determine who makes the judgment that a traveling citizen is pro-communist, whether that judgment is confirmed by the Passport Office when it transmits a request for surveillance, and what further use is made of such a determination and of any information obtained by this investigatory activity among the various government agencies.'"

The *Times* said that State Department sources would not say how many such surveillance requests it receives, but "it was estimated they might run to hundreds a year."

III

This article began with a question: Is the United States a militarized society? I have listed what I think are dominant characteristics of a militarized society and have critically reviewed what I think is relevant evidence drawn from the contemporary American experience. Each of us must answer the question for himself.

For my part, I think that America has become to a considerable extent a militarized society. In a sense, the real question is whether the march toward a totally militarized America can be stopped and reversed. If it cannot, then we are in principle already a militarized people and it is only a matter of time until the details are all in place and we are militarized in fact. I think there is hope that the march of militarization can be stopped, but with each passing year that possibility dwindles. The combination of forces that have brought us this far down the road to complete militarization—the Pentagon, the weapons industry, military-minded congressmen—shows no sign of weakening. And the circumstances, or context, within which these forces have operated and drawn their strength—the mantling of militarism in "national security," the creation and sustaining of weapons-industry jobs in more than eighty per cent of the congressional districts of the nation, the weapons-research orientation of much of university life, the inability of congressmen to make informed technical judgments on complicated weapons and weapons programs—all these show no signs of abatement or reform. Finally, our great social problems—racism, poverty, the decay of our cities, our shameful treatment of the mentally ill and the elderly, the rage of our youth, environmental pollution, the decline and stagnation of our schools, inflation, rising taxes along with spreading public squalor—these pressurized problems may well explode and make an already largely ungovernable society chaotic, thus inviting the domestic military solution; order at the point of the bayonet, an enforced, police-state life if there is to be any life at all.

My hope for a reversal of militarization is narrowly based. The close vote in the Senate on ABM reflected a new high level of senatorial awareness of spurious arguments for new weapons systems and a rebelliousness against traditional congressional rubberstamping of Pentagon weapons requests. However, the Senate's later behavior on the arms authorization bill and on the amendments to impose some kind of rational restraint on the Pentagon and the defense industrialists more than canceled out the hopes we had reposed in it.

But the American people have begun to realize that, after spending a trillion dollars for national security since 1945, they have bought insecurity. There is hope, then, that they will demand a breakout from the old, now quite discredited arms-spiral approach to national security.

There is hope, too, in the youth movement which, with the intuitive directness of the young, has gone straight to the point: that militarization is a systemic and structural phenomenon and that it has not made a great deal of difference which man or party occupies the White House because the Vietnam war continues and the practices and presumptions that led to the Vietnam war continue.

Ten steps to a civilized society

It may be adventitious but it seems appropriate to end this inquiry with some subjective notes about what would, in the author's view, constitute a civilized, as contrasted with a militarized, society. These are the things I think our nation can and should do:

(1) Begin the end of the Vietnam war by announcing a unilateral ceasefire and simultaneously asking the United Nations to accept the responsibility, through U.N. inspection teams and police peaceforces, for insuring that no further bloodshed occurs and for the effective neutralizing of the country. This would be accompanied by a solemn and public pledge to abide by whatever troop withdrawal timetable the U.N. orders for both North Vietnamese and American forces in South Vietnam.

(2) A further pledge by the United States to contribute the major share of the financial support of the U.N. police force and inspection teams in Vietnam, this share to be computed as a percentage of the amount of money the United States has spent in destroying that country and its people since 1964.

(3) An order to the C.I.A. to confine its work to intelligence gathering and intelligence evaluating and to cease all para-military subversive and sabotage activities in all parts of the world.

(4) A critical review by appropriate congressional and Administration agencies of the practice of all clandestine military activities, and an empowering of the State Department to maintain continuing surveillance over these activities.

(5) Announcement by the United States of an immediate freeze on present strategic-arms level, with a bid to the Soviet Union to do the same with these two actions linked to a third: offering diplomatic recognition to Communist China and recommending to the United Nations that China be given a seat on the Security Council.

(6) Meaningful strategic-arms limitations talks with all the great powers, leading not only to limitation but also to stage-by-stage deescalation of the strategic-arms stockpile, with appropriate mutual, on-site inspection to prevent the possibility of cheating.

(7) Immediate congressional hearings leading to legislation providing for the phasing out of weapons industries and the conversion of these industries, where possible, into domestic welfare activities. Where conversion is not possible, the hearings must lead to the systematic creation of job opportunities for displaced weapon-industry workers. These opportunities should be sought first in high-priority domestic problem-areas: building of more schools; more mental hospitals; more facilities for the elderly; more parks and leisure-time facilities in the ghettos; more job-training schools for the present unemployables; attacking the problems of air and water pollution; creating national parks in wilderness preserves; revivifying and rebuilding the decaying central cities across the country.

(8) An end to military conscription.

(9) A pledge to the United Nations of a sizable percentage of our present arms budget (no longer needed as the Vietnam war ends—an annual saving of at least thirty billion dollars—and as we progressively cut back, along with Russia and the other powers, our strategic-arms stockpile). This money would be used by the U.N. for development of Third World countries and for the equipping and staffing of a highly mobile international police force able to put out, or at least isolate, brush-fire disputes in the international community, and prevent them from spreading or being spread by opportunistic nations.

(10) Repeal of the Connally Amendment, which allows us to decide which international disputes involving us we will submit to the World Court for adjudication. With this action, we will announce to the world that we recognize not only the existence of world law but the imperative necessity for all nations to abide by it.

The American mythology abounds in legends, some grounded in historical truth, some the product of our wishful thinking. Among the legends is the belief that America has always acted benevolently, unselfishly, nobly in the world community. That legend never was an unqualified truth, but there was truth in it. There has been much less truth in it during the last quarter of a century. I think that most Americans, if they honestly look at the record of these last twenty-five years, feel ashamed. They might even agree with Kilmer Myers, Episcopal Bishop of California, who said that America stands in imminent danger of "losing its soul." These are not easy things to say. And those who say them are too often accused of anti-Americanism.

Dietrich Bonhoeffer, a few years before he was hanged by his Nazi jailors, said that he prayed that Germany would lose the war. He added that this was the most painful thing he had ever done because he loved his country. But he loved it so much he could not bear to think of German atrocities being vindicated by a military victory. Today we revere Dietrich Bonhoeffer as a hero and a martyr.

I hope this nation will not make martyrs of its heroes. My ten-step approach to a demilitarized and civilized society would vindicate our heroes and redeem the American legend. More importantly, for me at least, is that if it were adopted it would represent a last-minute triumph of hope over experience, of reason over madness.

MAKE THE AIRWAYS SAFE

Mr. RIBICOFF. Mr. President, in the recent tragic crash of the Swiss jet airliner, two of the passengers were Dr. E. Richard Weinerman and his wife, Shirley. They were on the way to make a study of medical practices in Israel, Japan, and New Zealand, on behalf of the World Health Organization and the Harvard University Press. Dr. and Mrs. Weinerman were close friends of mine, for whom I had the highest respect. Dr. Weinerman was a great and dedicated physician.

Dr. Weinerman's brother, Robert A. Weinerman, recently sent a letter to the President. This letter sets out the necessity for positive action to make the airways safe for travel. I do hope that there is an opportunity for the President and the U.S. Government to take the lead in assuring worldwide air travel safety. I ask unanimous consent that Mr. Weinerman's letter be printed in the RECORD.

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

MARCH 4, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: My brother, Dr. E. Richard Weinerman, and his wife Shirley, were passengers on the ill-fated Swissjet Airliner which exploded over Zurich on February 21st, killing all on board.

My brother was on a trip sponsored by the World Health Organization and the Harvard University Press to make a study of medical practices in Israel, Japan and New Zealand. Because of the madness afoot in the world he and his wife were unable to be safely transported from the United States to Israel, the first leg of their journey.

I am outraged, Mr. President, because as an American citizen performing a health survey which might have been beneficial to all people of the world, he was struck down in a senseless and meaningless act of terrorism.

Our grief as a family over the loss of my brother and sister-in-law is obviously very great but our anguish will be even more intense if this incident becomes merely a footnote in history.

Something positive to once again make the airways safe for travel for all people must be done immediately.

It is my fervent hope that the Government of the United States will help take whatever steps are required to both protect its citizens and bring a measure of sanity back to the world.

Sincerely yours,

ROBERT A. WEINERMAN.

APPROPRIATION BILLS, 91ST CONGRESS, FIRST SESSION

Mr. ELLENDER. Mr. President, on December 20, 1969, I asked and received unanimous consent to have printed in the RECORD a tabulation of all appropriation bills handled during the first session of the 91st Congress. The tabulation was included in the CONGRESSIONAL RECORD, volume 115, part 30, page 40443. During the course of my remarks, I made it clear that the figures for the Departments of Labor and Health, Education, and Welfare were the figures agreed to in conference and that the President had informed the Congress that he intended to veto this particular appropriation bill. The foreign assistance bill conference report had not been agreed to in the Senate; so, the figures for this bill also were necessarily tentative.

Upon the return of Congress on January 19, the foreign assistance appropriation bill was sent back to conference by the Senate and a new figure was agreed to, eliminating $54,650,000, mostly for the controversial item of jet aircraft for the Republic of China. The Labor-Health, Education, and Welfare appropriation bill was agreed to by the Con-

gress and the President promptly vetoed this bill.

Subsequent to this action, the Congress passed a new Labor-HEW appropriation bill, which the President signed on Thursday, March 5.

I asked the staff of the Committee on Appropriations to bring the tabulation up to date, with the new figures for foreign aid and for Labor-HEW, and I now ask unanimous consent that the revised final tabulation be printed in the Record.

It will be observed from the tabulation which I have just asked to have printed in the Record that the total budget estimates of appropriations for new obligational authority for fiscal year 1970 were reduced by the Congress in the amount of $6,370,935,390. This compares with a figure of $5,604,275,766, which was the total fiscal year 1970 reduction in the tabulation I included in the Record on December 20, 1969. In addition to the $54,650,000, to which I referred in the foreign aid bill, the further reduction was in the Labor-HEW appropriation bill and aggregated some $712,009,624.

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

FINAL ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY IN APPROPRIATION BILLS, 91ST CONG., 1ST SESS. AND 91ST CONG., 2D SESS. AS TO LABOR-HEW APPROPRIATION BILL, H.R. 15931, AND FOREIGN AID APPROPRIATION BILL, H.R. 15149, AS OF MARCH 5, 1970

[Does not include any "back-door" type budget authority; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year	Budget requests considered by House	Approved by House	Budget requests considered by Senate	Approved by Senate	Public Law	(+) or (−), Public Law amounts compared with budget requests to Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Bills for fiscal 1970:						
1. Treasury-Post Office (H.R. 11582) (net of estimated postal revenues appropriated)	$2,314,714,000	$2,272,332,000	$2,314,714,000	$2,280,195,000	$2,276,232,000	−$38,482,000
(Memoranda: Total, including authorizations out of postal funds)	(8,821,727,000)	(8,779,345,000)	(8,821,727,000)	(8,787,208,000)	(8,783,245,000)	(−38,482,000)
2. Agriculture (H.R. 11612)	6,967,562,050	6,806,655,000	7,237,562,050	7,642,797,650	7,488,903,150	+251,341,100
3. Independent offices-HUD (H.R. 12307) (including 1971 advance)	15,380,413,600	14,909,089,000	15,512,969,600	[2] 14,985,449,000	15,111,870,500	−401,099,100
(Fiscal year 1970 amounts only)	(15,205,413,600)	(14,734,089,000)	(15,337,969,600)	[2] (14,985,449,000)	(15,111,870,500)	(−226,099,100)
4. Interior (H.R. 12781)	1,390,096,500	1,374,286,700	1,390,856,500	1,382,766,900	1,380,375,300	−10,481,200
5. State, Justice, Commerce, and Judiciary (H.R. 12964)	2,475,704,600	2,335,634,200	2,475,704,600	2,382,354,700	2,354,432,700	−121,271,900
6. Labor-HEW (H.R. 13111 vetoed by the President, Jan. 26, 1970)	(16,495,237,700)	(17,573,602,700)	(19,834,125,700)	(21,363,391,700)	(19,747,153,200)	[4] (−86,972,500)
(Fiscal year 1970 amounts only)	(16,495,237,700)	(17,573,602,700)	(18,608,125,700)	(20,245,811,700)	(19,747,153,200)	[4] (+1,139,027,500)
7. Labor-HEW (H.R. 15931 signed by President March 5, 1970)	18,608,125,700	19,381,920,200	19,834,125,600	19,381,920,200	19,381,920,200	[5] −452,205,500
Senator Cotton amendment Sec. 410; 2 percent reduction				−346,776,624	−346,776,624	−346,776,624
(Fiscal year 1970 amounts only)	(18,608,125,700)	(19,381,920,200)	(18,608,125,700)	(19,381,920,200)	(19,381,920,200)	(+773,794,500)
8. Legislative (H.R. 13763)	311,374,273	284,524,057	372,152,949	342,310,817	344,326,817	−27,826,132
9. Public works (and AEC) (H.R. 14159)	4,203,978,000	4,505,446,500	4,203,978,000	4,993,428,500	4,756,007,500	+552,029,500
10. Military construction (H.R. 14751)	1,917,300,000	1,450,559,000	1,917,300,000	1,603,446,000	1,560,456,000	−356,844,000
11. Transportation (H.R. 14794) (including 1971 advances)	2,090,473,630	2,095,019,630	2,090,473,630	2,147,152,630	2,143,738,630	+53,265,000
(Fiscal year 1970 amounts only)	(1,840,473,630)	(1,875,019,630)	(1,840,473,630)	(1,947,152,630)	(1,929,738,630)	(+89,265,000)
12. District of Columbia (H.R. 14916) (Federal funds)	228,842,000	188,691,000	228,842,000	173,547,000	168,510,000	−60,332,000
(District of Columbia funds)	(751,575,300)	(683,106,300)	(752,944,300)	(657,064,600)	(650,249,600)	(−102,694,700)
13. Defense (H.R. 15090)	75,278,200,000	69,960,048,000	75,278,200,000	69,322,656,000	69,640,568,000	−5,637,632,000
14. Foreign assistance (H.R. 15149)	3,679,564,000	2,608,020,000	3,679,564,000	2,718,785,000	2,504,260,000	−1,175,304,000
15. Supplemental (H.R. 15209)	298,547,261	244,225,933	314,597,852	296,877,318	278,281,318	−36,316,534
Total, these bills—						
As to fiscal 1970	134,719,895,614	128,021,451,220	135,200,040,881	[6] 129,106,910,091	[6] 128,829,105,491	[6] −6,370,935,390
As to fiscal 1971	425,000,000	395,000,000	1,651,000,000	200,000,000	214,000,000	−1,437,000,000
Total, 1970 bills including 1971 amounts	135,144,895,614	128,416,451,220	136,851,040,881	[6] 129,306,910,091	[6] 129,043,105,491	[6] −7,807,935,390
Bills for fiscal 1969:						
1. Unemployment compensation (H.J. Res. 414)	36,000,000	36,000,000	36,000,000	36,000,000	36,000,000	
2. Commodity Credit Corporation (H.J. Res. 584)	[3] 1,000,000,000	[3] 1,000,000,000	[3] 1,000,000,000	[3] 1,000,000,000	[3] 1,000,000,000	
3. 2d supplemental (H.R. 11400)	4,364,006,956	3,783,212,766	4,814,305,334	4,459,669,644	4,352,357,644	−461,947,690
Release of reserves (under Public Law 90-364)	(82,463,000)	(82,766,000)	(79,999,000)	(80,230,000)	(80,230,000)	(+231,000)
Total, 1969 bills	5,400,006,956	4,819,212,766	5,850,305,334	5,495,669,644	5,388,357,644	−461,947,690
Cumulative totals	140,544,902,570	133,235,663,986	142,701,346,215	[6] 134,802,579,735	[6] 134,431,463,135	[6] −8,269,883,080

[1] In round amounts, the revised (April) budget for fiscal 1970 tentatively estimated total new budget (obligational) authority for 1970 at $219,600,000,000 gross ($205,900,000,000 net of certain offsets made for budget summary purposes only), of which about $80,700,000,000 would become available, through so-called permanent authorizations, without further action by Congress, and about $138,900,000,000 would require "current" action by Congress (mostly in the appropriation bills). Also, the April Review of the Budget contemplates budget requests for advance fiscal 1971 funding in 4 items totaling $1,661,000,000.

[2] Reflects reduction of $175,000,000 for Appalachian highway program for 1970 and $175,000,000 for advance funding for 1971. Authorization Act provided for contract authority in lieu of new obligational authority, with payments for liquidation to be appropriated later.

[3] Shifted from fiscal 1970 budget, a portion of which is technically classified in the budget as "liquidation of contract authorization" rather than as new budget (obligational) authority.

[4] Although a reduction in the budget estimate of $86,972,500 is reflected in the total column of the bill, it must be made clear that the budget estimate column to the Senate includes $1,226,000,000 advance funding for ESEA for 1971 whereas none of these funds were included in the conference agreement. Deducting the $1,226,000,000 from the budget estimate column gives a comparison for fiscal year 1970 only and reflects the conference agreement over the budget estimates in the amount of $1,139,027,500.

[5] The budget estimate column to the Senate includes $1,226,000,000 advance funding for fiscal year 1971 for ESEA denied by the Congress.

[6] Includes reduction of $346,776,624 in the Cotton amendment, Section 410 of Labor-HEW appropriation bill H.R. 15931.

THE ALL-VOLUNTEER ARMED FORCE

Mr. SCOTT. Mr. President, the President's Commission on an All-Volunteer Armed Force has completed its report, not yet a year after its creation. The commission unanimously recommended the adoption of an all-volunteer force, supported by an effective standby draft, following the expiration of the present draft law in 1971. The Commission's exhaustive study confirmed many of my earlier beliefs and clarified certain others. However, I wish to express my unqualified endorsement of the commission's report.

My interest in draft reform is not new. I have recognized the inequities and have spoken out against them. I have urged comprehensive draft reform proposals only until a volunteer force could be instituted. Now that the Commission has recommended that the regular draft be ended in 1971, without the accompanying political, economic and social pains that were once feared, I feel that we should move immediately, right now, to end the draft and get on with the volunteer approach.

The young people of this Nation cry out for justice. They are skeptical of their leaders in Government. They are apprehensive for the future. We must not ignore their pleas to be heard.

The draft has outlived its usefulness. It is archaic, unfair, discriminatory, and restrictive. It can be replaced. It must be replaced.

President Nixon has indicated, on many occasions, his support for an all-volunteer force. He is consistent. More

important, he is right. We have met the President only halfway by instituting a lottery system. We must go further to meet his request for a volunteer army.

Congress must realize that the draft is a sorry obstacle on the road to justice and equality. We cannot talk about true civil rights until we do away with the draft, and do away with it next year.

Hearings on comprehensive draft reform, to be held shortly, should serve as a proper forum to discuss the recommendations made by the President's Commission. Congress must face up to its responsibility by favorably considering the adoption of an all-volunteer army in 1971.

Finally, I wish to commend the members of the Commission, especially its able chairman, former Secretary of Defense Thomas Gates, for doing such an outstanding job. The report should serve as the foundation upon which to build a volunteer army. The Commission's recommendations should be promptly considered.

I ask unanimous consent to have printed in the RECORD a column entitled "All-Volunteer Army Should Become a Reality," written by Crosby S. Noyes, and published in the Washington Evening Star of March 3, 1970.

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

[From the Washington Evening Star, Mar. 3, 1970]

ALL-VOLUNTEER ARMY SHOULD BECOME A REALITY

(By Crosby S. Noyes)

In spite of the war in Vietnam, the goal of an all-volunteer Army and an end to the draft should be reachable in the relatively near future.

Realistically, it probably cannot be reached by July 1, 1971—the date recommended by the presidential commission headed by former Defense Secretary Thomas S. Gates Jr.

The main determining factor, it seems, is cost and the overall size of the armed services. According to the commission's estimates, the additional cost of an all-volunteer force of 3 million men would be $4.6 billion yearly. The cost of a 2.5 million-man force would be $2.1 billion, or less than half.

Unless these figures are proven to be wildly inaccurate—as some Pentagonians contend—it would seem that the nation could well afford the lower figure.

The armed forces last June were about 3.48 million men. Although the Pentagon plans to reduce that by over a half-million military personnel in the coming two years, this would not bring the cost down to what is likely to be considered a practical level.

The commission contends, to be sure, that the real cost of an all-volunteer force actually is less than the present mixed force. The difference, however, is made up of "hidden costs" in the present system borne by the conscripts themselves in loss of potential earnings as civilians and the disruption of their lives. Unfortunately, the budgetary figures are likely to weigh more heavily with the administration and the Congress.

Nevertheless, in a reasonably short time, additional cuts in military manpower should be possible. The decision to scale down the military establishment from a 2½-war capability to a 1½-war capability, while relatively meaningless, does imply significantly fewer men in uniform.

Once a manpower level of about 2.5 million is reached, there is a strong probability that the Nixon administration will push hard for an all-volunteer force. The arguments advanced by the Gates' commission in favor of such a move, it seems to me, are overwhelming. Many of the arguments against, dutifully and quite fairly presented in the report, appeared to be based either on emotion or on a completely different interpretation of the facts involved.

None of the facts and findings advanced in this study is especially new. Most of them were brought out last spring by Sen. Mark O. Hatfield, R-Ore., in introducing legislation to do away with the draft. But the unanimous backing given to the report by Gates' prestigious 15-man commission, including two four-star generals, should go far toward overcoming hesitations in the administration and on Capitol Hill.

Perhaps the most persistent—and also the strangest—argument against an all-volunteer force is that it would result in a professional Army, separated from the civilian population, and therefore dangerous to the survival of the democratic institutions of the nation. The fear of "professional militarism" underlies much of the opposition to doing away with the draft.

This, of course, is the purest nonsense. Except for the last 30 years, this country never has had anything but an all-volunteer Army in times of peace. As the report points out: "Historically, voluntary service and freedom have gone hand in hand. In the United States and England, where voluntarism has been used most consistently, there is also the strongest tradition of civilian control of the military."

In fact, the armed forces are very largely "professional" today. Over 2 million men, and particularly in the areas of command, fall into the category of career soldiers. The notion that some 75,000 additional volunteers in the lowest ranks will drastically change the loyalties and political character of the armed forces is simply absurd.

The strongest argument against the all-volunteer force is that it will not work. There are those who argue that whatever inducements may be offered, there never will be enough willing recruits in times of prosperity to fill the military manpower needs.

Maybe so. One suspects, however, that these predictions are based on the conviction of some military men that the draft is an essential and hopefully permanent feature of American life.

President Nixon, however, apparently doesn't agree. So far as he is concerned, the enormous injustice of the draft demands that it be abolished at the earliest possible moment. And the Gates' report suggests that the moment may not be too far off.

SCHOOLBUS RECALL

Mr. KENNEDY. Mr. President, the defects, malfunctions, and repeated repair problems experienced by schoolbus owners with their 1968 and 1969 General Motors V6 buses finally prompted General Motors to recall 4,269 schoolbuses to repair their braking systems. That incident underlines my concern that the safety of many of the 18 million youngsters traveling to school each day on schoolbuses has been compromised by the failure of the Department of Transportation to issue stringent safety standards for schoolbuses.

General Motors' decision to recall its schoolbuses was taken only after accounts were published of the unhappy experiences of schoolbus owners with their new buses. Colman McCarthy of the Washington Post was one of the first journalists to bring public attention to the problem. His articles prompted the President's Special Assistant for Consumer Affairs to ask General Motors to investigate the situation.

In a two-part series a week ago, Mr. McCarthy impressively summarized the reasons for the General Motors recall and cataloged the mechanical malfunctions in addition to the brake system defects which continue to plague the General Motors schoolbuses. General Motors has not agreed to correct these defects during the current recall.

It should be noted that the Department of Transportation's Defect Review Section started an investigation following the original complaints. The results of that investigation still have not been made public.

Mr. President, I ask unanimous consent that the two articles by Colman McCarthy, published in the Washington Post on February 23, 1970, and on March 4, 1970, be inserted in the RECORD.

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

[From the Washington Post, Feb. 23, 1970]

BITTER TALES FROM THE GM LEMON GROVES

(By Colman McCarthy)

Last week, General Motors issued a recall of 4,269 school buses for possible brake defects. The recall followed a six-week nationwide survey by GM which was originally prompted by two articles on this page in December detailing the endless safety and mechanical breakdowns of three new GM school buses. These were owned by John Donovan, a local school teacher with an immense frustration capacity.

By taking a survey, GM wanted to know whether Donovan's problems were a local fluke or a national epidemic. If the latter, a recall would be made. Martin Caserio, a GM vice president and a Detroit veteran who had been through the recall ritual many times, said that GM was deeply concerned about safety. However, he told a Washington press conference in December he did not think John Donovan's repeated brake failures, rattling transmissions, hanging exhaust pipes, faulty tires, etc., were "safety-related" problems.

After some confusion and delay, GM supplied the press with a partial list of GM bus owners. Entitled "School Bus Owners operating five or more 1969 GMC conventional model school buses," it contained 44 names. These owners were from only 16 states and possessed a total of only 504 buses. This meant that some 3,500 other 1969 model buses could not readily be checked.

On receiving the list from General Motors, The Washington Post began contacting by phone the 44 owners. Apart from the one owner who couldn't be reached because he had been dead four years and the four others who were listed by GM as owning a total of 35 vehicles but in reality owned none, the majority of respondents were unhappy or frustrated over the performance of their new buses. Repeatedly, they told of the time and money wasted hauling the buses to garages for repairs; often they were repairs of repairs. It soon became clear that the safety and mechanical problems of the '69 GM school bus were not isolated in Washington. They were nationwide, all the way from the enraged owners of the Beirns Bus Service, Kenilworth, N.J., whose six new buses failed the New Jersey State inspection because of faulty brake equalization to the stoic in Roslyn, N.Y., who said, "I was a GM man at heart, but no more. I don't know what they've done to these buses, but I've bought my last one."

It was quickly discovered that GM's list was incomplete. Regularly, an owner on the list would supply the names of the other

multiple-owners in his area who were not on the list. Often, it was obvious why they were omitted. Raymond Wilson—a pseudonym—is a GM dealer who owns 15 of the 1969 buses. He saw the stories about Donovan in his local paper in December and was "delighted that the truth was finally being told about GM." He has had massive safety and mechanical problems also. "The power steering cannot be fixed, no matter what;" one new bus being driven back from the factory nearly killed his driver because the gas tank had a hole in it that dropped the fuel onto a heated exhaust line; "the brakes aren't worth a damn and won't stay adjusted. Overall, things have gotten to the point that I hate to face customers."

Other people that Wilson hates to face are reporters. The same morning he read the story about Donovan, he was called by the local GM representative and told "to keep my mouth shut if any newsman called. The rep. told me this kind of publicity could hurt us all." Wilson agreed to talk to the Post only if strict anonymity was given his name and location of business. Even though he is a GM dealer, he is convinced that if the company finds out he has spoken to anyone they will "get even."

Another GM dealer—also not on the list—was so fed up with his seven 69s that this year he bought Fords. Asked if he thought it odd that a GM dealer would buy a competitor's product, he answered: "What should I do—keep on buying buses that I know are nothing but trouble?"

Not all the GM owners on the list were unhappy. A spokesman for the Long Island Bus Co., East Farmingdale, N.Y., said that his mechanics "have been big on preventive maintenance, so we have little trouble." Another owner, the Pace School Bus Service. Independence, Mo., said that aside from frequent clutch adjustments everything was fine. Asked about his exhaust pipe hangers, he replied: "Oh, them. They were so weak when the buses were sold to us that we just tied them up with baling wire. And that was that." The mechanic for the five buses owned by the Lake Orion, Mich., schools said he had no serious complaints. "The brakes are hard to push and get sluggish. But they're safe enough; the driver just has to get used to them."

With a few chilling exceptions, all the dissatisfied owners said they received prompt and polite service from the local GM dealers. Warranty repairs were paid for with little fuss. But what GM does not pay for is the large amounts of time needed to haul the buses to the garage or pick them up after highway breakdowns; nor is there compensation for the always-present frustration. Ben Stanski, with 10 of the 1969 models, of the Berkshire Gray Line, Pittsfield, Mass., has been constantly bedeviled by burned-out clutches. Some have gone at 3,000 miles, when they should have lasted 25,000 or more. But the main irk is getting the buses started in the morning during the winter. "Here they are," said Stanski, "brand new buses. And a crew has been having to come in at 4 a.m. to work on them so they start up. If we let the buses sit until the regular drivers come in, the kids would never get picked up."

One person who conceivably should have no trouble making his voice heard by GM is a mechanic for the Pontiac, Mich., School District, in the very town where GM makes its buses. The mechanic said that along with radiator, electrical and tail pipe problems, he is plagued with brake troubles. The buses on which many children of GM employees ride every day have had no accidents yet due to brake failure, but this may be due to the mechanic's diligence. "If I keep adjusting them every month, they're O.K. When the brakes are the least bit out of adjustment, which happens frequently, they are hard. When you put your foot on them, you think you have plenty of pedal left. But the only problem is you can't stop. So I adjust them every month."

The most recurring complaint of the 39 owners was the tail pipe hanger. This device is on the rear underside of the bus and keeps the exhaust pipe secure. When it is not strong enough, the pipe will jangle until it snaps. The poisonous exhaust fumes are then leaked forward under the passenger compartment. Most states consider a weak pipe hanger a safety hazard and inspectors will flunk any bus that has one. Two months ago, a Washington GM representative admitted to a reporter that the hangers on the '69 buses were too weak to hold the pipe safely. "The factory made them just too flimsy," he said. When Martin Caserio was asked at the December press conference about this problem, he said a weak pipe hanger was certainly a bother, "but it was not safety related." When a pipe broke, said Caserio, the bus driver would surely be alert enough to hear the thing cluttering along the ground and have repairs made before any harm might be done to occupants.

From the response of the 39 owners on the GM list, and the many others mysteriously excluded from the list, a fair conclusion is that something is inherently wrong with the 1969 GM school bus. Too many owners in too many places reported too many breakdowns for the problem to be passed off as "one of those things, sorry about that."

Last week, after General Motors had reached the same conclusion and ordered a recall of 4,269 new buses for "possible brake defects," a GM public relations man said that his company had made a survey of 850 buses in December and January and discovered that one bus—only one—had defective brakes. Evidently, though strangely, GM used a different list of owners from the one supplied the press, or else they would have found many more than "one" owner with brake problems—starting with their neighbor in Pontiac, Mich., and including the Beirns Bus Service, the Community Charter Bus Co., Stanton, Calif., the Schaunburg Trans. Co., Roselle, Ill., the Guasti School, Guasti, Calif., Morris Hills School District, Rockaway, N.J., the anonymous GM dealer, a private owner in Olean, N.Y., and others. Although none of these had the numbing scare of Mrs. Warren McConnell of Springfield, Va.—last fall, one of her '69 GM buses had total brake failure and ran into a pasture to stop—they all said their brakes had given, or are giving, them serious trouble.

Since the GM recall involves only brakes, questions are raised about other complaints of owners. First, the tail pipe hangers. In a letter to Virginia H. Knauer, special assistant to President Nixon for consumer affairs, on Feb. 11, Martin Caserio admitted that some 300 out of 850 1969 buses had their hangers replaced. Yet, in the recall, this defective part was not mentioned.

A second major complaint not mentioned in the recall involves clutches. Caserio's Feb. 11 letter acknowledges that in some cases "clutch durability (is) unsatisfactory." But rather than admitting the clutches are mechanically flawed, and then recalling them, the GM vice president repeats the standard implication that clutch trouble is usually caused either by foot-happy drivers or by lack of maintenance. But when the anonymous GM dealer has five of seven clutches burn out, even though he adjusts them "every day;" or when a Fullington, Tenn., owner has had to replace four out of six clutches—including one that didn't last 1,000 miles; or when an El Centro, Calif., owner has to adjust his clutches every 600 to 1,000 miles; when complaints like these are regularly heard, something more than foot-happy drivers are to blame.

Last December, GM president Edward Cole said that if his company's survey showed that a recall was necessary, well, a recall it would be. As Martin Caserio said during his press conference, "We'll step up to our responsibility." This is indeed praiseworthy, but the concept of a recall—an outrageous idea in itself, but which a cowed public now accepts calmly—raised fundamental questions. Where was GM's responsibility when their product was being made, Why wasn't it stepped up to then? This is the third consecutive year a recall has been made on GM's school buses, so the notion that something might be wrong in design or in the assembly line must have occurred to someone at GM.

Even when a recall is made, the question comes up about retribution for other things besides free labor and parts: such as time spent hauling broken buses in from the roadside waiting at the garage, the mental worry of driving children on vehicles that may be unreliable, the time lost to one's family because the bus needs to be tinkered with or carted to the garage.

[From the Washington Post, Mar. 4, 1970]

THE MARK—OR IS IT THE MOCK?—OF EXCELLENCE

(By Colman McCarthy)

For the third consecutive year, General Motors has ordered a recall on its school buses. That the world's largest maker of motor vehicles seems not only to make a habit of selling defective goods but, in effect, calmly admits that it does after the victimized owners and the press force the issue, doubtlessly puzzles the general public. But to many GM school bus owners, the recall ritual is no puzzle at all. "In 1967," said Tom Jones of Superior Sales, Omaha, Nebr., and who has new GM buses in his shop constantly, "there was a major model change—in style and engineering. That's where the trouble started." Other owners around the nation agree, saying that buses built earlier than 1967 have never been problems.

What actually happened mechanically between the 1966 model and those made since is unknown to anyone outside of GM. But with a plain ruler and average eyesight, a few facts can be learned. First, the front bumper on the '66 bus—if a local vehicle is representative—is ¼-inch thick; on the '69, it is ⅛-inch thick. Thus, in three years, the bumper's thickness is cut in half. A second discovery is that behind the front bumpers of earlier year models is a piece of steel extending from the frame in each direction for about one foot. This reinforces the bumper. On the '69 model, however, this piece of reinforcing steel is gone. A third difference was discovered by Thomas Gist of Sykesville, Md., a harried owner of two defective buses. Wondering why this year's models "ride as if they had solid rubber wheels, like back in the '20s," Gist measured the leaf springs that support the body of the '69 bus. They are seven inches shorter.

How much money GM saves on these simple reductions is known only to the people in the GM budget office and the officials to whom the savings are reported. But it does not appear that GM's pride in production is hurt. The Associated Press recently reported; "A General Motors executive said yesterday that bumpers on GM cars provide 100 percent protection from any damage—provided the speed of the car doesn't exceed 2.8 miles an hour."

A more serious question is raised by the trimming of the bumper and springs on the '69 bus, since lives and safety are involved. If GM cuts back on parts that a layman can detect, what may it have done to parts hidden under the hood and in the chassis? This is the real worry; and since recalls have been made three straight years—this year for brakes—it is also a frightening worry.

In a simpler day, long before the term *free enterprise system* replaced the term *corporate greed,* a consumer with a complaint—

on shoes, say—had only to visit the local shoemaker to get justice. "Here," he would say, "these shoes are falling apart." The shoemaker, being both ethical and aware word would spread through the village about his sloppy work, quickly replaced or repaired the shoes. The exchange was pleasant; what's more the shoemaker was *there;* he had a familiar face; he breathed and the only separation between the consumer and him was a door.

Things have changed since yesterday's shoemaker and today's car-maker. The agony of seeking relief or redress from GM, with its 750,000 employees, is the same as seeking it from any large bureaucracy where more than one hand works on the final product and where job security is a main concern of the employees. The vice presidents at the top are protected from the consumer's complaints at the bottom by the mass of workers in between; the latter will catch it first if the brass learns the consumers are mad. So the vice presidents measure the company's success not by the consumer's voice—the way the shoemaker did—but by sales reports, profit charts and the smiles of stockholders. If tens of thousands of cars are sold every year, the high-ups conclude that the public must be happy, or else why are sales up? When sales aren't up, or when management thinks they can be better, a decision is inevitably made in favor of more chrome, more horses, more gismos.

Meanwhile, the consumer with a defective vehicle can stay trapped. Since no one in the huge corporation takes single responsibility for errors and since it is futile to switch to the competitors brand—it is just as poorly made—what can he do?

Occasionally, a consumer hits luck. John Donovan happened to catch a reporter's ear one day and told about the endless problems of his three new GM school buses. The story that eventually appeared in The Washington Post led not only to a national recall of 4,000 buses, but also to special treatment for Donovans three. Over the Christmas holidays, two GM engineers were flown in from Detroit and gave the buses a two-week overhaul, complete and meticulous.

Incredibly, since getting the buses back in early January, Donovan has hauled them into his local GM garage *eight* separate times; the wheels wobbled on two buses (an alarmed motorists spotted this one time), a horn and a governor broke on two, five quarts of oil were needed in one bus's rear end after being out of the shop only one day, the brakes needed adjustment on one, another—loaded with children—wouldn't start one afternoon, and finally one bus failed D.C. inspection.

As if that weren't enough, Donovan received a bill last week from the Firestone Tire Company for $349.62—even though in December, Kimball Firestone, Harvey's grandson, personally promised Donovan 18 new tires—at no cost—to replace some defective ones. With new tires on his buses that he was told were given free of charge, will Donovan pay Firestone? "Sure. The same day GM pays me for the hundreds of hours of work and bother their three lemons have caused me."

The ordeal of John Donovan and the other luckless owners with '69 GM school buses is reminiscent of the English folk tale about a faulty watch. "I can't understand it," said the watchmaker when confronted by the owner. "I make all my watches with the best butter in town."

CONVERT FORT DETRICK TO CIVILIAN USE

Mr. MATHIAS. Mr. President, shortly after the President announced that the United States would cease its offensive chemical-biological warfare research activities, I proposed that our chief CBW facility, Fort Detrick, be converted to civilian use while continuing defensive CBW research. This proposal is being studied by the President's Science Adviser, Dr. Lee Dubridge, and I have received the assurance of Army Secretary Stanley Resor that until the options available to the Government are decided, "the Army intends to do all it can to keep the research team at Fort Detrick intact."

Columnist Joshua Lederberg suggested in a recent column that Fort Detrick should be made into an international research center to help developing nations fight pestilences. I ask unanimous consent that the column be included in the RECORD and I recommend it to my colleagues.

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

[From the Washington Post, Mar. 7, 1970]

OUR CBW FACILITIES COULD HELP AGAINST PESTILENCES

(By Joshua Lederberg)

Chemical and radioactive pollution of the environment have so captured the popular imagination that the most serious threats to human welfare are sometimes overlooked. Throughout evolutionary history, infectious disease has been the overriding threat to the species. In contemporary life, only warfare makes a competing claim.

Antibiotics are often, but incorrectly, credited with a large share of the advances against disease. That credit belongs rather to environmental engineering. Procedures like the control of rats, fleas and lice, suppression of mosquitoes by drainage (and, let it be admitted, DDT), quarantine and the mechanical separation of drinking water from sewerage channels have prevented far more illnesses than medicine would know how to cure.

Bacterial infections are truly far less threatening now that antibiotics are available. However, to refute the cliche of the "conquest" of plague, one need merely look up the statistics of bubonic plague in Southeast Asia, of gonorrhea among teen-agers or of tuberculosis on Capitol Hill.

Virus infections remain as a global time bomb against which we have few defenses once it has erupted. We are all well acquainted with the periodic sweep of influenza across the earth as new strains of viruses evolve. This disease is not to be shrugged off, but a minor change in the biology of the virus could give it access to the brain and make it a scourge without precedent.

Every year or so, furthermore, we read of a new, exotic virus that has broken out as a small epidemic. Such incidents probably occur quite often in medically deprived communities where new diseases may escape notice. Last month, virologists at Yale University announced that work on "Lassa fever" was too dangerous to continue at a university laboratory and required the special facilities of the National Communicable Disease Center of the Public Health Service at Atlanta.

This caution responds to a terrible responsibility which goes beyond the risks of infection and death of more laboratory workers. What would prevent the escape of such a virus to the general population?

We now hear that further cases of a disease resembling Lassa fever have been reported from Jos, another town in Nigeria almost 300 miles away. If this is confirmed, we have to conclude that the virus is widespread in Nigeria, and we can hardly afford not to study it to forearm ourselves against its spread. And we cannot blind ourselves to the likelihood that a hundred similar viruses are being incubated in animal population reservoirs, and are evolving anew with genetic changes and hybridization of established viruses.

Public health officials have been loath to dramatize this superordinate threat. It has, however, been ventilated by the policy studies on biological warfare that led to President Nixon's renunciation of U. S. research on germ weapons. As he implied, to use human intelligence for the intentional design of new diseases is so blatantly suicidal that it cannot be justified by any fancied military advantage.

However, the abandonment of secret development work merely stops more mischief; we have still to establish an effective international defense against the remaining theats of natural pestilence. These are seriously aggravated by the paradox of the coexistence of jet transport, famine and squalor.

Dr. P. Dorolle, deputy director general of the World Health Organization, is one of the few to have spoken out about the gaps in our present response. He refers, for example, to the threat that yellow fever may penetrate into Asia, where "the virus would find ideal climatic conditions, an unvaccinated human population and its favorite vector," the Aedes mosquito.

In this circumstance, every single uncontrolled case of yellow fever is a threat to hundreds of millions of people. Much the same could be said for many other diseases, which demands a level of international cooperation in surveillance and control that transcends political differences.

The necessary control methods will remain uncertain and awkward until we learn much more about viruses, particularly about their biochemistry and genetics, for which the basic tools have recently been perfected. The United States could do a great deal to restore its historic reputation as a defender of human liberties and health if it reassigned our erstwhile biological warfare laboratories, as at Ft. Detrick, to make them an international research center for virological peacefare.

THE JUDGE CARSWELL NOMINATION

Mr. GOODELL. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Vote Against Carswell Is Vital for Progressive Republicans," written by David S. Broder, and published in today's Washington Post.

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

[From the Washington Post, Mar. 10, 1970]

VOTE AGAINST CARSWELL IS VITAL FOR PROGRESSIVE REPUBLICANS

(By David S. Broder)

CAMBRIDGE, MASS.—The approaching Senate vote on the nomination of Judge G. Harrold Carswell to the Supreme Court presents a particularly difficult political test for the dozen or so Republicans who now represent what is left of the progressive wing of their party.

Privately, it is clear, most of them share the "deep regret" Sen. Edward W. Brooke (R-Mass.) expressed at the President's selection of a man whose record, on and off the bench, in the past 20 years unfortunately confirms rather than contradicts the racist-segregationists views he vociferously expressed at the age of 28.

But, so far, only two of the 16 other Republicans who joined Brooke last year in voting to reject Judge Haynsworth have indicated publicly that they will, like Brooke, oppose this latest nomination.

Their agonizing is easily understood. It is no casual matter to oppose successive Supreme Court choices by a President of your own party. Some of the senators might be courting primary opposition from presidential loyalists in their states if they took a stand against Carswell. And even if there were no such threat of retribution, the danger to the depleted prestige of the Supreme Court from another prolonged and bitter nomination struggle would be enough to give any conscientious senator pause.

Nonetheless, there are other political considerations, perhaps of greater long-term import, that bear on the decision the progressive Republicans face. These stem from their power position in the party and the devices now available to them to defend their own tradition of Republicanism.

The progressive Republicans, I believe, have lost for the foreseeable future their power to nominate and elect presidential candidates of their own choosing. This power was lost when conservatives took control of the California GOP in the mid-1960s and when the progressive Eisenhower Republicans of the 1950s were supplanted in Southern state organizations by the Goldwater conservatives of 1964, many of them formerly segregationist Democrats.

With California and the South adding their voting weight to that of the traditionally conservative Plains and Mountain states, progressive Republican candidates were easily defeated at the last two Republican conventions.

It is clear that the policies of the Nixon administration are designed to expand Republicanism in the South, so there is no likelihood that the power balance in the party will be reversed in the coming decade.

That being the case, the progressive Republicans can exert their influence only to the degree that they can affect the actions and policies of a Republican President after he is in office. And their best leverage for exerting such influence is through their power positions in Congress, particularly the Senate. They need to become as conscious of the power realities as the Southern Democratic senators, who occupy a not dissimilar position in their own party.

Mr. Nixon needs the support of the dozen or so progressive Republican senators on a wide variety of fiscal, foreign policy and domestic issues. He has not been reluctant to ask for it.

He needs them, too, to achieve his goal of a Republican majority in the Senate this November.

But the progressive Republicans have not yet used their leverage in areas that are crucial to them. Particularly have they not slowed the administration's retreat from the challenge of segregation and discrimination in America.

The progressives have selfish reasons for being more assertive on civil rights. Minority Leader Hugh Scott (R-Pa.) would very likely not be in the Senate today had Clarence Mitchell, the head of the Washington office of the NAACP, not journeyed through Pennsylvania in 1964 at the senator's urgent requests, persuading enough Negroes to split their tickets for Scott to enable him to survive in that Republican disaster year. Why, in this election year, should Scott be put in the position by the President of defending a Supreme Court nominee with an ineradicable record as a segregationist?

The doctors, the oil men and other groups in Mr. Nixon's constituency have shown no hesitency in pressing their claims on this administration and opposing actions vital to their interests. Why should the progressives acquiesce silently while the traditional civil rights policies of their party are subverted and the men committed to them removed from the administration?

But defense of the party's historic position as an advocate of civil rights would not be simply selfish politics on the part of the progressives. In 1964, when a similarly painful choice presented itself, they preserved the Republican Party's fragile future prospect by publicly disavowing the Goldwater convention's actions on civil rights and extremism. Had they not done so, it is inconceivable that public opinion would have restored the Republicans to respectability in time for the GOP to win the elections of 1966 and 1968.

In similar fashion today, opposition to the Carswell nomination—however painful it might be for the progressive Republican senators—is a necessary step. It is necessary as a sign to the administration that there are limits to its compromising of the civil rights cause. It is necessary as a political corrective to the allout "Southern strategy" advocates. And it is necessary, most of all, if the Republicans are to be a national party capable and worthy of governing this country.

JUSTICE FOR EDDIE HARRISON

Mr. MATHIAS. Mr. President, on March 2, President Nixon commuted the life sentence of Eddie M. Harrison, of the District of Columbia.

The evidence indicates that Mr. Harrison is an extraordinary individual and I believe the President deserves great credit for considering and granting the extraordinary remedy of Executive clemency. Mr. President, I request unanimous consent that an editorial entitled "Justice for Eddie" from the Washington Daily News of March 5, 1970, be reprinted at the conclusion of my remarks.

I am pleased to report that our distinguished colleague, the junior Senator from Massachusetts, was instrumental in calling Mr. Harrison's case to the attention of the President. I ask unanimous consent that Senator BROOKE's letter of February 3, 1970, addressed to the Attorney General on behalf of Mr. Harrison, also be reprinted at the conclusion of my remarks.

Mr. President, as a member of the Committee on the District of Columbia, I want to thank the President and my colleague from Massachusetts for their actions in behalf of a citizen of the District.

Recognition is also owing to Washington Post Columnist William Raspberry, whose initial concern for Mr. Harrison led to this singular series of events.

I am confident that Mr. Harrison will continue his exemplary work with young people and extend him every good wish on this remarkable recognition of his rehabilitation.

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

[From the Washington Daily News, Mar. 5, 1970]

JUSTICE FOR EDDIE

Actions, to quote the old law, speak louder than words. And we congratulate President Nixon today for perhaps one of the most significant actions he has taken since Jan. 20, 1969.

He pardoned Eddie Harrison.

He did so, Eddie's lawyer was told by the White House, for the best and simplest of reasons: "This kid just doesn't belong in jail. He's been doing a great job and there is just no reason he shouldn't be free." We like the way the pardon was granted, with a minimum of public posturing and fanfare. We like that because it seems to presage more such actions to come—when earned and deserved.

One of the reasons criminality is on the rise thruout the nation is that justice has not been swift; the guilty go too long unpunished. Another reason is that we have been unable to develop a successful way to rehabilitate significant numbers of those criminals who do wind up in prison.

Four juries of his Washington peers said Eddie killed a man. And somewhere along the line, despite all the odds against it, Eddie gave himself an overhaul.

He was spectacularly, nobly, excitingly successful. As with many a convert, who's been there, he became a zealous evangelist: by example as well as by 25-hour effort. He has ministered to the salvation, first, of his fellow inmates at Lorton, and, since his release on appeal, to numbers of disadvantaged, discouraged and disenchanted kids in our town.

His way of waging the War on Crime, in the long haul, will win more battles than any other.

President Nixon obviously recognizes this, even as he continues to seek to improve our arsenal for the overall war in other necessary ways. And so he commuted Eddie's sentence to allow him free and full reign in bringing erring kids back from the brink.

It was a just act. It offers hope to others who seek the sunlight thru the bars at Lorton.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C. February 3, 1970.

Hon. JOHN N. MITCHELL,
Attorney General of the United States,
Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: It has come to my attention that Mr. Eddie M. Harrison has a case pending before you for the commutation of his life sentence. In 1960, Mr. Harrison was charged with first degre murder in the shotgun slaying of George "Cider" Brown, a Washington, D.C. gambler.

After careful study of this case, I have come to the conclusion that justice would not be served by the continued imprisonment of this most unusual young man. I cannot imagine what—in a positive sense—further incarceration would prove. Mr. Harrison impresses me as a rehabilitated person who is presently proving his determination to lead a productive life.

The record speaks for itself. Mr. Harrison was a model prisoner—prison authorities have attested to that fact. During his confinement as well as his period of release on personal bond, Mr. Harrison has earned the respect of several members of the judicial community: in speaking of his "outstanding prison record", Circuit Judge McGowan and Leventhal released Harrison from prison on personal bond pending appeal of his case.

In his opinion handed down last June, Circuit Judge Burger (now Chief Justice of the Supreme Court) indicates:

"Representations made to this court in connection with that bail application, including those by correction officials, suggest that Appellant has gained the regard of the prison authorities and he may have some unique contribution to offer by reason of his own unusual experience. We are, therefore, in the position of affirming a conviction which, because it carries a mandatory sentence of life imprisonment, is beyond the power of any court to alter; at the same time we are aware of significant indications that some of the rehabilitative purposes of imprisonment may already have been achieved. *If we believe, as we must, in these concepts, there is a duty to recognize such manifestations and encourage such progress.* This would be no problem if the parole author-

ities were able to bring their powers to bear on Appellant's case, but the statutory limitations upon eligibility for parole in the case of a life sentence prevent that for several years to come. *It may be that consideration will be given outside the judicial process to a modification of Appellant's sentence which would give the parole authorities, in turn, an opportunity to review Appellant's situation; this is the purpose of executive clemency powers.*" (Slip Op., p. 9, June 27, 1969, italics added).

And lastly, Judge John Fauntleroy of the Juvenile Court of the District of Columbia writes of Mr. Harrison's "sincerity, intelligence and his desire to help young people who might run afoul of the law." Judge Fauntleroy has referred to Mr. Harrison for assistance delinquent youths who have come before his court.

At the present time, Mr. Harrison is working at the United Planning Organization giving on the job training to disadvantaged youth. The written testimony clearly indicates that his work has been effective and he has, in these past several months, earned the respect and admiration of the many people he serves.

Mr. Harrison has turned his unique experience into a useful contribution. He has appeared as a guest panelist at the Eighth Annual Conference of the Correctional Educational Association; he is a consultant to Learning Systems, Inc., an organization which works in the area of training and rehabilitation programs for federal and state prisons; and just last week he testified before Chairman John Dowdy's Subcommittee of the House District Committee. In this regard, he has submitted a proposal regarding the rehabilitation for first time offenders with which your own Bureau of Prisons is familiar.

I know you share my concern for the rehabilitation of our prison population. If, in fact, we are going to encourage and respect the concept of rehabilitation, Eddie Harrison's record speaks for itself. Based on the facts which are available to me, further imprisonment of this young man seems unnecessary.

I am very hopeful that you will take favorable action in this case so that Mr. Harrison can continue to be a productive and contributing member of our society.

With kind regards, I am

Sincerely yours,

EDWARD W. BROOKE.

TASK FORCE ON RURAL DEVELOPMENT

Mr. PEARSON. Mr. President, I have just received and quickly reviewed the report of the President's Task Force on Rural Development, "A New Life for the Country." This is a stimulating report and certainly makes a very worthwhile contribution to the overall rural development cause.

The President is to be commended for this and the task force itself and the members of the task force deserve commendation for the work they have done.

I agree with much of what the report says about rural development and much of what it recommends in the way of action. I was particularly pleased to see that the task force identifies the creation of new jobs as the heart of rural development. In introducing the Rural Job Development Act, first in 1967, and since that time, I have argued that unless we create sereval hundred thousand new jobs in rural America each year nothing else we do will have any lasting effect. In this connection, I was also encouraged by the recommendation of the task force that in order to encourage industries to locate in rural America, "accelerated tax depreciation or investment tax credit for companies located in designated rural development areas should be explored."

PRISONERS OF WAR

Mr. TOWER. Mr. President, I was immensely pleased when the Senate unanimously passed House Concurrent Resolution 454 on February 18. This resolution, similar to several introduced in the Senate last session, expresses the concern of Congress for American servicemen who are held captive in North Vietnam.

The refusal of the North Vietnamese even to reveal the names of those held prisoner is barbaric and inhumane. War is never very pretty, but calculated brutality for the purpose of undermining the morale of the innocent mothers and children who must undure for years the anguish of not knowing whether their husbands and fathers are alive or dead does nothing to improve war's awful visage. North Vietnam has recognized certain humane principles and obligations as a signatory of the Geneva convention, and she must be made to live up to them. The efforts of the International Red Cross to bring the North Vietnamese Government into compliance with the basic humanitarian standards set out in the Geneva convention have been laudable, and House Concurrent Resolution 454 properly praises those efforts. North Vietnam, however, remains recalcitrant. We must, therefore, redouble our efforts to bring the focus of world attention to the treacherous practices of the North Vietnamese Government.

We differ frequently in this body. We are divided many different ways on a variety of questions, but I think it is well that on this matter we have made our position crystal clear. We have raised a single voice against the callous and inhumane treatment of war prisoners. We are united.

LAOS

Mr. HANSEN. Mr. President, the senior Senator from Missouri (Mr. SYMINGTON) is quoted on the radio this morning as saying that the United States has fought two undeclared wars—in Korea and Vietnam—and has been fighting an undisclosed war in Laos.

I think my colleague is laboring under a slight misapprehension. He is confusing the present situation in Laos and the administration's handling of it with what transpired before 1969.

I grant you, Mr. President, that under the two previous administrations there was a great deal of secrecy about our foreign policy—particularly in Southeast Asia.

Indeed, the American people were not fully aware of how deeply we had been committed to Vietnam until August of 1944 when, suddenly, the President asked the Congress for the Gulf of Tonkin resolution. Only then did most Americans become aware of the situation—2½ years after the first American was killed in combat in Vietnam.

The same secrecy shrouded the Democrats' handling of Laos. They did not disclose to the American people one bit of information about what was going on. The famous Averell Harriman treaty negotiated in Paris directly involved the United States in that warring little country, but the full facts of this involvement were not disclosed by the Democratic administrations.

It was not until President Nixon made his disclosures in news conferences and through Cabinet officers that either the Congress or the people began to realize the depth of the Democratic administrations' commitment of American manpower and money in Laos.

Now the administration has made a full report to the people. The facts the White House outlined are not pleasant ones. But they are needed for the American people to determine for themselves what is happening. It took courage for this administration to make this kind of full disclosure. But this administration has demonstrated that it has the courage to do just that.

If the Senator from Missouri is to be critical of the situation in Laos, let him aim his criticism at the proper target—those in his own political party who controlled both the White House and Congress throughout the period when we became involved in Laos.

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I would like to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to insert in the RECORD a listing of crimes committed within the District yesterday as reported by the Washington Post. Whether this list grows longer or shorter depends on this Congress.

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

STORE ROBBED, EMPLOYEES ABDUCTED

A Northwest Washington market was robbed Sunday night and three employees abducted and one of them beaten by two armed youths, police reported.

William D. Kennedy, 25, a driver for the Community Market, 3305 45th St. NW., told police he left the store about 8 p.m. and started to climb into the company truck where he was confronted by two youths, one brandishing a revolver, the other displaying two revolvers.

When one of the gunmen ordered him to get into the truck, Kennedy said he yelled. Alerted by his cries, two other clerks at the market approached and were forced at gunpoint into the rear of the truck, according to police.

When one of the gunmen asked for the keys to the store and where the money was kept, Kenney replied that the owner had taken the keys and money home earlier in the afternoon, police said. Kenney said he was ordered to drive around Northwest Washington for about 1½ hours.

After releasing the other two employees at 14th and Irving Streets NW, the abductors told Kenney to drive to 1st Street and New York Avenue NE, where he was beaten over

the head and robbed of his money holder containing over $400, according to police.

Kenney said the armed youths then climbed from the truck, warned him not to call police and ordered, "Drive away."

In other serious crimes reported by area police up to 6 p.m. yesterday:

STOLEN

Clothing and cash with a total value of $720 was reported stolen Saturday night from the home of Andrew Maher, 801 N. Pitt St., Alexandria. There was no sign of forced entry.

A tape recorder, two microphones, a guitar, an amplifier, a rhythm box and $40 cash were stolen about 9 p.m. Sunday from a car owned by Percy E. Jennette, of Trenton, N.J., parked in the 1200 block of 4th Street NW.

Approximately $230 in cash and $600 in checks were stolen from a trash can in the main office of the Talleyrand Restaurant, 2301 Calvert St. NW., sometime between 12:30 and 1:30 a.m. Sunday.

Two television sets, two shotguns, a rug, $500 in cash and five goldfish were taken early Monday from the apartment of Enis Camtore, 5913 Prince James Dr., Springfield.

VANDALIZED

The John L. Young playground, 10th and R Streets NW., was ransacked and heavily damaged about noon Sunday when the window of a building on the lot was forced open.

The recreation room and a classroom at Bryant Elementary School, Independence Avenue between 13th and 14th Streets SE., were ransacked sometime atfer 4 p.m. Friday when the door was hammered open.

ROBBED

Grocery store, 338 58th St. NE., was held up about 10 a.m. by a young man brandishing a pistol who told the owner to give him the money. The gunman then confronted Larry R. Payne, of Riverdale, a driver for the Bon Ton Potato Chip Co. and demanded his money. He then fled from the store and ran west on Dix Street.

Toddle House, 3400 Wisconsin Ave. NW., was held up about 3:55 a.m. yesterday by two young men. One of them asked the cook if he could use the men's room and came out wearing a stocking over his head and carrying a handgun. "Empty the cash register," the gunman told the employee and grabbed the paper bag full of money. Taking the bills from a drawer under the cash register and the paper sack, the pair fled from the shop.

Charles Alexander Turner, of 136 Kenilworth Ave NE., was held up about 7:05 a.m. Sunday by two men who approached him in front of his apartment building. One of them drew a gun, forced Turner to enter his car and drive to the 3300 block of Alden Place NE. The men then told him to hand over the money from his wallet, his watch and ring and removed a briefcase full of bills from the rear seat of the car. They then got out of the auto and escaped through an alley on Alden Place.

Brenda Savoy Peterson, of Maryland, was robbed and beaten about 11:10 a.m. Saturday by two men who grabbed her on a parking lot in the 3500 block of Jay Street NE. "Get in or I'll shoot you," ordered one of the men, brandishing a gun. When she refused to get into her car, the gunman struck her over the head with his weapon. The pair tried to force her into the car and beat her on the head again when she resisted. One of them took her pocketbook and drove off in Miss Peterson's car while his companion returned to the car the men arrived in and drove from the lot.

Mary Settle and Shirley Jones, both of Washington, were held up shortly after midnight Sunday at the intersection of 9th and Valley Streets SE. Two men driving a gold car struck the women's car at the intersection. When the women got out of their car to inspect the damage, one of the men climbed from the other auto and, drawing a gun, told them, "This is a stickup." Forcing both victims to give them their coats and purses, the two men drove off.

Jacqueline Gordon, of 2399 Goodhope Rd. SE, was held up Saturday as she was carrying groceries from her car, parked in the 2300 block of Goodhope Rd, to her home. A man wielding a gun warned her, "Don't yell. All we want is your money." Taking her bills and papers, the gunman fled into a wooded area nearby.

Elmira M. Curtis, of Washington, was held up about 8:20 p.m. Sunday as she was walking south on 15th Street NE, by four men One of them, holding a knife in his pocket, demanded, "Give me your money . . ." Taking her pocketbook, the four fled on foot, heading west on D Street NE.

Josetta Clark, of Washington, was held up about 9:50 p.m. Sunday as she was standing at Mississippi Avenue and Wayne Place SE, A man armed with a small gun ordered, "Give me your pocketbook," then wrested the bag from her. The gunman escaped in a brown car occupied by three other men.

Paul Davis, of Washington, was robbed about 9:30 p.m. Sunday in the first-floor hallway of a building in the 1400 block of Girard Street NW by seven men armed with revolvers. The gunmen forced Davis to surrender the portable television set he was carrying, his watch and a check, then fled on foot down the street.

Charles Leroy Russell, of Hyattsville, was held up at 14th and Quincy Streets NE about 4:55 p.m. Sunday by three men who pulled up to the curb beside him in a gold car. All three men stepped from the car and one of them pulled out a revolver, another a knife. Frisking Russell, the trio removed his money, then ran north on 14th Street.

Paul H. Parker, of Hyattsville, was held up about 7:50 p.m. Sunday by two youths who approached him at the bus stop at 14th Street and Colorado Avenue NW. One of them drew a revolver demanding, "Give me that money." "I have not got any money," Parker replied. The other man then threatened, "Give me that money or I'll blow you in half." Parker handed the pair $2 and they fled on foot.

Sadie L. Legg, of Washington, Virginia L. and Kenneth O. Holmes, both of Arlington, were held up about 8:20 p.m. Sunday while they were walking near Miss Legg's home in the 1200 block of Ingraham Street NW. Two youths, one displaying a gun, said, "This is a holdup," forced the three victims to surrender their money, and escaped on 13th Street.

Sue Evon McRay, of Washington, was held up Sunday as she was walking in the 4200 block of 6th Street SE, by four men in a car who pulled up to the curb beside her. One of them pointed a revolver at her demanding, "Give me everything you got." Taking her purse containing money, papers and a camera, the four drove away.

Josephine Jenkins, of Washington, was held up about 11:30 p.m. Sunday as she was walking at the intersection of Mississippi Avenue and Wheeler Road SE, by a youth who drove up beside her in a green car. Stepping from his car, the youth drew a handgun, and ordered, "Give me your pocketbook, lady." Grabbing her purse, the gunman reentered the auto and headed east on Mississippi Avenue.

George B. Lake, of 643 H St. NE, was admitted to Rogers Memorial Hospital after he was beaten and robbed about 8:35 p.m. Sunday. A man approached him in his home, struck him in the face and body, knocking him to the ground. The assailant removed Lake's wallet from his pocket, took his keys and made his escape.

Marion J. Shaffer, of Takoma Park, was held up about 8:05 p.m. Sunday at 16th and Newton Streets NW by five youths, one armed with a pistol, another with a knife. The teenagers grabbed her purse containing $2 and ran along the 3400 block of Center Street NW.

Jones Market, 1136 Florida Ave. NE, was held up about 10:45 p.m. Saturday by three youths who asked the owner for a pack of gum. Both of them then drew pistols, one stating, "Give me the money." Taking the cash, the pair fled from the front door and made their escape.

Cornell W. Hull and James D. Brinkley, both of Washington, were held up Sunday inside a building in the 1500 black of Monroe Street NW by five youths, one concealing a gun in his pocket. The youths surrounded Hull and Brinkley and forced the men to surrender their wallets before fleeing along the 1500 block of Monroe Street.

Andrew Rogers and Norman Washington, both of Washington, were robbed about 4:30 a.m. by two young men who stopped them in the 1200 block of D Street NE. One of them held a gun at Washington's head, demanding money, while his companion searched the victims' pockets and took their wallets. The pair fled on foot, heading west on D Street.

George S. Hanlin, 83, was beaten and robbed Sunday shortly after 8 p.m. as he was walking in front of his home at 3380 Curtis Dr., Hillcrest Heights, in Prince Georges County. He was attacked from behind, a policeman said, and was in fair condition early Monday at Cafritz Memorial Hospital.

Gwendolyn Ann Jenkins, of Washington, was beaten and robbed about 8:20 p.m. Sunday after she left the Langston Theater at 25th Street and Benning Road NE. A youth approached her as she was walking behind Phelps High School and said, "Come here." As Miss Jenkins tried to walk past him, the youth grabbed her and forced her to accompany him to an unknown address in the Langston Terrace area where they were joined by four young girls. Miss Jenkins told police the youth asked her for money and began slapping her. Then the four girls began pulling her hair and hitting her in the stomach. When the youth repeated his demand for money, she told him, "All I have is a quarter." He took the coin from her coat pocket and ordered, "Go home." The youth and the girls then entered a white car and drove off.

John Steven Sabota, of the Naval Air Station, was held up about 7 p.m. Sunday by two men who approached him on Atlantic Street SW. One of them pulled out a handgun and ordered, "Let me have all you got." The other man then removed Sabota's wallet. The pair fled south on South Capitol Street.

Vernice Conoly, listed at 245 Florida Ave. NW, was beaten and robbed in her home about 12:30 p.m. Sunday. A man entered Miss Conoly's home and when she told him to leave, he hit her in the face and chest, knocking her unconscious. When she regained consciousness, she discovered her wallet containing $2 was missing.

High's Dairy Products store, 1709 Kenilworth Ave., Tuxedo, was held up about 10:45 p.m. Sunday by two men who passed a note to the assistant manager and a clerk which said, "Put the money into a bag and be still." Grabbing the sack full of cash, the pair fled.

7-Eleven store, Keene Mill and Hanover Roads, Springfield, was robbed at 6:45 p.m. Sunday by two men, Fairfax County police reported. They said one of the gunmen was armed with an automatic pistol.

William Morris Burnett, of 422 6th St. NE, was held up about 10:30 a.m. by two men who beat him up in his home. Burnett told police the men grabbed him, hit him in the face and threw him to the floor. Taking his wallet, the pair fled from the building.

EDUCATION REFORM

Mr. TOWER. Mr. President, in his message on education reform, President Nixon has made a full reassessment of the Federal role in education. He has made an overall delineation of the shortcomings of current programs. He has laid strong emphasis on what we do not know about the learning process and on what we must know if we are to spend the Federal education dollar effectively. Equal educational opportunity for all American can be a reality only if we understand how to provide quality education for all.

It is not pleasant for us to admit that the many Federal aid to education programs that we have developed over the years are inadequate, disjointed, and, broadly speaking, failures. But unpleasant facts are facts all the same. We have succeeded in piping some funds into the schools. In this way, we have succeeded in propping up an ailing system. But our programs and grants for specific ills have not proven to be adequate solutions. Despite a few signal successes we have largely fallen short of the mark. For these reasons the President's proposed National Institute of Education has become essential. We need a coordinated program of research in education and the learning processes if we are to discover how best to approach this problem of education. The current hit-or-miss, trial-and-error attack cannot deliver the right answers soon enough to avert disaster.

The Commission on School Finance which the President has established should provide valuable information on a problem that has become increasingly difficult for all schools across the country. The emphasis which the President has placed on nonpublic schools is of great importance to the continued diversity which is one of the great strengths of education in this country. Private schools are finding it more and more difficult to survive and we must realize that it is ultimately in the best interest of us all that they do survive.

The President's commitment to the right to read is more than merely a slogan. The ability to read is basic to education and substantial Federal support for library programs demonstrates the clear and purposeful effort which the President is putting forth in this area.

The determination to harness the technological advances of the past 20 years to the purposes of education is long overdue. Everyone is aware of the tremendous influence of the electronic media, and yet too little has been done to adapt this technology to the purposes of education for which it is so well suited. It is time that television and radio and other electronic advances be explored and their potential as tools of education be fully examined. The Corporation for Public Broadcasting established by Congress in 1967 has broken ground in this important area of education. Its continued authorization by Congress will allow further growth and improvement and, working in concert with the National Institute of Education, the Corporation will expand its efforts into an examination of new educational uses for television technology.

The importance of early childhood to later educational development has only begun to be recognized. President Nixon has grasped this new appreciation and has proposed to make good use of it. The network of experimental centers for the examination of early childhood learning which the President has directed to be established jointly by the Department of Health, Education, and Welfare and the Office of Economic opportunity will be invaluable in determining the most fruitful teaching techniques to be employed during these all important early years. What is learned from this program will prove useful in planning the day care centers which are a part of the President's family assistance plan.

On the whole, the President's education message is eminently reasonable. He has brought a great deal of insight to the problems that beset education and the Federal involvement in education. It is an incisive message, and it challenges our imagination. The President has provided exceptional and inventive leadership on this extremely perplexing issue, and we should heed him well.

EMERGENCY STRIKE LEGISLATION

Mr. GRIFFIN. Mr. President, last week Congress was called upon to act on an emergency basis to head off a nationwide railroad strike a scant few hours before it was scheduled to begin. What we did was merely put off for 37 days another day of reckoning.

This underscores the need for Congress to act promptly on legislation to provide better tools for dealing with such situations.

President Nixon has submitted the administration's proposals and, whether or not one agrees with every particular, they provide a sound basis for the consideration of legislation in this area.

The President's proposals have aroused widespread interest. I ask unanimous consent that editorials from the Washington Post and the Buffalo Evening News dealing with them be printed in the RECORD.

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

[From the Washington Post, Mar. 3, 1970]

THE EMERGENCY STRIKE PROBLEM

The country has waited so long for proposals to modernize the Railway Labor Act and the emergency-strike provisions of the Taft-Hartley Act that any message on the subject is likely to be welcomed by those who think first of the public interest. The specific message which President Nixon has sent to Capitol Hill has substantial merit, however, and it may well serve as the basis for constructive legislation if Congress is so disposed.

Because of the controversial nature of the subject in the past, the White House was probably well advised to concentrate for the present on the transportation industry. It is in this area where most of the trouble from emergency strikes has come. If the new procedures recommended are successful, it would be a relatively simple matter to extend their use to other industries which must be kept in operation to protect the national health and safety.

It makes sense also to bring the railroad, airline, maritime, longshore and trucking industries under the same rules. Certainly something must be done to improve procedures under the Railway Labor Act now applicable to the railroads and airlines only. In 45 years its emergency provisions have been invoked 187 times. "Designed as a last resort," the President noted, "the emergency procedures have become almost a first resort." And after a strike has been postponed for 60 days without a settlement, the only course open to the President is to go to Congress for emergency legislation, as happened most recently in 1967. This fact alone should spur Congress into enactment of more useful and effective machinery for handling emergency strikes.

The new law proposed would put railroad and airline strikes and lockouts under the Taft-Hartley procedures and broaden the options available to the President in dealing with them. Taft-Hartley now makes it possible for a federal court to enjoin a strike for 80 days, if it is found to threaten the nation's health or safety. That period is devoted to fact-finding, mediation and an employee vote on the employer's last offer. But if the dispute persists, the government is left helpless to protect the public interest at the end of the 80 days. Strikes have followed in 8 out of 29 cases in which the so-called "cooling-off" provisions of Taft-Hartley have been applied.

The administration seeks authority for three different means of meeting situations of this kind. First, it wants to be able to extend the cooling-off period for an additional 30 days if it appears that the dispute is near settlement. Second, it would allow the President, on the advice of a special board, to require partial operation of the industry in question. The idea here is to permit sufficient operation to safeguard the public interest, if that appears feasible, while leaving pressure on the parties for a settlement. If neither of these options seemed hopeful, the President could give the parties three days to submit one or two final offers to the Secretary of Labor. Bargaining on the new offers would be required for five days. As a last resort the parties, or the President, if they failed to agree, would name a "selector committee" to decide which one of the final offers would become binding on the parties.

Secretary Shultz makes much of the argument that this procedure would put both parties under great pressure to make reasonable offers. Each would be competing, it is said, to have its offer accepted. But both might also be in a gambling mood and offer only objectionable and arbitrary terms of settlement. The entire procedure would then tend to be discredited, as it would force a committee of three to impose unreasonable terms of settlement or allow a crippling strike. It seems to us that the proposed "selectors" should at least have a third option of choosing segments of the rival offers in the hope of putting together a reasonable package that would become binding for a limited period. If the government is going to force a settlement, it must be fair, and this can seldom be attained by acceptance of one party's terms in toto.

The objective of broadening the options available to the President is sound. Why, then, confront a board which may have to make the final decision with narrow options which might discredit both itself and the machinery under which it would be operating? This aspect of the proposal will need thorough scrutiny on Capitol Hill.

[From the Buffalo Evening News, March 13, 1970]

NIXON'S SOUND LABOR PLAN

President Nixon's proposals to reshape the federal role in coping with big labor disputes that imperil the national welfare seem generally fair, responsible and inventive.

In urging Congress to amend the long-unchanged Taft-Hartley and National Railway

Labor Acts, Mr. Nixon both redeems a pledge of a year ago and enters a sensitive legislative field where some of his predecessors were notably reluctant to tread.

Experience, especially in the transportation industry, proves that new federal approaches are indeed desirable. Mr. Nixon is right to try to bolster the incentives of the contending parties to resolve their differences themselves—without government help and before they damage national health or safety. Federal intervention has often come too early and too easily when it wasn't fully justified, and the President's options have been too limited and predictable when intervention was justified.

To overcome these drawbacks, the Nixon plan would eliminate certain fact-finding and mediation provisions of the Railway Labor Act that have delayed serious bargaining until after a President had intervened.

Beyond that, the plan would expand the arsenal of weapons available to a President under Taft-Hartley once he had decided to intervene, thus making it more difficult for either party to the dispute to predict his response. Mr. Nixon wants the power to extend the present 80-day cooling-off period for an additional 30 days and to require partial operations amid a strike in areas which need essential services.

In his most controversial proposal, he wants authority as a last resort to have labor and management each make final offers, with the better one chosen by a third-party and imposed to settle the dispute. While this verges close to compulsory arbitration, which both labor and management dread, the presidential authority would be subject to congressional veto and should encourage each side to compromise in an effort to shape the final offer most likely to be selected.

Mr. Nixon, by laying his proposals on the congressional table, formally opens a dialogue for constructive change. This is a congressional election year, but hopefully the ensuing debate can still go beyond simplistic sloganeering to good-faith efforts to produce even freer collective bargaining with less risk to vital public interests.

THE PROBLEM OF PARASITIC INFECTION

Mr. HOLLINGS. Mr. President, South Carolina is one State which is trying to do something about its problems of hunger and disease among its poor. One way we can end malnutrition in the Southeast is to eliminate the horrible problem of parasitic infection. The University of South Carolina, under a grant from the Office of Economic Opportunity, has been conducting a series of tests to determine the prevalence of ascaris, or roundworm, infection. These studies have shown a surprisingly high degree of infection, particularly in the rural areas. I commend this report to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

INTESTINAL PARASITES AND NUTRITIONAL STATUS

II. PARASITIC INFECTION IN CHILDREN IN SOUTH CAROLINA*

(By E. J. Lease, Ph. D.,**, B. W. Dudley, M.A., and M. F. Ziegler, B.A.)

This study is confined to the incidence of infection by the human parasite *Ascaris lumbricoides* in a specific segment of the population and within a given geographic area. Physicians acknowledge the presence of these large intestinal round worms of man, and local families frequently report that their children pass worms with bowel movements. However, there are no specific data published on the incidence within this region from which to determine the extent of the problem. The purpose of this study was to survey a limited number of children in the central part of the State of South Carolina to determine incidence and worm burden in a well-defined sample of this population.

A review of the literature reveals that surveys have been made in the Coastal area of South Carolina by Jeffery et al,[1] Bonner et al,[2] Lease et al,[3] and Carter et al.[4] In these studies quantitative egg counts were not made to determine whether the children harbored few worms or many worms. For practical application, there is little reason to undertake the laborious and time-consuming method of counting the number of ova per gram of feces when the presence of one *Ascaris* ovum justifies the administration of piperazine citrate; however, for academic research purposes, when sufficient sample was available, egg counts were made in this study

Nutritional status studies, dietary intake studies, prescription food demonstrations, and even school feeding programs lose their meaningful impact when the subjects harbor heavy burdens of intestinal parasites. Little is known about the effects of parasites on the nutrition of the host except the observations of livestock managers on the beneficial effects of deworming.[4]

In view of current technological achievements and the application of advanced scientific knowledge to public health and social welfare in the United States, the eradication of intestinal parasites in humans should have been an accomplished fact. However, this is not the case. It thus becomes necessary to review man's knowledge and experiences before developing and demonstrating a method of eradication. *Ascaris lumbricoides* has been known for many centuries to parasitize human beings, and publications on incidence in various parts of the world have appeared periodically.[5-9] During the period 1916 to 1920 emphasis was placed on ascariasis, because it was demonstrated at that time that during their life history the migrating larvae regularly pass through the liver and lungs, causing considerable pathology and a pneumonitis in heavy infections.[10-12] Previous studies have shown that endemic centers of ascariasis in the United States exist in the Appalachian Mountains and many coastal areas of the Southeast. Although there are no records of endemic centers in the Northern and Western states, the migration of southern labor to northern cities has transported at least temporary situations.

Chemotherapeutic treatment can effectively remove *Ascaris* from the human body if the subject consumes a drug such as piperazine on definite days spaced in accordance with that time required for the microscopic larvae to migrate through the bloodstream, return to the intestines, and grow to maturity. Correct personal hygiene practices and the sanitary disposal of fecal matter by all individuals is essential to prevent reinfection and to achieve the ultimate goal of eradication.

Materials and methods

Two methods are used for the collection of stools in the various centers tested. The apparatus for the preferred and most frequently used method consists of a portable toilet arrangement or, for smaller children, a portable commode chair, having a bucket-like bowl that is lined with a clear polyethylene bag. The bag is perforated along the bottom edge to allow drainage of urine. After the fecal specimen is deposited in the bag, it is closed at the top with a wire and placed in a plastic coated paper container labeled with the subject's name. The bags are then placed in a styrofoam chest with ice and transported to the laboratory.

The second method of collection is that by which the parent or guardian is supplied with small containers and asked to obtain specimens from all members of the family and return them to the center to be transported to the laboratory. This method is believed to be slightly less accurate than the first one described because generally a much smaller sample is available for testing and there is a possibility of receiving invalid samples. It does allow, however, for the testing of entire families rather than only those members of families who attend a specific school or center, thus facilitating the testing of larger groups of people.

Qualitative tests are conducted on all the samples once they are received in the laboratory. The direct fecal smear, by which method two slides from each specimen are examined microscopically, is used in checking samples collected by both methods. The zinc sulfate flotation, which concentrates the helminth ova from the fecal material,[14] is used in conjunction with the direct smear for checking samples collected by method I. Flotation is accomplished with zinc sulfate solution of specific gravity 1.20.[9] Where indicated, quantitative estimates of the intensity of helminth infections are made by the Stoll dilution egg count technique.[15]

With the cooperation of the county health departments, OEO personnel, and school nurses, home visits are made to provide information to parents or guardians, and to administer a flavored piperazine citrate syrup to every child found to harbor intestinal round worms. All medication is given under medical direction. Treatment to eliminate egg-laying worms is given on two consecutive days and every forty-fifth day thereafter for as long a period as possible in order to eliminate worms from the child and to reduce the *Ascaris* egg concentration in the dooryard soil.

An attempt is made to instruct the parents and each infected child in the requirements for personal hygiene and sanitation necessary to prevent reinfection. While several teaching devices such as films, lectures, games, etc., are employed to achieve this end, the most effective device for creating concerned interest is the display of a bottle containing several worms removed from a child dwelling in the community. Homes where children harbored *Ascaris* are pinpointed on a county map to aid delivery of services by the school nurses, OEO personnel, county agents, and Farmers Home Administration personnel.

Interpretation of data and discussion

A significant number of children living in the central part of the State of South Carolina harbor *ascaris* (Table I). The fact that few of the victims or their families have a comprehensive understanding of the nature of this infection and of adequate preventive measures is undoubtedly one reason for this high infection. The role of diet and general nutritional status as deterrents to infection and the intensity of infection are also believed to be important factors.

In some geographical areas intestinal parasites are more prevalent in the rural regions than within urban communities. The present studies indicate that more than twice as many (26.6%) of the rural South Carolina children surveyed have ascariasis as do the urban children (11.0%). The absence of central sewerage and water systems has been given as a primary reason for this situation.[12]

Quantitative data showing the number of parasite eggs per milliliter of feces make it possible to estimate the number of worms a child is harboring.[4] (Table II). The average number of parasite eggs per milliliter of fecal matter is directly related to the number of female worms.[11 13] However, so many factors affect this figure that some investigators prefer to have the data average for an entire community.[14] In the present study these averages indicate that the infected rural child has more than twice the number of worms as the infected city child.

Footnotes at end of article.

TABLE 1.—LONG ROUND WORMS (ASCARIS) IN CHILDREN IN SOUTH CAROLINA

Code name of center	Miles from State capitol building	Age range of children attending	Population distribution (percent)	Number of stools examined	Number containing parasite eggs	Percentage of children harboring worms
Lee County	[1] 50	4 to 7	[2] 5	192	42	21.7
			[3] 95			
Lee County	[1] 50	8 months to 15 years.	[2] 100	28	5	17.8
Lexington County	[4] 6	4 to 12	([5])	35	5	14.3
Richland County:						
SL	[4] 2	3 to 5	[3] 100	44	10	22.7
	[6] 12	1 to 3	[2] 27	14	0	0
PG			[3] 73			
	[4] 0.2	4 to 5	[2] 41	22	0	0
ECE			[3] 59			
H	[1] 20	5 to 6	[3] 100	99	30	30.3
W	[4] 2	5 to 6	[3] 100	111	12	10.8
	[4] 2	3 to 5	[2] 12	17	1	5.9
CF			[3] 88			
Ar	[4] 5	3 to 5	[3] 100	20	1	5.0
Williamsburg County	[1] 80	8 months to 15 years.	[2] 1	302	88	29.2
			[3] 99			

Note: Total number of children in this study 884. Total number of children in this study who were harboring worms 194. Percentage of children in this study who were harboring worms, 21.9.

[1] Rural.
[2] White.
[3] Negro.
[4] Urban.
[5] Not available.
[6] Suburban.

TABLE 2.—*Intensity of ascariasis infection in children in South Carolina*

(Based on Stoll count technique)

RURAL

Subject No.	Eggs per ml./feces
H–2	60,433
H–7	127,900
H–14	69,166
H–16	63,800
H–17	190,766
H–27	28,733
H–30	19,466
H–33	37,033
H–46	6,200
H–48	166
H–52	73,700
H–60	46,700
H–44A	54,866
H–63	46,633
H–72	48,233
H–77	78,933
H–78	49,833
H–79	28,800
H–19A	104,900
H–85	255,400
H–86	47,933
H–94	57,400
H–95	2,733
H–97	123,833
H–98	40,766
H–99	1,600
H–101	2,600
H–102	34,100
	1,702,626

Average number of eggs per ml. of feces from this rural center was 60,808.

URBAN

Subject No.	Eggs per ml./feces
W–40	7,300
W–42	4,366
W–44	112,666
W–48	2,766
W–53	22,333
W–62	18,000
W–66	67,166
W–70	1,000
W–73	200
W–20A	25,733
W–97	7,500
W–102	2,367
SL–5	633
SL–12	5,533
SL–35	8,366
SL–33	9,300
SL–39	11,400
SL–9	12,633
SL–31	15,533
SL–19	22,966
SL–36	30,900
SL–41	39,966
A–16	50,567
CF–9	5,667
	484,861

Average number of eggs per ml. of feces from these urban centers was 20,202.

Samples were obtained from both white and Negro children. Stools from 52 white children showed 13.5 per cent harbored worms (*Ascaris*). While this may be compared to the study of 56 white preschool children in Beaufort County where 4.2% were found to be infected with *Ascaris* and *Trichuris*, the small number of white children present in the groups tested prevent the formulation of valid conclusions concerning the incidence of intestinal parasites within this group. These studies are being continued and expanded to obtain adequate and valid averages.

Summary

Over twenty per cent of the Head Start, Day Care Center, and elementary school Negro children tested in the central area of the State of South Carolina harbored intestinal large round worms (*Ascaris*). This study included both urban and rural areas and a total of 884 children.

Twice the number of rural Negro children had worms as did urban Negro children. Furthermore, the average infected rural child harbored twice as many worms as did the average infected city child. Possible explanations for this are discussed and are being studied further to determine the most feasible procedures for eradication.

To the extent possible the children found by this study to be harboring worms were given piperazine citrate syrup every 45 days to prevent female *Ascaris* from maturing to egg-laying adults.

The nutritional status of these children and their diets as well as the physiological response of recently dewormed children to a vitamin-protein concentrate diet supplement is under investigation and will be reported upon completion.

Acknowledgement

The Office of Economic Opportunity provided funds with which to make this study possible. The authors gratefully acknowledge the cooperation of the county health departments in Lee, Lexington, Richland, Sumter, and Williamsburg Counties, OEO personnel, school nurses, Head Start personnel, day care center personnel, and many others who helped to carry out this program.

FOOTNOTES

*This report concerns Phase II of an overall project being undertaken by the University of South Carolina. A preliminary report appeared in this Journal 65:63, March 1969.

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THE OIL IMPORT PROGRAM

Mr. BROOKE. Mr. President, this morning's Wall Street Journal contains a lead editorial which discusses some of the wider ramifications of our present mandatory oil import program.

It has been a well-documented fact that this unfair and inequitable program has placed an artificial floor under the price of crude oil and petroleum products sold in this country. This price has, in no small measure, contributed to the general inflationary spiral which now grips our Nation's economy.

Specifically, the Office of Emergency Preparedness has estimated that the per capita cost of this program to the people of Massachusetts was $37.50 in 1969. Ironically, this tribute paid by the resi-

dents of an oil-consuming State was far exceeded by the per capita cost of $62.50 paid by the residents of Wyoming, an oil-producing State. There is little rhyme or reason to a program which charges those closest to the source of production even more than it takes from those residents of a region totally devoid of any oil production. It is unfair to both.

The Journal has succinctly stated the folly of continuing this inequitable program. I ask unanimous consent that this editorial be printed at this point in the RECORD.

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

[From the Wall Street Journal, Mar. 10, 1970]

REVIEW AND OUTLOOK: THE FOLLY OF PROTECTIONISM

Although President Nixon pigeonholed the plan to replace oil import quotas with tariffs, Labor Secretary George Shultz is still battling for the idea. In the process he's running into one of the fundamental follies of protectionism.

Mr. Shultz headed the Cabinet-level group that proposed the tariff system, which would be designed to permit a reduction in domestic crude oil prices. As he told a Senate committee, the aim was to find a system that would protect the national security at the lowest possible cost.

Lower domestic oil prices, the Secretary freely conceded, would probably push some "marginal" oil producers out of the business. That, unfortunately, is something that some protectionists think the Government must at all costs prevent.

"I will not stand for a system that will, in effect, confiscate these (marginal) wells," declared Senator Roman L. Hruska. The Nebraska Republican contended that the proposed reduction in the domestic crude price would probably halt all oil production in a dozen states.

What the protectionists want, in other words, is some sort of setup that will preserve not an industry as such but each and every producer in the industry, including the least efficient. The fact of the matter is that such a goal, even if it were in the nation's interest, is utterly unattainable.

Some protectionists presumably recognize as much. Yet they can hardly afford to ignore the marginal firms as they press Congress for fresh trade restrictions, since it is precisely those firms that provide the most harrowing stories of declining sales and employment.

It is those firms, and residents of the areas where they are located, that write letters to legislators like Senator Hruska. The problems of such businesses are substantial, deserving of sympathy, but they are not going to be solved either by tighter quotas or higher tariffs.

Any company, in oil, steel, shoes or other industries, may worry about foreign competition. But even if all imports are cut off the company will still have to face up to competition at home. If import curbs push up domestic prices, as they usually do, the higher prices will attract even more domestic competition, if the industry is one that new firms can enter fairly easily.

The company that is ill-equipped to cope with foreign rivals is no better fitted for domestic competition. Higher prices may help keep it going a while longer. The more efficient firms, however, can make satisfactory profits at lower prices and, as they strive to expand their own sales, they're not likely to worry overlong about the survival or nonsurvival of the marginal firms.

For a time, of course, the public pays for this exercise through considerably higher prices. As long as the import curbs are maintained, prices are likely to be higher than would be the case if competition were free and unfettered.

Mr. Shultz and his Cabinet committee more or less went along with the argument that competition in oil must be fettered to some extent in the interest of national security. The rationale is that the U.S. must maintain enough domestic production to carry it through any cutoff of foreign supplies in time of war or other emergency.

The Labor Secretary, though, stressed that the U.S. and Canada could meet 92% of their oil needs with no rationing, and all of their needs with modest rationing, even if all supplies from the Mideast, Africa and South America were cut off for a full year. The national security argument at best is not overwhelming.

"From a national point of view," Mr. Shultz said, "it is our conclusion that effects on the economy of a substantial relaxation of import controls would not be severe. Indeed, relaxed import controls would inure to the benefit of the national economy—by redirecting labor and capital to more efficient uses."

Indeed they would. They won't have a chance to do so, however, as long as the Government persists in the costly folly of trying to protect those whom no one can truly protect.

THE POLITICAL SPOILS SYSTEM

Mr. CANNON. Mr. President, most of us in public life learn before very long that the political spoils system is a very real and sometimes brutal fact of life. I would like, however, to call to the attention of Senators an instance in which the political spoils system has broken down and worked to the detriment of the public interest.

This is the case of James E. Baker, who for 10 years has been FHA Director in the State of Nevada. Mr. Baker, who came to his position eminently qualified as director of public housing for the city of Reno, is a man who has managed to grasp fully one of the most difficult areas of expertise that a public servant can face—that of equitably dealing with housing and all of its aspects and complexities. He has accomplished much in the State of Nevada in this field, dealing fairly with all who came to his office and genuinely seeking to be of service to citizens requesting assistance from the Nevada FHA office.

A few days ago, however, he was summarily ordered to be transferred to—of all places—New York City. I was urged by a number of Nevada citizens to protest this transfer, and I did so. Many Nevadans feel as I do, that it would be in the best interests of the Government not to lose Mr. Baker's expertise in Nevada, and therefore, because of political considerations, he might be able to continue his service in the No. 2 spot or at a lesser grade, which he was willing to accept.

This, however, was not to be, because the bureaucracy seldom works so logically. Instead, the administration has advised me that it appreciates the esteem in which Mr. Baker is held by the business community of Nevada. But they go on to say:

The Department of Housing and Urban Development has decided that because of his fine service and experience in his field, Mr. Baker has been transferred to New York City where the Department can benefit from his FHA expertise.

Mr. Baker's entire experience and knowledge has been gained in the West, in the rural areas of my State. How this background can benefit the complex and entirely different situation in New York City—our greatest metropolitan center—escapes my understanding and is beyond logic.

It seems to me that this episode which I have detailed illustrates at least part of the reason why the housing situation in the United States today is so critical and almost unmanageable.

The President has clearly enunciated his intention of solving the housing crisis which confronts this country. It will not be solved—indeed it is certain to worsen—if bureaucratic blunders such as the one I have described are permitted to continue.

The President also promised the American people that he would not permit partisan politics to interfere with the welfare and proper operation of the Government. I believe his advisers are way off base and are doing the Chief Executive a grave injustice to permit the Baker case to be closed on so disastrous and unhappy a note.

SENATOR SCOTT VOTES HIS CONVICTIONS

Mr. GRIFFIN. Mr. President, this morning the Washington Post published a cartoon on its editorial page in which the distinguished Senator from Pennsylvania (Mr. SCOTT) is depicted as a messenger boy.

If there is one thing that my esteemed colleague from Pennsylvania is not, it is messenger boy for anybody, and any cartoonist who chooses to so depict the minority leader can claim no immunity from the accusation that the cartoon is tainted with venal politics.

Obviously no one in public life can consider himself above criticism. But to criticize Sentor SCOTT on the grounds of being a lackey for the administration or anyone else—is ridiculous in the extreme. One need only review the record of the positions taken by the Senator from Pennsylvania on various issues which have been before the Senate during the past 13 months. With respect to a great many, he supported the administration; but he opposed the administration position on a number of others. It will be recalled that he voted against the confirmation of the nomination of Judge Haynsworth, who failed to win confirmation to the very post for which Judge Carswell has been nominated.

I think I may have some appreciation of the searching, questioning turmoil through which Senator SCOTT passed in making up his mind as to the proper course with respect to Judge Haynsworth. The point is that Senator SCOTT voted then according to his convictions and his conscience, as he has always done, and as he swore to do when he entered the Senate of the United States. Furthermore, he shares the full responsibility for his every action under the glare of the pitiless scrutiny and sometimes obscure motives of political opposition. The same cannot be said for all of his detractors.

I doubt that Senator SCOTT will take any notice of the cartoon to which I refer. It is but another of the arrows he has learned to expect in political life. But as his friend and colleague, I feel that such an irresponsible and scurrilous attack ought not to be allowed to stand unchallenged.

TRIBUTE TO JOHN F. STEVENS: CIVIL ENGINEER, EXPLORER, AND STATESMAN

Mr. MUSKIE. Mr. President, the State of Maine has produced many eminent leaders on the national and international scene but few have attained such heights of constructive achievement of world significance as did John Frank Stevens, a native of West Gardiner.

Despite a lack of formal engineering education, Stevens, who decided in early life to be a civil engineer, rose rapidly in his profession and gained great distinction. Though his accomplishments were extensive, his fame rests mainly on four major contributions. He was—

A key builder of the Great Northern and other U.S. railroads, 1880–1903;

The discoverer of Marias Pass in Montana—1889—and Stevens Pass in Washington—1890—through which the Great Northern was constructed;

Chief engineer of the Isthmian Canal Commission, 1905–07, exercising the leadership directly responsible for adoption by the President and the Congress of the high-level lake and locks plan under which the Panama Canal was constructed and has since been operated, winning Stevens recognition in history as its "basic architect"; and

Rehabilitation of Russian and Manchurian railroads, 1917–23.

The accomplishments of Stevens show that he was a great civil engineer and also a man of statesmanlike vision who was respected and loved by all associated with him or worked under his guidance.

He was the recipient of many honors during his lifetime, including election as president of the American Society of Civil Engineers and the John Fritz Medal for Great Achievements. A farvisioned planner, he developed solutions for challenging problems, brought projects to the point where success was assured, and then sought new fields to conquer, letting others complete his works according to plans that he had developed.

Stevens died in 1943 as the age of 90, after a life of remarkable accomplishments. He has now been nominated for election in 1970 to the Hall of Fame for Great Americans at New York University. The combination of his important contributions to railroads and to the Panama Canal make him doubly eligible for that great honor.

The John F. Stevens Hall of Fame Committee has been formed to sponsor this election. I am privileged to serve as one of the honorary chairmen of this committee.

It was, therefore, with great interest that I read a fine summary and appraisal of Stevens' many contributions to the Panama Canal by Representative DANIEL J. FLOOD, of Pennsylvania. The article appeared in the December 1969 issue of the Explorers Journal, a quarterly publication of the Explorers Club. Representative FLOOD is a recognized authority on interoceanic canal history and problems, and he writes with knowledge objectivity.

Mr. President, because Representative FLOOD's article is of historical interest, particularly in regard to the forthcoming campaign for the election of John F. Stevens to the Hall of Fame, 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:

[From the Explorers Journal, December 1969]

TRIBUTE TO JOHN F. STEVENS

(By Daniel J. Flood) *

(Congressman Flood, a member from the 11th District of Pennsylvania has a long record of participation in civic and public affairs. He was Vice Chairman of a special Committee to investigate the Katyn massacre of Polish officers by Russian soldiers. Among his many interests are Panama Canal affairs and the proposal to elect John F. Stevens to the American Hall of Fame.)

More than 60 years ago, the Government of the United States, which had already chosen the Panama route as the best site for an Isthmian canal, was faced with the tremendous responsibility of deciding upon the best type. In a memorable struggle in the Congress in 1906 between advocates of a canal formed by elevated lakes and those for one at sea-level, later described by Colonel George W. Goethals as the "Battle of the Levels," victory went to the high-level-lake and lock type. That was the key decision by the President and the Congress in building the Panama Canal.

How was this result accomplished? The full story is long and complicated. However, when reduced to its essentials, the explanation is relatively brief, simple, and fascinating. It revolves around one sturdy man of extraordinary vision—Chief Engineer John F. Stevens of the Isthmian Canal Commission. Who was he and what was the path that led him to become associated with the famous project? The answers form an important section of American history.

A native of West Gardiner, Maine, after a try at teaching decided, despite his lack of technical training, to become a civil engineer. In 1874, at the age of 21, he moved to Minneapolis, Minnesota, where his uncle, Jesse Stevens, was an engineer, and started as an assistant engineer for the city—a rodman.

At that time, not long after the Civil War railway building in North America was booming. Finding municipal engineering too limited in scope, young Stevens, in 1876, shifted to railroading with a position as a section hand in Texas. Serving as axman, rodman, instrument man, surveyor, location engineer, and construction superintendent, he rose rapidly step by step to executive positions. Eventually attracting the attention of James J. Hill, the great railroad builder, Stevens made an enduring friendship based upon their deep common interests in transportation.

Sent by Hill to locate a route for the Great Northern Railway across the Rocky Mountains, Stevens, on December 11, 1889, in deep snow and bitter cold, made the dramatic discovery of Marias Pass in Montana, through which the railroad was constructed. For this extraordinary feat the engineer-explorer was honored in 1925 by the erection of a large bronze statue near the tracks at Summit, Montana, showing Stevens as he appeared at the time of the discovery.

In 1890, Stevens was assigned the task of locating the best line for a railroad from western Montana to Puget Sound in Washington. This involved the choice of a crossing of the Columbia River, the location of which in turn, depended upon the location of a pass in the Cascade Range.

Again Stevens found a suitable pass, this near the Wenatcee River, now called Stevens Pass. Today, this important region of the Northwest is served by the Great Northern railroad through this pass and by the Stevens Pass Highway.

Ever alert to great engineering undertakings in other parts of the world, Stevens naturally became interested in the centuries-old problem of constructing a canal across the American Isthmus, and he read extensively on the subject.

Meanwhile, events that would profoundly affect his career and Isthmian history were occurring. These included the historic voyage of the U.S.S. *Oregon* in 1898 around Cape Horn, which focused national attention on the necessity for an interoceanic canal, the extensive explorations and investigations by the Isthmian Canal Commission under Rear Admiral John G. Walker, 1899–1902, which finally recommended the Panama site, the choice by President Theodore Roosevelt and the Congress in 1902 of the Panama route in preference to the Nicaragua site, after a scorching debate in the Congress, known as the "Battle of the Routes," the Panama Revolution of 1903, which sealed the choice of the Panama location, acquisition by the United States in 1904 of the Canal Zone and the French Panama Canal Company's holdings, and, finally, assumption by the United States, also in 1904, of the vast task of completing the canal under the direction of an Isthmian Canal Commission. Admiral Walker was the first chairman, succeeded on April 1, 1905, by Theodore F. Shonts, president of the Clover Leaf Railroad.

Though not then expecting ever to be actively connected with the great construction project, Stevens had followed the unfolding of Isthmian events with increasing understanding. The grave problems likely to be encountered in constructing a navigation channel across treacherous mountain terrain in an undeveloped and disease-ridden region of heavy tropical rainfall and potential slides appealed to him as offering a singular challenge.

However, he had accepted an appointment with the Philippine Commission to head its railroad building program, and in June 1905 was in Chicago preparing to accompany Secretary of War Taft's Commission to the Islands. It then looked as if he had been definitely diverted from any association with the Panama Canal.

But momentous developments on the Isthmus over many months had culminated in a yellow fever epidemic followed by the unexpected resignation on June 26, 1906, of the Commission's first chief engineer, John F. Wallace. The Canal Zone promptly became a scene of hysteria, and chaos, for a time threatening the security of the canal project, which was still in the experimental and exploratory stage.

President Roosevelt, who had watched the crisis grow, became deeply concerned and sought a new chief engineer. Turning to leaders in the railroad industry for assistance, he consulted James J. Hill, who told the President of Stevens' ability and record of achievements. The President became interested in appointing Stevens as chief engineer of the Canal Commission.

Stevens, when advised of this opening at Panama, appears to have been rather hesitant because of his involvement in the Philippine situation, and wished time to consider. He mentioned the matter to his wife,

*See also "William Lewis Herndon 1813–1857," *Explorers Journal*, XLIII, 1, 1965.

Harriet T. (O'Brien) Stevens of Dallas, Texas, who since their marriage in 1877 had accompanied him during many travels on the frontiers and had shared the hardships of his upward climb as well as its compensating features.

Mrs. Stevens knew her husband's capacity and had always encouraged him in accepting greater tasks. She promptly replied, "Ever since you left Maine in 1874 you have been training yourself for this, the greatest engineering project in the world, and now it is offered you. Please telephone at once and tell the Secretary that you will accept." This ended Stevens' reluctance, and President Roosevelt appointed him as chief engineer of the Isthmian Canal Commission, effective July 1, 1905.

Before departing for the Canal Zone, the new Chief Engineer visited Oyster Bay, Long Island, to see the President, who described affairs on the Isthmus as being in a "devil of a mess." Stevens understood the difficulties likely to be encountered, but felt thoroughly competent to handle the situation. However, to avoid any possibility of later misunderstanding, he outlined to Roosevelt the conditions of his acceptance: That he was to have a "free hand in all matters"; that he was not to be unduly hampered by any authority, "high or low"; and that he would remain with the project until, in his own judgment, its success or failure was determined.

The President approved these terms and directed Stevens to communicate about the project directly with him rather than through routine channels. When Stevens pointed out that such procedure might result in conflicts with the War Department, Roosevelt waved this point aside, stating that everyone there knew his views.

Then, to impress his desire for action, President Roosevelt told the story of the man of sudden wealth speaking to his newly employed butler: "I don't know in the least what you are to do—but one thing I do know, you get busy and buttle like hell."

Arriving with Chairman Shonts at Colon on July 25, 1905, Chief Engineer Stevens found a most desperate condition indeed, with general disorganization in the canal work, and with employees "scared out of their boots, afraid of yellow fever, and afraid of everything." The only thing that had kept many on the Isthmus was lack of transportation to go home. In fact, more employees returned to the United States on the ship that carried Stevens to the Canal Zone than had been brought there on it.

At a conference of high officials the same evening on the spacious veranda of Governor Charles E. Magoon's home in Ancon on the Pacific side of the Isthmus, attended by the Governor, Chief Health Officer William C. Gorgas, and Chairman Shonts, Chief Engineer Stevens correctly estimated the most urgent needs: housing and feeding of employees, sanitation and health, recreation and morale, and an adequate and revitalized organization. Within the short period of one week Stevens correctly appraised the overall situation and decided what to do: rehabilitate and double track parts of the Panama Railroad, which he then described as a "phantom railroad," establish commissaries for all employees, build a hotel, the Tivoli, place available labor on housing and sanitary work, design proper track levels in Culebra Cut and a rail transportation system for the disposal of spoil in mass excavation, and organize the forces for construction. Stevens' extensive experience in comparable situations in frontier areas of the United Stats enabled him to form needed judgments accurately and quickly.

Stopping all unnecessary canal construction activities, he sent excess men to the United States, informed that they would be notified when to return. Others were placed on immediate necessities. Having previously accepted the mosquito theory of disease propagation, Stevens became an ardent supporter of Colonel Gorgas in health and sanitation matters.

A man of imposing stature and commanding personality, then 52, Chief Engineer Stevens tramped the entire length of the Canal Zone viewing the various works and observing the topography. Walking with the energy of youth, he radiated the confidence of the natural leader. Often speaking to employees, he told them that there were only three diseases on the Isthmus: "Yellow fever, malaria, and cold feet; and the greatest of these was cold feet."

Prior to the appointment of Stevens, President Roosevelt had designated an International Board of Consulting Engineers of 13 members to consider and recommend the type of canal. Until that question was answered, Stevens was seriously handicapped. Nevertheless, he went ahead with the excavation of Culebra Cut, which work would be useful no matter what the decision, and on alternate plans, which he wished to have ready in anticipation of whatever verdict the Government might reach.

Reporting to the President on January 10, 1906, this engineering board split. Eight members, including five Europeans, voted for the sea-level type; and the five remaining members—all Americans—for the high-level-lake and lock type. The minority report, which reflected the views of Chief Engineer Stevens, was prefaced by Alfred Noble, a distinguished American member of the International Board.

Meanwhile, on the Isthmus, Stevens thoughtfully examined the significant angles affecting the question of type. Though initially inclined on first arrival toward the popular idea of a sea-level canal, he approached the solution of the problem objectively. Interpreting the topography in the light of operational and navigational needs, as well as engineering and construction problems and the hazards involved, he decided for the high-level-lake plan with the Atlantic terminal dams and locks at Gatun, and the Pacific terminal dams and locks in one group at Aguadulce—a hill south of Miraflores. This was essentially the plan originally presented in 1879 by the French engineer Adolphe Godin de Lepinay, the originating and forgotten genius of the basic plan for the Panama Canal as eventually constructed.

In a special message to the Congress on February 19, 1906, transmitting the report of the International Board, President Roosevelt summarized its main points but strongly supported the high-level-lake plan. He invited special attention to the fact that "the chief engineer, who will be mainly responsible for the success of this mighty engineering feat, and who has therefore a peculiar personal interest in judging aright, is emphatically and earnestly in favor of the lock-canal project and against the sea-level project."

When testifying at Congressional hearings in Washington in January 1906, Stevens advocated the high-level plan with a conviction that no one could shake, and voiced his determined opposition to the sea-level idea. But one appearance as a witness by this engineering leader was not enough.

In June he was again called to Washington and led in the historic debate. Testifying before committees of the Congress, preparing refutations to statements by sea-level advocates, and drafting addresses for Senator Philander C. Knox, Chief Engineer Stevens faced the great crisis of his canal career.

He went to Roosevelt for assistance but discovered that the President had become lukewarm in his stand. As one who believed in the vigorous handling of superiors as well as subordinates, Stevens talked to him like a "Dutch uncle." Roosevelt was again convinced and thenceforth stood behind Stevens like a brick.

In the end, with the strong support of the President, Secretary of War Taft, and the Isthmian Canal Commission, the plans of Chief Engineer Stevens prevailed. In an act approved June 29, 1906, the Congress adopted the high-level-lake and lock plan. That was the great decision in building the Panama Canal that made its success possible. It is no wonder that the statesmanlike actions of Stevens won the admiration of informed and experienced engineers on the Isthmus!

Regardless of what may have been urged at the time as to the merits of the so-called sea-level design, the existing Panama Canal was constructed substantially in accordance with the plan recommended by Stevens, approved and accepted by the President and the Congress. It has proved an eminent success in both peace and war. The transit since opening the canal on August 15, 1914 through June 30, 1968 of 403,230 vessels of various types of all nations, with just tolls measurably reflecting the costs of construction, maintenance, operation, sanitation, and protection, completely establishes the wisdom of the 1906 decision. Moreover, in addition to its strategic value for national and hemispheric defense, the Panama Canal has been of incalculable benefit to world shipping and to the great ports of our country that serve such shipping. Moreover, the Canal Zone has been an island of stability in an area notorious for endemic revolution and endless political instability.

The day after approving the act of the Congress as to type, June 30, 1906, President Roosevelt showed his confidence in Stevens by appointing him as a member of the Isthmian Canal Commission in addition to his position as Chief Engineer. His star was ascendant.

Unfortunately, the minority report, following previous French studies, provided for the construction of the Pacific locks in two sets, separated by the small intermediate-level Miraflores Lake. Instinctively recognizing this division of locks as a serious error in operational design, Stevens, early in 1906, had recommended to Chairman Shonts in Washington the combination of all Pacific Locks at one location. But he did not present this well-founded proposal with the detailed functional justification required to secure the attention it merited. Nor had there been any ship-transit experience in the canal upon which to base such justification.

Returning to the Isthmus on July 4, 1906, Stevens resumed studies of the Pacific lock situation. A month later, on August 3, he approved a plan for placing all Pacific locks in one group of three lifts, south of Miraflores with the terminal dam and locks between two hills, Cerro Aguadulce on the west side of the sea-level section of the Canal, and Cerro de Puente on the east. This location would have provided the same lock arrangement at both ends of the canal, avoiding a traffic choke at Pedro Miguel, enabling uninterrupted summit-level navigation from the Atlantic locks to the Pacific, and supplied a lake-level traffic mobilization anchorage at the Pacific end of the canal to match that at the Atlantic end—a plan identical with the original conception of De Lepinay, afterward urged by Colonel William L. Sibert, a member of the last Isthmian Canal Commission.

At that time, however, Stevens was under great pressure to start construction. Opponents of any canal at all were seeking some means to delay the enterprise. Advocates of the sea-level idea, stung to the quick by their defeat in the Congress, were set, ready to strike at any change in the approved program as indicating weakness in the high-level plan of Stevens. These two forces together represented a political and economic power that he could not safely ignore.

In the light of subsequent events, it is indeed regrettable that Steven's foundation studies for the consolidation of the Pacific locks, which were necessarily made in great

haste, proved unsatisfactory. He did not dare to jeopardize the project by further delay. Still confident, however, that this important question would rise again, he voided his plan twenty days later, on August 23, 1906, marking it, "not to be destroyed but kept in this office," and proceeded with the plan for separating the Pacific locks as approved by the minority of the International Board of Consulting Engineers.

Many years later, as a result of World War II experience, there was developed in the Panama Canal organization, following the suspension in May 1942 of the 1939 Third Locks project then under construction, what proved to have been the first comprehensive plan for the major increase of capacity and operational improvement of the Canal as derived from marine operations, known as the Third Locks—Terminal Lake Plan. Submitted to higher canal authority it attracted immediate attention and quickly won approval by the President as a post-war project.

Published as a technical paper in the February 1947 issue of the *Proceedings* of the American Society of Civil Engineers the Third Locks—Terminal Lake proposal, because of its inherent logic and "comparatively low cost," has had a wide appeal as the proper form for increasing the capacity of the Panama Canal. Moreover, it has been strongly supported in the House and Senate.

Let us now return to events of 1906. President Roosevelt, after the great decision as to type of canal had been made, was free to visit the Isthmus as he had long wished to do. Under an itinerary prepared by Chief Engineer Stevens, Roosevelt's visit in the U.S. Canal Zone and to the Republic of Panama, November 14–17, 1906, marks a highlight in Isthmian history—the first time any President of the United States had set foot on foreign soil.

In January 1907, in the midst of a crisis over construction contracts, Chairman Shonts, after receiving an offer to head a large transportation merger in New York, resigned effective March 4, 1907. News of this produced another sensation on the Isthmus. All promptly looked to Stevens as their natural leader and a man of destiny. But even he had been hard pressed for many months protecting the interests of the canal project. Realizing that he had brought order out of chaos, that all basic decisions had been made, that he had formed an effective organization for completing the canal, and that construction was well underway, Stevens felt his creative mission had been fulfilled and, on January 30, 1907, wrote his resignation to the President, expressing his desire to return to railroad work. To his close associates, however, he revealed his disgust and irritation at Washington officialdom, government red tape, and frustrations.

Of two civilian chief engineers, the first had left after one year's service and now the second was planning to leave after two years. The canal could not be satisfactorily constructed with such frequent changes in engineering leadership. Roosevelt acceded to Steven's request but, determined to secure continuity in direction, said "I propose now to put it in charge of men who will stay on the job till I get tired of having them there, or till I say they may abandon it."

He selected Major George W. Goethals, an outstanding engineer officer of the Army as Steven's successor, and reorganized the Canal Commission, effective April 1, 1907. The other engineering members were Majors William L. Sibert and David D. Gaillard, and Rear Admiral Harry H. Rousseau, a former chief of the Navy's Bureau of Yards and Docks. Col. William C. Gorgas, the great sanitarian, who had come to the Isthmus from Cuba in 1904 and had been appointed a member of the commission on recommendation of Stevens, was also named. Two civilian members, Jackson Smith and J. C. S. Blackburn, were later succeeded by Colonel H. F. Hodges and Maurice H. Thatcher, the latter afterward becoming a distinguished member of the Congress, after whom the Thatcher Ferry Bridge across the Pacific end of the Panama Canal is named.

Notwithstanding the resignation of Stevens, President Roosevelt, in recognition of his tremendous contributions, on March 4, 1907, appointed him Chairman of the Isthmian Canal Commission, making Stevens the first to hold both positions of Chairman and Chief Engineer. It is noteworthy that neither this reorganized commission nor its predecessor included members experienced in navigational operations.

Stevens planned to leave the Isthmus on April 7, 1907, when the employees arranged a mammoth farewell reception at Colon attended by many throughout the Canal Zone and from the Republic of Panama. In addressing the throng, he gave generous credit to his predecessor, John F. Wallace, for the organization that Stevens had inherited. He revealed that two years previously, on taking charge, he was almost as overwhelmed by the vastness of the preparatory work to be done as had been the President. He added that "until Colonel Gorgas had lifted the dark cloud which the unsanitary conditions placed over the work," he was doubtful of success.

Appealing to the men as their friend to take their "little differences and complaints" to Chief Engineer Goethals and not to Washington, Stevens predicted that the canal would be open to traffic by January 1, 1915. That was a very close estimate indeed, for it was opened on August 15, 1914.

As evidence of the esteem in which he was held canal employees presented Stevens with two bound volumes containing 10,000 signatures requesting him to reconsider his resignation and remain, a gold watch, a diamond ring, and a silver table set. The last included a tray showing the completed canal. Stevens was greatly moved by the exceptional demonstration. He knew that it marked the end of an outstanding chapter in his career.

Long before the departure of the S. S. *Panama*, full-dressed in honor of her distinguished passenger, the largest crowd since United States occupation of the Canal Zone gathered on the pier. At noon, the Isthmian Canal Commission band, which Stevens had established in 1905, played Auld Lang Syne. The *Panama* slowly left her dock and headed toward the sea, amid the cheers of the spectators and whistles on vessels in Limon Bay. Stevens, standing at the rail with his young son, John F., Jr., looked on, pale and sad.

After returning to the United States, Stevens continued his upward climb in the railroad industry, becoming one of the most distinguished railroad officials of the Nation. In 1917, after United States declaration of war against Germany, he went to President Wilson in search of an active assignment in the war. As Russia was then an ally and in urgent need of competent railroad advisers in connection with its war transport problems, the availability of Stevens was timely. Appointed as Minister Plenipotentiary and Chairman of the United States Railway Mission to Russia, he undertook the difficult tasks involved in operating and improving its rail systems. Later, from 1919 to 1923, he was president of the Inter-Allied Technical Board supervising Manchurian Railroads.

In these positions, he observed the start and early years of the Communist revolution. Accurately assessing the tremendous scope of that world conspiracy, he was among the first responsible observers to alert leaders in the United States as to its significance and dangers, among them his friend, Ira E. Bennett, distinguished editor of the *Washington Post*.

Returning home in 1923, Stevens later became president of the American Society of Civil Engineers, and received many honors, including the John Fritz Medal for great achievements. He died at Southern Pines, N.C., in 1943, at the age of 90, keen in mind to the end.

The significance of Stevens' canal contributions, though substantially obscured for a time, has gained stature with the years and has been recorded in authoritative writings. He rescued the project from probable disaster; assembled a major part of the plant and organized the engineering and construction forces, planned the main features of the waterway and brought about the great decision for the high-level-lake and lock type canal, launched the enterprise into the era of major construction, and guided the work until its success was a certainty. He clearly foresaw the necessity for a major change in the Pacific lock arrangement, for which he developed a plan. Subsequent studies of canal operations, in both peace and war, have established that this plan would have supplied the best operational canal practicable of economic attainment—striking evidence of the high quality of his insight. It is no wonder that the United States in 1962 honored the memory of Stevens at the scene of one of the great chapters of his career by the designation of Balboa's principal traffic circle as 'Stevens Circle,' having at its center a monument inscribed with Goethals' words, "The Canal Is His Monument."

A man of eminent vision whose great gifts were harnessed to practicality, Stevens, by his genius and industry, became the greatest construction engineer in American history. His tremendous services can now be viewed in historical perspective. They establish him as the basic architect of the Panama Canal.

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SENATOR BROOKE URGES PRESIDENT TO POSTPONE MIRV DEPLOYMENT

Mr. BROOKE. Secretary Seamans has testified today that the United States will begin deployment of the Minuteman III MIRV system in June of this year. The continued momentum deployment of this potentially destabilizing technology is highly disturbing. It could have the most unfortunate consequences for the impending SALT negotiations.

I do not know how the Soviet Union will react to the United States continued efforts on this program but it is unlikely that they will abandon their own multiple warhead technology—the technology which poses the gravest threat to the U.S. deterrent—if our own country has deployed such systems.

There is no military justification for deployment of the U.S. MIRV on the timetable originally planned. The heavy Soviet defenses which it was designed to penetrate do not exist and could not be installed in the immediate future. In the interests of serious diplomacy and strategic stability, the United States has every reason to stretch out MIRV deployment.

We should refrain from premature commitment to weapons which add not to our security but only to the complexity of arms control. In a nuclear age genuine security must ultimately rest on mutual restraint, not mutual recklessness.

The tragic drift toward deployment of these dangerous weapons highlights the urgency of prompt Senate action on the resolution proposing a joint Soviet-American moratorium on MIRV testing. Unless a moratorium of this type is adopted in the coming months, continued testing of MIRV systems will surely lead to accurate counterforce weapons which will threaten the land-based missiles on which both countries depend so heavily. Forty-three Senators have cosponsored this proposal and I profoundly hope that the Committee on Foreign Relations will quickly report this vital resolution. It is essential that the Senate offer its counsel to the President on this matter.

I urge the President to postpone this unwise deployment. Such a postponement could afford time to explore controls over MIRV tests and deployment when the SALT talks resume next month. Coupled with other strategic arms limitations, these controls would be of inestimable value to world peace and security. Delaying MIRV deployment while these issues are examined will in no way jeopardize the national interest. I pray that the President will delay MIRV deployment in order to preserve the maximum opportunity for the discussions at Vienna to bear fruit. No decision of his presidency will be more momentous.

ABA'S POLITICAL OBJECTIONS TO THE GENOCIDE CONVENTION CARRY LITTLE WEIGHT

Mr. PROXMIRE. Mr. President, when the Committee on Foreign Relations considered the Genocide Convention in 1950, the opposition of the American Bar Association was of sufficient importance and weight to induce the committee to shelve the convention. The ABA's strong objection to ratification 20 years ago was based on its consideration of the constitutional issues involved. The weight and prestige of the ABA in constitutional matters was so great that not only did the Senate committee put aside further consideration of the convention, but the committee also let it be known that it was reluctant to reconsider the issue until the ABA shifted its position.

So, Mr. President, the Genocide Convention has remained in obscurity in the backroom of the Foreign Relations Committee for the last 20 years waiting for that moment when a shift in the ABA's position accompanied by a positive message from a new President strongly endorsing ratification would again bring it to life.

Hope for reconsideration of the Genocide Convention was reborn when Secretary of State Rogers asked Attorney General Mitchell for his views. The Attorney General, a strict constitutional constructionist, indicated to the Secretary of State that he found no objections to American ratification. Secretary of State Rogers thereupon sent the Genocide Convention to the White House urging the President to support and endorse it.

Shortly thereafter President Nixon strongly endorsed the Genocide Convention. He stated that 75 other nations had already ratified it, and that from the viewpoint of international prestige and moral leadership it was essential for the United States to ratify it as soon as possible.

I was confident that the strong backing of the President and his closest advisers in the areas of foreign affairs and domestic-constitutional law would overcome any remaining hesitation that might still exist in the American Bar Association. My confidence that the ABA would resoundingly reverse its 20-year-old opposition was heightened by the fact that those very divisions of the association intimately concerned with questions of criminal, constitutional, and international law all strongly came out in support of ratification.

By a slim four-vote margin, though, the ABA failed to reverse itself and failed to endorse the Genocide Convention. The association rejected the advice of its own constitutional, criminal, and international law experts such as Solicitor General Erwin Griswold and former Attorney General Nicholas Katzenbach.

But, unlike 1950, the ABA's objections were no longer based primarily on constitution or legal grounds. Even an opponent of the convention, who had formerly opposed it on a constitutional basis, stated at the ABA's February meeting that he now agrees that human rights conventions can properly be the subject of treaties.

This time, the ABA's prime concern on the Genocide Convention was its potential impact on certain groups—for example, Vietnam POW's, the My Lai perpetrators, or the Black Panthers and other dissident groups here at home. What is significant is that the ABA's newfound concern is essentially political and emotional. It is not legal, and it certainly is not constitutionally based.

Mr. President, while I may have disagreed with the Senate's reluctance to take up the Genocide Convention in the past, I have at least been able to understand the Senate's deference to the ABA's legal and constitutional objections. The ABA has great expertise and influence in this area, and it is possible to see why the ABA's position has been accorded considerable weight.

But the ABA is no longer basing its main objections solely on these grounds. It has ventured outside its area of expertise, and into the political arena. Of course, I do not question its right to do this. But I do question whether its opinion in the political sphere should be treated with the type of deference it has been accorded in the past.

Mr. President, where political judgments are to be made, the arbiter should be the U.S. Senate. For advice, the Senate can be expected to turn to the Chief Executive, and his Attorney General, and his Secretary of State. These offices have now come out squarely for ratification of the Genocide Convention. These are the views that should count; not those of the ABA.

I sincerely hope the Foreign Relations Committee will keep this in mind when hearings are held on the Genocide Convention—hopefully in the near future.

OUR ENVIRONMENT: WE CAN SAVE IT—SPEECH BY SENATOR EAGLETON

Mr. MUSKIE. Mr. President, the junior Senator from Missouri (Mr. EAGLETON) has been a valuable addition to the Subcommittee on Air and Water Pollution since he came to the Senate a year ago. He has quickly become a leader in the battle to protect our environment.

One of Senator EAGLETON'S most valuable contributions to this effort has been his understanding of what is needed to turn back the tide of pollution and decay in America: money. There is no substitute for a strong and lasting financial commitment. In a speech which the Senator delivered at the Kansas City Press Club last month he made this point very well. "Both government and private purse strings must be loosened—now." I commend to the Senate Senator EAGLETON'S analysis of the needs of our programs to protect and enhance the quality of our air, our water, and our land. I ask unanimous consent that his address be printed in the RECORD.

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

OUR ENVIRONMENT: WE CAN SAVE IT

(By Senator THOMAS F. EAGLETON)

Throughout history man has struggled against his environment, seeking to withstand nature's often capricious destructiveness and to harness the elements where possible and make them work for him.

Over the centuries we succeeded well at this vital game, learning to live in a sometimes uneasy but always respectful peace with our surroundings.

Man, with his intelligence, has more often been the user than the used, but nature always retained its mastery, bringing flood and drought, hurricane and tornado, at will.

But 20th century, technological man, unlike his forebears no respecter of nature has changed all that—hopefully not irrevocably, although we do not know.

Man is now beating his age-old rival—not consciously or fairly, not by direct attempts to control natural forces for some good purpose, but accidentally, indirectly, by the side-effects of a consumer-oriented technology that didn't think or care about what its garbage was doing to the elements on which we all depend for life.

You need only look around. America the Beautiful is rapidly becoming America the Noxious. We are the richest, most industrialized nation in the world. Befitting that lofty position, we produce one-half the world's industrial pollution—and a vast amount of human pollution. It is visible everywhere:

In the choking, brownish smogs that hover over our cities, blotting out what used to be blue skies. They are the visible part of the 172 million tons of smoke and fumes our factories "produce" every year, combined with the exhaust fumes from our 83 million cars, which alone are responsible for 60% of urban air pollution.

In the clogged highways—to build which we pave over 1,000,000 acres of oxygen-producing trees annually—and the even more packed auto junkyards, into which we discard 7 million cars each year.

In our once-beautiful rivers, lakes and streams, filled with human and industrial waste—50 trillion gallons of the latter annually. We all know that few of our waterways are fit for humans to swim in. Many of them are no longer fit for fish, either—more than 15 million fish were killed by water pollution last year. Or, for that matter, for the forms of aquatic plant life that keep waterways "living." As I am sure you know, ecologists say that Lake Erie is turning into a Dead Sea—aging long before its time—because the phosphates and nitrates dumped into it by municipal sewage plants and detergent manufacturers, as well as unrestricted agricultural wastes, have killed the plant life, which deprives the lake of oxygen and therefore fish, and allows weeds to take over. They predict it may turn into a swamp.

That's Lake Erie, not just some neighborhood fishing hole. It doesn't sound possible—but it is more than that. It is a fact.

The litany of doleful examples is virtually endless. So are the statistics: 28 million tons of waste paper, 48 billion used cans, 28 billion bottles each year.

You know the problem as well as I do. You only have to go outside and take a deep breath, or try to taste the drinking water in a glass through the chemicals needed to purify it.

The heartening thing is that the problem has finally been recognized—by the air-breathing, water drinking public—for the immense and serious one that it is. And a growing body of ecologists, with people listening at last, is capable of pointing out the dangers and showing ways to surmount them.

There is one essential component in the answer to the urgent question of how to reverse this dangerous path we have been following: Money. We must spend enough money on research, facilities and the enforcement of stringent anti-pollution standards to clean up our air and water. Anything less would be ineffective tokenism.

And the American people have made it clear that they don't want tokenism—they want clean air and clean water and more space for recreation and the removal of eyesore junkheaps. They know the cost will be heavy. They know they will have to bear that cost themselves, both as taxpayers and as consumers.

I think we are ready, as a nation, for a victory over pollution. While the anti-pollution field is new, the "state of the art" in terms of the necessary technical know-how is quite advanced in some fields.

Cement plant emissions, for instance, can be controlled almost entirely. The know-how is there. Only the will—or the public-generated demand—to spend the money is lacking among some cement plant owners. Electric power plants are among the worst industrial air polluters. Their dangerous emissions, too, can be controlled by existing anti-pollution devices, at the cost of only an extra few cents a month on our electricity bills.

Most of the federal legislation needed to fight pollution is already on the books, thanks almost entirely to Senator Edmund S. Muskie, who authored the 1963 Clean Air Act, the 1965 Water Quality Act, the 1967 Air Quality Act and now has legislation pending to improve the existing laws. He is the leading pollution authority in the Senate and my eyes have been opened by serving on the Air and Water Pollution Subcommittee, which he chairs.

Now President Nixon has joined the pollution fight. His environmental message to Congress Tuesday was welcome—it's good to have the White House with us.

I must point out that nearly all of the President's proposals either are contained in existing law or are logical extensions of existing law. Most of the new things he said are already embodied in pending legislative proposals introduced early this year by Senator Muskie. A few of his proposals were brand new and innovative and merit further study, but generally these relate to minor improvements, rounding off the rough edges, so to speak, although his proposal that lead be removed from gasoline was important and worthwhile.

I cannot overemphasize that what is really needed to make anti-pollution legislation work—whether it be current or new legislation—is the commitment of sufficient money. This is what is meant when we speak of priorities—we must commit more to environmental control, admittedly at the expense of other programs.

The federal government is going to have to make good on its promises to help local governments pay for secondary and tertiary sewage treatment facilities.

Also, government and the public combined are going to have to pressure reluctant industry to stop fouling our air and our water.

Industry must be made to accept the fact that it must treat as a cost of doing business its anti-pollution devices to clean up smokestack emissions and fluid wastes—which means, of course, that this extra cost will be passed right along to the consumer in the form of higher prices. A bitter pill to swallow? Perhaps, but I am convinced the public has decided it would rather swallow this than the kind of air it has been swallowing in recent years.

We must be discriminating in the way we apply the necessary funds to the problems, for the solutions to them differ markedly. Let me sketch the major pollution areas briefly, one by one.

Water Pollution.—The President's recommendations for river basin plans, regional treatment facilities, effluent standards, court action for the violation of standards, revision of enforcement procedures and extension of standards to navigable waters are consistent with proposals made by Senator Muskie earlier. I think all of these are good.

What we also need is a great deal more federal money. Sen. Muskie has proposed spending $12.5 billion in the next five years as the federal one-half share for building $25 million in municipal waste treatment facilities.

President Nixon has proposed $10 billion over the next four years, only $4 million federal and $6 million local. He recommends $1 billion for fiscal 1971. This is five times what he was satisfied to spend only one year ago when the popular appeal of pollution issues had not reached its present intensity. But it is still well below the $1.25 billion which Congress has already authorized for water pollution control in fiscal 1971.

Air Pollution.—The Air Quality Act of 1967 was a mechanism for combatting air pollution on a regional basis with the federal and state governments acting as partners.

Under the Act, 57 Air Quality Control Regions—covering the nation's major air pollution problem areas—will be established. These regions are meeting the timetable of the act by setting regional emission standards, and this year some of them, including Missouri's two regions, will take the final step by setting their implementation plans detailing enforcement procedures.

I think the Muskie regional concept is a sound approach, and I think it will work.

President Nixon has raised the question of national ambient air quality standards. His proposal is extremely ambiguous, but different formulas to accomplish this have been studied in the past and found severely wanting. If his proposal is a means of assuring early and equitable air pollution control, I am for it. If his proposal is a back-door attempt to eliminate public participation in determining the quality of air people will breathe, I am against it.

We need research to step up our technological capacity to stop pollution of our air. For fiscal 1970 Congress appropriated $45 million for research, but the President has asked for only $27 million for fiscal 1971. I think his sense of urgency is lagging.

The problem of enforcement of air pollution standards on a smokestack-to-smokestack basis is far too great a task for the federal government to try to cope with. That is one more reason I believe in the regional approach advocated by Sen. Muskie. But the federal government needs to provide more grant money to regional air conservation commissions to acquire the know-how and manpower to set proper emission standards and enforce them if the job is to be done. The Nixon proposal for stiff court fines for violators is a good one—and one which has been already proposed by Senator Muskie.

There are two other types of air pollution I think should be handled in different way.

The first is auto pollution, responsible for the majority of urban smog. When Detroit said recently it would take 10 years to fully develop the technology to make an emission-free internal combustion engine, I have to say I was astounded.

I have much more faith in the technological capability of the big auto makers than that. I think they can do it in much less time—with the proper encouragement. This is a case where stringent national emission standards set by Congress will be necessary—and on a strict timetable of achievement—if HEW will not force the issue itself. The President has now moved properly in this area and HEW is setting a tougher timetable of compliance with federal standards.

Consumers can be of inestimable help here, too. They must demand cars that do not pollute . . . and accept responsibility for keeping them that way.

Already it may be too late. Most of the cars built without anti-pollution devices in 1969—was sold by the millions—will still be polluting the air a decade from now, even if clean-exhaust cars are then the norm.

As we are toughening regulations on cars, we also should be regulating trucks and buses, as anyone who has ever waited behind a bus for a traffic light to change well knows.

Then there are emissions from jet planes—which the Nixon message failed to mention. The administration apparently does not want any legislation to be written giving HEW affirmative power to regulate jet emissions, as I found out in an Air and Water Pollution Subcommittee hearing I participated in last week.

Administration witnesses said they preferred to go by the current voluntary compliance agreement they have reached, applicable to about half of the commercial jet planes. This would have the effect of removing 70% of all *visible* jet pollution from engine smoke by 1972.

But here again the state of the art is not advanced. The voluntary agreement will do nothing about other, invisible, jet exhaust pollutants such as nitrous oxide and hydrocarbons because no way has yet been found to remove them and keep jet engines run-

ning. In fact, as smoke is reduced through higher temperatures of combustion, the production of oxides of nitrogen is increased. The technology must be developed.

We haven't even cleaned up normal jet engines and now we are going to have the SST. Not only is this multi-billion dollar airplane being subsidized by the taxpayers with the profit to go largely into private hands, not only are scientists concerned about the noise pollution it will cause, but now it also turns out the scientists fear that the exhaust pollution it creates will never dissipate. It will fly at a high level where the atmosphere is basically stable. The effect, some think, will be that its exhaust emissions will generate great expanses of clouds which will remain there indefinitely, reducing markedly the sunlight reaching the surface of the earth.

And consider this: The President, for fiscal 1971, has asked for $275 million for the SST—and only $106 million for the Air Pollution Control Administration.

Solid Waste Pollution.—We create trash—cans, bottles, paper, and so forth—faster than we can dispose of it, and we are running out of safe places to put it. We need to find innovative ways to recapture our solid waste. We must also demand that packagers stop making virtually indestructible containers and come up with ones that are easily and cheaply disposed of.

The Administration position on this problem last year was interesting, to say the least. Secretary Robert Finch of HEW testified about the critical nature of the problem during hearings on bipartisan legislation which would move toward recovery, recycling and reuse of the resources which today the nation burns, buries or dumps. He made an eloquent presentation of the scope of the problem. Then he flatly opposed spending the money required to implement the solutions.

In his message President Nixon also waxed eloquent on this problem, but he did not ask either for the necessary funds or legislation to deal with it. Instead, he suggested further study.

In Great Britain, a much poorer nation per capita than we, the citizenry decided a few years ago that it was tired of pollution and began paying the price of cleaning up its air. That price has been very dear to the average Britain. But it is paying dividends.

Now, while thick fog still rolls over London from the ocean, it no longer combines with air pollution to become the kind of killer smog for which that great city had become notorious.

There had been no fish in the Thames river for over a century. But the British went to work here, too, and by 1968 some 40 different species had come back.

It has been done in America, as well. Last year in the New Jersey Air Quality Region, where a great phalanx of chemical plants is situated, emissions of oxides of sulfur—the sulfur content of fuel—were down a full 50% from what they were in 1966, before there were regulations.

We can have clean air and clean water. This mighty technology of ours can produce pollution abatement in the same way it produced pollution.

What used to be lacking was the national will to do it. Now the will is present, and the public is willing to pay for it. And that means that both government and private purse strings must be loosed—now.

THE LAOTIAN SITUATION

Mr. GRIFFIN. Mr. President, recently the Senator from Arizona (Mr. GOLDWATER) delivered a perceptive, illuminating speech on the floor of the Senate concerning the situation in Laos. His speech was largely overlooked by the press at the time it was given. However, on March 5 the Omaha World-Herald carried a news story and an editorial and I ask unanimous consent that they be printed in the RECORD.

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

[From the Omaha World-Herald, Mar. 5, 1970]

GOLDWATER TELLS TRUTH ABOUT LAOS TROUBLES

Congressional critics of the United States position in Laos, as well as some of the eastern press, have not been telling "the whole truth" about the situation, says Sen. Barry Goldwater, R–Ariz.

Goldwater is suggesting that they read the 1962 13-nation declaration on the neutrality of Laos, signers of which included the United States and Russia, and Red China, North Vietnam, Britain and France as well.

Goldwater pointed to a key phrase in the declaration:

"They (the signatories) will not introduce into the kingdom of Laos foreign troops or military personnel in any form whatsoever, nor will they in any way facilitate or connive at the introduction of any foreign troops or military personnel."

It was the Communists who breached that agreement, the Arizona senator said.

REDS RESPONSIBLE

It is the Communists who have sent troops across Laos, using it as a supply route for its troops in Vietnam, Goldwater pointed out.

No American ground forces are in Laos, Secretary of Defense Melvin R. Laird has said, but U.S. planes have operated there to try to cut off the supplies going across Laos bound for Vietnam and Red forces there.

"Lately," Goldwater told the Senate, "I have listened to some of my colleagues berate the United States for supposed activities in Laos and have read similar stories in the New York Times and Washington Post.

"I have kept wondering when some of that group would come out with the whole truth."

UNITED STATES NOT CULPRIT

Goldwater said he hadn't seen that whole truth "so far."

He said both Russia and Red China "pledged themselves to respect the neutrality of Laos."

"Now," he asked, "who is causing the trouble in Laos and, as long as we are at it, the trouble in South Vietnam and northwest Thailand? The Communists, whether they be Russian, North Vietnamese, or Red Chinese. The United States is not the culprit . . . So I would hope that in the future that when Senators or members of the press decide to ascribe all the trouble in Laos to the United States, that they point the finger at Russia, Red China and North Vietnam and ask the question, what are you doing upsetting the neutrality of Laos?"

Goldwater introduced in the Congressional Record the complete declaration of Laotian neutrality as adopted by the 13 powers July 23, 1962.

WE DIDN'T START IT

Barry Goldwater has pointed out something his colleagues in the Senate and everyone else should remember as the war in Laos continues:

The President, the Pentagon and the CIA did not start the war. The Communists, particularly the North Vietnamese, are responsible for it, just as they are responsible for the war in Vietnam and the troubles in Thailand and other countries of Southeast Asia.

Goldwater pointed out that North Vietnam, not the United States, put a force of 50,000 to 60,000 soldiers in Laos.

And he recalled for the senators that the 1962 13-nation declaration on the neutrality of Laos was signed by Russia, Red China and North Vietnam as well as by the United States.

Goldwater's words were overdue, for it has appeared from the remarks of some senators that they thought the United States, on its own, was trying to get another major war going in Laos.

Sen. Mathias has warned, for example, that "every American escalation has been met by a North Vietnamese escalation" in Laos. That is the kind of intellectually dishonest blame-shifting that liberal politicians have been practicing for years in regard to the fighting in Vietnam.

Now Mathias appears to be trying to institute more of it in regard to Laos, talking about American "escalation" when it is perfectly clear that the Communist offensive across the Plain of Jars and beyond was the first step in the current intensification of the fighting.

Sen. Cooper has repeatedly described the fighting in Laos as "an internal war," recalling the attempts to pass off the conflict in South Vietnam as a "civil war" rather than a war of aggression launched by North Vietnam.

If it is strictly a Laotian war, as Cooper seems to imply, what are those 50,000 North Vietnamese doing there? Or would Sen. Cooper, like Hanoi, simply deny their existence?

Sen. Mike Mansfield has commented critically on the "decided enlargement of the number of sorties flown over Laos" by American warplanes. He did not comment, however, on the fact that the number of air strikes is in proportion to the increased efforts by the North Vietnamese and Pathet Lao guerrillas to take over Laos or significant parts of it.

Sen. Gore has said that "our activity in Laos is in violation of the Geneva agreements." He has not bothered to mention who first violated the agreements, or the magnitude of the Communist violations.

Said Goldwater:

"I would hope that in the future that when senators or members of the press decide to ascribe all the trouble in Laos to the United States, that they point the finger at Russia, Red China and North Vietnam and ask the question, what are you doing upsetting the neutrality of Laos."

We think that statement puts the Laotian situation in a clearer and much more honest perspective than some of the critical assessments made by other senators.

Laos seems unlikely to become another Vietnam militarily, but it easily could become one politically here at home, if the concerned senators are not more careful to acknowledge the truth of Communist aggression, and balance their criticisms accordingly.

OIL IMPORTS NO SECURITY THREAT

Mr. PROXMIRE. Mr. President, the Department of Defense official who is in charge of making sure that our Armed Forces have enough oil said yesterday that oil imports are no threat to our national security.

This statement by Barry J. Shillito, Assistant Secretary of Defense for Installations and Logistics, should put to rest any doubts about the national security justifications for the oil import program—there are none.

The only justification that the oil industry seems to be able to put forward is that what is good for the oil industry is good for the national security; an idea

that was thoroughly discredited a long time ago when the good of General Motors was confused with the good of the Nation.

Mr. President, there is no justification for continuing the present oil import program. According to the Nation's experts in national security, there is no justification for continuing this expensive, inflationary policy any longer. If the oil industry needs incentives, let us give them to the industry honestly. Let us appropriate the money, rather than give the industry handouts through the back door; then, at least we can see what kind of benefit we get from the money we give them as a subsidy and we can encourage the specific activities we want to.

I ask unanimous consent that the New York Times story of Mr. Shillito's testimony be printed in the RECORD.

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

MORE OIL IMPORTS CALLED NO U.S. SECURITY THREAT

WASHINGTON, March 9.—The United States could have more imported oil, with prefences for such suppliers as Venezuela, and still not jeopardize its security during emergencies, a Defense Department official said today.

Barry J. Shillito, Assistant Secretary of Defense for Installations and Logistics, made the statement in testimony prepared for a House Mines and Mining Subcommittee hearing on oil-import controls.

Mr. Shillito said the Defense Department, as part of its share of the work of the recent Cabinet task force on oil imports, looked at the major military possibilities that would affect oil sources:

Nuclear war is unlikely, and if it broke out, "the continuity of oil supply would be of major significance," Mr. Shillito said.

Limited war may happen, but "dependence on foreign supplies in limited wars would not lead to protracted supply interruptions," Mr. Shillito said. He said the United States gets most of its oil for Southeast Asia operations from foreign sources, but defense petroleum plants could supply it if the need arose.

General non-nuclear war is "unlikely," but could bring a significant oil supply interruption, Mr. Shillito said. However, he added, a problem would come only if the war significantly obstructed tanker movements to United States ports.

"Analysis clearly indicated a relaxation in oil import controls over a time, coupled with appropriate Western Hemisphere preferences and a security adjustment to prevent undue would—if adequately monitored by systematic management surveillance—satisfactorily protect security of supply," Mr. Shillito said.

The Defense Department considers oil-development priorities to be first—the United States, second, the Western Hemisphere, and third—the non-Communist world beyond he said.

"We firmly believe that oil import controls can be gradually relaxed to permit increased oil imports, with the limits planned, without adversely affecting national security," he said.

Defense Secretary Melvin R. Laird was part of the cabinet task force majority recommending a tariff system to replace the oil import quota system. But Mr. Laird outlined his reservations—that the system be done so as to protect United States security and needs.

Representative Craig Hosmer, Republican of California, said the task force seemed to ignore the gold-outflow problem from increased imports.

George A. Lincoln, chairman of the new oil policy committee, told Representative Hosmer the outflow would not be significant, even with a tariff system, until 1975.

"Then the party gets rough," Representative Hosmer said. He suggested any oil import change be reviewed each six months.

The subcommittee chairman, Representative Ed Edmondson, Democrat of Oklahoma, told Mr. Lincoln the oil industry had been singled out for a harsh proposal, when the industry has been able to hold the line on costs and prices, supplies most of the nation's energy needs, and employs so many people that a widespread economy would be hurt by the tariff system.

RHODESIA

Mr. BROOKE. Mr. President, I was most pleased to learn yesterday of this administration's decision to close our consulate in Rhodesia.

I believe the Secretary of State has taken a wise step in withdrawing American support for the breakaway minority regime of Ian Smith. The perpetuation of such system is not in the interests of world peace or of the people of Rhodesia. Our refusal to recognize this government is a clear indication of our commitment to justice and equality, and I commend Secretary of State William P. Rogers for unequivocally issuing a personal statement of our decision in this regard.

TRIBUTE TO FDIC CHAIRMAN KENNETH A. RANDALL

Mr. PROXMIRE. Mr. President, I want to associate myself with the remarks of my colleagues on the Committee on Banking and Currency with respect to the outstanding public service performed by Mr. Randall. As a Director and then as Chairman of the Federal Deposit Insurance Corporation, his leadership has enabled the Corporation to meet expanded regulatory responsibilities with a high degree of efficiency and competence.

Mr. Randall has viewed bank regulation in the context of our overall financial requirements and has been an able and articulate spokesman before our committee and in public forums for continuing progress in improving our financial structure.

During our hearings on financial institutions and the urban crisis, I was especially impresed with the concern shown by Mr. Randall and the Corporation to develop programs to train examiners recruited from minority groups in preparation for managerial positions in the banking industry.

I wish Mr. Randall every success as he returns to private life and trust we will continue to receive the benefit of his counsel in the future.

EXPORTING JOBS A CONTINUING PROBLEM

Mr. FANNIN. Mr. President, earlier this week, Assistant Secretary of Commerce Kenneth N. Davis sounded a most urgent theme before a meeting of the Electronics Industries Association. Mr. Davis pointed to the alarming statistics in our foreign trade and repeated a point which I tried to sound here on the Senate floor, that by our trade policies we are scuttling our national economy and exporting jobs.

I want to make it clear that I am not taking a blind "protectionist" point of view here. But it is high time we realized that our trade policies border on the disastrous, and that the people who will most be affected by these policies will be the American who works for a living.

Mr. President, three major papers carried reports of Mr. Davis' speech. They are unanimous in their recognition of the seriousness of the subject which he treats. I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Washington Star, Mar. 9, 1970]

U.S. TRADE OFFICIAL ASKS TOUGHER STAND IN TALKS

(By Lee Cohn)

The Nixon administration must take a tougher stand in trade negotiations with Japan and the European Common Market, a key official said today.

Kenneth N. Davis Jr., assistant secretary of commerce for domestic and international business, called on industry and labor to "put the heat on us" to make sure administration policy swings in that direction.

In an interview elaborating on a speech here to the Electronic Industries Association, Davis made it clear he hopes such pressure will help the Commerce Department prevail over agencies with softer positions on trade and international investment—notably the State and Justice departments and the Council of Economic Advisers.

APPROVED BY STANS

He said Commerce Secretary Maurice H. Stans had approved the speech, while expressing some concern that it might be interpreted as "protectionist."

"I don't think it's a protectionist speech," Davis said, maintaining that he was urging only a firmer stand by the United States in insisting on fair treatment of American industry, and realistic policies to safeguard business and labor.

Administration policies on trade and investment "are not fully coordinated," he said, acknowledging it is not yet clear which side will prevail in internal debates.

Besides underlining disputes within the administration, Davis accused the Common Market and Japan of treatng American exporters unfairly while insisting the United States move rapidly to lower trade barriers.

Press reports of a news conference by Edmund Wellenstein, the Common Market's director of external trade affairs, indicate a Common Market delegation misunderstood U.S. views expressed during informal talks here last week, Davis said.

CHEMICAL INDUSTRY CITED

Wellenstein was quoted as saying the United States no longer is concerned about European border taxes, that international trade relations will suffer a grave setback unless the United States repeals a customs system benefiting the chemical industry, that a proposed U.S.-Japan textile quota agreement should be limited, that the Common Market is alarmed by protectionist sentiment here and that negotiations to

lower non-tariff trade barriers probably cannot start before 1972.

Actually, Davis said, he and other Commerce Department officials told the Common Market delegation that:

European border taxes are a major nontariff barrier.

Prospects for repealing the controversial chemical customs system are impaired by the failure so far to negotiate a textile agreement with Japan and by the lack of progress toward lowering European trade barriers.

TRADE ACCORDS HIT

The Common Market should not interfere in the textile negotiations with Japan.

Common Market trade agreements with other countries are a matter of grave concern because they discriminate against the United States.

A proposed agreement among Britain, Germany and France would discriminate against U.S. exports of electronic components and might turn Congress against liberal trade legislation.

"It is time for Japan and Europe to respond more fairly than heretofore to the 20 years of U.S. leadership in expansionist world trade policy," Davis said.

[From the New York Times]

U.S. AIDE CRITICAL OF TRADE MISSION

(By Edwin L. Dale, Jr.)

WASHINGTON, March 9.—A high official of the Commerce Department criticized Japan and the European Common Market in unusually blunt terms today for not giving "fair competitive treatment" to the United States.

Kenneth N. Davis Jr., Assistant Secretary of Commerce for domestic and international business, went so far as to accuse a Common Market trade mission that was here last week of giving newsmen a false report of the United States position on a number of trade issues.

As for Japan, he made public a letter, previously private, from Joseph S. Wright, chairman of the board of Zenith Radio Corporation to Secretary of Commerce Maurice H. Stans.

Mr. Wright said his industry "is engaged in a life-and-death struggle with the Japanese," and complained bitterly that his company had been kept out of the Japanese market "by denial of import and exchange licenses."

Mr. Wright said that his company's employment in the United States would be "down an average of 3,000 jobs in 1970 against 1969" and added that "due to seniority, 38 per cent of those laid off are blacks."

Mr. Davis told of the letter in a speech to the Electronics Industries Association here.

He was particularly critical of a group of European countries that he said were "about to impose a new nontariff barrier against the electronic component industry."

This results, he said, from a new accord between France, Germany and Britain that "would impose discriminatory inspection standards against outside manufactured components" and could reduce United States exports of these products by "as much as 35 per cent."

In running through a long list of complaints that he said were presented to the Common Market delegation last week, Mr. Davis said:

"Congress is not likely to repeal the American selling price system [of customs valuation] for chemicals just as Europe sets up a new nontariff barrier against the American electronics industry. Although the tripartite accord is technically not a Common Market proposal, we could not understand why Common Market officials appeared unwilling to intercede to stop the setting-up of this new barrier to free trade."

Basing his remarks on news accounts he had read of last week's meetings, Mr. Davis said:

"The Europeans appear to have misunderstood what we were trying to say to them."

At the Commerce Department at least, Mr. Davis said, the Common Market delegation was asked to stop "meddling" in the negotiations on textile imports "at this late date," was told that the United States viewed with "grave concern" some recent Common Market trade agreements with European and Mediterranean countries and was reminded that the United States "considers European border taxes a major nontariff barrier."

Citing other items such as the Common Market's farm policy, Mr. Davis said:

"As you can see, we appear to be far apart in our thinking. What could be particularly troublesome is that there does not appear to be recognition by the Europeans that there are serious differences between us which need attention now."

Europe and Japan, he said, "are failing to realize that sentiments like those expressed by Mr. Wright are becoming wide-spread here." They are not "protectionist" sentiments, he continued, "but rather an insistence that our Government obtain fair and equitable trading terms with other countries."

[From the Washington Post]

U.S. OFFICIAL WARNS JAPAN, EEC ON TRADE

(By Jan Nugent Pearce)

A high Commerce Department official bluntly warned Japan and Western Europe yesterday they must give fairer, more competitive treatment to American products sold in their marketplaces.

Assistant Commerce Secretary Kenneth N. Davis, Jr., cautioned U.S. trading partners not to underestimate the intention of the Nixon administration and American industry to achieve that goal.

Davis insisted there could be no return to protectionism. But the failure of Japan and European Common Market countries to liberalize their trade restrictions could trigger passage of quota legislation here, he said.

SEEKS BETTER DEAL

U.S. government, business and labor must close ranks to press for a better deal in world trade, Davis said.

The remarks, at a meeting of the Electronics Industries Association here, followed previously promulgated administration policy. But the language was the bluntest statement of U.S. trade aims to date.

"For the benefit of all the world's trade, it is time for Japan and Europe to respond more fairly than heretofore to 20 years of U.S. leadership in expansionist world trade policy!" Davis contended.

AGREES WITH BUSINESS

The assistant commerce secretary hinted that he agreed with certain U.S. business leaders' criticism that the government has not pressed hard enough to obtain "fair, competitive conditions for American industry in world trade."

The official also decried the lack of progress made in talks with a Common Market trade team here last week. Davis termed it "troublesome" that the Europeans fail to recognize "serious differences" between the two trading areas need attention now.

While European officials call for repeal of U.S. trade barriers, they are about to erect a new one discriminating against the American electronic component industry, Davis reported.

NEW AGREEMENT

A new agreement between France, Germany and Britain would impose "discriminatory inspection standards" against U.S. electronic components, Davis said. The accord could reduce U.S. exports of electronic components to Europe by 35 percent, the official estimated.

Reporting on European Economic Community-U.S. trade negotiations, Davis said, "We appear to be far apart in our thinking."

He also took issue with the more sanguine outlook expressed by EEC officials at a press conference here last week. After reciting various press accounts of that session, Davis said: "Frankly, it is hard for me to believe that this is an accurate report of the Common Market's understanding of the U.S. government attitude."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

VOTING RIGHTS ACT AMENDMENTS OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 534, offered by the Senator from North Carolina, to the Scott-Hart substitute amendment, No. 544.

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

The ACTING PRESIDENT pro tempore. To which side will the time be charged?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The Legislative Clerk proceeded to call the roll.

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

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

AMENDMENT NO. 534

Mr. ERVIN. Mr. President, my amendment No. 534, which is now pending before the Senate, is extremely simple. The amendment reads as follows:

SEC. —. That section 4(b) of the Voting Rights Act of 1965 is amended by striking "November 1, 1964" wherever it appears and substituting therefor "November 1, 1968," and by striking "November 1964" and substituting therefor "November 1968".

Mr. President, the Voting Rights Act of 1965, which is proposed to be extended for 5 additional years, condemns six Southern States and 39 counties in a seventh Southern State—namely, my State of North Carolina—on the basis of two facts. The first fact is that they had and used the literacy test on November 1, 1964; and the second fact, which is alter-

native in character, is that they either had less than 50 percent of the voting age population registered on that day or less than 50 percent of their voting population actually voting in the presidential election a few days later, that is, the presidential election of November 1964.

Mr. President, I have pointed out in previous arguments that there really is no rational relationship whatever between the failure of 50 percent of the people of a State of voting age to register, or the failure of 50 percent of the people of voting age to go out and vote in a presidential election and the inference which this act draws from one or the other of those alternative facts that the failure in registration or the failure in actual voting was caused by a violation by the States, or the counties, or their election officials, or the people of the provisions of the 15th amendment which provides that the right of a person to vote shall not be denied or abridged on account of his race, color, or previous condition of servitude.

This is true simply because a State, or a county, or the election officials of a State or county cannot compel any American to take the trouble to register to vote or to take the trouble to vote in a presidential election after he has been registered. Here these alternative conditions are used to condemn a State or a county in a State and as a basis for denying a State or the county the power to exercise constitutional rights secured to it by at least four separate provisions of the Constitution.

During prohibition days my father, who was somewhat opposed to prohibition, used to say that John Barleycorn had more enemies in public and more friends in private than any gentleman of his acquaintance. I wish I could put the Constitution of the United States on a plane with John Barleycorn today. I would say that, judging by the proposal to extend the Voting Rights Act of 1965 and the proposal that Congress usurp and exercise the power of the States to prescribe the residential qualifications for voting for presidential and vice-presidential electors, and the proposal that Congress usurp and exercise the power of the States to prescribe the age at which persons shall be eligible to vote, the Constitution of the United States has an abundance of enemies in public and very, very few friends either in public or in private.

I am constrained to draw the conclusion that the Constitution of the United States is in about as low a repute in the Senate of the United States at this moment as it was in the Supreme Court of the United States when it handed down the decision in South Carolina against Katzenbach and Katzenbach against Morgan, and that means that its supporters here are too weak in number or oratorical ability to do much to save it from destruction.

Some years ago the late distinguished Senator from Illinois, Mr. Dirksen, had a resolution pending in the Judiciary Committee to set aside a certain week in September as Constitution Week. He was seated on the opposite side of the table from me, and he made this inquiry of me before the committee began its deliberations: "I trust that you will support my resolution to set aside a certain week in September as Constitution Week." I said, "I certainly will. I have always believed that we ought to pay homage and tribute to our beloved dead."

There is an old expression that sauce for the goose ought to be sauce for the gander. The Voting Rights Act of 1965 condemns six States and 39 counties in my State to what they call a triggering device based upon a formula. If a failure to comply with that formula in the presidential election of 1964 was sufficient to justify the conclusion that those six States and the 39 counties in my State were guilty of violating the prohibition of the 15th amendment, then the reverse of that formula—that is, compliance with that formula in 1968—ought to be sufficient to justify the conclusion that in 1968 and in 1969 and in 1970 those six States and the 39 counties in my State are not guilty of violating the prohibition of the 15th amendment.

In other words, if 2 plus 2 made 4 in 1964, then 2 plus 2 ought still to make 4 in 1968. And all my amendment does is to say when a fact justified a certain conclusion in 1964, then the reverse of that fact ought to justify a contrary conclusion in 1968.

If the Senate of the United States believes in fairness, and believes in justice, then it will vote for my amendment. If the Senate believes that a State or county ought to be condemned on a certain basis in 1964, and ought to remain condemned when the basis is entirely removed in 1968, of course the Senate has the power to vote against my amendment.

However, I respectfully submit that a legislative body which believes in fair play and in justice ought to be consistent, and that when a formula in 1964 condemned a State or county, the reverse of that formula in 1968 ought to exonerate a State or county of wrongdoing.

That is the whole question involved in this amendment. I could argue the amendment at great length, but the whole question is whether 2 plus 2 made 4 in 1964, and whether 2 plus 2 make something quite different in 1968.

Some Senators asked me how many States or how many counties the adoption of my amendment would release from the coverage of the Voting Rights Act. I do not know. Frankly, I do not think that is the question. I think there is a question of principle involved here, not a question of how many are going to be damned or how many are going to be exonerated by the adoption of the amendment.

I will say that my State had a very high voting record in 1968 and that some of the counties which were covered under the 1964 application of the formula will be released. But certainly, if it is a meritorious thing for States to increase their voting records or for counties to increase their voting records, they merit commendation for so doing, instead of condemnation.

As a matter of fact, North Carolina has been constantly increasing its voting record in the numbers going to the polls in recent years, whereas the United States, as a whole, has been constantly going down in the percentage of persons voting in presidential elections. The United States, as a whole, reached the lowest point in recent years in 1961, and North Carolina reached its highest point in recent years in 1960.

North Carolina did that notwithstanding that in many areas of North Carolina we have one-party counties. Prior to the Civil War, North Carolina had a strong Whig Party, and contests between the Whigs and the Democratic Party were very hard fought, and oftentimes close. As a result of the fact that during Reconstruction the Republicans in Congress passed legislation similar to the Voting Rights Act of 1965, which was directed solely toward the Southern States, most of the people of North Carolina united themselves with the Democratic Party. And as a result of that fact, large areas in North Carolina constitute substantially one-party areas.

The question of who is going to be sheriff of a county, or who is going to represent the county in the State senate or in the State house of representatives, or who is going to serve as clerk of the superior court, or who is going to serve on the board of county commissioners, is determined in the primary, because the people in a county such as that do not go out in large numbers to vote in a general election, because when a person is nominated in a primary in a one-party area, he needs only one vote to get elected in the general election; and he is not going to extend himself, he is not going to spend money, and he is not going to agitate to get large numbers of people to go to the polls and vote in the general election. For that reason, it is not fair to compare the voting record of States having large one-party areas with those where the election is exceedingly close between the two parties.

Nevertheless, North Carolina's record in voting has been improving constantly, while that of the United States as a whole has been going down. And the truth of the matter is that there has been no charge against my State, so far as I know, of any discrimination in registering or voting at any time within recent years, on the basis of race.

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

Mr. ERVIN. And it is a gross injustice to my State to keep under the Voting Rights Act those counties which met the formula in 1968; and it is a gross injustice to take counties like Cumberland, Onslow, and Craven; and count all of the soldiers, sailors, and marines and their wives as constituting part of the voting population of North Carolina in order to condemn those three counties and deprive them of their right to exercise their constitutional powers.

I am delighted to yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I shall vote for the Senator's amendment. I am satisfied that it is right. The Senator need make no further explanation to convince the Senator from Louisiana that his amendment ought to be agreed to.

I would hope that we might make a record that might attract the votes of some Senators who perhaps are not present at the moment, or may drift in during the course of this debate, and demonstrate to them that they should vote for the amendment, even though they may come from some other section of the country and see the provision differently from the people of the State of Louisiana or the State of North Carolina.

I would like to ask the Senator how his amendment would apply—and I hope he will direct his remarks, in answering, to those who want to be sure that the voting rights of all citizens will be protected—in Louisiana, let us say, with regard to some charge that someone might be denied the right to vote in the future, if this amendment should be agreed to. Will the Senator explain how the mechanics would work, under his amendment?

Mr. ERVIN. For the future, the adoption of this amendment would release from the coverage of the act those States and those counties which, in the 1968 election, complied with the provisions of the 1964 formula or triggering device—that is, those States which are now covered, but which voted as much as 50 percent of their voting age population in the presidential election of 1968, and those counties located in such States which voted as much as 50 percent in 1964, which also voted as much as 50 percent in the presidential election of 1968.

I might state to the Senator from Louisiana that the amendment leaves a multitude of statutes on the books to prevent discrimination in violation of the 15th amendment, in these States as well as in other States involved. For example, there are laws on the books which make it a criminal offense, punishable by a fine or imprisonment or both, for any election official willfully to deny any colored person the right to vote on account of his race. There are statutes on the books which would authorize any individual who is threatened with a denial of the right to register or the right to vote to bring a suit for injunctive relief, and obtain an injunction which would secure the right to him. There are statutes upon the books which give any citizen who was actually denied the right to register or to vote the power to bring a suit and collect damages against the offending election officials. There are statutes upon the books which allow the Attorney General of the United States to bring a suit in behalf of any individual who is threatened with the loss of the right to register or the right to vote, and to bring such suits wholly without expense to such citizens, and at the expense of the taxpayers of the United States, to secure injunctions under which a citizen's rights can be made secure.

In addition to that, there will be provisions left under which the Attorney General can procure the appointment of Federal registrars to go into any of these States or any of these counties and actually register the voters, and to compel the local officials to permit them to vote in local elections as well as in national elections.

Mr. LONG. Mr. President, if the Senator will yield further, may I say to the Senator that as far as I am concerned, I come to this problem with clean hands. I have never participated in any respect in any device to prevent any citizen from voting, and, quite to the contrary, back in the days before the passage of the 1965 Civil Rights Act occurred, I made public statements in my own State and was condemned by local officials—in one instance by all of the local officials of a State judicial district—for a statement that it is just not right to engage in any device to deny a qualified citizen his right to vote. I went on the program named "Meet the Press" and someone asked me, in 1964, if I could support any kind of a voting rights bill, and I said I certainly could, but it would have to be one that would be fair, one that I thought was a proper voting rights bill. I was dismayed that the administration came down with one I could not vote for. I would have been perfectly prepared to vote for some reasonable bill; but a bill that legislatively finds five States guilty where a logical application of the same principle would have found 10 States guilty, let us say, is unfair, particularly when it does not undertake to properly exempt those people who have done no wrong from the application of the statute.

What the Senator is saying is that today we are looking at a situation where the facts complained of do not exist. When I was discussing the situation in 1964, I could point out counties in my own State where Negroes were being discriminated against. I cannot do that today. Under those circumstances, it is totally unfair to have a legislative finding of guilt in 1968 when the State has served its sentence out, starting in 1965.

Mr. ERVIN. And it is particularly unfair, in my judgment, to have a legislative determination of guilt when the legislative body that adopted that procedure denies the people the right to go into court and establish their innocence in a court near where their witnesses are available, but, on the contrary, in the case of many parishes in Louisiana, for example, would require them to journey 1,000 miles to the District of Columbia in order to establish their innocence from a conviction which, I maintain, was visited upon them in violation of the provisions of the Constitution, which says that no bill of attainder shall be passed. The Supreme Court, of course, modified that provision of the Constitution. They have usurped and exercised a presumed authority to change its meaning, because they have now said that no bill of attainder shall be passed unless it is directed against a State or State officials, or the people of certain designated States, whose guilt has been predetermined by Congress.

Mr. LONG. It would seem to me that if you are going to pick out five States or seven States for a so-called legislative finding of guilt, and sentence them to serve a sentence under that finding, which is virtually the same as a bill of attainder, if you are going to do that kind of thing, when they have served out their sentence and when they have committed no further crime, one could hardly justify voting a further finding of guilt for something that happened back in 1964, if it has not happened since 1965.

Mr. ERVIN. In 1964 they exempted 43 States from the coverage of this act. All I am asking in my amendment is that those States and counties which have come up to the standard which exempted these 43 States be treated exactly like these 43 States are treated. After all, it is a familiar constitutional doctrine that the States of the Union have equality of rights and of powers. Any decision to the contrary is insupportable under the Constitution, because the Constitution gives every State in the Union identically the same power.

Mr. LONG. The Senator will recall that we saw at least a modicum of justice and fairness in the Senate at the time the 1965 Voting Rights Act was passed. This Senator explained that the bill would have made subject to this act a number of counties where 100 percent of all the Negroes of voting age were registered, and it is difficult to contend that a State should register more than 100 percent. That would be corruption by definition. That being the case, a county in which 100 percent of its Negro population of adult age had registered should not be punished under that act, by any stretch of the imagination.

Then the manager of the bill, the Senator from Michigan (Mr. HART), was willing to accept an amendment I proposed that provided that if a certain percentage of the Negro citizens registered and if there was no showing of any discrimination or showing of discrimination that had not been corrected, the Federal registrars could be removed. The State or country would have to come to the District of Columbia, but there would be some relief if a court would do its duty under the law to be fair and judicious. There was at least some modicum of justice in the Senate at that time, when confronted with compelling logic.

I submit to the Senate that it is appropriate to ask that the same sense of consistency and justice should prevail in the Senate on this occasion if there is no showing that anybody has failed to comply with the law. If the States toward which this law is directed are in compliance, they should be treated the same as all other States and should not be punished for something for which they have already been punished.

Mr. ERVIN. Certainly it would seem logical as well as fair and just that if this state of facts merits condemnation, exactly the reverse of that state of facts would merit commendation.

I know that the Senator from Louisiana and the Senator from North Carolina, throughout their political careers, have advocated that every qualified citizen of any race should be allowed to register and vote and that any election official who willfully denies him that right should be put in jail. They should be prosecuted, instead of laws like this being passed, which condemn the innocent instead of the guilty.

Mr. LONG. Mr. President, this Senator has from time to time thought that perhaps we ought to just require that some Federal official go down the road and register everybody he finds qualified, at their residence; that at election time

we have the Australian system and fine a person $5 if he fails to vote. That would make them go out to vote. Look them up, drag them out of bed to register if need be, and fine them when they do not vote.

If you are going to do that, you ought to do it uniformly. This is one government. That is one thing the South learned the hard way. I would not have advocated the Civil War had I been here at the time. For the most part, my forebears had no slaves and thought it was a rich man's war and a poor man's fight. They would have nothing to do with it. At the same time, the principle decided was that it was one nation. If we are one nation, the law should apply uniformly. Can the Senator see any reason why it should be any different?

Mr. ERVIN. One of the tests of the wisdom of a law—and it used to be, under the Constitution, one of the tests of the constitutionality of a law—was whether it applied in like manner to all people in like circumstances. This law does not do that. This law is a sectional law. It was designed to be a sectional law, and it was so designed that they could predetermine who would be convicted under it.

The State of Texas, for example, has a voting record far inferior to that of Louisiana.

Mr. LONG. And that was the case at the time that law was passed, the Senator will recall.

Mr. ERVIN. Yes, we called attention to it. But the administration had the idea at the time that there was some political mileage to be gained by browbeating Louisiana, North Carolina, and the other States.

Mr. LONG. And exempting Texas.

Mr. ERVIN. And exempting Texas. So we got a formula that would exempt Texas.

To indicate how sectional the law is, they also provided that the Attorney General should be authorized to permit any State to be released from the application of the act by a consent judgment in the District Court here. That means a judgment entered without any contest and without any proof of innocence of the presumption raised against them. The Attorney General of the United States, so far as I have been able to ascertain, entered a consent judgment to release every State and every county in every State from the application of this act if that State and that county lay outside the boundaries of what we would call the 11 States of the Old Confederacy.

Mr. LONG. When that law was put on the statute books, Louisiana had no poll tax. We had abolished our poll tax more than 20 years prior to that. Texas was still operating under a poll tax and trying to keep it. When that bill was passed, Louisiana had a higher percentage of its people registered to vote than did Texas. I believe that by any fair standard one would pick, Louisiana had a better record on voting rights than did Texas.

In order to put Louisiana under it and leave Texas out, they had to come up with something to try to distinguish the two, and the test was the number of people voting in a particular presidential election.

As a practical matter, in that particular election, in that particular year, Texas was a pivotal State. Everybody knew that the outcome in Texas might very well determine who was to be President. It was well agreed that it would not make the least difference in Louisiana whether one voted or not, because if the Republican Party carried Louisiana on that occasion, it would be such an overwhelming landslide that it would not make any difference whether or not one voted. Texas historically had been one of those States which would be more inclined to go Republican than would Louisiana—far more so—in the event that the Republicans had a chance to win or that the Democrats had a chance to win in a close race. What difference does it make whether people go out to vote when it does not make any difference anyway, if one side gets about two-thirds of the vote and the other side one-third?

By contrast, where it would make a real difference to a citizen in Louisiana would be in the primary election of our Governor's race. Test our Governor's race, primary elections, against theirs, and in our case it would be the primary in which 99 percent of the people were registered. Test us primary for primary or test our biggest turnout against theirs.

They had to pick about the only race—and that is the one they did—in which Texas appeared to bring out more voters than did Louisiana.

As the former Senator from Virginia, the late Harry Byrd, Sr., explained on the floor of the Senate, it was ludicrous the way they undertook to put Virginia, one of the first States of the Union, which produced the author of the Declaration of Independence, into that category and leave Texas out. It was about as ridiculous as the mind of a man could contrive, and I understand that that injustice is still to be perpetrated under this bill.

Mr. ERVIN. That is true; Virginia is still totally covered by this bill.

One of the logical things to have done would have been to say that the State that had a poll tax, in which less than 50 percent of its voting population voted in the presidential election of 1964, should be condemned. But if the law had been phrased in that way, they would not have covered Louisiana and would not have covered North Carolina, because Louisiana and North Carolina many years before—in the case of North Carolina 45 years before—had abolished the poll tax as a prerequisite to voting. But that kind of bill would have caught Texas and, of course, the President, being a native of Texas, and the Attorney General of the United States being a native of Texas, could not have afforded to be caught by an artificial law so they had to get some other States, like Texas, to go free.

Mr. LONG. I do not care to single out any one person and certainly would not want to call names in regard to what I am going to say, but I can recall distinctly some of the civil rights measures when I heard one of my fellow Senators at that date explain to the President of the United States somewhat in this way:

"Now, Mr. President, you must understand this civil rights stuff is intended for the South. It is not intended to apply in our State because that could give us all kinds of headaches if the same laws were to apply in my State."

As one who is interested in the civil rights of Negroes, why would that Senator not be interested in the civil rights of his own people? Why would he want to have something for another State and be so zealous for the civil rights of Negroes in other States, like the Negroes in my State, whom I am representing the best way I know how, that that Senator would not like to have his own people have some of it?

In Caddo Parish in Louisiana, they were not satisfied that enough of the minority of citizens had been registered and without anyone standing in line, they nevertheless sent Federal registrars into the parish to go into the precinct to bring people out and register them.

If Senators want to show that kind of solicitous concern for Caddo Parish in Louisiana, why not show that same kind of concern for their own people and help their own people to register in their State?

Can the Senator explain why one would be so zealous as to the rights of a minority group in a distant State that they would not want to permit their own minority groups to have the same benefits?

Mr. ERVIN. Two things account for that. One is that it is not politically profitable to do any reform at home. Another is that if a man looks at the supposed sins of someone way off somewhere, it acts as a sort of opium and blinds him to the sins on his own doorstep.

I wish I could worry about the sins of someone far off because then I would not feel too badly about some of the things in North Carolina that need correcting. If I could just worry about the sins of Illinois or New York or California, I could blind myself to the need for correcting some of the things which afflict North Carolina and I would have a more peaceful existence. It certainly is more pleasant to weep about the supposed sins of someone else way off in the distance than it is to weep about the sins on our own doorstep.

Mr. LONG. That reminds me of the story of a man who had such a difficult problem that was troubling him that he went out to seek the answer. He went all over the world, north, south, east, and west, trying to find the answer to the perplexing problem which was driving him wild. He finally had to return home without the answer and then found it one night as he was reading his Bible. The answer had been there, in his own house, all the time, after he had searched the world over to find it. If some people would look homeward sometimes, and I applaud some of those Senators who look at some of the problems with courage, fortitude, consistency, and honor, and stand up here on the floor of the Senate and say, "Yes, sir; if that principle is right, it

should apply to me as well as it should to you"—how much better that would be than those who stand up and point the finger of scorn, even when it is not justified, without looking at the mischief in their own backyards.

Mr. ERVIN. There is a story in the Bible, of course, about the Pharisees who thanked God that they were not like other men. There are too many politicians like that, who stand up and say, "Thank God we are superior to the southerners. Let us devote our attention to improving them instead of engaging in any self-improvement."

Mr. LONG. There is the admonition to he who would find the mote—which I understand to be a mere speck of dust and almost imperceptible—in the eye of his neighbor, while ignoring the beam—which I understand to be a piece of construction timber—that was in his own eye. The suggestion was that he should first remove that beam from his own eye and then, perhaps, he would be able to take out the mote from his neighbor's eye. I say that to my good friend as one who comes with clean hands to this matter, as one who knows what should be done about it.

As the Senator knows, I come from a family which removed the poll tax in Louisiana long before other States did.

Mr. ERVIN. The Senator from Louisiana shares the conviction of the Senator from North Carolina that the best way to clean up a household, whether it is in a house or a State, is for the people in that State to do it.

For that reason, I have never succumbed to the temptation to try to pass laws that would be enforced in other areas of the country.

I think it will be a happy day when all Senators will come to that conclusion, because then we will pass laws which will be uniform in application, and we will see to it that they are applied in a uniform manner so that all laws can apply in like manner to all people in like circumstances, regardless of the area of the country in which they happen to live.

Mr. LONG. I thank the Senator from North Carolina.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of neither side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HOLLINGS in the chair). Without objection, it is so ordered.

Mr. HART. Mr. President, first, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. HART. Is the amendment now pending numbered 534?

The PRESIDING OFFICER. No. 534; the Senator is correct.

Mr. HART. Do I correctly understand that on Thursday of last week the yeas and nays were ordered on this amendment?

The PRESIDING OFFICER. That is correct.

Mr. HART. Although in the interval the amendment had been set aside, the order for the yeas and nays remains applicable?

The PRESIDING OFFICER. That is correct.

Mr. HART. Mr. President, I believe that the issue raised by this amendment has been discussed several times in the course of the debate. Specifically, on Thursday last, both the able senior Senator from North Carolina and the Senator from Michigan discussed it, and our positions are reflected in the RECORD of Thursday last.

I repeat now, but shall do so only briefly, the reasons the opponents assign against the adoption of the amendment. As the memorandum report filed by 10 members of the Committee on the Judiciary indicates, the means and dates selected for triggering the suspension of tests and devices were chosen because they were a valid indication of practices which had every appearance of violating the 15th amendment.

But the maintenance of a 50-percent measure of participation—registration or voting—was not intended to be a congressional judgment as to an adequate level of political enfranchisement. Nor did Congress find, when it enacted the means for determining coverage under section 4(b), that this same percentage would serve also as a criterion for determining when past practices had been sufficiently eradicated, and warrant removing safeguards which had made the progress and improvement possible.

We argued that the improvement in voter registration and turnout in the 1968 election, which would be the basis for the formula if the amendment now pending were adopted, reflects the effectiveness of the suspension of the tests and devices; the use or, at least, the availability for use of Federal examiners; and the requirement that States and local subdivisions submit changes in voting laws to the Attorney General or to the U.S. District Court for the District of Columbia.

We made the point, and have in the course of this debate, that there have been instances in which State legislatures have, since 1965, sought to enact new laws intended, it would appear, to keep down the number of registered Negro voters. This performance would not give basis for a conclusion that the progress shown in 1968 in the covered States represents gains so solid that they would not be undone by new practices and procedures.

In the debate last Thursday, the Senator from Michigan enumerated the States which had, in 1968, maintained acts and devices defined in the act. Only two—Georgia and South Carolina—had voter turnouts, in that year, of less than 50 percent.

In several of the remaining 19 States there are political subdivisions in which the turnout rate was less than 50 percent. If 1968 is used as the triggering year, which would be the effect of the amendment now pending, three States which have a history of persistent offenses prior to the 1965 act would not be covered. It is from these three States since 1965 act has been passed, one finds a majority of the proposed changes in voting laws under section 5 sent to the Attorney General which have been objected to. These States would be able to enact devices to disenfranchise or dilute the Negro vote. In addition, 22 counties cited by the U.S. Commission on Civil Rights in its 1968 report would not be covered, and some of the abuses include more than merely a modification of statutory language; they include violence.

It is perfectly fair to ask what kind of civil rights law it is that would eliminate, omit, and withdraw Hinds County, Miss., which includes Jackson, or Plaquemines Parish, La., Dallas County, Ala., which includes Selma, and Loundes County, Ala.

Mr. President, this is the amendment which more than any other amendment, I suggest, would gut the 1965 act of its effectiveness. Those who feel that the 1965 act represents the most effective legislative response this country has ever seen in our effort to deliver on the promises of the Constitution, as I do, and as I think history will show, should reject the amendment now pending.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, is there controlled time?

The PRESIDING OFFICER. There is controlled time.

Mr. JAVITS. Will the Senator from Michigan yield me 5 minutes?

Mr. HART. I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, as a Senator who participated actively with respect to the Voting Rights Act when previously considered by the Senate, I have considered the pending amendment probably the ideological key to the whole situation, because what we are asked to decide as to the Voting Rights Act of 1965 is whether it was the purpose and intent of Congress to set a 5-year period during which, if the voters on the rolls went above 50 percent, that would be the end of the effort to correct an admitted situation of discrimination in respect to voting rights which the act found as a fact, or whether there was no such fundamental concept in the 1965 law.

My own feeling about the matter—and I was here and intimately involved in the passage of that law—was that it would depend upon events; and it seems to me that this issue has now been very definitely decided by events, and that the events justify the purpose of the statute. Even the administration has the same purpose, though many of us feel that it intends to dilute the effectiveness of the law by other changes. But the mere fact

that they would propose that the Voting Rights Act be extended would seem to me to indicate a clear attitude on their part, as well as on the part of people like myself, that the process by which we sought to restore the full franchise in States where it had been denied on grounds contrary to the Constitution has not yet been fulfilled.

I call special attention to page 665 of the hearing record, which to me is very significant, showing a list of cases with respect to the applicability of section 5 of the act relating to alleged laws passed by States, or practices engaged in by States, which would tend toward a denial of the equal opportunity to vote.

One thing, Mr. President, which to me, always distinguished the Voting Rights Act, as contrasted with the other civil rights laws which we have passed, was that I felt there was quite general agreement, even by those who strongly opposed other civil rights measures, that certainly the right to vote was a way in which a tremendous number of injustices could be redressed without running afoul of the feeling which many held sincerely, and very sincerely argued in this Chamber, that other measures were unconstitutional in their view—though the court has held them to be constitutional—or were inadvisable in terms of policy, or represented coercion. Certainly the general feeling, as I always detected it, was that through the exercise of the power to vote, a whole people, to wit, the black people, could be lifted out of the slough of despond in which so many found themselves.

Therefore, I believe that the Voting Rights Act should be an object of special care for Congress. I believe the fact that there have been a number of cases, still indicating an effort to interfere with voting rights, as well as the fact that in some few cases—in the case of two States, to be precise, now—the 50-percent statute has not yet been attained, and that in at least three other States of those which would be affected, there have been efforts by the legislatures to pass voting laws objected to by the Attorney General under the very protections of this act—is proper evidence, especially since this also coincides with the findings of the U.S. Civil Rights Commission with respect to a considerable number of counties—22 to be exact—where specific incidents are reported as early as the 1968 report of that commission, of a very serious character, relating to efforts to deny the equal opportunity to vote—that the factual case is made for extending the act without changing the triggering device.

Of course, the Senator from Michigan (Mr. HART) has already argued the fundamental proposition that the triggering device and the length of time set forth in the act were not designed to be a criterion to determine when the evils sought to be reached——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I ask for 2 more minutes.

Mr. HART. I yield the Senator 5 additional minutes.

Mr. JAVITS (continuing). Had been overcome, but rather an anticipation that it would take at least that time, with the provision that if it took longer or if longer was required, it was then a question for Congress whether the act should be extended and whether a longer time would be given.

It is my judgment that a longer time is necessary, and that the built-in protections of the act, including the declaratory judgments provision, will give, as they have up to now, ample opportunity, including the various other provisions for court review, so that no State and no county can claim that it is locked in without any expectation of being relieved of the inhibitions of the statute, until the statute again expires at the end of another 5-year period.

For those reasons, Mr. President, I think this is a key amendment, one of the really critically important amendments with respect to the effort to extend this law in accordance with the Scott-Hart substitute, and really represents the focal point of factual finding as to experience with the act; and I hope very much that the Senate will reject the amendment.

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

Mr. JAVITS. I yield.

Mr. ALLEN. I would like to call the distinguished Senator's attention to an article published in the Washington Post several days ago, commenting on the effect of this very amendment if it were adopted. Quoting from the article, it says:

> Among Southern States, only South Carolina and Georgia, which had fewer than 50 percent of the voting age persons voting in the 1968 Presidential election, would remain covered. All other Southern States would be free from coverage, although a handful of counties in each would stay covered. Thus, only 9 Alabama counties, 4 Louisiana counties, 15 Mississippi counties, 25 Virginia counties, and 7 North Carolina counties would be covered.
>
> However, some areas which had literacy tests in 1964 and dropped below 50 percent voting in 1968 would be brought under coverage for the first time: one county each in Arizona, California, Oregon, and Idaho; three in New York City—Manhattan, the Bronx, and Brooklyn; and three in Alaska.

I wonder whether the distinguished Senator from New York realizes that if the amendment of the distinguished Senator from North Carolina is adopted, it will bring three counties in the Senator's constituency under the provisions of the act.

Mr. JAVITS. I have been so advised. At the same time, I do not think that that affects the issue at all, because there was never any accusation—and I do not know of any—that the reason why they fell under the 50 percent in terms of voting was attributable to any discriminatory act now or at any time in even the remote past, in terms of voting. However, I deeply feel, without being invidious about this—we all understand that it was based upon a social order which is very different from what the Constitution orders—that in those areas which are reached by the 1964 trigger, there was very clear evidence, thoroughly documented time and time again, fully spread upon the record of Senate debates, that it was a calculated, political, and social policy to bar or discourage the Negro from voting. So I think that we had a right to do what we did. The courts have sustained it. I do not think that the fact that this amendment would draw in three counties in New York is relevant.

Mr. ALLEN. The Senator would prefer not to have them under the act, I assume.

Mr. JAVITS. I do not care. I have made that very clear in Senate debate after Senate debate. I do not exculpate nor exempt my own community at all. Such vestiges of segregation and discrimination as exists there I have fought against all my life, and I will continue to do so. They are reached by law. Discrimination—if any is practiced in New York, the Bronx, or any other county—is entirely reachable by law, by an action in any court.

We are only talking about automatic triggers and about presumptions when we talk about the 1964 trigger. I think it is irrelevant to the argument that the 1968 amendment would draw in three counties in New York which are reachable, anyway.

I think we have to keep our eye on the ball, which is the correction of a situation which went on for years and years. We finally found a way which has registered 800,000 Negroes in the South, and I think that is a good movement for our country and for the South; and I do not want to abort it by bringing in now some extraneous consideration which is not relevant to this issue.

Mr. ALLEN. I should like to ask the distinguished Senator a further question. Even if sections 4 and 5 of the act are dropped from the act, would not the States now covered by the automatic trigger be subject to being reached under the general law, in the same way that the counties in New York may be reached?

Mr. JAVITS. That is exactly right, except for this point: We have a history which has gone on, even during the time that the Voting Rights Act has been in effect, of a public climate and a legislative climate which was geared toward denying this right if it could. Under those circumstances, I think we are entitled—and the Supreme Court has upheld us in making that kind of law—to take cognizance of that special situation and to try to erect protections against it which are positive rather than negative in their character.

Indeed, the Senator's argument would obtain for the whole attitude of the administration, which people like myself oppose, and so do Senator HART and Senator SCOTT—and we hope the majority of the Senate—in that they are seeking to drown this enforcement proposition in a countrywide approach which eliminates and overlooks the fact that you did have a history of discrimination against the voting rights for blacks which went on for years and years, which is hard to root out, and it is not yet rooted out.

I do not expect the Senator from Alabama to agree with me in that, but it is my duty to make the affirmative point.

Mr. ALLEN. The Senator, then, would not be willing to see the State of Alabama covered by the same provisions of law that apply to the State of New York?

Mr. JAVITS. Because I think that if

we did make the change which the Senator has asked for, which is not the same provision of law—it only involves a series of presumptions which can be overturned in court—but if you did that, you would fly in the face of reality, and we do not fly in the face of reality here.

The Senator might as well tell me that if I pass a law for farm subsidies, it is not going to help New York very much but will help the cotton growing States, and, therefore, I should be against it. I think we have to legislate for what is best for the Nation, even though it may bear more heavily on one section than on another. That is the argument that the Senator from South Carolina would have made, if he were here, against the Civil Rights Acts going back to the first one in 1957. I understand that. But we cannot agree. And we honor him for being the stubborn fighter he is. But he is not going to draw me into the trap of saying that the situation in New York with respect to any inhibition on the opportunity to vote is analogous to that in a southern community where for years and years and years, to the extent of even lynching and murder, the right to vote was sought to be inhibited.

Mr. ALLEN. Mr. President, will the Senator yield further?

Mr. JAVITS. I yield.

Mr. ALLEN. Yet, the act requires, demands, accepts, and receives no proof of discrimination by the Southern States involved and convicts them of discrimination by a mathematical formula. Is that correct?

Mr. JAVITS. It does not convict them. It establishes a presumption, because the courts have sustained us in finding that, as a matter of reality, unless you did establish a presumption which had to be rebutted, it was practically impossible to prove these cases, so much was law in a conspiracy with the social order to perpetuate these discriminations. They are not convicted. It is a presumption. They can get out of it, and there are ample court proceedings for the purpose. But the presumption, I think, is a legitimate one, and the courts have sustained the law.

Mr. ALLEN. The Senator speaks of rebutting that presumption. Is not a State required to wait for 5 years before it goes into court and seeks to have that presumption rebutted? It has to prove nondiscrimination for a period of 5 years.

Mr. JAVITS. Again, the courts have sustained us in the view that, so long was the history of discrimination, we had to have a reasonable experience with nondiscrimination before the presumption could be rebutted.

Mr. ALLEN. I should like to raise another question, if the distinguishel Senator would yield.

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

Mr. JAVITS. I yield.

Mr. KENNEDY. There were a number of communities, like Alaska and some counties in Idaho, that escaped without waiting any time, because it was believed, and it was a finding, that the literacy test was not used as any means of discrimination. So that there were those procedures for a number of the communities in Alaska and a number of counties in Idaho to escape immediately.

Mr. JAVITS. Exactly.

Mr. KENNEDY. Without waiting a 5-year period.

Mr. JAVITS. We argued that when the bill was up.

Mr. ALLEN. The distinguished Senator has referred to the fact that the Voting Rights Act will expire if not renewed and that if the Scott amendment is adopted, it will expire at the end of 5 years. The Senator from Alabama is desirous of having cited to him any provision in this law as it now exists, or as the Scott amendment provides, that calls for an expiration of this law at any time.

I ask the distinguished Senator from New York to refer the junior Senator from Alabama to that citation.

Mr. JAVITS. I have not been following the question of the Senator too closely. As I understand it, the change made in section 4(a) is from 5 to 10 years with respect to this particular presumption. Is that what the Senator is referring to? That is the 5 years and the 10 years to which I am referring.

Mr. ALLEN. That is the very point that the Senator from Alabama would like to call to the Senator's attention. There is no provision whatsoever in the law that the Voting Rights Act of 1965 will expire at any time. There is no provision that sections 4 and 5 will expire at any time. What the Scott amendment seeks to do is not to extend the effective date of the date of applicability of the act for 5 years. What it seeks to do is to change the measure, the degree, or the amount of the proof of nondiscrimination from a 5-year period to a 10-year period so that the entire act as it now exists, or as it would exist under the Scott amendment, is on the statute books in perpetuity.

Mr. JAVITS. In the first place, no act is an act in perpetuity——

Mr. ALLEN. Unless changed.

Mr. JAVITS. It can always be repealed.

Mr. ALLEN. Until changed.

Mr. JAVITS. Until changed.

Second, the Attorney General of the United States cannot be mandated, or have mandamus, to send people into a given State if he does not believe that is required. But the important thing—what I thought we were arguing—is the question of the presumption, whether 5 or 10 years. I think the key point with respect to the amendment is the experience in the period that has intervened since the act became effective, whether justified or not justified. I believe that that experience justified the extension of the period to 10 years. Especially as the Senator from Massachusetts has pointed out, there has been an opportunity, even in the interim, to escape from the provisions of the act, and that has actually taken place in given cases. So, in my judgment, the act contains within itself fair means for dealing with the problem.

I would say, certainly, that the burden of proof would be on us. That is what we are arguing. That is why I stated that the factual situation makes it proper in terms of public policy that the 5-year period be extended to 10 years. So the Senator is entirely within his rights in pinpointing that fact. We must be put to the proof, which we are trying to bear. I believe that we have borne it. I thank the Senator from Alabama.

Mr. ALLEN. Mr. President, on behalf of the Senator from North Carolina, I yield myself 5 additional minutes.

The PRESIDING OFFICER (Mr. HUGHES in the chair). The Senator from Alabama is recognized for 5 minutes.

Mr. ALLEN. I thank the distinguished Senator from New York for his explanation and for his concession that the effect of the Scott amendment is not to extend the provision of the Voting Rights Act of 1965 but is to change those provisions. It is to change the degree, or the measure, or the amount of the proof of nondiscrimination. In effect it is the same as a prisoner being sentenced to prison for a period of 5 years for an offense he may have committed. As the prisoner comes to the end of his 5-year sentence, he thinks he sees daylight and that his sentence is about to expire, about to come to an end. Then the authorities come in and say, "Wait a minute, mister, you are serving a 5-year sentence here for an offense. In the case of the Southern States where there is alleged discrimination, and they have been convicted by a mathematical formula. So they say to the prisoner, "We are going to change your sentence to 10 years."

Mr. President, that is the effect of the Scott amendment. It is a change of sentence. It does not lengthen the term or duration of existence of the Voting Rights Act of 1965. To say that the Scott amendment seeks to extend the same provisions of the Voting Rights Act that we now have, that they say has done so much good down South that we are going to extend those same provisions, is absolutely incorrect, as a casual observer of the language will detect.

There is no indication whatsoever, that one section, one sentence, or any of the provisions in the 19 sections of this act will ever expire. Unless a State takes overt action by going into the Federal court in the District of Columbia to purge itself, to be relieved of this yoke around its neck, the act will apply to that State forever, unless the law is changed.

The effect of the Scott amendment, then, is to provide that a State has got to come in and show 10 years of nondiscrimination; whereas, in 1965, 5 years was deemed to be sufficient. So a change is being made in the basic concept of the law. It is not a mere extension of the existing provisions. It is a great change. It is a doubling of the sentence. It adds 5 years to a sentence that is being served and has almost ended.

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

Mr. ALLEN. Mr. President, on behalf of the Senator from North Carolina, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. ALLEN. It seems fair and right to the junior Senator from Alabama that

the present amendment would update the criteria required for the triggering of the device to provide automatic coverage of the Southern States. It is not fair to continue to humiliate the South. It is not fair to apply to the year 1970 a situation that existed in 1964.

Mr. President, I submit that under the terms of the Scott amendment, if every person of voting age in a State has, since 1965, been registered, and if every person so registered participated in the 1968 election, still, under the provisions of the Scott amendment, which the distinguished Senator from North Carolina seeks to amend, that State, with every citizen registered to vote and every citizen voting, would still be held, as a matter of law, to be guilty of discrimination and to be automatically subject to the provisions of this act.

Mr. President, I hope that the amendment will be adopted. It does release many counties in the Southern States. It would reach out and take in counties in other States that fell below the 50-percent level in 1968, three of those counties being in the city of New York. It is only fair to use 1968 figures, not 1964 figures.

Mr. President, I hope that the amendment will be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 20 minutes.

THE NEED TO KEEP THE 1965 ACT INTACT, AND PARTICULARLY AGAINST SWITCHING THE TRIGGER TO 1968

Mr. KENNEDY. Mr. President, the problem of equal access to the ballot box is not a new one for the Congress or the Nation. A century ago we adopted and enshrined in our Constitution the principle that all Americans, regardless of race, were entitled to participate fully in the electoral process. And it was over a decade ago that President Eisenhower and Attorney General Brownell sent to Capitol Hill legislation which became the Civil Rights Act of 1957, the first of a series of historic measures which have sought to fulfill all of our promises of equality and justice.

Among other steps, the 1957 act established the bipartisan U.S. Commission on Civil Rights, and charged it with the task of investigating and reporting to the Nation on discrimination in the voting process. Over the years, the Commission's findings have revealed a widespread and consistent pattern of discrimination in the registration process, of intimidation against Negro voting, and of interference with political activity by Negro candidates throughout large areas of the South. Until 1965, the only way these abuses could be challenged was through case-by-case litigation. The incidents would have to be brought to the attention of the Attorney General; he would have to find witnesses willing to testify; he would have to delve through all of the voting records, if there were any, to establish the pattern of discrimination; he would have to file suit, frequently in an inhospitable court; and usually he had to carry the matter through an appeal before obtaining a determinative ruling and firm relief. Until the 1960 Civil Rights Act made record-keeping mandatory, the process was almost entirely impossible. And even when the records were required to be kept available, each case in a separte jurisdiction consumed up to 6,000 hours, the equivalent of six men working full time for 6 months.

Obviously, the limited staff of the Civil Rights Division made any effective effort along these lines impracticable. There were too many States, counties and municipalities to be monitored, and even those sued could find new strategems to evade their obligations once a first lawsuit had been completed. Moreover, and most important, even in the jurisdictions which were sued, the abuses continued while the litigation ran its lengthy course, and thus there was no chance at all to provide prompt vindication of rights to political participation in any case.

Congress in 1965 reviewed all of these facts through extensive hearings, through review of the results of the litigation which had been conducted, and through the detailed studies of the Civil Rights Commission. Our conclusions were clear and compelling:

First. Negroes in the South were still being prevented from registering and voting. While 73.2 percent of the white voting-age population was registered, only 33.1 percent of the Negro voting age population was registered, and in Alabama and Mississippi the black registration figures were below 25 percent and 8.3 percent, respectively.

Second. The chief source of electoral discrimination was the literacy test or other similar testing device which allowed white officials to disqualify black voters and qualify white voters. In fact we found that Negroes with advanced degrees were being declared illiterate while whites who could neither read nor write were being accepted for voting.

Third. Supporting this official discrimination was a pattern of semiofficial and private intimidation which made black citizens fearful of exercising their rights even when technically available.

Fourth. The desire to prevent black citizens from voting or holding office was so strong that if the discriminatorily applied tests and devices were eliminated, and even if Federal assistance was provided in registering and protecting black voters, other evasive tactics would be attempted, especially through the enactment of new laws, rules, regulations, and ordinances governing registration, voting, and holding office.

Fifth. Most importantly, case-by-case litigation could not answer the need. Only through a congressional finding of widespread abuse of tests and devices, and a statutory transfer of the burden of proof from the Attorney General to the offending jurisdictions was there any hope of vindicating the promises of the 15th amendment. And only if there was provision for prompt, definitive, and consistent judicial action could these promises be kept in a timely manner.

With these conclusions in mind, Congress enacted the 1965 act and built into it mechanisms which would meet these challenges most efficiently and effectively. The "trigger" mechanism was the most important. We had determined that the use of tests or devices was the primary source of racial exclusion. And we had seen that the result of such discrimination in areas with large Negro populations was a low overall registration rate or voting turnout. Thus we concluded that the combination of the existence of tests and a low registration or voting rate in any jurisdiction, in the last election before the act, would establish a presumption that there had been discrimination in the electoral process, and that new and drastic remedies were called for.

The two key facts about the trigger are, first, that it was reasonable, logical, and accurate, and second, that for any jurisdiction where the presumption was inappropriate, there was provided a quick and easy escape route. The logic and accuracy of the trigger is obvious when we see that almost all of the areas where the Federal courts, the Justice Department, and the Civil Rights Commission found discrimination were covered by the criteria. Moreover, very few areas where there had in fact been no discrimination were covered, and those areas quickly availed themselves of the removal provisions by proving that they had not used the tests or devices discriminatorily for the 5 years preceding the act.

Thus, while the trigger itself was national in scope, covering such places as Alaska and counties in Idaho, Hawaii, and Arizona, the impact of the act was felt only where there had been actual discrimination in the use of tests and devices.

It is important to note that the 50-percent trigger was not meant to be a measure of acceptable or unacceptable performance. It was designed and intended to reflect the past history of discrimination in the voting process before the passage of the act. Of course, those who drafted and passed the legislation hoped and expected that the act itself would improve the 1964 registration and voting rates. But such an improvement could in no way contradict the fact that the areas covered by the act were the areas where there had been a long history of discrimination and evasion and intimidation which the act was designed to end.

In the light of this background, and of the 4½ years of experience under the act, it is almost incredible that the suggestion can be made that the trigger measurements should be shifted from the 1964 presidential election to the 1968 election. This proposal has no logic whatsoever to support it; it flies in the face of the legislative purpose for the trigger; it ignores the continuing evidence of discrimination and evasion; and it would remove the protections of the act at the very time they are beginning to have the desired impact.

Of course, there is a slick, superficial veneer of attractiveness to the simplistic proposition that if we used 1964 figures in 1965, we ought to use 1968 figures in 1970. But only 1 minute's thought is required to see the total irrelevance of this nonsequitur.

As I have indicated, the whole purpose of the trigger was retrospective—to designate those areas where tests and devices had been used discriminatorily before the act, that is, while the State and local officials were in what might be called a state of nature, with no Federal constraints other than sporadic, slow, and separate lawsuits. The Supreme Court specifically found that this coverage formula is rational in both practice and theory, and that Congress has acted appropriately in its process of identifying past evils. But, of course, nothing that happened between 1964 and 1968 could have changed the fact that the covered areas were the areas where the most direct and blatant electoral discrimination had occurred before the protections of the act were applied.

It is true, of course, that in some places covered by the act the registration rate and voting rate were both above 50 percent in 1968. Yet, when we consider why this has happened, it is clear that this fact alone has no significance.

In some places, the registration and voting figures have risen in large part because more whites than ever before are voting. The white registration of 73.2 percent in the covered States before the act has risen to 83.8 percent, at the same time as black registration rose from 33.1 to 59.5 percent. Thus although the rise for Negroes is higher as a percentage of the previous figure, over one million new whites have registered as opposed to under 900,000 blacks. Thus, more of the improvement was due to white registration than black registration.

The second reason that the figures have risen is that State and local officials have felt the potential force of the 1965 act and have reluctantly obeyed its mandate rather than invite the presence of Federal examiners and observers by disobedience. For example, in at least one of the covered States there is, fortunately, a State official who has taken the act very seriously. Thus when local officials have come to him with tactics or strategems for diluting the black franchise, he has warned them that continued resistance and evasion would result in a quick and comprehensive Federal entry, and they have relented. Obviously, without the full force of the act to back him up, his powers of suasion would be nil. With the act behind him, he has helped make his State's record one of the better ones.

A third reason for higher registration and voting rates is the courageous and determined work, at times despite an atmosphere of intimidation and direct risks of bodily harm, of Negro leaders and voting rights workers in the covered areas. Obviously, the record is best where they have toiled the hardest, where they have refused to be intimidated, where they have ignored threats to themselves and their families, and where they have succeeded in convincing the people that the Federal Government under the 1965 act will back them up. Surely the fact that the act has enabled this effort to succeed in the face of such odds is an argument for maintaining coverage, not eliminating it.

The fourth reason why the 1968 figures are better than the 1964 figures is that the Federal Government has stepped directly into the registration and voting process. Under the act, when the Attorney General finds that there are continuing problems in insuring 15th amendment rights, he may require the appointment of Federal examiners to register voters and Federal observers to assure fairness at the polls.

This power was designed to cover situations where State and local officials were not sufficiently deterred by the words and self-operating sections of the act and where direct Federal enforcement was required. The power has been used in 64 counties or parishes in five States, where examiners have registered over 160,000 voters and observers have monitored dozens of elections. In the 1968 presidential election alone 530 Federal observers were assigned in five of the covered States. Thus a significant part of the improvement in registration and voting has occurred solely because of direct Federal intervention in the electoral process, intervention which was effective and timely only because of the 1965 act.

It is thus beyond doubt that apart from the irrelevance of the 1968 figures to the purpose of the "trigger," the rise in the 1968 figures bears no relationship to the disappearance of the conditions which the 1965 act was designed to relieve. On the contrary, it is plain that since the higher figures reflect a rapid increase in white registration, the in terrorem effect of the 1965 act on State and local officials, the hard work and courage in the face of danger of black citizens backed up by the act, and the direct registration of voters and monitoring of elections by Federal officers, the facts present powerful evidence that only through full maintenance of the act's coverage can the improvement be maintained, let alone continue upward.

But we need not speculate on the continuing necessity for the act's coverage. The facts are indisputable:

Despite the act, Negro registration is still far below white registration in the covered areas—59.5 percent against 83.8 percent.

Despite the act, discrimination and intimidation and evasion have continued in the voting rights field, and the general atmosphere of resistance to Constitutional demands has increased in many places.

The testimony we received in committee and the evidence presented in the House leaves no doubt that large numbers of State and local officials have attempted to circumvent the act and frustrate its purposes. They have enacted or adopted laws or rules and ordinances designed to reduce the Negro vote or dilute it. In 1968 and 1969, under Attorneys General of both parties, the Department of Justice has found it necessary to object to 22 State and local enactments clearly designed to interfere with Negro voting effectiveness. Registration and polling places have been changed or closed and hours reduced. Incumbent boards have been given the power to switch their own elections from district to at-large. Qualifications for office have been altered and new and more stringent procedures instituted for establishing candidacy. Only because these and other strategems were required to be brought to the Justice Department's attention, and only because that Department had the power under the 1965 act to suspend them immediately, were Negroes able to register, and vote, and run for office on a fair basis in the affected areas. These attempts to evade the Constitution and the act are continuing right now, but the act stands in the way. Any retreat in the act's coverage would bring forth a flood of such attempts, and we would never catch up with them.

The Attorney General's decision to send observers into several counties less than a year ago corroborates the continuing nature of the threat. And the testimony we received, detailing the efforts this past fall to intimidate Negroes from registering by giving them a choice between voting and keeping their jobs, make clear that the threat is not just from polite official machinations, but from a deeply rooted pattern of direct institutional discouragement.

These are the facts. These are the conditions which have persisted for a century, which have been ameliorated for the past 5 years by the act, and which will return in direct proportion to the withdrawal of the act.

And let there be no doubt that switching the trigger to 1968 figures would constitute a wholesale gutting of the act.

States which had 17 of the 22 objectionable voting laws in 1968–69 would be excused.

Nearly two dozen counties which were the sites of specific incidents described by the Civil Rights Commission in 1968 would no longer be covered. These incidents included murders, shootings, violence, and deliberate subterfuges to evade the 1965 act.

Only two States, Georgia and South Carolina, would remain covered as States.

Certainly on no rational basis can those two States remain fully covered while the others now covered are released. Surely, Mississippi and Alabama have established no claim for preferred treatment over Georgia and South Carolina. To let areas out for no good reason would be an ultimate act of bad faith by the Congress toward those who desperately need our support and our assistance. To pull the ground out from under those who have worked hardest to make the system work would surely invite them to work outside the system. To display contempt for those who have sought peacefully to obtain the fruits of our society, by participating in its political processes, could only encourage them to consider other less peaceful means.

Let us remember what is at stake here. On the one hand are the cherished constitutional rights of millions of Americans to register and vote and stand for office and hold office, rights central to our notion of democracy and basic to our goal of ordered liberty. On the other hand is a law which requires State and local officials merely to let those rights be exercised, to pass no laws which interfere with those rights, and to protect their exercise. The covered areas have had 5 years to prove that the trigger was unfairly applied to them, and thus that they should have been left to

vindicate these rights on their own. They have not met that burden of proof and they cannot do so. And we in the Senate should not be parties to any strategem which, without logic or reason, allows them now to return to the abuses of the past.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I wish to ask the distinguished Senator from North Carolina if he is prepared to yield back his time.

Mr. ERVIN. I have been ready to vote for an hour and a half to 2 hours. I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 534. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BELLMON (when his name was called). On this vote I have a pair with the Senator from Texas (Mr. TOWER). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Delaware (Mr. BOGGS) is absent to attend the funeral of a friend.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS) would vote "nay."

The pair of the Senator from Texas (Mr. TOWER) has been previously announced.

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 26, nays 60, as follows:

[No. 88 Leg.]

YEAS—26

Allen	Fannin	Murphy
Bennett	Fulbright	Sparkman
Byrd, Va.	Hansen	Spong
Byrd, W. Va.	Holland	Stennis
Curtis	Hollings	Talmadge
Dominick	Hruska	Thurmond
Eastland	Jordan, N.C.	Williams, Del.
Ellender	Long	Young, N. Dak.
Ervin	McClellan	

NAYS—60

Aiken	Griffin	Moss
Allott	Harris	Muskie
Anderson	Hart	Nelson
Bayh	Hartke	Packwood
Bible	Hatfield	Pastore
Brooke	Hughes	Pearson
Burdick	Inouye	Pell
Cannon	Jackson	Percy
Case	Javits	Prouty
Church	Kennedy	Proxmire
Cook	Magnuson	Ribicoff
Cooper	Mansfield	Schweiker
Cotton	Mathias	Scott
Cranston	McCarthy	Smith, Maine
Dodd	McGee	Stevens
Dole	McGovern	Symington
Eagleton	McIntyre	Tydings
Fong	Miller	Williams, N.J.
Goodell	Mondale	Yarborough
Gore	Montoya	Young, Ohio

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bellmon, against.

NOT VOTING—13

Baker	Jordan, Idaho	Saxbe
Boggs	Metcalf	Smith, Ill.
Goldwater	Mundt	Tower
Gravel	Randolph	
Gurney	Russell	

Mr. ERVIN's amendment was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the District of Columbia.

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

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2910) to amend Public Law 89-260 to authorize additional funds for the Library of Congress James Madison Memorial Building, and it was signed by the Acting President pro tempore.

EXTENSION OF PUBLIC HEALTH PROTECTION WITH RESPECT TO CIGARETTE SMOKING—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a 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. 6543) to extend public health protection with respect to cigarette smoking, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

CONFERENCE REPORT (H. REPT. No. 91—)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 7, 8, 9, 10, 11, and 12, and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health."; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(b) No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this Act."

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"UNLAWFUL ADVERTISEMENTS

"SEC. 6. After January 1, 1971, it shall be unlawful to advertise cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission."

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Federal Trade Commission

"SEC. 7. (a) The Federal Trade Commission shall not take any action before July 1, 1971, with respect to its pending trade regulation

rule proceeding relating to cigarette advertising. If at any time on or after July 1, 1971, the Federal Trade Commission determines it is necessary to take action with respect to such pending trade regulation rule proceeding, it shall notify the Congress of the determination. Such notification shall include the text of the trade regulation rule and a full statement of the basis for such determination. No trade regulation rule adopted in such proceeding may take effect until six months after the Commission has notified the Congress of the text of such rule, in order that the Congress may act if it so desires.

"(b) Except as provided in subsection (a), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

"(c) Nothing in this Act shall be construed to affirm or deny the Federal Trade Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement."

And the Senate agree to the same.

The committee of conference reports in disagreement amendment numbered 13.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
DAVID E. SATTERFIELD III,
PETER N. KYROS,
RICHARDSON PREYER,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
TIM LEE CARTER,
JOE SKUBITZ,
JAMES F. HASTINGS,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
FRANK E. MOSS,
NORRIS COTTON,
JAMES B. PEARSON,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

BACKGROUND

The 1965 act

In 1965, the Congress enacted the Federal Cigarette Labeling and Advertising Act (Public Law 89–92; 15 U.S.C. 1331–1339) and made the Act effective on January 1, 1966.

Under the Act, (1) cigarette packages were required to bear a label stating "Caution: Cigarette Smoking May Be Hazardous to Your Health"; (2) other statements relating to smoking and health could not be required on packages bearing the label set forth in clause (1); (3) until July 1, 1969, no statement relating to smoking and health could be required in any advertisement of cigarettes the packages of which bore the label set forth in clause (1); and (4) the Secretary of Health, Education, and Welfare and the Federal Trade Commission were required to submit reports to the Congress by July 1 of each year with respect to matters of concern to them under the Act.

House action

On June 18, 1969, the House passed H.R. 6543 which amended the Federal Cigarette Labeling and Advertising Act in two respects. Under the House bill the label on cigarette packages was required to read "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health and May Cause Lung Cancer or Other Diseases". The House bill also postponed the termination date on preemption of certain aspects of regulation of cigarette advertising from July 1, 1969, to July 1, 1975. The House bill was made effective on July 1, 1969.

Senate action

On December 12, 1969, the Senate amended the House bill in the following significant respects. The statement required on cigarette packages was amended to read "Warning: Cigarette Smoking Is Dangerous to Your Health". The preemption provisions were revised to prohibit any State or political division thereof from imposing any requirement or prohibition based on smoking and health with respect to the advertising or promotion of cigarettes the packages of which were labeled in accordance with the legislation. In addition, the Senate amendment banned all cigarette advertising from radio and television on or after January 1, 1971, and permitted the Federal Trade Commission to resume its trade regulation rule proceeding relating to cigarette advertising after July 1, 1971, or earlier if advertising practices of the cigarette industry were found to be a gross abuse of the nonbroadcast media.

Except for section 5 of the legislation (relating to preemption) which was made effective July 1, 1969, the Senate amendment was made effective January 1, 1970.

CONFERENCE ACTION

A description of the action of the conferees follows in terms of the Senate numbered amendments.

Amendment numbered 1

This amendment defines the term "State" to include any political division of a State. This amendment was adopted in conjunction with a Senate amendment (see amendment numbered 3) which precludes the States from imposing any requirement or prohibition based on smoking and health with respect to the advertising or promotion of cigarettes the packages of which are labeled in accordance with the legislation. This amendment makes clear that the preemption applies to cities, counties, and other political divisions of the States as well as to the States themselves.

The House recedes.

Amendment numbered 2

This amendment relates to the statement which must appear on cigarette packages. The House provision would have required a label stating "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health and May Cause Lung Cancer or Other Diseases". Under the Senate amendment, the label would have read "Warning: Cigarette Smoking Is Dangerous to Your Health".

The label statement adopted by the conferees is a shortened version of the House provision. The label under the conference agreement would read "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health".

Amendment numbered 3

The House bill contained a blanket preemption (applicable to all Federal departments and agencies as well as State and local governments) with respect to requiring statements relating to smoking and health in advertisements of cigarettes the packages of which were labeled in conformity with the legislation.

The Senate preemption applied only to States and their political divisions. They were prevented from imposing any requirement or prohibition based on smoking and health on advertising and promotions of cigarettes in packages labeled in accordance with the Act. With minor technical amendments the conference version is the same as the Senate amendment.

Amendment numbered 4

The Senate amendment struck out certain language relating to the authority of the Federal Trade Commission. It also struck out the requirement that the Secretary of Health, Education, and Welfare and the Federal Trade Commission submit annual reports with respect to matters placed within their jurisdiction by the legislation. These matters are dealt with in connection with amendments numbered 6 and 7.

Amendment numbered 5

This Senate amendment would have prohibited cigarette advertisements, on or after January 1, 1971, on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, e.g., radio, television, and cable television. The conference agreement is the same as the Senate amendment except that the prohibition applies after January 1, 1971.

Amendment numbered 6

In May 1969, the Federal Trade Commission reinstituted a proceeding which had been originally begun in 1964 for the promulgation of a trade regulation rule providing for a health warning in cigarette advertising. The enactment of the Federal Cigarette Labeling and Advertising Act in 1965 superseded the Commission's trade regulation rule proceeding until July 1, 1969 (see secs. 5(b) and 10).

Senate amendment numbered 6 would have prevented the Federal Trade Commission from moving forward with its trade regulation rule proceeding until July 1, 1971, unless it found that the advertising practices of the cigarette industry constituted a gross abuse of the nonbroadcast media in which case it could resume such proceeding at an earlier date. The Commission was also required to notify the Congress of its intention to resume the proceeding. The notice was required at least 6 months before any resulting trade regulation rule was to take effect and would have required a statement of the reasons for such resumption.

Because of concern on the part of the House managers about the meaning of "gross abuse of the nonbroadcast media" the conference agreement omits those provisions. Thus, the FTC may not resume action on its proposed trade regulation rule before July 1, 1971. Further, the conference substitute makes it clear that the Federal Trade Commission, in addition to including in its notice to the Congress a full statement of its reasons for resuming its proceedings for the promulgation of the trade regulation rule, must also include in that notice the actual text of the trade regulation rule. The notice would be required at least 6 months before such trade regulation rule goes into effect.

Before enactment of the Federal Cigarette Labeling and Advertising Act, the question was raised as to whether the FTC had authority to issue a trade regulation rule to require a health warning in cigarette advertisements. Section 5(c) of that Act made it clear that with the exception of sections 5(a) and 5(b) nothing in that Act was to limit, restrict, expand, or otherwise affect the authority of the Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes, nor to affirm or deny the Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement. Through inadvertence, when Senate amendment numbered 6 was adopted on the Senate floor provisions almost identical to these were omitted.

The conference substitute includes new subsections (b) and (c) for section 7 of the amended Act which are almost identical to the provisions of section 5(c) of the original Act. These provisions make it clear that there is no intention to resolve the question as to whether the Commission has in fact the

authority to issue a trade regulation rule regarding cigarette advertising.

The managers on the part of the House expect that the proceeding described in section 7(a) of the conference agreement will be the only basis on which any Federal department or agency could require a statement relating to smoking and health in cigarette advertising.

Amendment numbered 7

Section 5(d) of the Federal Cigarette Labeling and Advertisement Act as originally enacted required annual reports from the Secretary of Health, Education, and Welfare and the Federal Trade Commission with respect to matters placed within their respective jurisdictions by the Act. These reports were required to be submitted by June 30 of each year.

The Senate amendment places a new section 8 in the Act relating exclusively to the reports of the Secretary of Health, Education, and Welfare and the Federal Trade Commission. The only other difference between this Senate amendment and the original Act (which was not affected by the House bill) was that the Senate amendment required that the reports be submitted not later than January 1, 1971, and annually thereafter.

The managers on the part of the House concluded that with the significant changes now being made in the Act by the conference agreement it is desirable to postpone the reporting deadline to January 1 so as to have some period of operation under the Act as amended by the conference agreement before a report is required.

The conferees noted that the Secretary of Health, Education, and Welfare has informed the Congress that discussions have been held between officials of the cigarette industry and the Department of Health, Education, and Welfare in an effort to identify gaps in knowledge regarding smoking and health. The Secretary is urged to expedite such identification in a cooperative effort between the cigarette industry and the Department in order that priorities may be set for closing these gaps through appropriate research.

The House recedes.

Amendments numbered 8, 9, 10, and 11

These are technical and conforming amendments.

The House recedes.

Amendment numbered 12

This amendment struck out section 10 of the House passed bill which placed a termination date on the provisions of the legislation preempting the regulation of cigarette advertising. Since section 5(b) under the conference agreement preempts such regulation by the States and their local political divisions and is intended to be of permanent effect, and section 7(a) permits the Federal Trade Commission (if it determines it necessary) to resume consideration of its proposed trade regulation rule relating to cigarette advertising (without, of course, determining the basic question as to whether the FTC has the authority to issue such a trade regulation rule), section 10 of the House version was no longer appropriate.

The House recedes.

Amendment numbered 13

This amendment is reported in technical disagreement. The amendment struck out the effective date in the House bill which was July 1, 1969, and inserted in lieu thereof an effective date (with respect to all but section 5 of the Act) of January 1, 1970. Both dates have, of course, expired. The new warning on cigarette packages required by the conference agreement necessitates a transition period to permit cigarette packages to be imprinted with the warning. Accordingly the managers on the part of the House will offer an amendment in the House to recede and concur in Senate amendment numbered 13 with amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 3. Section 5 of the amendment made by this Act shall take effect as of July 1, 1969. Section 4 of the amendment made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act. All other provisions of the amendment made by this Act except where otherwise specified shall take effect on January 1, 1970.

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JAMES F. HASTINGS,
Managers on the Part of the House.

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

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

Mr. MAGNUSON. Mr. President, I have a very short statement. This is the conference report on the so-called cigarette bill, with which many Senators are quite familiar; and when I have finished with my short statement, I wish to yield to the Senator from Utah (Mr. Moss) and any other Senators who wish to make statements on this matter.

Mr. President, this conference report represents the last—and by all odds the most satisfying—chapter in the saga of congressional efforts to face up to the hazards of cigarette smoking. It has taken a long time but we are now about to do what we had to do.

The conference report represents substantial acquiescence by the House in the Senate amendments.

Most importantly, the conference report embodies the Senate passed mandatory ban on all broadcast advertising of cigarettes after January 1 of next year.

Second, the conference report adopts a strong new cautionary warning to be required on the package label: "Warning: The Surgeon General has determined that cigarette smoking is dangerous to your health."

The other bill that we passed two sessions ago provided a warning on cigarette packages, which is on them now, that cigarette smoking "may be dangerous to your health." The word "may" has been changed to "is," because of conclusive scientific evidence since that bill was passed.

Third, the preemption of the Federal Trade Commission imposes upon the commission only that limitation which the commission voluntarily adopted during testimony before the Senate Commerce Committee. Again substantially as passed by the Senate, the conference report provides that the Trade Commission may not revive its pending trade regulation rule to require warning in all print cigarette advertising, until it has had the opportunity to consider the impact of the termination of broadcast cigarette advertising and the subsequent behavior of the cigarette industry in the nonprint media, that is, before July 1971. The House bill had an open-end provision on the preemption, and they agreed to this date, which I think allows adequate time.

The FTC was not preempted by the terms of the conference report from otherwise exercising its jurisdiction over cigarette advertising which arises from its general powers to curb unfair or deceptive acts or practices in commerce, including should it deem necessary, requiring the listing of tar and nicotine content in advertising.

In short, the conference report is virtually identical with the Senate passed bill and fully consonant with the public interest.

Mr. President, at this time I would like to pay tribute to a Member of this body whose persistent, untiring efforts undoubtedly turned the tide of this legislation in the public interest. There is no need of my repeating that great economic forces were alined against passage of strong legislation. Hundreds of millions of dollars of advertising revenues were at stake—I think the figure was put at some $300 million a year—but our colleague, FRANK MOSS, as chairman of the Consumer Subcommittee of the Senate Commerce Committee, held firm. Because of his efforts and those of the other committee members, the public was aroused and alerted to the dangers of inadequate legislation, and because of his leadership new generations may yet be born into an environment untarnished by tobacco smoke.

Credit must also go to our colleague the Senator from New Hampshire (Mr. COTTON), the ranking Republican member of the Committee on Commerce. This bill bears the indelible mark of his conviction that Congress alone had the responsibility to take the initiative and set the course for the termination date of broadcast advertising.

Of course, this was subject to the most discussion in the conference, and without his active leadership I firmly believe the objective would not have been secured.

I compliment not only the Senator from New Hampshire but also the other members of the subcommittee and the members of the Committee on Commerce for their struggle with this measure over a long period.

We are going into a new era. I hope it will have the results we think it will have. We may have to review it again. But I am pleased with the bill, and I am sure that the members of the committee as a whole are also pleased. There was much discussion. Everybody had a fair chance to offer amendments. We had many conferences—I do not know how many—not only with the tobacco people but also with the broadcasting industry and others involved.

This is landmark legislation in the health field, and I am very pleased to ask for the consideration of the conference report today.

Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Utah (Mr. Moss).

Mr. MOSS. I thank the chairman.

Mr. President, for more years than any of us like to remember, the cigarette

industry, through the broadcast media, has been bringing into every American home, hour after hour, day after day, the implicit message that cigarette smoking is a glamorous, normal, pleasurable concomitant of the good life.

During this period, thousands of Americans have died prematurely from lung cancer, emphysema, heart disease, or stroke because they were mesmerized by the ads and did not hear or did not heed the warning of the medical community.

Thanks to this bill, Marlboro Country will fade into television history—as of next January. Moreover, the brief preemption of this bill on the Federal Trade Commission's pending rule to require warnings in print advertising at least imposes upon the Trade Commission no restraints greater than that which the commission was willing to impose voluntarily upon itself: That is, that it suspend rulemaking action until July 1971, when it will have had the opportunity to analyze the impact of the termination of broadcast advertising of cigarettes.

I think we have made it clear that Congress will not tolerate any massive infusion of advertising dollars into magazines and newspapers to offset the shutting off of broadcast advertising. If such a diversion of advertising expenditures occurs, then I will urge and support the earlier imposition of an FTC rule.

Fortunately, the FTC preemption in the bill is limited: the FTC is not preempted from policing cigarette advertising for unfairness or deception generally under the Federal Trade Commission Act. There is nothing in the bill which would restrain the Trade Commission from moving immediately, if it saw fit, to require the listing of tar and nicotine in all cigarette ads to prevent the deception or confusion of the cigarette consuming public.

The new, clear language of warning printed on every cigarette package also represents a substantial victory for the public health forces. I hope to see, in the not too distant future, posters, and billboards from one end of the country to the other, reading something like this: "Congress cannot cure lung cancer, heart disease, or emphysema; it can only warn you against them"; and then an arrow pointing to the warning on the side of a cigarette pack, which under this law will now read: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health."

I am grateful to the chairman, the Senator from Washington (Mr. MAGNUSON), for his kind words for my efforts; but the truth, as every Senator knows, is that legislation as strong and unequivocal as this would not have been possible without the chairman's leadership, his encouragement, his quiet, unobtrusive support. There are, of course, many others whose efforts contributed to this final act on this bill. I wish I could name them all. I am constrained to recognize the strong support at the crucial time given by the senior Senator from New Hampshire (Mr. COTTON), the ranking Republican member of our committee. Surely, no committee in Congress is blessed with more enlightened leadership from both sides of the aisle than is the Committee on Commerce. I am grateful to these two leaders and to all my colleagues on the committee and to the other Members of this body who have supported this long and arduous effort on the control of cigarette advertising, in the interest of public health.

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

Mr. MOSS. I yield.

Mr. CHURCH. Mr. President, the Cigarette Labeling and Advertising Act is largely the work of one Senator.

Seldom does a Senator take up a cause and, almost singlehanded, bring his colleagues to his way of thinking and steer his vision into law.

But Senator FRANK E. MOSS, of Utah, did just that on the cigarette advertising bill.

Let me detail what happened:

Of course, we all remember that in 1964, the Surgeon General of the United States issued his report on the effects of smoking on health. It was this report that brought to the attention of the general public the actual health hazards involved in this habit. It also brought about action by Congress. In the first Cigarette Labeling Act of 1965, Congress officially recognized the hazard involved in cigarette smoking and required a warning to appear on all cigarette packages. This was generally hailed a step forward in the battle to educate the American public of the health hazards involved in smoking. But also contained in the bill was what turned out to be a giant step backward. Congress tied the hands of the regulatory agencies for a period of 4 years, and refused to allow these agencies to regulate in any way cigarette advertising.

While the 1964 report brought about the first concerted effort in Congress, Senator Moss had already developed an impressive record of work in this area. Senator Moss started in 1959, by cosponsoring a bill to provide funds for educating high school students on the health hazards of smoking. In 1963, he wrote the major television networks and cigarette companies, asking them to voluntarily take the glamour out of cigarette advertising and to lessen their appeal to young people. So by the time the Surgeon General's report called national attention to this problem, Senator Moss had already established an impressive record of work in this area.

Subsequent reports in 1967 and 1968 confirmed the earlier Surgeon General's report and increased the statistical data concerning the health hazards of smoking. But in spite of all this proof, the Federal Trade Commission and the Federal Communications Commission were unable to take action to regulate advertisements of cigarettes, because of the ban placed upon them by the 1965 law.

On January 31, 1969, Senator Moss made a very dramatic speech before the Senate, at which time he pointed out that the 4-year ban on the regulatory agencies would expire June 30, 1969. Whereas in the past he had been a constant supporter of anticigarette advertising legislation, he now called for a different approach. Knowing the desire of the FTC and the FCC to move in this area, he called for the passage of no legislation. "Rather," he said "let us let the ban expire and the regulatory agencies perform their constitutional function."

So intent was Senator Moss to see that the regulatory agencies were free to act, that he told the Senate that he would filibuster, if necessary, to assure that the regulatory agencies would be free to act.

The House took a different approach, and early in the year, passed a cigarette advertising bill which strengthened somewhat the warning on the cigarette package, but which would have continued for 6 more years the statutory ban on the regulatory agencies. The public outcry against this retreat was impressive, and supported Senator Moss' strong opposition to an extension of the ban. Knowing of Senator Moss' position, and of his strategic position as chairman of the Consumer Subcommittee in the Senate, the broadcasters sought a way out by proposing a 4-year voluntary phaseout of cigarette advertising. Senator Moss applauded the voluntary approach, but asked the obvious question, "Why wait 4 years?" He pointed out to us in the Senate and to the general public that by proposing a 4-year phaseout, the broadcasters had accepted the idea that cigarette advertising should end on television, but by asking 4 years to phase it out, they showed their first concern was making money, rather than safeguarding the health of the Nation.

In July of 1969, Senator Moss chaired hearings on the House-passed bill, and it was at that time that the tobacco industry made the dramatic appeal to be allowed to voluntarily end cigarette advertising on radio and television. Senator Moss welcomed their proposal, and in committee, proposed changes in the House-passed bill that would allow the cigarette industry to withdraw from radio and television advertising voluntarily. By the narrowest of margins, Senator Moss' proposals lost in committee, in a series of 10-to-9 rollcall votes. So, when the bill was reported by the committee, Senator Moss took his fight before the full Senate. In a very impressive manner, demonstrating his legislative ability, Senator Moss succeeded on December 13, 1969, in passing three vital amendments which changed the weak committee-approved bill into the strong health measure we are discussing here today.

Senator Moss carried his fight one step further, into the conference committee between the two Houses of Congress, getting the Senate version through the conference with only minor changes.

Senator Moss is recognized in the national press as the leader of the fight to control cigarette advertising. He has been honored in the District of Columbia by the Interagency Council on Smoking and Health, as the Man of the Year, the man who did the most to promote the health issue of cigarette smoking.

In this long battle, Senator Moss has demonstrated some very desirable quali-

ties. First, he has shown himself to be a man of vision. In 1959, he was beginning his battle, a battle that was not joined by the general public for 6 long years. He has shown the ability to work hard, to persevere, and to follow through until his objectives were won.

He has shown the courage to stand alone and to fight the unpopular battle which he knew was right, and to eventually persuade the majority in Congress that his cause should prevail.

I am proud to have supported him throughout his long fight, and I extend to him my hearty congratulations on this occasion.

Mr. COTTON. Mr. President, will the Senator from Utah yield me one-half minute, as I have to leave the Chamber?

The PRESIDING OFFICER (Mr. MONDALE in the chair). Does the Senator from Utah yield to the Senator from New Hampshire?

Mr. MOSS. First, let me just thank the distinguished Senator from Idaho for his kind words. I cherish his friendship and appreciate the long support he has given me in this matter.

I am very happy to yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I thank the Senator for yielding to me at this time because I have to leave the Chamber for an important meeting.

I want to thank the distinguished chairman of the committee, the Senator from Washington (Mr. MAGNUSON) and the distinguished chairman of the subcommittee, the Senator from Utah (Mr. Moss) for their kind comments in regard to the Senator from New Hampshire.

I do not wish to interrupt the tributes which are now being paid to the Senator from Utah. In fact, I join in them. I shall make a statement on the conference report later in the day or subsequently.

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

Mr. YOUNG of Ohio. Mr. President, will the Senator from Utah yield?

Mr. MOSS. I am happy to yield to the Senator from Ohio.

Mr. YOUNG of Ohio. Mr. President, I desire at this time to pay tribute to the distinguished Senator from Utah, and to express to him my devotion and admiration for the dedicated service he has rendered the people of the great State of Utah, the Senate, and the people of the country as a whole.

Over the years, to my knowledge, the Senator from Utah has fought against bitter opposition for legislation that would bring home forcibly to all Americans, especially to the young, the hard facts about the hazards of cigarette smoking and to try to curb the effect of cigarette advertising beamed into the Nation's homes over radio and television.

As the Senator from Utah knows, I have reason to feel deeply on this subject. My wife of many years smoked two packs of cigarettes a day. She died of lung cancer on October 28, 1952. Up to that time I was smoking cigarettes regularly. When she died, I ceased smoking almost immediately.

I am glad to say that the Senator from Utah and I came to the Senate on the same day. We took the oath of office within a few minutes of each other. We have been personal friends ever since that time. He has accomplished a very great service for all the American people in this field, despite the odds against him at the start.

I remember listening to some of his early speeches dealing with the dangers of cigarette smoking. I was a cosponsor of his first bill providing for a study of tobacco in the schools. That bill was introduced during the first year of the Senator's service in the Senate and was a forerunner of the splendid work he has done exposing the dangers of cigarette smoking since that time.

I happen to know that in 1963 he wrote letters to the television networks and to heads of the tobacco industry throughout the country. He was depressed over the glamor that seemed to pervade all cigarette advertising on television, and he asked the National Association of Broadcasters to adopt a voluntary code. Due to strong opposition, he was compelled to make a similar request in 1969.

I recall being in the Senate Chamber on many occasions when he advocated a ban on cigarette advertising, and that the ban be enforced. On one occasion, quite dramatically, he threatened a filibuster. He said he would continue to speak out, and speak out often, on the subject.

The people of Utah, whom he has represented so faithfully and industriously over the more than 11 years he has been in the Senate, know the great fight their Senator has made against cigarette smoking and the advertising of that product in this country.

Today, with the adoption of this conference report, I can take pride that I assisted him in a small way.

As his colleague in the Senate, I am very proud of the dedicated service that Senator FRANK "TED" Moss of Utah has rendered, not only to all of the citizens of his great State of Utah, but also to all of the citizens of the United States. It is a matter for rejoicing on our part that the conference report will be agreed to on a rollcall vote in just a few minutes.

I manifest my personal gratitude and thanks to the Senator from Utah.

Mr. MOSS. Mr. President, I thank my colleague, the Senator from Ohio. He has, indeed, been a steadfast supporter in this fight we have made to control the advertising and hence to lessen the incidence of cancer.

I am well aware of the great personal commitment the Senator from Ohio has had. He and I have spoken about the matter often. I thank him for the generous references he has made to me in this field.

Mr. President, I am happy to yield to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I rise to support H.R. 6543 which will ban all radio and television cigarette advertisements after January 2, 1971.

Mr. President, as a member of the Health Subcommittee of the Senate for the past 12 years and as the chairman of that subcommittee since January of last year, I thank the able and diligent Senator from Utah, who has fought so long and hard to improve the health of the American people.

Cancer is the biggest killer of the American people. Lung cancer is one of the leading killers. Tobacco causes lung cancer. Heart disease, cancer, and stroke kill 70 percent of all Americans who die every year. Tobacco is one of the causes that lead to the early deaths of many Americans.

This bill is a great step forward in the area of public health. It has reached fruition through the work of the Commerce Committee. The Commerce Committee reported the bill. We on the Health Subcommittee have worked on the matter very diligently.

I have supported the able Senator from Utah in this effort since he started this endeavor in 1959. The report of the Surgeon General was made in 1964. However, the Senator from Utah sponsored the first bill dealing with the harmful effects of tobacco in 1959—5 years before the Surgeon General issued his report.

For far too many years, the radio and television media have been saturated with commercial advertisements which have glamorized cigarettes and the smoking habit. Many young people have been influenced by these advertisements and acquired the smoking habit as a result. Consequently, millions of people in America today are faced with a serious health problem as a result of the adverse effects of smoking cigarettes. The bill we have before us today is a major step forward in the fight to eliminate this problem.

Much of the credit for this bill and the achievements we have made in the area of antismoking legislation is due to the hard work and diligent efforts of our colleague, Senator FRANK Moss, of Utah. Senator Moss cosponsored the first bill dealing with the harmful effects of tobacco in 1959. Since that time he has sponsored every major cigarette bill and introduced many bills of his own on this subject.

In 1963, Senator Moss personally urged the television networks and tobacco industry to eliminate advertisements that glamorized smoking. As a result of his efforts, many television stations and newspapers voluntarily canceled cigarette ads. In July of 1969, Senator Moss chaired the Consumer Subcommittee hearings on cigarette advertisements. These hearings brought to the public attention for the first time many of the dangers of smoking. As a result of these efforts, Senator Moss in December of 1969 was successful in obtaining the passage of this bill which is before us today. The major portions of Senator Moss's bill were agreed to by the conference committee on March 3 of this year.

As we consider this committee's report, it is only fitting that we pause to honor Senator Moss for his efforts on behalf of the health of millions of Americans. As chairman of the Subcommittee on Health, I am familiar with the problems that prompted Senator Moss to wage his gallant fight to eliminate cigarette advertisements and I commend him for it. I urge all of my colleagues to give their full support to the committee report and to this legislation.

The advertisements of smoking on television and radio made it appear that all the beautiful people had to smoke

to be with the "in" crowd. Consequently, millions of Americans are already dead or are going to have shorter lives because they picked up this habit.

This has been a fight of one man. Time after time I have had some constituent say to me, "Well, why cannot someone in Congress do something about this matter? Ralph Nader did it on the outside."

Senator Moss is an example of what one man in Congress can do out of 100 Members of the Senate, and 435 Members of the House. We do not have to sit down and wait. There are 535 national representatives of the people in Congress. One man waged this fight and succeeded. Many thought it was a lost cause and that one would be a Don Quixote to fight for it.

The Senator from Utah has fought and won a good fight. Millions of Americans who do not know about this fight will, as a result of his efforts, avoid the habit and thus avoid shortening their lives.

I take my hat off to the Senator from Utah. When I came to this body 12 years and 10 months ago, I knew three Members of the Senate. I knew Senator Moss because we had entered the armed services at the same time in World War II and served in the same unit when we first entered service. He went to the Air Force and achieved a notable service record. I went with the ground forces.

The Senator from Utah (Mr. Moss) graduated from the University of Utah magna cum laude and graduated from George Washington University Law School cum laude. These are two great universities.

His superior service with the Air Force has added to the self-discipline and character he has exemplified in his own life. He does not use tobacco or alcohol. He is an example of probity and rectitude that we are all proud of. His accomplishments have already been sufficient for an ordinary lifetime.

I take off my hat to one Senator who has done such an excellent piece of work for the benefit of more than 200 milllion Americans.

As chairman of the Health Subcommittee I again thank the Senator from Utah for what he has done for the health of the American people.

Mr. MOSS. Mr. President, I thank my colleague for his overly generous remarks. I commend him for the great record he has made on the Health Subcommittee and on the Labor and Public Welfare Committee.

The Senator and I have indeed been longtime friends. We were friends before we came to the Senate. Since I have become a Member of the Senate I have learned of his great efforts in the field of health and in many other aspects of the health field.

I am happy that my colleagues have made the comments they have. They have all stressed the fact that this is indeed a law directed at the health of our people. It is, therefore, in the public interest that we should enact this measure. That is the reason we have gone this far.

I pay tribute also to the chairman of the Commerce Committee, the senior Senator from Washington (Mr. MAGNUSON), for his great efforts in this field. His leadership has enabled us to guide the bill to passage.

Mr. MAGNUSON. Mr. President, I want to make a motion that we have a rollcall vote.

I appreciate what the Senator has said. I have just one line that I want to add. I am sure that in addition to the many things that have been said about Senator Moss, Senator COTTON and myself, I wish that former Senator Neuberger could have been here. She did such noble work in the early days of this effort.

Mr. MOSS. Mr. President, I concur with that statement. I am pleased that the chairman thought to mention Senator Neuberger. She is certainly deserving of the greatest degree of credit for the yeoman work she did while she served in the Senate.

Mr. MAGNUSON. Mr. President, I move that the Senate further insist on its amendment No. 13. That amendment is a mere technical amendment. All we do is insist on it. It is a matter of paperwork. It will go back to the House and then come back here.

The PRESIDING OFFICER. The Senator from Washington is advised that the report will be considered after the adoption of the conference report.

The Chair recognizes the Senator from Michigan.

Mr. HART. Mr. President, I was called briefly from the floor. However, I have heard several descriptions of the effective role the Senator from Utah played in bringing this measure to this point.

On the assumption that nothing would lessen the praise that has been voiced in my absence, I rise and say amen to all that has been said.

We indulge ourselves sometimes in the practice of puffing each other up around here. Fortunately, it has not become such a tradition that when we say something and mean it, it is double in spades. This is one of those situations.

A bookmaker would have given long odds that this effort would not have been achieved successfully.

The fact that the chairman of the committee, the Senator from Washington (Mr. MAGNUSON) gave it his full support, joined by the Senator from New Hampshire (Mr. COTTON), the ranking minority member on the committee, has helped to bring us to the point where we are today. But basically all of us acknowledge our debt to the Senator from Utah (Mr. Moss). This is a very significant achievement.

Mr. ERVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I do not wish to detract in any manner from the tributes which have been paid to the chairman of the Committee on Commerce or to our distinguished colleague from Utah (Mr. Moss) who chaired the subcommittee which conducted the hearings on the question which resulted in this legislation. I would like to point out, however, that we had many agencies of Government for the first time in our history leading a crusade against a product which it is perfectly legal to sell to the general public in this country. We had the Surgeon General's office, we had other officials of HEW, and we had the Federal Trade Commission and the Federal Communications Commission. I think this is perhaps the first time in the history of the Nation that large sums of taxpayers' money have been spent by the Federal Government for the purpose of crusading against a product which it is legal to sell.

I have some misgiving about the Federal Government engaging in this kind of task because I feel it may set a precedent for the Government to try to brainwash the American people in the future in respect of their personal habits. I think that is something which would be rather disastrous in a free society. Furthermore, I hate to be a prophet of doom, but I do not believe that mankind would become immortal if mankind totally ceased smoking cigarettes.

We have had references made here to lung cancer. According to available figures, at least one-half of the people who have lung cancer have lung cancer which has its origin in other parts of the body, and not in the lungs. Furthermore, the sum total of the knowledge of the medical profession as to the cause of lung cancer as well as to other forms of the disease is summed up in the first sentence of an article on cancer in the Encyclopaedia Britannica. This first sentence states that cancer is an autonomous growth of new tissue without known basic cause.

A very substantial part of the medical profession will confess that the medical profession does not know the causes of lung cancer. The Surgeon General's report to which allusion has been made was based upon statistics; and one can take statistics and prove anything. One can take statistics and prove that smoking cigarettes is a very healthful thing in which to engage. I say that because the people of America smoke more cigarettes than any other people on the face of the earth and at the same time American people enjoy the longest life of any people on earth. Ever since the medical profession developed the capacity to diagnose lung cancer as a separate disease from pulmonary tuberculosis the medical profession has noted two things with reference to lung cancer. The first is that lung cancer is basically a disease of the male as distinguished from the female; the second is that lung cancer is a disease of the aging.

Despite the fact that during recent years the consumption of cigarettes by women has increased many fold, the medical profession has noted that there has been virtually no difference in the ratio by sex of those who become ill with lung cancer. In other words, the number of men who become ill with lung cancer still exceeds the number of women by virtually the same ratios that were noted before women started smoking cigarettes. That is one significant fact which has to be disproved before it can be truthfully asserted that smoking cigarettes causes lung cancer.

The other fact is that the age of the onset of lung cancer has not changed notwithstanding the fact that multi-

tudes of the youth have smoked for many years. The average age of onset of lung cancer is still approximately 59 years of age. If there has been any increase in lung cancer in recent years, I think a very good case can be made for the proposition that the increase has been due to the increase in the longevity of Americans. In 1930, if I recall the date correctly, the average American lived to be about 59 years of age. Since that time the longevity of the average American has increased to somewhere in the early seventies. The result is that we have many more Americans who are of the age at which lung cancer has its onset and causes deaths. Therefore, if we want to be perfectly realistic and reduce the number of people dying of lung cancer, since it is a disease of the aging, we are going to have to arrange some way to kill off people earlier in life before they reach the age at which lung cancer has its highest incidence.

Physicians of the highest competence in this field assert that there is no evidence of any causal relation between smoking cigarettes and lung cancer, heart disease, and emphysema. Indeed, the National Institutes of Health has reported that its study of the subject compels it to say that the cause of emphysema is not known. And, incidentally, there was testimony before the Commerce Committee to the effect that 998 physicians out of 1,000 assert that it is not possible to tell the lung of a nonsmoker from that of a smoker.

I think we should not delude ourselves into believing that any man knows the cause of cancer. We need much more research in this field. It certainly is to be hoped that at some time in the not distant future the cause of this scourge of mankind will be discovered and that some effective method of curing it or at least alleviating its consequences will be found.

It is regrettable when a government, in order to brainwash its people in respect of their personal habits, indulges in statements that are not true. I have just been informed this morning that the Post Office Department is resuming the placing of posters on the vehicles it operates, stating that 100,000 doctors have quit smoking and suggesting that this is because they know something that the public does not know.

I had something in the nature of a confrontation with the Postmaster General a few years ago on that subject. I found that, instead of 100,000 doctors telling them they had quit smoking, they had hired a public relations firm to issue questionnaires to doctors; that they had issued questionnaires to perhaps in the neighborhood of 6,000 or 7,000, and they had received replies from about 2,000 of them. A substantial number of the 2,000, perhaps 1,800, said they had quit smoking, but they did not say why or when they had quit smoking.

I think the Government of the United States ought not stoop to putting out false propaganda like that, even for what it deems to be a laudable cause. It certainly should restrict its propaganda to what is true, instead of issuing propaganda which it had admitted to me, in substance, is false.

I felt like I ought to make these observations because my State has many people who are dependent on growing tobacco for their livelihood and many others who are dependent for their livelihood on the manufacture of tobacco products. I could not let this occasion pass without saying what is true and what is not. The Encyclopaedia Britannica defines cancer as the "autonomous growth of new tissue without known basic cause." That sums up—not theories, not opinions—but the truth on this matter. I am authorized by my colleague, Mr. JORDAN, to state that he shares the views expressed by me.

Mr. MOSS. Mr. President, I have just a very brief observation, because I have had my opportunity to speak. In the first place, the Surgeon General's report of 1964 has now been augmented by two subsequent reports, and they were not based on research done by the Surgeon General himself; he simply brought together the research being done by the whole medical profession. The subsequent reports confirm in every detail the conclusions he came to in his first report about the cause of lung cancer and other diseases resulting through cigarette smoking.

I think the Senator from North Carolina may have pointed out an interesting fact, in that the lung cancer incidence among women, which has been much less up to this point, but it is now climbing rapidly. All we have to do is go right back to the cigarette commercial, "You've come a long way, baby," to recognize that women up to 20 years ago or less, smoked cigarettes very little. The commercial would have one believe that women did it in the basement or somewhere else, in hiding. But the fact is that it has become a confirmed habit among women only in the last few years, and now lung cancer among them is on the increase.

Lung cancer has been induced in the lungs of dogs, so we know precisely now what causes it.

The 80-percent figure of doctors who used to smoke is now down to about 15 percent.

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

Mr. MOSS. I yield.

Mr. LONG. I applaud the Senator for the stand he has taken with regard to the hazards of cigarette smoking. I think, with respect to the report before the Surgeon General, it should be stated that there was much evidence before the task was assigned. As I recall, even putting the task in the hands of the Surgeon General had to do with the fact that the Congress thought it ought to go to him on the basis of the evidence we had prior to that time. Some people regarded it as not being diligent that we should go to the point of assigning the task to the Surgeon General and await a report.

The Surgeon General found that heart and circulatory ailments related to cigarette smoking were causing even more deaths than lung cancer. So while lung cancer seemed to be primarily induced by cigarette smoking, it was only the beginning of the deaths that cigarette smoking seems to have induced.

Having applauded the Senator from Utah, let me say I am also concerned with our friends from North Carolina and our friends from other States that produce tobacco. I would not want to see them injured unnecessarily. It is a legitimate business. As a matter of fact, it was to some extent the producers of tobacco who first colonized this country.

I am going to introduce a bill proposing a way to buy this industry out, at a nice, big profit, not relating only to those who manufacture cigarettes, but the fellow who tills the soil and the fellow who sells the implements and the man who, directly or indirectly, is engaged in the industry, including, if need be, paying generously the television people to help direct all of them away from something that is not good for us and into something that is worthwhile.

I have discussed this matter with some of my friends, doctors and others who have been leaders in research into the question of cancer and circulatory and heart conditions. They feel it would be a cheap price to pay to get these people out of this endeavor and provide funds to help get them into something else, where they would be serving their fellow man and themselves better—at a profit, not at a loss.

I personally do not believe we ought to legislate to put someone out of a legitimate business for our advantage, and injure him unnecessarily, if we are capable, as a Nation, of helping such people get into something else.

I would not want to injure North Carolina, for a good many reasons, some of them having to do with the distinguished Senator from North Carolina, and I would certainly not want to injure Virginia, South Carolina, Kentucky, or any of the other tobacco-producing States. But I think we ought to encourage and help them achieve a transfer to a more useful and beneficial endeavor.

I shall be introducing a bill along that line, keeping in mind that my purpose is not to injure them but to do what I think all of us want to do, and that is to advance the national interest.

Mr. MOSS. I thank the Senator. I have indicated that I would be willing to go along with any kind of adjustment program that would ease the financial shift that will come about by reason of this bill. I certainly would be, because I do not think the financial blow ought to fall on any segment of the population by a fiat of Congress, and we ought to be able to prepare them to make that shift, although I do not think the tobacco industry is going to collapse overnight. The downturn, if it continues as now, will be a gradual one, over a long period of time, and there will be quite a long time to make the adjustment.

Mr. LONG. I hope everyone will recognize the problem, as the Senator from Utah and I do, and will be equally fair. We are not thinking about just dollars and cents, but we are thinking about the health and welfare of our people. We ought to be able to resolve the plight of the tobacco producers and help them get into something that will be more in the national interest and the interest of their fellow citizens. The case is self-evident. I would not want to in-

troduce something that would do unnecessary injury to people who are doing the right as the good Lord gives them the light to see the right.

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

Mr. MOSS. I yield.

Mr. TYDINGS. Mr. President, I appreciate the Senator's yielding, and I would like to take this opportunity to add my voice to those of my colleagues' who have taken the opportunity today to comment on the remarkable legislative acumen and the success of the leadership of the distinguished Senator from Utah and his responsibility with respect to the legislation designed to help protect the health of the American people vis-a-vis the disease of lung cancer and other diseases as a result of smoking tobacco.

I do not think it would be an unfair statement to say that most knowledgeable observers would have doubted that the legislation being considered now, and which undoubtedly will come of the conference, would have been conceivable or possible 3 years ago. That such legislation is possible, and indeed will be enacted in this session of Congress, is a remarkable fact. It is a tribute to the Senator from Utah, to his tenacity, to his hard work, and to his exceptional ability in the legislative field. I think all Americans owe him a debt of gratitude.

I think I might say the young people of our Nation particularly are aware of just what his work has meant, and I think in many respects they are perhaps a step or two ahead of their elders in the recognition of the dangers resulting from excess tobacco inhalation.

So I add my voice to those of my colleagues who are paying tribute to the distinguished Senator from Utah at this time.

Mr. MOSS. I thank my colleague from Maryland for his generous remarks. I am happy to yield now to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I, too, associate myself with everything that has been said by the Senator from Utah. I do not know whether or not he made any observation along this line, but I think that we ought to remind all those who are sincerely skeptical about what we are doing here that this was no hasty action on the part of the committee. This has been in process for some time. We started way back more than 5 years ago looking into this matter in our committee. We had the foremost medical scientists before the committee to testify.

I cannot say of a certainty that excessive cigarette smoking does cause cancer in everyone, but there has been abundant evidence from the medical experts of this country that it is harmful to the health, that it does cause emphysema, and that it does produce injury to the lungs. We saw some pictures, frightening pictures showing what cigarette smoking does to a person's system.

I think we ought to emphasize at this point that the good Lord did not create the human body so that we could inhale hot smoke and get away with it forever. Naturally, it is going to hurt in the long run, and I think we have had abundant proof of that.

I think the record ought to be clear that this was not done in haste.

I believe the thing that impressed me more than anything else is the count of the number of doctors who have stopped smoking in the period since this matter became a subject of urgent consideration by the committee.

Mr. MOSS. I thank the Senator from Rhode Island.

Mr. COTTON subsequently said: Mr. President, on the first of April the President signed into law the Public Health Cigarette Smoking Act of 1969.

You may recall that last month when the Senate first considered the conference report on the enabling legislation, I requested permission, which was granted, to file this statement.

It was during the same Senate consideration of the conference report that the distinguished chairman of our Committee on Commerce (Senator MAGNUSON) and the chairman of its Consumer Subcommittee (Senator Moss) complimented the senior Senator from New Hampshire for his contribution in framing this act, which now is Public Law 91–222. I wish to thank both of these distinguished Senators for their kind words.

The contribution which I was able to make and which has been referred to concerned two amendments. Probably the most significant of these was that contained in section 6 of Public Law 91–222 prohibiting the advertising of cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission after January 1, 1971.

Mr. President, there appears to have been much speculation as to what motivated the senior Senator from New Hampshire to offer this provision and what its probable effect might be. Quite frankly, I thought that I clearly stated my position in the following manner last December, during the course of Senate debate on the legislation:

> It is my position that the time has come when the country expects Congress to assert itself. We can talk all we want about setting a precedent with respect to other products, be it liquor or whatever. But the fact remains that during those years the case had been made all over this country about health hazard in connection with cigarette smoking. The time had come, so that the industry itself—and I want to give them credit for it—very generously and justly realized it and were willing to stop advertising on radio and television. It is particularly bad on television, which is watched by many young people—children and teenagers.

Mr. President, in a nutshell, it has been my personal observation that whereas young people—children and teenagers—frequently are glued to viewing the television or listening to the radio, the same is not true with respect to the attention given by them to newspapers and other printed media. My purpose, therefore, was to try to remedy the situation with respect to the promotion of the product over the airwaves in recognition of the infinite potential of such broadcasting to influence the lives of the young people of our nation with respect to the desirability of using this product.

I, therefore, would like to stress and make clear that what this Senator sought to remedy was the promotion of a product over the public airwaves, not a ban on the sale of this or any other specific product. Moreover, it was not the intention of this Senator to in any way, shape, or form, create any inference with respect to such promotion in the printed media, being all too mindful of the grave implications arising from such under the first amendment to our Constitution. Nor did this Senator intend that this legislation should indicate that the Congress had made an official determination as to the extent to which smoking causes respiratory and other diseases. Obviously, the Congress is not competent to form medical judgments. In this instance, it accepts the decision of the Surgeon General as the basis for its action.

In summary, Mr. President, it was the view of this Senator that the use of public property, to wit the airwaves, for the promotion of a product alleged to be the principal cause of fatal diseases and disabling illnesses could not by any measure be considered to be consistent where the concept of public interest guide the use of such public property. This is particularly so with respect to its recognized impact and influence in shaping the minds of our young people.

Mr. President, in conclusion, I believe that Public Law 91–222—the Public Health Cigarette Smoking Act of 1969—constitutes a hallmark in the long striving efforts of the distinguished chairman of our Committee on Commerce (Mr. MAGNUSON). He is to be congratulated on a job well done and one for which the future generations of this Nation will be deeply indebted to him. The senior Senator from New Hampshire is most pleased to have had the privilege and the honor to make a constructive contribution to this effort undertaken by the able senior Senator from Washington.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

THE "SANSINENA" AFFAIR

Mr. TYDINGS. Mr. President, yesterday morning I had the privilege of speaking at some length to Members of the Senate about a rather remarkable, extraordinary, and unprecedented action of the Secretary of the Treasury in permitting a foreign-flag tanker, the *Sansinena*, to come into the domestic oil trade, after the Department of Defense had turned down its request on the only legal ground; namely, the interests of national defense.

I pointed out to Members of this body some rather extraordinary circumstances surrounding this unprecedented decision of the Secretary of the Treasury. I pointed out that by the stroke of his pen, he created a multimillion-dollar windfall of between $5 and $7 million, and perhaps even more, for either of two entities—either for a tanker company domiciled in Bermuda, called the Barracuda Tanker Co., of which, according to the 1969 Directory of Shipowners, Shipbuilders, and Marine Engineers, the

managing director was one Peter M. Flanigan, now special assistant to the President of the United States and responsible for liaison with the maritime industry, with corporate and financial interests, and with the oil interests, or for the Union Oil Co. of California, whose president and chief executive officer, Fred Hartley, is and has been a major Republican fundraiser in California and across the Nation for some years.

I put the facts in the RECORD, and I put the documentation in the RECORD—the letters from the Department of Defense turning down the waiver request, and a short, abrupt statement about the issuance of the waiver by an Assistant Secretary of the Treasury, together with a documentation on Mr. Flanigan's relationship with the Barracuda Tanker Corp. I noted the fact that Mr. Fred L. Hartley, the president of the Union Oil Co., actually chartered the freighter *Sansinena*.

I am delighted, Mr. President, to learn that 24 hours after I raised this issue in my Senate speech, the Secretary of the Treasury abruptly canceled the waiver, with the same lack of justification or explanation as when he issued the waiver 9 days ago. I am delighted that he has canceled that waiver, because this protects the jobs of some 4,000 shipworkers at the Sparrows Point Shipbuilding Yard and some 10,000 tin millworkers, milling millworkers, and steelworkers at the Sparrows Point Steel Mills in Maryland. This is a point of great concern to me, just as the integrity of the American shipbuilding industry is a point of great concern to me.

Let me relate again the history of the cabotage laws of this country, so that my colleagues may see the unprecedented nature of the action of the Secretary of the Treasury last week.

Historically, maritime nations, including the United States, have restricted domestic traffic, that is, traffic from port to port within this country, to American flag ships, as other countries have. Just as we do not permit airplanes of foreign countries to fly from Providence, R.I., to New York, and we do not permit British Overseas Airways to fly from Wheeling, W. Va., to Washington, D.C., we do not permit Liberian-flag tankers to compete in the lucrative domestic traffic within the coastal waters of the United States. That is why we still have a shipbuilding industry in this country. Otherwise, why should an American oil company pay $20 million to build a tanker at Bethlehem Steel yards in Baltimore, when he can go out on the open market overseas and buy a ship such as the *Sansinena*, a 60,000-ton vessel, at a market value of $4.4 million, or get a brand new vessel of the same type as the *Sansinena* for $8 million in a Japanese shipyard?

That is why we have cabotage laws. That is why we codified them in the Jones Act of 1920, and why we were specifically careful, in 1950, to say that the only circumstance under which a waiver could be issued was when the Secretary of Defense or some other agency or department head would certify that it was needed for the interest of national defense.

The only times in the history of the country that such waivers have been issued by the Secretary of Defense have been for a specific project, when a number of ships were permitted, as foreign flag ships, to do a specific job, such as building the St. Lawrence Seaway, or hauling equipment back and forth to Puerto Rico for a specific purpose. Never since the enactment of the act has a waiver been issued to a foreign-flag tanker to take a part of the lucrative American domestic traffic—that is, until March 2, when the Secretary of the Treasury, unexpectedly and without explanation, signed that letter and that waiver, and thus created a windfall of at least $5 million.

Mr. President, to bring the *Sansinena* in here and place it under the American flag, and then sell it, why that would result in a significant sum: some $11.5 million on the American market. If, however, the intent to use a similar size vessel and to duplicate it in American shipyards, it would cost $18 million or more to build a tanker like the *Sansinena*.

The history of the *Sansinena*'s application for a waiver is rather interesting. Mr. Hartley, the president of the Union Oil Co. of California, began to request waivers from the Department of Defense as early as 1967. In 1968, he was formally turned down by the Under Secretary of the Navy, I put that letter in the RECORD in its entirety yesterday; but I would like to review it again with my colleagues, because it is important. This is the language of the Under Secretary of the Navy in denying the request for a waiver for the tanker *Sansinena*. The letter was dated March 5, 1968. Let me read it:

> I have carefully reviewed your request for a waiver which would permit the use of SS *Sansinena* for the carriage of crude oil to Alaska.
>
> I have concluded that the possible increase in U.S. flag tankers available to fulfill the requirements of the Department of Defense, which might result from a waiver, is too speculative to provide the basis for such a waiver. Further, as you are already aware, the Military Sea Transportation Service cannot utilize your vessel because of its size. Additionally, it has been established that there are American flag tankers available to you that do not meet the qualifications pertinent to the cabotage laws of this country.
>
> Therefore, since the serving of a national defense interest cannot be persuasively established, as required by the cabotage laws, I must deny your request.

Even more interesting, when I learned of this waiver, I went to the Department of Defense last weekend and got a letter from the office of the Assistant Secretary of Defense, dated last Saturday, March 7—I placed the letter in the RECORD yesterday—in which he says:

> In connection with the most recent application by the Union Oil Company, we did not believe the Defense Department should take a position, one way or another, inasmuch as the Defense Department has no direct or indirect interest in the outcome of any application which the Company might like to file.

Now let us look at the Barracuda Tanker Corp. The Barracuda Tanker Corp. was incorported under the laws of Bermuda. Its president and managing director was Peter M. Flanigan. The tanker involved, the *Sansinena*, has flown the flag of convenience of Liberia since it was built. It has never paid 1 penny of income taxes to the United States, and it has employed foreign seamen.

Senators might be interested to know that another of the tankers owned by Barracuda was the *Torrey Canyon*. This is the vessel that broke apart off the British coast and polluted the shores of France and England with tons of petroleum and resulted in chemicals that were both toxic to wildlife and not particularly effective being sprayed on the oil soaked waters off the beaches.

Another interesting fact: I am advised that Mr. Flanigan resigned as president and managing director of the Barracuda Tanker Corp. before he went to work in the White House as Special Assistant to the President of the United States. However, I am also advised—this is even more interesting; this is noteworthy, I believe—that the stock that his family owned in trust in the Barracuda Tanker Corp., which was held in his father's name, was not disposed of until 5 days before the signature of the Secretary of the Treasury was placed on the waiver resulting in a multi-million-dollar windfall.

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

Mr. TYDINGS. When I have finished, I shall be delighted to yield to the able Senator from Massachusetts.

It is all very well for the Secretary of the Treasury, 24 hours after I brought the facts to light on the floor of the Senate, to revoke that waiver. But there are some questions which should be answered. I made the request yesterday in my speech, and I want to set them forth again.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TYDINGS. I yield, with the understanding that I will not lose my right to the floor.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote on the pending conference report occur today at 2:30 p.m.

Mr. COOPER. Mr. President, reserving the right to object, I have been waiting to make a short comment of about 3 minutes, and I want to be sure that I have the opportunity to make it.

Mr. BYRD of West Virginia. With the assurance that the Senator from Kentucky will have at least 3 minutes.

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

Mr. TYDINGS. Mr. President, the questions to which I think the Senate is entitled to receive answers—answers which the shipbuilding workers of Sparrows Point and all the other people of the United States are entitled to receive—are as follows:

First, why did the Secretary of the Treasury take it upon himself to overrule the decision of the Department of Defense and issue this waiver, without so much as a "by your leave" or any explanation or any justification?

Second, who and what entities would

have received the multi-million-dollar windfall created by this act?

Third, what role, if any, did Peter M. Flanigan, formerly managing director of the Barracuda Tanker Corp., now one of the five special assistants to the President of the United States, play in this extraordinary sequence of events?

Fourth, what role, if any, was played by Fred L. Hartley and/or any officers, directors, or employees of the Union Oil Co. of California in this extraordinary series of events?

I am renewing my demand to the Treasury Department for the full disclosure of all facts, correspondence, and memorandums relating to this extraordinary incident.

Also, I shall request that the distinguished chairman of the Committee on Commerce, the Senator from Washington (Mr. MAGNUSON), and the distinguished chairman of the Subcommittee on the Merchant Marine (Mr. LONG) order and conduct a full-scale Senate inquiry into the entire matter, with two objectives:

One, the drafting of necessary legislation to protect the American shipbuilding industry from any similar threat in the future that could arise; I hope to have a measure on the floor of the Senate tomorrow which will accomplish this objective, and which will provide the inquiry with a bill to consider.

Two, to reveal the facts in the entire matter relating to how and why the waiver was granted to the *Sansinena*.

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

Mr. TYDINGS. I am delighted to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I applaud the Senator for bringing the facts that he has discussed to the attention of the Senate.

I was notified by my office that the Senator was seeking to contact me over the weekend. I was out of town and did not receive the message. I regret that. I would have been pleased to have been present to hear his remarks when he made them.

This is a matter of which the Senator from Louisiana has some knowledge as chairman of the Subcommittee on Merchant Marine of the Committee on Commerce. There came to me, as chairman of the subcommittee, a protest from Mr. Andrew Pettis, the president of the largest single union of shipbuilding workers. I believe the Senator knows the gentleman. He is one of the outstanding labor leaders of America. He protested that this would displace a considerable number of American workers who would be interested in building such ships.

Subsequent to that, I sent an inquiry to the Department of the Treasury, and an inquiry was directed to me as to what my attitude about the matter would be.

The president of that oil company called upon me to explain his point of view, and I must say that he presented an argument which the Senator has not reflected at this point, which I think did give considerable support to his position. Nevertheless, it was the view of this Senator that the position taken by the president of the international labor union was probably correct—that a denial of this waiver would result in more jobs for people in American shipyards, and this Senator could see that his duty was to be in opposition to the waiver, and I so informed the Treasury Department.

I had no knowledge of any conflict of interest situation such as that which the Senator has discussed here. I did ask my administrative assistant to pass the word along to the Treasury Department—I am sure they had the word—that I would find myself in opposition to the granting of this waiver.

I would hope that the Senator would confine his criticism to those who are involved here and not cast aspersions in this instance upon a whole industry, such as the oil industry. I say that as one representing an oil-producing State, because there is nothing in this application for waiver that could do anything but hurt the oil industry in Louisiana. The more oil that is hauled from Alaska into the continental United States generally, the more it tends to displace oil production in the State of Louisiana. We compete with them. I do not want to hurt Alaska, but at the same time, looking at the facts of life, I do not think that the independent producers of Louisiana or any company except Union Oil Co. would have asked that this waiver be approved.

Mr. TYDINGS. The Senator is absolutely right. Let me say that today and yesterday I very carefully refrained from making or drawing any conclusions or making any specific allegations. I have tried to limit myself to the facts, to document the facts point by point in the RECORD, even to the names of the tankers that were sitting out on the west coast—American-flag tankers—trying to get oil cargoes when the waiver was granted. They could not get oil, and therefore had to leave with grain in their holds. I tried to limit myself to documenting the facts point by point in the RECORD, to state the questions point by point which should be answered. I do not make any accusations. Rather I raise questions that I believe deserve an answer.

It was disturbing that the waiver was issued. However, the facts are such that the answers should be forthcoming and the answers should be forthcoming from the parties which are involved. I can assure the distinguished Senator from Louisiana that that is my sole intention.

Mr. LONG. I should like the RECORD to reflect what little more I know about this matter. I personally have had inquiry made of the shipyard in Louisiana that was capable of building a similar ship to compete with this type of tanker, and those people were not particularly concerned about the matter one way or the other. But, since approval of the waiver, I have been called upon by those representing other shipbuilding yards and repair yards who were very much upset about this matter, which caused me to ask the question of them, "Why did you people come in only after the waiver had been approved and protest that this could have dire consequences for the merchant marine?"

Mr. TYDINGS. Let me answer that question. First of all, when the formal request for the waiver was made with the Secretary of Defense, he denied it. The protests were lodged. This is the first time in the history of this Nation that the Secretary of the Treasury has ever gone over the stated position of the Secretary of Defense to issue a general waiver, permitting foreign flag tankers to come in on this lucrative trade. No one held any hearings. No one consulted the Congress. They did not have as much as a "by your leave." He just signed a piece of paper with a short paragraph on it which said that for reasons of national defense he would permit a Liberian-flag tanker, the *Sansinena*, to come in and compete in the United States.

That signature meant over $5 million to someone and I think we are entitled to know who. One of the interesting points is that 24 hours after I raised this issue on the floor of the Senate, the Secretary rescinded the waiver, with the same lack of public hearing, and the same lack of explanation. That, in and of itself, requires an explanation.

Mr. LONG. I should like to complete the statement I was making to the Senator. Those who were speaking for the American shipyards are very much concerned about this matter and proceeded to explain to me that the reason they had not protested before was that it was inconceivable to them that the waiver would be granted.

Mr. TYDINGS. Right.

Mr. LONG. So that my reaction to those business people was to say that they should not sit back with such complacency if they thought something was being requested that they found amiss, and that they thought would be entirely wrong. It did seem to me that they were derelict in not making their views heard previously.

The statutes say—I just glanced at them, I have not studied them thoroughly—that this type of waiver is to be granted when the Secretary of Defense, not the Secretary of the Treasury, advises that——

Mr. TYDINGS. No. The language is sufficiently broad that the action of the Secretary of the Treasury was legal, so long as that when he grants the waiver he says it is "in the interest of national defense."

Mr. MAGNUSON. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. MAGNUSON. I would suggest to the chairman of the committee that possibly we should seriously consider some review of this section. The original section was the waiver section which was, of course, put in there so that the Defense Department, in case of dire need, could waive this. It was never intended to be waived, so far as I know, on economic grounds and things of that kind, although the law as written is pretty broad, as the Senator from Maryland says. Then, yesterday, the Secretary of the Treasury did tell some newspaper people—or at least their information was—that he was proceeding on economic grounds. Of course, that was never the intent of the statute.

I want to say to my good friend from Louisiana that this matter and similar matters have been around for some time. In this particular case, there was a protest lodged. The Secretary of Defense and the Defense Department have for

months known that people in the shipping industry protested the application and consequently that they were turned down. As both Senators from Maryland and Louisiana have pointed out, no one even thought of the Secretary of the Treasury doing this. So they were aware of it and they have—I have known about this case for 7 or 8 months. Everyone has known about it. But I must say, frankly, that I have no experience with the Treasury Department.

Mr. LONG. I think that this paragraph in the statute, chapter 1, title 46, should appear in the RECORD so that everyone will know what it says, and I ask unanimous consent to have it printed in the RECORD.

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

TITLE 46. SHIPPING

CHAPTER 1.—ADMINISTRATION OF SHIPPING LAWS

WAIVER OF COMPLIANCE WITH NAVIGATION AND INSPECTION LAWS; TERMINATION DATE

Act Dec. 2, 1950, ch. 1155, §§ 1, 2, 64 Stat. 1120, provided that:

"The head of each department or agency responsible for the administration of the navigation and vessel-inspection laws is directed to waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense. The head of such department or agency is authorized to waive compliance with such laws to such extent and in such manners and upon such terms as he may prescribe, either upon his own initiative or upon the written recommendation of the head of any other Government agency, whenever he deems that such action is necessary in the interest of national defense.

"SEC. 2. The authority granted by this Act shall terminate at such time as the Congress by concurrent resolution or the President may designate."

Similar provisions were contained in Joint Res. Mar. 31, 1947, ch. 27, 61 Stat. 33; July 31, 1947, ch. 408, 61 Stat. 685; Feb. 27, 1948, ch. 78, § 2, 62 Stat. 38; Feb. 28, 1949, ch. 12, 63 Stat. 9; Joint Res. June 29, 1949, ch. 281, § 1, 63 Stat. 349; June 30, 1950, ch. 427, § 4, 64 Stat. 309.

TEMPORARY SUSPENSION OF NAVIGATION AND INSPECTION LAWS

Act Mar. 31, 1947, ch. 28, 61 Stat. 33, providing for the suspension of navigation and inspection laws as applied to the Department of the Army upon the termination of section 635 of Title 50, Appendix, War and National Defense, was repealed by act Dec. 27, 1950, ch. 1155, § 3, 64 Stat. 1120.

§ 1. Bureau of Marine Inspection and Navigation; establishment.

CODIFICATION

Section, acts July 5, 1884, ch. 221, § 1, 23 Stat. 118; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for a Bureau of Marine Inspection and Navigation in the Department of Commerce.

This Bureau was created by act July 5, 1884, as the Bureau of Navigation. By act June 30, 1932, above, it was consolidated with the Steamboat Inspection Service to form a new bureau to be known as the Bureau of Navigation and Steamboat Inspection, which name was changed to Bureau of Marine Inspection and Navigation by act May 27, 1936. The "Director" of the Bureau of Marine Inspection and Navigation was the designation given to the chief of the bureau by the Secretary of Commerce under act June 30, 1932, § 502(b). The Bureau and the office of its Director was abolished by 1946 Reorg. Plan No. 3, § 104, set out under this section.

Mr. LONG. Mr. President, that being the case, it would seem to me that such action would require the approval of the Secretary of Defense. But I have noticed that there is additional language which perhaps would justify the conclusion that approval of the Secretary of Defense is not necessary, as a quick glance at the statute leads me to believe that perhaps the Secretary of Defense was expected to approve any such application.

Mr. TYDINGS. Certainly, that should be——

Mr. MAGNUSON. May I say this to both Senators, who are on the Merchant Marine Subcommittee, that surely we should take a look at this. The law is that if the Secretary of the Treasury could do it, that they have the approval of the Secretary of Defense or the recommendation of the Secretary of Defense in these cases. This is an old law and has not been invoked many times. I must say, someone asked me if exceptions had been made in the Jones case before. Every once in a while some little fishing boat was given an exception, for some specific purpose. The Defense Department at one time asked us to make an exception for a ship to haul some material to an island in the Caribbean that no other line went to. This has been done before, for fishing boats, for minor specific purposes. We have made temporary exemptions. One time, some years ago, I remember, we allowed a ferry boat to use the Chesapeake Bay until they could build their own ferries. But there was never a blanket thing like this.

Mr. DOLE. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. DOLE. I did not have an opportunity to hear all of the Senator's statement but I understand that he is not charging any impropriety here. Is that correct?

Mr. TYDINGS. That is correct. I merely state the facts.

Mr. DOLE. The Senator is merely suggesting an impropriety. Would that be more accurate?

Mr. TYDINGS. The Senator said that. I merely stated the facts and asked the questions. The Senator is the one that said "impropriety." I did not say "impropriety." I merely said there are facts which require an explanation.

Mr. DOLE. Is the Senator saying that the Jones Act was violated, that it was illegal to grant the waiver?

Mr. TYDINGS. I am saying that under the present language of the law, within the letter of the law, as long as the Secretary of the Treasury, after he said, "for reasons of national defense," was within the law.

I am saying it was extraordinarily unprecedented. It is the first time in the history of this Nation as a maritime nation that the entire shipbuilding industry of the United States is threatened, including the jobs of 4,000 shipyard workers at Sparrow Point, Md. The circumstances surrounding this signature are so extraordinary as to warrant considering a full inquiry into all matters relating to it.

Mr. DOLE. I have no quarrel with that if the Senator has just stated the facts.

Mr. TYDINGS. That is all.

Mr. DOLE. But he has indicated that there was a multimillion-dollar windfall which, to me, indicates perhaps more than a fact.

Mr. TYDINGS. It is a fact that granting the waiver creates the windfall. The Senator was not present when I outlined this matter point by point in the RECORD on yesterday.

Mr. DOLE. I read the Senator's statement.

Mr. TYDINGS. Then the Senator saw how I arrived at the $5 million figure. That is the most conservative figure which could be attached to the matter. I labeled it a windfall because it was a $5-million profit that was unprecedented, that someone would not have received except for the signature of the Secretary of the Treasury on that paper.

Mr. DOLE. Who received that $5 million?

Mr. TYDINGS. That is the question we should determine. I am glad the Senator from Kansas brought it up. The American people are entitled to know whether the Barracuda Corp., the stock of which was owned in trust by the father of the special assistant to the White House up to 5 days before this paper was issued, received that profit or whether the Union Oil Co. of California, headed by Mr. Fred L. Hartley, and others associated with the company, received the profit from the transaction.

We are entitled to know all of the facts with respect to the memoranda, the conference, and the letters which relate to this extraordinary decision.

Obviously from the standpoint of the Senator from Kansas, everything will be beautiful and rosy. However, we are entitled to know the facts.

Mr. DOLE. The Senator from Maryland has made a very eloquent statement. With respect to the point the Senator raised, I can recognize that we are splitting hairs. There has not been the suggestion of impropriety. However, the Senator has not left very much doubt in this Chamber.

I would hope that the facts would be brought out with respect to the charge that has been made regarding someone receiving a windfall.

Mr. TYDINGS. The Senator is correct. It might be that the Barracuda Corp. did not get the profit.

Mr. DOLE. I recognize it is worthy of consideration and investigation. I do not quarrel with that. However, it is clearly suggested, that high officials in this administration have been involved in improper action. That is the only implication which can be drawn. It is the Senator from Kansas who is saying this.

Mr. TYDINGS. I have carefully drafted my speech, stated and documented facts, raised questions and demanded answers.

Mr. DOLE. I have read the speech which indicates that Union Oil has had problems in Santa Barbara and that this in some way includes the oil spill that occurred there. If the Senator can tell us how that relates to Maryland, he can enlighten me.

Mr. MAGNUSON. Mr. President, I say to my friend, the Senator from Kansas, that there is a violation of policy involved here.

As I read the administration recommendations for updating the American merchant marine, they have just sent up a proposal in which they make a great statement for some help for the American merchant marine, and in one fell swoop that is now rescinded, and they reward the very people who have been operating tankers under a foreign flag. When they are through with that, they let them come in and reap the benefit of the coastal trade. This is a direct violation of our efforts to update the American merchant marine.

If they do it for one tanker that flies a foreign flag, they will do it for others. And there are plenty. The Pan American vessels have more tonnage than the American merchant marine ever had. And it is a matter of tax evasion, and they frankly admit it and have so testified.

It is cheaper for them to operate in this way. I do not know of any way to get at it. But we try to encourage the flying of the American flag.

This is what they say they want to do, and the man in charge of the White House is one of the persons mentioned as handling the American merchant marine.

Mr. TYDINGS. Peter M. Flanigan.

Mr. MAGNUSON. He prided himself with working with the program for the American merchant marine.

Any tanker can fly the Pan American or the Greek or the Liberian flag and leave the money in Liberia and not put it in London.

After they get through with this work, after 12 long years, they come in and compete with the fellows who have struggled and tried to keep the American flag flying on ships. That is a violation of the principle we have tried to follow.

Mr. TYDINGS. Mr. President, let me be specific. Sparrows Point shipbuilding yard is in the negotiations stage for the construction of 10 tankers, some of the same size as the *Sansinena*, at an average cost of between $18 and $20 million.

If they are successful, the total amount will be over $200,000,000 for the construction of tankers at the Sparrows Point shipbuilding yard at Baltimore. That is a fact. The vice president in charge of shipbuilding at the Bethlehem Steel Co., Mr. D. D. Strohmeier, told me Saturday that if this waiver is allowed to stand, it is doubtful whether any of those tanker orders will be placed.

In all probability, if another such waiver were issued, the Sparrows Point shipbuilding yard would be seriously threatened and closed should a further waiver be granted.

Why should any American oil company pay $18 million or $20 million to build a tanker in the United States to ply the American coastal trade if they can go into the world market and build one in Japan or Germany for $8.5 million or buy one, like the *Sansinena*, which is 12 years old with half its life gone, for $4.5 million.

That is the whole purpose of the cabotage law of the United States.

With the discovery of oil on the North Slope of Alaska, there will be more American coastal traffic, to take the oil down to the domestic market.

On the strength and the integrity of the Jones Act, oil companies will place orders to build American tankers with American men and American material, tankers that will fly the American flag. What happens when companies have gone ahead on the strength of the Jones Act and placed orders for American tankers when another company can go in the foreign market and have one built or buy one for $4.5 million?

Mr. DOLE. Mr. President, I do not quarrel with the objective. The Senator has made the inference rather clearly that someone has done something that resulted in something.

Mr. TYDINGS. The Senator is correct.

Mr. DOLE. We have an obligation to look into this matter as well as others.

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

Mr. TYDINGS. I yield.

Mr. MURPHY. Mr. President, was this tanker built in American shipyards?

Mr. TYDINGS. This tanker was built in Norfolk, Va., in 1958, shortly after the Suez oil crisis. During the Suez crisis, as Senators will recall, there was a major shortage of oil tankers.

The situation was so critical that the delay in the shipyards in Japan and Germany was 2 and 3 years. A number of syndicates were willing to pay the extra expense of building the tankers in America during the Suez oil crisis years in order to obtain the ships earlier. It would have taken 2 years longer if they had had them built in Japan or Germany.

There were more than 60 tankers flying flags of convenience which never paid a penny of American taxes and which employed foreign crews.

If this waiver were permitted to remain in effect, they would be only too happy to come back into the American field.

Of course, it would devastate the shipbuilding industry in the United States and result in millions and millions of dollars of profit to those tanker syndicates and those people chartering them but we would have no more shipbuilding industry in this country and there would be no work at Sparrows Point.

Mr. MURPHY. Mr. President, will the Senator yield further?

Mr. TYDINGS. I yield.

Mr. MURPHY. The Senator speaks with regard to profits. Was there not a problem during the Suez crisis that extended beyond the matter of profits? Was it not true that the American oil industry, including this particular company, was able to supply——

Mr. TYDINGS. Which company?

Mr. MURPHY. I believe this tanker is controlled by the Union Oil Co. Is that right?

Mr. TYDINGS. I believe it is owned by the Barracuda Tanker Corp. The Senator may know more about that. I will let the facts speak for themselves.

Mr. MURPHY. I thought it was the Union Oil Co. that controlled it. I know that for a long time they have been trying to return it to American ownership. The tanker was built in American yards by Americans and Union wants to return it to the American flag. I think this is healthy. I do not think they should be condemned for this. Previous to the discovery and development of oil on the North Slope, there was not much use for a tanker of this size.

As the Senator said, construction of this ship was an emergency job. A penalty was paid to get the tanker to supply the world with oil during the Suez crisis. The much-maligned oil industry did a remarkable job during that period. I know something about that because some of the companies are headquartered in my State.

With regard to the waiver, I think there is no question that somebody on the Treasury staff used bad judgment. The waiver has been canceled. Therefore that has been corrected. I can also say from knowledge that the White House knew nothing about this until it became public knowledge.

Since the waiver has now been canceled, and since we have a chance to bring back this tanker and put it under the American flag—it was made in American yards and belongs here—I do not think this company did anything other companies would not do.

They were almost forced into it because of economic conditions. If they want to bring this ship back here where it belongs and fly the American flag with American seamen, I think it should be done.

I thank the Senator for yielding to me.

Mr. TYDINGS. The Senator said he feels the *Sansinena* should be brought back and permitted to come under the American flag. Does the Senator think the other 60 or so tankers like the *Sansinena*, that have been flying a flag of convenience for the last 12 years, should be permitted to come back, too?

Mr. MURPHY. I do not know their background. Are they tankers built in American yards?

Mr. TYDINGS. There were 60 tankers built in American yards under the same circumstances, basically, as the *Sansinena* for use in world trade under foreign flags of convenience. They also were chartered by oil companies much in a manner similar to the *Sansinena*.

Does the Senator think all of those tankers should be permitted to come back like the *Sansinena?* I might ask what is so different from the *Sansinena* other than the fact that it was chartered by the Union Oil Co.?

Mr. MURPHY. To answer the Senator's question I do not know the details of the other tankers. I do not know how many were built under the American flag or how many were built for purposes that can be useful now. I would not recommend anything to hurt our shipbuilding industry. I think we build as many ships in the State of California as are built in the State of Maryland. I believe that possibly it is just as important an industry in my State. But under the circumstances the question becomes hypo-

thetical. I do not know that any other tanker has asked to be returned to the American-flag registry.

Does the Senator have that information?

Mr. TYDINGS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a list of foreign-flag tankers built in the United States as of June 1969, which shows the name of the ship, year built, dead weight tons, gross tons, speed in knots and flag.

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

FOREIGN-FLAG TANKERS BUILT IN THE UNITED STATES AS OF JUNE 1969

Name of ship	Year built	Dead-weight tons	Gross tons	Speed (knots)	Flag
Mona Pass	1945	16,761	10,225	14.0	Liberia.
Brighton	1959	48,542	26,544	17.0	Panama.
Texaco Maine	1959	46,442	26,544	17.0	Do.
Trinidad	1958	48,734	26,530	17.0	Do.
A. N. Kemp	1950	28,264	18,127	16.0	Liberia.
Atholl McBean	1950	28,276	18,127	16.0	Do.
Chevron Transporter	1950	28,264	18,127	16.0	Do.
Gage Lund	1952	28,264	18,125	16.0	Do.
Pail Pigott	1951	28,264	18,127	16.0	Do.
Robert Watt Miller	1951	29,680	18,125	16.0	Do.
Esso Chelsea	1945	5,374	4,352	8.0	United Kingdom.
Esso Fulham	1945	5,374	4,352	8.0	Do.
Esso Glasgow	1944	16,143	10,727	15.0	Do.
Esso Lambeth	1943	5,400	4,352	8.0	Do.
Esso Advance	1945	4,902	3,930	11.0	Panama.
Esso Centro America	1945	4,626	4,595	11.0	Do.
Esso Bogota	1949	27,403	17,612	16.0	Do.
Esso Brooklyn	1943	16,424	10,399	15.0	Do.
Esso Colon	1949	27,350	17,420	16.0	Do.
Esso Montevideo	1949	27,355	17,420	16.0	Do.
Esso Norfolk	1942	16,635	10,501	15.0	Do.
Esso Santos	1950	27,315	17,328	16.0	Do.
Cities Service Valley Forge	1954	39,254	22,595	18.0	Liberia.
Cradle of Liberty	1954	38,937	22,610	18.0	Do.
Liberty Bell	1954	38,937	22,610	18.0	Do.
Statue of Liberty	1954	39,255	22,610	18.0	Do.
Capiluna	1960	47,183	28,434	16.0	Do.
Capisteria	1960	47,183	28,435	17.0	Do.
Capulonix	1959	47,183	28,435	16.0	Do.
Waneta	1952	54,335	26,155	16.0	Panama.
Wapello	1953	53,221	30,626	17.0	Do.
Wenatchi	1939	19,254	11,977	13.0	Do.
Winamac	1939	19,254	11,981	15.0	Do.
Marine Chemist	1942	13,018	8,137	13.0	Liberia.
Mobil Bataan	1945	4,110	3,498	13.0	Philippines.
Mobil Micronesia	1945	4,110	3,155	13.0	Do.
Mobil Visayas	1945	1,350	1,165	10.0	Do.
Chevron Genoa	1944	16,547	10,448	15.0	Panama.
Chevron Venice	1945	22,646	13,991	15.0	Do.
Texaco Bombay	1945	23,334	13,899	14.0	United Kingdom.
Texaco Rome	1945	16,630	13,892	15.0	Do.
Texaco Saigon	1945	22,368	13,892	14.0	Do.
Texaco Wellington	1944	22,367	13,887	14.0	Do.
Texaco Melbourne	1945	22,381	13,899	15.0	Do.
Canopus	1945	4,000	3,143	10.0	Panama.
Deneb	1945	4,110	3,155	13.0	Do.
Procyon	1945	4,000	3,145	11.0	Do.
Regulus	1945	4,000	3,155	11.0	Do.
Sea Horse	1944	1,496	1,294	10.0	Do.
Sea Raven	1945	2,219	1,296	8.0	Do.
Philidora	1959	48,422	30,165	17.0	Liberia.
Philine	1959	48,422	29,742	17.0	Do.
Phillipia	1959	47,856	29,742	17.0	Do.
Standard Service	1923	1,500	1,324	8.0	Canada.
Texaco Bristol	1944	23,426	14,412	15.0	Panama.
Texaco Kentucky	1949	28,081	17,892	16.0	Do.
Texaco London	1944	23,500	14,397	15.0	Liberia.
Texaco Pennsylvania	1949	28,081	17,872	16.0	Panama.
Texaco Texas	1949	28,081	17,892	16.0	Do.
Raban	1949	7,342	5,011	10.0	Do.
Aldine	1943	16,423	10,670	14.0	Liberia.
Bulkoceanic	1949	30,016	17,328	16.0	Do.
Bulktrader	1950	30,004	15,798	16.0	Do.
Lake Palourde	1959	117,966	62,275	16.0	Do.
Chevron Leiden	1944	22,403	13,785	14.0	Netherlands.
Chevron The Hague	1945	22,352	13,894	14.0	Do.
Esso Caernarvon	1962	1,550	1,103	11.0	United Kingdom.
Barbara Jane Conway	1945	23,526	14,424	15.0	Panama.
Betty Conway	1943	23,524	14,424	15.0	Liberia.
Carolyn E. Conway	1945	23,580	14,450	15.0	Panama.
Eina N. Conway	1945	23,524	14,449	15.0	Do.
Mary Ellen Conway	1945	23,573	14,456	15.0	Do.
Phyllis T. Conway	1944	23,578	14,417	15.0	Panama.
Texaco Ohio	1949	28,081	17,892	16.0	Do.
Conoco Humber	1943	16,811	10,602	15.0	Liberia.
Sansinena	1958	66,883	38,562	17.0	Do.
Princess Sophie	1959	65,000	43,000	16.8	Greece.

VESSELS BUILT IN U.S. YARDS FOR FOREIGN REGISTRY

Year	Tankers		Cargo		Bulk		Others		Total	
	Number	Gross tons	Number	Gross tons	Number	Gross tons	Number	Gross tons	Number	Gross tons
1948	4	27,692	14	49,956	0		0		18	77,648
1949	30	484,773	0		0		1	3,100	31	487,873
1950	19	307,082	0		0		0		19	307,082
1951	2	32,142	0		1	3,425	0		3	35,597
1952	4	70,559	0		1	3,423	0		5	73,982
1953	7	123,500	0		0		0		7	123,500
1954	11	230,800	0		0		0		11	230,800
1955	1	18,790	0		0		0		1	18,790
1956	1	12,802			2	6,844	0		3	19,646
1957	3	63,800	0		0		0		3	63,800
1958	7	186,700	0		0		0		7	186,700
1959	11	345,400	0		0		0		11	345,400
1960	2	56,000	0		0		0		2	56,000
1961	0		0		0		0			
1962	0		0		0		0			
1963	0		0		0		0			
1964	0		0		0		0			
1965	0		0		0		0			
1966	0		0		0		0			
1967	0		0		0		0			
1968	0		0		0		0			
1969	0		0		0		0			
21-year totals	102	1,960,040	14	49,956	4	13,692	1	3,100	121	2,026,788

Mr. MURPHY. Does the Senator know if they asked to have their registries returned?

Mr. TYDINGS. I do not know whether they will ask for a similar waiver if the waiver for the *Sansinena* stands. There would be an increase of from $5 to $10 million per ship, so the law of economics would demand they come in and would result in the closing of every shipbuilding yard in this country. And as the distinguished chairman of the Commerce Committee noted at the same time the administration is coming up here with a maritime program asking us to subsidize the building of 30 additional ships a year.

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

Mr. MURPHY. May I ask if at the present time the economic conditions would substantiate the injection of 60 tankers in the oil industry under the particular conditions that exist today?

Mr. TYDINGS. Economic conditions have nothing to do with the issuance of the waiver. The waiver can only be legally issued for the purpose of national defense. That is one of the reasons we need to inquire why that waiver was issued, because there was no relationship to national defense, since the Secretary of Defense already turned them down.

Mr. MURPHY. I have just as an intense interest in the rebuilding of the American merchant marine as the distinguished Senator from Maryland, and I would in no way wish to do anything that would deny contracts for ships and jobs for our workmen in our American shipyards or American seamen on the high seas.

I do wish to point out, however, that there was no knowledge of the granting of this waiver at the White House as has

been suggested here. The waiver has been subsequently withdrawn by the Treasury Department, and so if there was thought to be a problem yesterday, it no longer exists, I am certain that my distinguished colleague will be as pleased as I am that this matter has been settled.

Mr. SCOTT subsequently said: Mr. President, I am in receipt of a letter from the Department of the Treasury under this date, whereby the Treasury announcement is that it has suspended the *Sansinena* waiver pending review of national defense aspects.

The Secretary makes the statement that he is suspending the waiver because of questions which have arisen over the merits of the case since the waiver was granted. He makes certain statements regarding the factors for the original grant of the waiver, and recites that after granting of the waiver on the 2d of March became public knowledge, Peter Flanigan of the White House sent a memorandum detailing his relationships with the Barracuda Corp. and a copy of that memorandum is attached. I have copies of the statement, Mr. President, available for anyone interested in looking at it, and ask unanimous consent that the statement and enclosure be printed in the RECORD.

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

TREASURY SUSPENDS SANSINENA WAIVER PENDING REVIEW OF NATIONAL DEFENSE ASPECTS

(Statement by Secretary David M. Kennedy)

TREASURY DEPARTMENT,
Washington, D.C., March 10, 1970.

I am suspending the waiver granted by Treasury to Union Oil Company to permit the SS Sansinena to engage in coastwise trade.

The waiver is being suspended because of questions which have arisen over the merits of the case since the waiver was granted. Because it has been alleged that the Sansinena waiver involves new implications for national maritime policy as well as broad national defense considerations, I intend to initiate an administrative review of the application for waiver under procedures assuring all interested parties a full opportunity to present their views.

Treasury received the application to grant a waiver for the Sansinena in August of 1969. The Sansinena is a 70,700 ton oil tanker built at Newport News, Va., in 1958. In its application, Union Oil stated that it wished to use the tanker to carry oil from developing Alaskan fields to the West Coast of the United States.

In originally granting the waiver, Treasury took into consideration the following factors:

The Sansinena was built in an American shipyard.

She was to be sold to an American company.

Currently, she is owned by a Liberian Corporation headquartered in Bermuda, Barracuda Tanker Corporation, but an American company is being formed to purchase the vessel.

The vessel is operated and would continue to be operated under charter by an American company, Union Oil.

She would be registered in the United States.

She would employ American crews.

The new company of ownership would pay United States taxes.

The intent of Congress in writing the 1950 Jones Act which regulates vessels engaged in coastwise trade was to prevent foreign ships from demoralizing existing services or delaying construction of new ships in American yards. There is no established Alaskan service, and the ship, as pointed out, was built in an American shipyard.

A recent federal district court decision said that the law was not intended to exclude from coastwise trade ships built in this country and then acquired by American companies from the foreign owner when the ship had never before acquired the right to engage in coastal trade in this country. In the absence of reversal on appeal, this decision would enable the Sansinena to engage in coastwise trade without a waiver of the Jones Act restrictions.

A broad interpretation of the national defense implications of the development of Alaskan oil indicated to Treasury, under its discretionary power to grant waivers, that the employment of the Sansinena in coastwise trade was in the interest of national defense.

Another question which has arisen in this case is the previous ownership of a small quantity of stock in Barracuda Tanker Corporation by Peter Flanigan, an assistant to to the President.

In its routine investigation following the application by Union Oil for the waiver, Treasury discovered that Mr. Flanigan had been an organizer of Barracuda, that he was the beneficial owner of less than 4 percent of the capital stock (308 shares). This stock had been placed in trust for Mr. Flanigan in 1969. He would not be a stockholder of the new company being formed to purchase the Sansinena.

Treasury officials determined that the application of Union Oil should be, and it was, considered solely on its merits without reference to the small ownership interest of Mr. Flanigan in Barracuda.

At no time prior to the granting of the waiver did anyone on the Treasury staff consult or discuss the waiver application with Mr. Flanigan or with anyone else in the White House.

After the granting of the waiver, on March 2, became public knowledge, Mr. Flanigan sent me a memorandum detailing his relationship with Barracuda. A copy of that memo is attached.

MEMORANDUM FOR SECRETARY KENNEDY

THE WHITE HOUSE,
Washington, D.C., March 9, 1970.

The following are the facts relating to my past association with Barracuda Tanker Corporation, the owner of the S/S Sansinena.

Prior to coming with the government I was an officer of Dillon, Read & Co. Inc., New York. Dillon, Read has for many years been investment bankers for Union Oil Company of California. From time to time over the years, officers of Dillon, Read have organized corporations for the purpose of acquiring and leasing ships and other assets to Union.

Barracuda Tanker Corporation was organized in 1956. Since its inception its sole activity has been the ownership of tankers and their charter to Union on long term charter contracts under which Barracuda receives a fixed charter rental plus certain expenses. The charter of the Sansinena extends until 1985 with a renewal option in Union until 1990.

I resigned as an officer and director of Barracuda before becoming an Assistant to the President on April 16, 1969.

In connection with my employment with the Government, a statement of my financial interests, disclosing securities that I owned, including my ownership of 308 shares of Barracuda (less than 4% of the outstanding shares) was filed with the Counsel to the President. In 1969, I assigned the Barracuda shares, together with other securities, to my father as Trustee of a revocable trust for my benefit, so as to give my father complete discretion in the management of the securities.

I am informed that on February 25, 1970, the President of Barracuda telephoned my father and said that to avoid my being placed in a position where there was any possibility of an appearance of conflict, he would buy the trust's shares for $20,020, and my father as Trustee agreed to the sale at this price without any consultation with me. He was informed that this price was determined solely with reference to Barracuda's liquid assets, the rentals under the existing charters, and estimated salvage values, following a method employed in determining price when certain shares were bought by Barracuda in 1966.

Most important, the price paid for the shares did not in any way reflect any possibility that the ship might at some time be used in coastwise trade.

Neither I nor the trust has obtained or can obtain any benefit from the Treasury's action on Union's application.

I did not discuss the application to the Treasury Department for waiver of the coastwise trading restrictions on the Sansinena with any government official or employee.

PETER M. FLANIGAN.

Mr. TYDINGS subsequently said: The Treasury announcement has just been communicated to this body. There has been no time for any of us to consider it fully. I do note with disappointment and disapproval that the Secretary "suspended" the waiver rather than "rescinded" it, I note also that the statement now presents an explanation for the granting of the waiver of March 2. And I note that the statement does not explain why a "broad interpretation of the national defense" requires the waiver. I point out that if it were "the intent of Congress in writing the 1950 Jones Act" not to demoralize ship construction in U.S. yards, as the statement says and I accept it, granting this waiver to the *Sansinena* is no way of going about carrying out this intent.

EXTENSION OF PUBLIC HEALTH PROTECTION WITH RESPECT TO CIGARETTE SMOKING—CONFERENCE REPORT

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. 6543) to extend public health protection with respect to cigarette smoking, and for other purposes.

Mr. COOPER. Mr. President, I wish to ask the Senator from Washington, the manager of the report, questions for interpretation. As I understand the conference report, it preempts the States from any action restricting advertising.

Mr. MAGNUSON. Yes.

Mr. COOPER. The Senator may remember, and I know he does remember, that when the 1965 act was passed, questions were raised questioning the authority of the Federal Trade Commission to issue regulations concerning advertising.

Am I correct that this report does not confer upon the Federal Trade Commission any powers that it did not have previously from the Congress?

Mr. MAGNUSON. No, it does not. They still have the same powers left which they had before and they cannot move in this particular case except in connection with their general power in false adver-

tising and things of that kind, on the cigarette matter, until July 1971.

Mr. COOPER. Then, in whatever way the FTC choose to move its power would be that if its general authority and its action could be reviewed by the courts?

Mr. MAGNUSON. Yes.

Mr. COOPER. Those are the questions I wanted to ask. I know that all of us are concerned about these health problems. The people of my State are concerned because of their large investment in the tobacco industry, and their concern about health. Efforts are being made in my State at the University of Kentucky, and through research by the tobacco industry, as well as many great scientists throughout the country to determine the truth or falsity of the claims of the relationship of tobacco to health.

I think we would all be happy to learn the truth or falsity of the claim made against cigarettes. I do not know. I do not think any of us know. From the research viewpoint three tests have been recognized: One is statistical association, which was the chief basis on which the Surgeon General's report was made but is not conclusive; the second test is identification of the agent which causes the disease, and it is known that research has not been able to identify such an agent; and the third test is the ability to produce the disease in human beings. This has not been accomplished to my knowledge. I know the work the committee has done on this matter and the efforts of everyone to try to solve this problem. I support the bill. But this act is to inform—it cannot legislate the cause of disease. Only qualified scientists and objective research will finally solve this issue.

Mr. MAGNUSON. Mr. President, may I say to my friend from Kentucky that I hope the cigarette industry, which is working hard to produce what they call a safer cigarette, will be successful.

Mr. HOLLAND. Mr. President, first I wish to say that my position is in no sense based on lack of respect or admiration for the distinguished Senator from Utah. I respect anyone who has deep convictions. I also respect anyone who has the perseverance and willpower to stick by his convictions until he wins. And so I respect and admire the Senator from Utah. At the same time, Mr. President, I could not vote for this conference report, and I wish to state briefly for the record why I feel I should vote against it.

It seems hopelessly inconsistent to me for Congress to vote price supports in the millions of dollars to aid in the production of tobacco, and at the same time take a position such as is shown by this legislation.

In the second place, Mr. President, I think it is highly inconsistent for Congress to vote a ban on the advertising of cigarettes on the media of TV and radio only without exercising our undoubted jurisdiction to similarly ban such advertising in both the newspapers and magazines which move across State boundaries in interstate commerce. I cannot see any justification in such an inconsistency.

In the third place, I think we are hopelessly inconsistent in that nearly every time we get a tax bill, we vote a very high excise tax on cigarettes. My understanding is that from the Federal tax and the various State taxes on cigarettes there is realized in public revenue somewhere between $3 and $4 billion every year which go into the public coffers. To do that and follow that course and at the same time to vote this type of legislation seems to me to be hopelessly inconsistent.

For these reasons and others I will vote against the conference report.

Mr. CANNON. Mr. President, I welcome the agreement by House and Senate conferees on legislation which I was pleased to support to curb the effects of cigarette advertising on radio and television and illuminate all Americans about the hazards of smoking.

As one who worked closely with the Senator from Utah (Mr. Moss) I recognize his invaluable contribution to this victory for the American people.

Legislation that he has spearheaded will soon become law to ban all broadcast cigarette advertising after January 2, 1971, and leave the Federal Trade Commission free to insist upon adequate warnings on printed advertisement after July 1971. Finally the warning on cigarette packages has been strengthened so that all who smoke will better realize the gamble they are taking with their health.

Without the determined and steadfast efforts of Senator Moss, this agreement could not have been possible and yet it comes at a most appropriate time. Little doubt exists today about the harmful effects of smoking upon the human respiratory system and its connection with the dread diseases of our time—cancer and heart disease.

I would express the hope now that Congress will have the courage to go one further step and examine the rationale by which we continue to subsidize the growing of tobaco on the one hand while on the other we seek to curtail its use. I would hope that we would have the courage and intelligence to examine whether there may indeed be hypocrisy in permitting the tax dollars of all Americans to further the production of this dubious product. Perhaps the impressive beginning which is being made here to come to grips at long last with this problem will lead us to appropriate consideration of still new subjects on the smoking question.

Mr. BIBLE. Mr. President, no discussion of the conference report on H.R. 6543 would be complete without reference to the extraordinary efforts of Senator FRANK Moss to provide new legislation to warn the American public—and particularly young people—about the hazards of smoking.

As we all know, this measure is virtually identical to the proposal guided through the Senate by our distinguished colleague from the State of Utah. It is a strong bill. Its language is unequivocal. In my judgment, it is one of the most significant pieces of legislation to come before the 91st Congress.

In a genuine sense, this bill reflects the thinking of a citizenry that in the last generation has become more mature, more enlightened, and more responsible. Education has made the individual American increasingly aware that he can play a role in shaping his own destiny and the destiny of the civilization of which he is a part. He now recognizes that the earth is perishable; that there is a limit to the pollutant that may be discharged into the air he breathes and the water he drinks unless he is reconciled to a sure course of self-destruction.

This same enlightenment has influenced his attitude toward human life. He now comprehends that while man, like the environment, is perishable, there is a great deal that may be done to sustain life far beyond the expectations of previous generations. More money was spent on medical research in the 1960's than during the entire first half of this century. The effect of this research has been new dimensions of knowledge and recognition that life may be extended through proper medical treatment and reasonable care of the body. We have perfected cures for previously incurable diseases. And, with isolated exceptions, we have diagnosed the causes of diseases for which there is yet no cure.

I return now to H.R. 6543 and the potential impact of Senator Moss's legislative proposal. We are aware that heart disease is the Nation's No. 1 killer and that lung cancer is not far behind. And we also are aware that there is a direct cause-and-effect correlation between smoking and these terrible diseases.

Given this knowledge, we have an obligation to make every American aware of the hazards of smoking, particularly since the welfare of our young people is at stake. If smoking were a habit cultivated later in life—during adulthood—perhaps our obligation would not be so imperative. But the statistics provide irrefutable proof that America's youth—responding to sophisticated advertising and emulating its elders—is a chief victim of the habit.

Mr. President, H.R. 6543 represents the capstone of a remarkable 11-year effort by Senator FRANK Moss to bring the dangers of smoking to the attention of the public. If his current proposal promised to preserve even one human life, it would be worthy of enactment. But its potential is unlimited. It may well mean the difference between life and death for thousands, and ultimately millions, of American citizens. For this reason, the Congress and all the people of this Nation owe the distinguished Senator from Utah an enormous debt of gratitude.

Mr. McGEE. Mr. President, I want to join with my fellow Senators in calling attention to the accomplishment the passage of this conference report represents for my good friend and neighbor, Senator FRANK E. Moss.

Out in our part of the country, one of the nicest things you can say about a man is that he works hard, that he stays with a job until it is finished, and that he is not afraid to take on something that might turn out to be a hard task.

By that definition, Senator Moss stands high today because we are about to pass the conference report on the Cigarette Advertising Act which he has

worked so long and hard to bring before us.

It took hard work on his part, but he has proven in many ways that he is not afraid of hard work.

It has been a long battle. We started in this fight the first year he and I came to the Senate in 1959.

And it has been a tough fight. A single Senator, from a small State way out West, taking on not one but two multimillion dollar industries, the tobacco people and the broadcasters, did not present the best odds in his favor, but he stayed with it, utilizing a growing awareness of his position.

America will benefit from what we did here today, and we are doing it because of the efforts of TED MOSS.

Mr. INOUYE. Mr. President, I know of no single legislative event more perfectly in harmony with the public interest than this law bringing to an end the broadcast advertising of cigarettes. And this event would never have taken place without the single-minded persistence of the Senator from Utah (Mr. Moss).

It was he who brought home to the Senate through his speeches the dismal facts condemning smoking as a major public health hazard. It was he who alerted us early this year to the threat of weak legislation which had begun working its way through Congress. It was he who chaired the hearings of the Senate Commerce Committee which forced the cigarette and broadcast industries to face up to their social responsibility.

As of next January, thanks to his efforts, TV country will be "out of Salem." The cigarette for the "two of us" no longer will be beamed into the homes of the millions "of us" who have young children for whom television is a constant and trusted companion.

The public health service tells us that the smoking habit is on the way down; that the corner has been turned; that there are millions of ex-smokers who have heeded the objective medical judgment of the scientific community. And as the rate of cigarette smoking continues to decelerate and the toll in lives and misery begins to fall, one man will deserve our gratitude more than any other, Senator TED Moss, of Utah.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the conference report.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Hampshore (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Delaware (Mr. BOGGS) is absent to attend the funeral of a friend.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. SMITH), the Senator from Delaware (Mr. BOGGS), the Senator from Texas (Mr. TOWER), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 75, nays 9, as follows:

[No. 89 Leg.]

YEAS—75

Aiken	Goldwater	Moss
Allen	Goodell	Murphy
Allott	Gore	Muskie
Anderson	Griffin	Nelson
Bayh	Hansen	Packwood
Bellmon	Harris	Pastore
Bennett	Hart	Pearson
Bible	Hartke	Pell
Brooke	Hatfield	Percy
Burdick	Hruska	Prouty
Byrd, W. Va.	Hughes	Proxmire
Cannon	Inouye	Ribicoff
Case	Jackson	Schweiker
Cooper	Javits	Scott
Cotton	Kennedy	Smith, Maine
Cranston	Long	Sparkman
Curtis	Magnuson	Spong
Dodd	Mansfield	Symington
Dole	Mathias	Talmadge
Dominick	McClellan	Tydings
Eagleton	McGee	Williams, N.J.
Ellender	McGovern	Williams, Del.
Fannin	Miller	Yarborough
Fong	Mondale	Young, N. Dak.
Fulbright	Montoya	Young, Ohio

NAYS—9

Byrd, Va.	Ervin	Jordan, N.C.
Cook	Holland	Stennis
Eastland	Hollings	Thurmond

NOT VOTING—16

Baker	McCarthy	Saxbe
Boggs	McIntyre	Smith, Ill.
Church	Metcalf	Stevens
Gravel	Mundt	Tower
Gurney	Randolph	
Jordan, Idaho	Russell	

So the conference report was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate further insist on its amendment No. 13. As I pointed out to the Senate earlier, this is merely a technical amendment the necessity for which was discovered by both the House of Representatives and the Senate after the report was printed; so it merely means that the amendment will go over there and be agreed to, and come right back here.

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

The motion was agreed to.

Mr. MANSFIELD. Mr. President, there may be bills which pass Congress this year which have greater economic or social impact than the legislation embodied in this conference report. But, I can think of no law which keeps faith with the young people of America more than this one.

The Senator from Utah (Mr. Moss) has labored long and vigorously to achieve this goal. He has not assailed us with emotion but with scientific facts. He has not attacked the integrity of the cigarette industry or broadcast media but has focused upon the interest of our young people in being freed from the incessant message of cigarette commercials broadcast into their homes, assuring them by implication that cigarette smoking is harmless and part of the good life. He has been firm but patient. He has pursued a goal which only a few years ago seemed unreachable. For this we, his colleagues, owe him a substantial debt of gratitude.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate resumed the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

Mr. TYDINGS. Mr. President, the real subject of the debate this week is the right to vote, the most basic right in any democracy. Without the right to vote, any person or any group is automatically excluded from representative government. Without access to the voting booth, there is no power that the citizen or group can exercise—real or potential—over the course of government.

This fact is so basic as to be self-evident. Yet, nearly 200 years after the Declaration of Independence held that all men should be treated equally, and over 100 years after a bloody civil war was fought to enforce equal treatment, we are still engaged in the struggle to permit Negroes to exercise their franchise.

This record of continued denial of the vote in our Nation is a tragic chapter in our history and a bitter reminder of the gap that separates rhetoric from practice in the leading democratic nation of the world.

The importance of the right to vote is recognized by those who want to participate in the democratic process and by those who have so bitterly and persistently opposed that participation. Both sides realize that the vote for any minority means some degree of significant political power—power that will lead to better lives.

The legislative efforts to provide the franchise to Negroes in the South were failures until the 1965 Voting Rights Act was passed. The reason for the previous failures is clear—any enforcement of a voting rights law that depends solely on court suits is too slow and too easily circumvented to provide a remedy for the loss of the vote. The voting records prove this beyond any question.

Before the 1965 act the percentage of nonwhite voter registration in Alabama was 19.3 percent, in Georgia 27.4 percent, in Louisiana 31.6 percent, in Mississippi 6.7 percent, and in South Carolina 37.3

percent. In every one of these States white voter registration was above 60 percent. The table from the Civil Rights Commission report "Voter Participation" sets these statistics out very starkly.

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:

VOTER REGISTRATION BY RACE BEFORE AND AFTER PASSAGE OF THE VOTING RIGHTS ACT OF 1965

State	Preact registration	Postact registration	Preact percent of voting age population registered	Postact percent of voting age population registered
Alabama:				
Nonwhite	92,737	248,432		51.6
White	935,695	1,212,317	69.2	89.6
Arkansas:				
Nonwhite	77,714	121,000	40.4	62.8
White	555,944	616,000	65.5	72.4
Florida:				
Nonwhite	240,616	299,033	51.2	63.6
White	1,958,499	2,131,105	74.8	81.4
Georgia:				
Nonwhite	167,663	332,496		52.6
White	1,124,415	1,443,730	62.6	80.3
Louisiana:				
Nonwhite	164,601	303,148		58.9
White	1,037,184	1,200,517	80.5	93.1
Mississippi:				
Nonwhite	28,500	263,754		59.8
White	525,000	665,176	69.9	91.5
North Carolina:				
Nonwhite	258,000	277,404	46.8	51.3
White	1,942,000	1,602,980	96.8	83.0
South Carolina:				
Nonwhite	138,544	190,017		51.2
White	677,914	731,096	75.7	81.7
Tennessee:				
Nonwhite	218,000	225,000	69.5	71.7
White	1,297,000	1,434,000	72.9	80.6
Texas:				
Nonwhite	2,939,535	400,000	53.1	61.6
White		2,600,000		53.3
Virginia:				
Nonwhite	144,259	243,000	38.3	55.6
White	1,070,168	1,190,000	61.1	63.4

Mr. TYDINGS. In contrast, the 1965 Voting Rights Act has been a remarkable success. Since its enactment over 800,000 Negro voters have been registered without any disruption of the election system. The key to this success is contained in section 5 of the 1965 act which provides for a review by the District Court in the District of Columbia or the Attorney General of new voting procedures and practices in areas where literacy tests have been suspended under section 4. This unique procedure forces a decision about discrimination immediately, prevents delay in courts, and makes the right to vote a reality.

Since the passage of the Voting Rights Act there has been a significant increase in numbers of Negroes registered, voting, and running for office in the Southern States.

Records of the Civil Rights Commission show that as of December 31, 1967, Federal examiners had been assigned to 58 counties in Southern States and had listed as eligible to vote 158,094 persons, including 150,767 nonwhites and 7,327 whites. In addition, officials of the Department of Justice have estimated that as of May 3, 1967, an additional 416,000 Negro citizens had been registered by local voting registrars since the passage of the act.

Negro registration now is more than 50 percent of the voting age population in every Southern State. Before the act this was true only of Florida, Tennessee, and Texas. The biggest gain has been in Mississippi, where Negro registration has gone from 6.7 to 59.8 percent. But there also have been important gains in other States. In Alabama, the percentage has gone from 19.3 to 51.6; in Georgia, from 27.4 to 52.6; in Louisiana, from 31.6 to 58.9; and in South Carolina, from 37.3 to 51.2.

The substantial rise in Negro voter registration has been accompanied by a significant increase in the number of Negroes actually voting. A survey by the voter education project of the Southern Regional Council found that in 1966, the growing Negro vote was a major factor in elections across the South, supplying the winning margin for a U.S. Senator in South Carolina, at least one Governor, in Arkansas, and at least two Members of the U.S. House of Representatives. The project estimated that in Arkansas, 80,000 to 90,000 of a total of between 115,000 to 120,000 registered Negroes voted in the November 1966 general elections; in South Carolina, 100,000 of 191,000; and in Georgia, 150,000 of 300,000. In Alabama, the Negro turnout for the May 3, 1966, primary was estimated at 74 percent of the total Negro registration of just under 250,000; in the general election, faced with a choice between two segregationists who were the major candidates in the Governor's race, less than half the registered Negroes voted. In Mississippi an estimated 50,000 to 55,000 of an approximately 170,000 registered Negroes voted in the general election. In Louisiana, where there were no major statewide contests, a sampling of several Negro precincts indicated turnouts of 50 to 60 percent of those registered.

After the 1966 elections, the number of local Negro officeholders and legislators in the 11 Southern States was 159; after the 1967 elections the number exceeded 200—more than twice as many as were serving when the Voting Rights Act of 1965 was passed. Although the vast majority of Negro officeholders hold minor posts, in 1966, 20 Negroes—11 in Georgia, six in Tennessee, and three in Texas—were elected to State legislatures in the South, a total increase of nine. Negroes also were elected to posts at the county level in such Deep South States as Georgia, Louisiana, Alabama, and Mississippi. Lucius Amerson, elected sheriff of Macon County, Ala., became the first Negro sheriff in the South since Reconstruction.

In 1967, 22 Negroes were elected to office in Mississippi including the first Negro representative in the State legislature in almost 100 years.

Thus it is section 5 of the 1965 Voting Rights Act that means the difference between the right to vote or not to vote for nearly a million Americans. There is no evidence that I can perceive that would lead any observer to conclude that racial tension or discrimination has so diminished in this Nation that voting rights need no longer be protected. Many blacks have had the opportunity to vote for the first time in their lives because the 1965 law was effective—and not because of the magnanimity of local officials.

Indeed, despite this success, Negro voter registration is still low in numerous counties within these States. For example, in Alabama, less than 50 percent of Negroes of voting age are registered in 27 of 67 counties; in five counties, Negro registration is less than 35 percent; in Georgia, less than 50 percent of Negroes of voting age are registered in 68 of 152 counties; in 27 counties it is less than 35 percent; in Mississippi, less than 50 percent of Negroes of voting age are registered in 24 of 82 counties; in six counties it is less than 35 percent; in South Carolina, less than 50 percent of Negroes of voting age are registered in 23 of 46 counties; in three counties it is less than 35 percent.

The President's civil rights proposal, passed by the House last session, does not contain any provisions similar to section 5. It is a retreat on voting rights. By returning to the proven failure of remedial court action, the administration bill will end the right to vote of literally hundreds of thousands of Americans.

No amount of talk about regional legislation or equal application of the laws will hide the fact that the administration bill will gut the 1965 Voting Rights Act. The bill does not extend the procedures of the 1965 act across the Nation—this bill totally removes the only effective procedures we have to protect the right to vote, and provides no adequate substitute, regional or national.

I will not deny that these procedures are extraordinary nor that they are aimed at one region, because they are. I say they should be that way, because the denial of the right to vote caused by racial prejudice demands extraordinary action and because this massive voting discrimination has occurred in only one region in this country—the South.

The only way that the vote will be available to all Americans regardless of race is to extend the 1965 Voting Rights Act. We must do this if we are to preserve the bare shadow of equal treatment that we boast of so often.

I would also like to note today that two provisions of the administration's voting rights bill are excellent and are appropriately added to the extension of the 1965 act in the Hart-Scott substitute before us today.

First, the nationwide ban on literacy tests is long overdue. This device, just one of the many that have been used to deny the vote because of racial prejudice, should be eliminated nationally. Although it has not been used outside the South with the direct intent to disenfranchise particular minorities, the most recent studies of the Civil Rights Commission indicate that its effect has been to do just that. True equal treatment of all regions in the Nation demands that we strike down voter discrimination wherever it occurs—in this case discrimination because of one device—the literacy tests—occurs throughout the Nation, so its use should be ended throughout the Nation.

Second, the time has come for uniform residency requirements for voting in Federal elections. The high mobility of our citizens should not be used to penalize them when election day occurs. Familiarity with local issues and candidates

has no relevance to the ability to vote intelligently for the President and Vice President. We should allow every American to vote for the Presidency no matter when he moves.

I would like to reemphasize my central point—if we are to continue to allow Negro citizens to vote, if we are going to permit minorities to participate in our political system, if we are to be a democracy as well as sound like one, we must extend the Voting Rights Act of 1965. It has been effective; it has provided the vote. Now is no time for a retreat from the right to vote. So I shall continue to fight against the crippling amendments being offered to gut the 1965 Voting Rights Act and will vote for the Hart-Scott substitute to insure the extension of the act.

Mr. BROOKE. Mr. President, for the past several days, intense and learned debate has filled this Chamber, encompassing some of the most complex elements of social and political concern. No listener has departed from these Halls unimpressed with the constitutional wisdom, the sense of history, the breadth and scope of knowledge possessed by the participants in the dialog. I know that I have been impressed—and fascinated—with many of the obscure or half-forgotten facts of American history and folklore which have come to light in the course of this erudite exposition.

But there is one basic issue which cannot be obscured or forgotten, no matter how lengthy or expressive the debate. This is the fact that all citizens have an inalienable right to participate in the process by which they are governed.

The other day I heard a recitation of grievances drawn from that most basic of all documents, the Declaration of Independence. But to me, the specific enumeration of grievances contained in that historic document is wholly subordinate to that most classic statement of principle which precedes them:

> We hold these truths to be self-evident, that *all* men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are Life, Liberty and the pursuit of Happiness.

I have heard it said in this debate that the Constitution specifically reserves to the individual States the power to regulate certain aspects of the lives of their people. But should the right of States take predominance over the right of the people themselves? The Constitution of the United States places primary responsibility for providing for "the common defense and general welfare" with the Congress of the United States. The 14th amendment makes that power more explicit by declaring that—

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

The 15th amendment even more clearly states that—

> The right of the 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.

Those who argue that other sections of the Constitution appear to preserve the right to establish voter criteria to the various States should recall that the framers of the Constitution provided in the concluding article of the original document for instances in which doubts or conflicts of jurisdiction might arise. That article reads:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the *supreme Law of the Land*, and the Judges in every State shall be bound thereby, *any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*

Nothing could be plainer than this. The Constitution of the United States gives to the Federal Government the power to guarantee our most fundamental and invaluable rights to all our citizens, even if this means overruling State law in the process.

Mr. President, no responsibility of any free government can be more essential than to guarantee equality under the law to all its citizens.

Mr. President, the Voting Rights Act of 1965 did not burst full-blown from the brows of latter-day abolitionists. Rather, this bill was enacted only after 100 years of constitutional amendments, court decisions, and three previous civil rights acts had failed to achieve the simple objective of letting black people vote. After such unconscionable procrastination, the burden of proof could no longer reasonably be placed on the poor and the underprivileged to demonstrate that they were the victims. The evidence was all too clear. Court proceedings were far too slow. And the demand for redress of grievances was reaching an explosive level. To provide for the common defense and general welfare, Federal action was imperative.

The 1965 Civil Rights Act provides that in instances where a literacy test was required as a precondition to voting, and where less than 50 percent of the voting age citizens of a State actually exercised that prerogative in the 1964 elections, the Federal Government was authorized to employ a variety of alternative remedies. Federal examiners can be sent in to register voters, and Federal observers can be delegated to observe the actual election process. In States where these conditions prevail, any changes in the voting laws must be submitted to the Attorney General of the United States for a determination as to their possible discriminatory nature.

Men of good conscience may argue that such provisions are unnecessarily punitive. But no one can dispute the fact that 800,000 Negroes have registered to vote during the last 5 years in the seven States affected by this law. No one can dispute the fact that Mississippi, which had 6.7 percent of its black population registered to vote in 1964, now has 60 percent of its black population on the rolls. And no one who has talked with the people from Mississippi or read the report of the Civil Rights Commission can doubt that the increased registration is largely the result of efforts of Federal officers. Yet despite all this progress, dilatory tactics, and efforts to circumvent or to inadequately enforce the law give clear evidence that the change may not be lasting. Constructive changes may not, in fact, last much longer than the act itself.

Mr. President, I do not want to see this country retreat to the circumstances of 1957, or 1960, or 1964. We have come too far for that. We have made too many gains. We have held out too many promises and given people a taste of their fulfillment. Men and women in this country have risked their jobs to vote. They have risked their lives and the lives of their families for freedoms which are the birthright of every American.

I believe that the 1965 Voting Rights Act has been one of the most effective provisions ever enacted by the Congress. It has done far more than any previous legislation to insure equal representation and participation in the political process. But its effects are not immutable. Time is required for blacks to become accustomed to the exercise of political responsibility—and for whites to accept their participation. Time is required for old customs to be changed, for people of all races and creeds to accept one another as equals. I do not suggest that all this will happen if this law is enacted for another 5 years. I do say that we will stand a far better chance of accomplishing this objective if there is no opportunity for backsliding.

If the present act is changed in any way, if the automatic triggering device of section 4, or the preclearance provisions of section 5, are allowed to expire, we will be back in the pre-1957 situation which clearly was inadequate. The burden of proof will once again be on the victims rather than the actual perpetrators of the crime. We will enter a period of lengthy court litigation, of innumerable devious efforts to prevent people from exercising their constitutional rights, of intimidation and fear. No good purpose can be served by such a course of action.

A far better alternative is to adopt the Scott-Hart compromise amendment, which would extend the 1965 act for 5 more years, and to add new titles to the bill as required.

Three such additional proposals are presently before us. One, of which I am a cosponsor, would abolish the residency requirement for voting in Federal elections. This amendment, introduced by the distinguished Senator from Arizona (Mr. GOLDWATER), would grant the right to vote in presidential elections to the nearly 5 million mobile Americans who are presently disenfranchised each year. This reform is long overdue, and I welcome its enactment.

Abolition of literacy tests is also a vital step forward. In this day of mass communication, many Americans derive the bulk of their information on current events from radio and television rather than from the printed media. Literacy is practically universal, but there is still no reason to discriminate against those who, through poverty, poor education, or foreign birth, are unable to meet this standard. Our laws affect such persons as much as the man who can read, and their voices deserve to be heard.

A third proposal involves the question of lowering the voting age to 18. This is

a provision which I have long supported. Young men and women who are adults in the eyes of the law, who are allowed to marry and raise families, are obligated to pay taxes, are held responsible for their actions, and are required to defend their country, deserve at the very least the right to vote.

I am not convinced that an amendment to the present bill is the best way to achieve the objective. We have assurances from the subcommittee and from the full Judiciary Committee that hearings will be held and a bill reported within a very few weeks. We are also faced with the practical reality that no hearings have been held on this matter in the other body and opposition may therefore be strong. We cannot afford to jeopardize passage of the entire bill because of this one amendment. I would prefer, therefore, that we might withhold action at this time on the assurance that we will soon have an opportunity to vote on a separate bill. If this proves impossible, however, I will support the amendment.

Consideration of our voting rights laws has led to a momentous and basically constructive debate. It has served to focus widespread public attention on areas of our electoral laws which desperately need reform. What is more, it has raised into the full light of day the larger question of the rights and responsibilities of all citizens.

Political rights are essential to economic and social progress. Participation in the political process binds people together and give them a common forum for the presentation of their views. If we would bring this country together, if we would root out the underlying causes of discontent and deprivation, we can seek no better course than to guarantee to all our people full participation in the political process.

I commend those who are responsible for the pending legislation. I support the Scott-Hart compromise amendment, as amended by Senator GOLDWATER, and containing the provision for a nationwide abolition of literacy tests. And I urge the prompt adoption of these provisions which would move us forward in the direction of securing the rights of all.

AMENDMENT NO. 538

Mr. ERVIN. Mr. President, I call up my amendment No. 538, to the Scott-Hart substitute amendment No. 544, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

Add a new section, appropriately numbered, as follows:

"SEC.—. That section 4 of the Voting Rights Act of 1965 is amended by adding at the end thereof the following new subsection:

"'(f) After July 1, 1969, no State or political subdivision with respect to which determinations have been made under subsection (b) of this section, shall continue to be subject to the prohibitions of subsection (a) of this section if the Director of the Census determines that at least 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, and that at least 50 per centum of such persons voted in the presidential election of November 1968.'"

Mr. President, this is an amendment which ought to be adopted because it provides for the exoneration of a State or a county condemned by the triggering device in the Voting Rights Act of 1965 on exactly the same basis on which it is condemned by the act.

I am an optimist by nature, but in light of the previous vote on an amendment which would have accomplished the same result, I am not optimistic enough to think that the Senate would exercise the good intelligence to adopt this amendment. Moreover, I think the vote on the previous amendment was not such as to generate hope in my mind that the Senate would decide that whereas 2 plus 2 made 4 in 1964, it would accept the proposition that 2 plus 2 would make 4 in 1968, 1969, or 1970.

Having had this amendment reported, and having given the Members of the Senate an opportunity to ascertain what a just, fair, and reasonable amendment it is, I shall withdraw the amendment and not ask for a vote on it.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 541

Mr. ERVIN. Mr. President, I call up my amendment No. 541 to the Scott-Hart substitute amendment No. 544, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 3, beginning with line 1, strike out down through line 8, on page 4.

Mr. ERVIN. Mr. President, I modify my amendment by changing the figure "8" to the figure "5" in line 2, and the figure "4" to the figure "7" in line 2.

It is necessary for me to do this in order to make my amendment correspond to the second substitute proposed by Senator SCOTT and Senator HART.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 3, beginning with line 1, strike out down through line 5, on page 7.

Mr. ERVIN. Mr. President, I ask unanimous consent that the portion of the Scott-Hart substitute beginning on line 1 on page 3 and ending with line 5 on page 7 be printed at this point in the RECORD.

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

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

"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 officials of such State not later than the time of closing of the polls in such State on the day of such election.

"(c) 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 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.

"(h) The term 'State' as used in this section includes each of the several States and the District of Columbia.

"(i) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

Mr. ERVIN. The substance of the provision that my amendment seeks to strike is that Congress shall prescribe the residence requirements for those who move from one State to another during the weeks preceding an election. In other words, this provision of the Scott-Hart substitute undertakes, for the first time in our history, to have Congress prescribe residence requirements for voting for presidential and vice-presidential electors.

I have already alluded on a previous occasion to the amendment proposed by the distinguished majority leader that Congress undertake to prescribe a uniform voting age of 18 years in all the States of the Union. When I see proposals of the character offered by the authors of the Scott-Hart substitute and by the distinguished majority leader, I think about the present plight of the Constitution of the United States and the regard which it apparently enjoys at this hour of our national history.

When I get to thinking about the disrepute into which our Constitution has fallen, I am reminded of the tragedy of one whom I shall call Jim.

Jim had the misfortune to be run over and killed by a train. His administrator brought suit against the railroad for damages for wrongful death. In order to prove that Jim had actually been run over and killed by a train, the administrator called as a witness a man who testified that immediately before the tragedy he saw Jim walking up the railroad track. Then he saw the train come up. He said that the train passed between him and Jim, and that after the train had passed, he could not see Jim anywhere.

The witness then testified that he walked up the track in the direction in which he had seen Jim walking; and as he got some little distance up the track, he looked over, and he saw Jim's right arm, dismembered from his body, lying on the right side of the track. He said that he walked a little further, looked on the left side of the track, and saw Jim's head and a part of his chest.

As he walked up the track just a little further, he saw the remainder of Jim's body lying there, severed, off to the right of the track.

Then the lawyer asked the witness, "When you saw those gruesome relics, what did you do?"

The witness replied, "I said to myself, 'Something serious must have happened to Jim.' "

Something very serious has happened to the Constitution of the United States.

(At this point Mr. BELLMON took the chair as Presiding Officer).

Mr. ERVIN. Mr. President, the most serious thing that ever happened to the Constitution of the United States, in my humble judgment, was the fantastic decision of the Supreme Court in Katzenbach against Morgan. This case involved the validity of the act of Congress constituting a part of the Voting Rights Act of 1965 which undertook to nullify, in part, the literacy test embodied in the New York constitution.

New York had a constitution which provided that no person could vote in New York unless he could read and write the English language. When the Voting Rights Act of 1965 was before the Senate, the Senate adopted an amendment which changed this test and provided that if a person had completed a sixth grade education in a school in Puerto Rico, he would be allowed to vote in New York, even though he could not read or write the English language, and even though the New York constitution said that he was not eligible to vote unless he could read and write the English language.

Well, it happens that this provision of the New York constitution was clearly in harmony with the equal protection clause, because it applied in like manner to all people in like circumstances. Furthermore, it was upheld by the Court of Appeals of New York State, the highest court in that State. Moreover, it had been upheld as valid by a three-judge district court of the United States sitting in the State of New York. And when the Supreme Court handed down its decision in Katzenbach against Morgan, even it agreed, in effect, that the New York literacy test was in perfect harmony with the equal protection clause of the 14th amendment.

There have been many queer decisions handed down by various courts in ages gone by, but the one in this particular case was the queerest ever handed down. Up to the time that case was decided, the Supreme Court had taken the position that the Constitution of the United States contained provisions of equal dignity, that the Constitution should be interpreted as a harmonious whole, and that each provision of the Constitution should be given its proper effect.

In the Morgan case, the Supreme Court adopted a very strange and new canon of construction. It held, in effect, that the Constitution of the United States consists of a set of mutually repugnant and mutually destructive provisions of unequal dignity, that in exercising its powers under one provision of the Constitution, Congress could destroy other provisions of the Constitution, even though Members of Congress had taken oaths to uphold all provisions of the Constitution.

The fifth section of the 14th amendment declares that Congress shall have the power to enforce the first section of the 14th amendment by appropriate legislation. The first section of the 14th amendment declares, among other things, that no State shall deny to any person within its jurisdiction the equal protection of the laws.

Now, up to the time of the Morgan case, the Supreme Court of the United States had held that the 14th amendment meant exactly what it said, and not something else. It held that as long as a State did not violate the provisions of the first section of the 14th amendment, no legislation enacted by Congress could be called into play. It held that the 14th amendment meant exactly what it said; that it was a prohibition upon unconstitutional State action and was not an affirmative grant of power to the Congress to nullify State action in harmony with the equal protection clause.

I submit that that was a proper interpretation because it is an interpretation exactly in harmony with what the 14th amendment says. In the Morgan case, however, the Supreme Court, by a split decision—and I thank God there were a couple of judges who still believe that the Constitution means what it says—held that under its power to enforce the first section of the 14th amendment, and for present purposes I restrict that to the equal protection clause of the 14th amendment, Congress could nullify State voting qualifications in perfect harmony with the equal protection clause and could substitute for them congressional qualifications which Congress was forbidden to pass by section 2 of article I of the Constitution, section 1 of article II of the Constitution, the 10th amendment, and the 17th amendment. The Court said it would not even pass on the question of whether the State law that was being nullified, and which in this instance, was in harmony with the equal protection clause of the 14th amendment, was in violation of the Constitution.

In fact, they said that the constitutionality of the State law being nullified was wholly immaterial; that it was not even the function of the Supreme Court to pass on the question of whether the State law being nullified was perfectly constitutional. They said the sole test was whether the Court could say that the act of Congress would prevent the State, which had never violated the Constitution before, from ever violating the equal protection clause in the future.

It may be that these proposals of the Scott-Hart amendment to let Congress usurp and exercise the power to prescribe residence qualifications for voting in a presidential and vice-presidential election in all of the States and the proposal embodied in the Mansfield amendment that Congress prescribe the age limit for all voters in all of the States by a statute, will be upheld by the Supreme Court of the United States as now constituted.

But if it is, the only conclusion we can come to is that Congress, the creature of the Constitution, which has no power apart from the Constitution, is given the power by the Constitution to nullify the Constitution. That is the effect of the

decision written by Justice Brennan in Katzenbach against Morgan.

I frankly may be guilty of some kind of judicial heresy, but I do not think the Constitution is so fragile that Congress, a creature of the Constitution, can nullify the provisions of the Constitution.

I will have to admit, however, that the clear distortion of the provisions of the Constitution practiced in the majority opinion in Katzenbach against Morgan does seem to me to lead to the strange conclusion that Congress can absolutely deny a State of the power to exercise any of the powers the Constitution gives and reserves to the States. If Congress can pass any kind of law which would have a tendency to prevent a State from violating the equal protection clause of the 14th amendment, then Congress can pass a law that forbids a State from making any laws, enforcing any laws, and interpreting any laws—even those laws which the Constitution itself says States can pass.

That is the reason that I stated a while ago that I think something serious has happened to the Constitution.

I want to discuss now what the Constitution has to say on this subject and what the Supreme Court of the United States has said on this subjet in times past, just to show how lacking in wisdom the Founding Fathers were as compared with some of the present members of the Supreme Court of the United States. When they wrote the Constitution originally, the founders had something to say on this subject in very plain and simple language.

Section 2 of article I of the Constitution says:

> 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.

That is stated in very simple language. And under that section, it has been held since this Republic came into being, at least to the time of the Morgan case, that the power to say what qualifications a person should have in order to be eligible to vote for a Representative in Congress belongs to the States exclusively, and that Congress is denied that power.

Section 1 of article II of the Constitution also has something to say on this subject. It says this:

> 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:

These electors were the men empowered by other provisions of the Constitution to elect the President and Vice President of the United States.

From the time this Republic came into being in 1789 down to the time of the Morgan case, it was uniformly held that all of the power to prescribe the qualifications for voting for presidential and vice presidential electors belonged to the State and none of it to the Congress of the United States.

The 10th amendment provides as follows:

> 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.

There is nothing in the Constitution which delegates to the United States the power to prescribe the qualifications for voting in the State elections. And there is nothing in the Constitution which prohibits the States from exercising the power to prescribe the qualifications for voting in State elections.

And so it was held without variation from the time of the creation of this Republic down to the time of the Katzenbach against Morgan case, that all of the power to prescribe the qualifications of those who are eligible to vote in State elections belongs to the States and that none of this power belongs to the Congress of the United States.

The 17th amendment provides for the election of Members of the U.S. Senate by the direct vote of the people, thereby changing the original provision of the Constitution which stipulated that Members of the U.S. Senate should be chosen by the legislatures of the several States.

In describing who shall be eligible to vote for Senators, the 17th amendment contains a clause similar to that embodied in section 2 of article I. This clause reads:

> The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

That section of the 17th amendment must mean exactly what it says, and it recognizes that the legislatures of the States have the power to prescribe the qualifications for electors of the most numerous branch of the State legislatures, and that those so qualified by State law are eligible to vote for Senators of the United States.

Yet we have proposals pending before the Senate at this moment that Congress prescribe by statute the age at which persons shall be allowed to vote not only for presidential and vice presidential electors, not only for Senators and Representatives in Congress, but also for all State and local officials who are elected. We have the proposal made in the pending substitute—that is, the Scott-Hart substitute—that Congress prescribe standards for voting for presidential and vice presidential electors.

In the case of *Lassiter* v. *North Hampton Election Board,* 360 U.S. 45, we find the following language at page 51:

> Residence requirements, age, previous criminal record are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters.

That would seem to say that the Constitution recognizes that the power to prescribe residence requirements and age requirements belong to the States and is denied to Congress.

Now, with respect to these residence requirements, I wish to call attention to the case *Pope* v. *Williams,* 193 U.S. 621. This case originated in the State of Maryland. The Maryland Legislature had passed an act providing that all persons who should thereafter move into the State from any other State, district, or territory should make a declaration of their intent to become citizens and residents of the State a year before they have the right to be registered as voters. That statute was contested on the ground that it was unconstitutional.

The Supreme Court of the United States handed down a unanimous decision holding the statute constitutional. Among other things, it called attention to the fact that there was only one qualification which the States were forbidden to prescribe by the Constitution in force at that time, and that was the 15th amendment which prohibits a State from denying or abridging a qualified voter's right to vote on account of race, color, or previous condition of servitude.

On page 629 the Court said:

> Since the Fifteenth Amendment, the whole control over suffrage and the power to regulate its exercise, is still left with and retained by the several States, with the single restriction that they must not deny or abridge it on account of race, color, or previous condition of servitude.

It is to be noted that since that time the Constitution has been amended so as to provide in the 19th amendment an additional limitation upon the power of the State, and that is the limitation that no State can deny or abridge the right to vote on the ground of sex.

I should like to emphasize to the Senate the statement in Pope against Williams:

> The whole control over suffrage and the power to regulate its exercise is still left with and retained by the several States—

Subject to the limitations based on race or sex.

I do not see how anything could be more emphatic than that. That statement clearly shows that the Constitution, as drafted and ratified by the Founding Fathers, and the amendments made to the Constitution after that time, leave the entire power to define qualifications for voting in all elections, Federal and State, to the legislatures of the several States, and deny that power to Congress.

The portion of the Scott-Hart substitute which my amendment seeks to strike relates to a residential requirement for voting for presidential and vice presidential electors. I respectfully submit that there is no power in Congress to so legislate, unless we are going to mangle the Constitution just as Jim's body was mangled after the train ran over him and killed him.

I invite the attention of the Senate again to the provision of the first section of the second article of the Constitution, relating to electors:

> 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:

When the State prescribes a residence requirement which is applicable to all citizens in the State in like manner, that requirement is in perfect harmony with the equal protection clause of the 14th amendment and is, therefore, consitutional.

The Supreme Court had the question of electors before it in the case of McPherson against Blacker, one of the famous decisions of the United States. In

that case, the State of Michigan, through its legislature, had enacted a law providing that presidential electors should be elected by congressional districts; that is, the number of electors to be equivalent to the number of Members of Congress. The Supreme Court upheld that statute. It had this to say:

The Constitution does not provide that the appointment of electors shall be by popular vote, nor that the electors shall be voted for upon a general ticket, nor that the majority of those who exercise the elective franchise can alone choose the electors. It recognizes that the people act through their representatives in the legislature and leaves it to the legislature exclusively to define the method of effecting the object.

I read that from page 27 of the decision in McPherson against Blacker, which is reported in 146 United States at page 1. I read this additional statement from the opinion as it appears on page 35 of the decision:

In short, the appointment and mode of appointment of electors belong exclusively to the states under the Constitution of the United States.

I hold in my hand one of the recent works on constitutional law. It is written by a great liberal, in the modern acceptation of that term, Bernard Schwartz. Be it said to Mr. Schwartz' credit that, although he agrees at least with some of the provisions of the Constitution and would like to have them say something other than what they say, his intellectual honesty compels him to set forth, and he does set forth in very eloquent language, what the Constitution means and what it has been interpreted to mean. He has this observation on page 5 of volume 2 of the portion of his work on constitutional law which is entitled "The Powers of Government":

The extent of state power over the method of selecting electors was emphasized by McPherson versus Blacker. At issue in it was a state law providing for the election of one elector from each of the state's Congressional districts. It was claimed that such selection by districts was not an appointment by the state, within the meaning of Article II. According to the highest Court, such claim could not be upheld, since, under the constitutional language, the legislature possesses plenary authority to direct the manner of appointment. The Constitution, in this respect, "recognizes that the people act through their representatives in the legislature, and leaves it to the legislature exclusively to define the method of effecting the object." In short, the appointment and mode of appointment of electors belong exclusively to the state legislatures under the Constitution.

I do not believe it would be possible to find a clearer or more understandable statement than the last sentence which I have just read. I repeat it:

In short, the appointment and mode of appointment of electors belong exclusively to the state legislatures under the Constitution.

Notwithstanding that fact, the Scott-Hart substitute proposes that this Congress should usurp and exercise in part the power which belongs exclusively to the legislatures of the several States; that is, the power to prescribe the appointment and mode of appointment of presidential and vice presidential electors.

A great Michigan judge, Thomas M. Cooley, advised us, in his great work on constitutional limitations, why constitutions are written.

He stated, in substance, that constitutions are written for a twofold purpose: first, to set forth the fundamentals of the government they create; and second, to place the fundamentals of such governments beyond the reach of impatient and temporary majorities and beyond the reach of the shifting tides of public opinion. That is the reason why constitutions are written.

The Constitution under which we exist was written for the purpose, among other things, of keeping the Congress of the United States within due bounds. And to do this, it provided that the power to prescribe qualifications for voting belonged to the States.

Thomas M. Cooley had something else to say in that great work, and I think we would do well to heed what he said in that respect.

He pointed out that the duty to obey the Constitution is not only a duty imposed upon the courts, but is a duty imposed upon legislative bodies. He said this:

A court or legislature which would allow a change in public sentiment to influence it in giving to a written constitution a construction not warranted by the intention of its founders would be justly chargeable with the reckless disregard of official oath and public duty.

Mr. TALMADGE. Mr. President, will the Senator yield that point?

Mr. ERVIN. I am delighted to yield to my good friend from Georgia.

Mr. TALMADGE. Did not every Member of this body, upon taking the oath of office, swear to uphold and defend the Constitution of the United States?

Mr. ERVIN. Before we were allowed to function as U.S. Senators, we were required to lift our hands in the direction of Almighty God and swear that we would support the Constitution of the United States.

Mr. TALMADGE. Will the Senator yield for a brief observation?

Mr. ERVIN. I yield.

Mr. TALMADGE. I have sat by the side of the distinguished senior Senator from North Carolina in this body for a number of years. I have long admired his tremendous ability as an able and eloquent lawyer. He has had the experience of trial work in all the courts of his State, and in the Federal courts. He served ably as a justice of the Supreme Court of North Carolina, the highest court in his State. He has served in the House of Representatives. Now he has served in the Senate for a number of years. He is a member of the Judiciary Committee, and also the chairman of the Subcommittee on Constitutional Rights. He has performed these duties in a most admirable manner.

I have listened to his wisdom and his eloquence here in what I think is one of the greatest speeches I have heard since I have been a Member of this body. He has read from the plain language of the Constitution—language which is written in such a way that even a child with a minimum of literacy in the English language could understand its meaning.

It is not obscure. It does not take high-priced lawyers to understand its significance.

I deeply regret that there is not a greater number of Senators in the Chamber to share with the Senator his wisdom, his learning, and his knowledge of the Constitution of the United States. I further regret that the reporters in the gallery are almost all absent. Unfortunately, when one mentions the Constitution of the United States today, many Members of this body and a large number of the people of the country seem to think it is some reactionary anachronism that ought to be discarded and eliminated, rather than upheld and defended.

I commend the distinguished Senator for his logic, his eloquence, and his wisdom; and I associate myself completely with the remarks he has made.

Mr. ERVIN. I thank my good friend from Georgia. I have offered a number of amendments to the Voting Rights Act which have been rejected. The object of the amendments that I have heretofore offered has been to bring the Scott-Hart substitute more in line with due process and fairplay and equal rights for the States. I offered those amendments to improve the bill, or at least to make it less onerous and less indefensible.

Those amendments have been voted on and have been rejected. I shall have the opportunity to vote against both the provisions of the Scott-Hart substitute, which the amendment now pending would strike, and the amendment offered by my good friend, the distinguished majority leader. For that reason, I do not see any necessity for putting the Members of the Senate to a vote on this particular amendment. Unless some of my colleagues wish to discuss the amendment in the time allotted to those who oppose the amendment, I shall now withdraw it; but if my good friend from Michigan wishes to discuss it, I shall postpone withdrawing it until he finishes whatever he may care to say on the subject.

Mr. HART. Mr. President——

The PRESIDING OFFICER. How much time does the Senator from Michigan yield himself?

Mr. HART. Five minutes.

I appreciate the willingness of the Senator from North Carolina momentarily to withhold the action he intends to take in withdrawing the amendment. There are those who read this RECORD, and I think it well to cite for them some very persuasive testimony in the hearings conducted by the Subcommittee on Constitutional Rights, as it relates to the constitutional base on which the residency requirement is premised.

I cite especially the testimony of the former Solicitor General of the United States under both the Kennedy and Johnson administrations, Archibald Cox. The former Solicitor General is now a distinguished professor of law at Harvard Law School. Beginning at page 330, and continuing for several pages in the printed record, is the opinion of Professor Cox as a lawyer, on the solid base that is available in the Constitution for the action that is reflected in the title of the substitute which is the subject

of the amendment of the Senator from North Carolina.

I think Professor Cox makes a very able presentation of the point of view which those of us who offer the substitute hold, which indeed was the view of the administration when it filed its voting rights bill; namely, that the Constitution does indeed authorize Congress to make this finding, and that, the finding having been made, a court would sustain it.

Mr. ERVIN. Mr. President, I call to the attention of the Senator from Michigan that Mr. Cox, in his testimony, agreed with the Senator from North Carolina that from the time George Washington took his first oath as President of the United States down to the moment when the Supreme Court of the United States, as now constituted, handed down its decisions in South Carolina against Katzenbach and Katzenbach against Morgan, there was no authority whatever in the United States for the position that Congress could lower the voting age to 18 years, or that Congress could specify residence requirements for voting. He admitted that prior to those two cases, there was no authority whatever in the United States for his position. In other words, Congress has the power to pass this provision of the Scott-Hart amendment and the amendment of the distinguished majority leader only if the Supreme Court has power to change the meaning of the Constitution.

The Supreme Court has the power to interpret the Constitution. The power to amend the Constitution belongs to the States and to Congress. There is a great difference between the power to amend the Constitution and the power to interpret it. That difference is as wide as the great gulf which yawned between Lazarus in Abraham's bosom and Dives in hell.

The power to interpret the Constitution is the power to state its meaning. The power to amend it is the power to change its meaning. The Supreme Court of the United States does not have the power to change the meaning of the Constitution. It did not have that power when it handed down those two decisions, which are distinctly incompatible with the plain words of the Constitution and with the interpretations placed upon those words throughout the history of this Republic.

The greatest jurist who has ever lived in America, Chief Justice John Marshall, established the landmarks of constitutional interpretation in two great cases, Marbury against Madison and Gibbons against Ogden. Here are the fundamental interpretations of the Constitution, the standard by which it is to be interpreted.

First, Chief Justice Marshall said that the provisions of the Constitution are designed to be permanent. Second, he said that the wise patriots who framed the Constitution and the people who ratified it must be understood to have intended what they said. Third, he said that the oath which Supreme Court Justices take to support the Constitution places upon them an obligation to accept the Constitution as a rule for the government of their official actions.

These provisions of the Constitution, which in plain English provide that the power to prescribe the qualifications for voting belongs to the States and not to Congress, are clearly set out in the Constitution. They are clearly set out in all decisions construing them, down to these two cases.

George Washington told us this: If you want to change the Constitution, change it by an amendment as provided in article V:

> Let there be no change by usurpation, for usurpation is a weapon by which free government is destroyed.

If Congress will accept usurpations of Supreme Court Justices, especially by a divided Court, we will no longer have constitutional government in the United States.

I gave Mr. Cox some good advice, I think, just before he left. He said he had to get back to a class at Harvard Law School. I said, "I want to make one request of you, and it is that when you get back to that class at Harvard Law School, will you please teach them sounder and better constitutional law than you have been expounding here on the witness stand."

He said, "I will carry your message to them."

Mr. President, if no other Senator wishes to speak on the subject, I will withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. COOPER obtained the floor.

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

Mr. COOPER. I yield.

Mr. MANSFIELD. Mr. President, the distinguished senior Senator from North Carolina made reference to the amendment which would permit 18-year-olds to vote and which will be brought up in the Senate tomorrow for consideration and debate under a 2-hour time limitation.

The testimony yesterday of the distinguished Senator from Massachusetts (Mr. KENNEDY) before the Subcommittee on Constitutional Amendments presents an excellent factual basis upon which the Senate should proceed to give the franchise to our younger citizens. Along with the excellent testimony of Senator GOLDWATER yesterday before the same subcommittee, advocating the statutory method of lowering the age, I think this testimony will serve as ample foundation for the amendment which will be voted upon this week to the pending bill.

I ask unanimous consent that the testimony of Senator KENNEDY be printed in the RECORD at the conclusion of my remarks. Senator GOLDWATER'S testimony was previously inserted in the RECORD.

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

TESTIMONY OF SENATOR KENNEDY ON LOWERING THE VOTING AGE TO 18

Mr. Chairman, I am pleased to have the opportunity to testify before this distinguished Subcommittee, and to give my strong support to the movement to lower the voting age to 18.

I believe the time has come to lower the voting age in the United States, and thereby to bring American youth into the mainstream of our political process. To me, this is the most important single principle we can pursue as a nation if we are to succeed in bringing our youth into full and lasting participation in our institutions of democratic government.

In recent years, a large number of Senators—now totalling 73, I believe—have expressed their support for Federal action to lower the voting age. In particular, I commend Senator Jennings Randolph, Senator Mike Mansfield, and Senator Birch Bayh for their extraordinary success in bringing this issue to the forefront among our contemporary national priorities. For nearly three decades, Senator Randolph has taken the lead in the movement to extend the franchise to our youth. For many years, Senator Mansfield, the distinguished majority leader in the Senate, has been one of the most eloquent advocates of reform in this area. Senator Bayh's extensive hearings in 1968, at which Senator Mansfield was the lead-off witness, helped generate strong and far-reaching support for the movement to lower the voting age, and his current hearings are giving the issue even greater momentum. The prospect of success is great, and I hope that we can move forward to accomplish our goal.

In my testimony today, there are three general areas I would like to discuss. The first deals with what I believe are the strong policy arguments in favor of lowering the voting age to 18. The second deals with my view that it is appropriate for Congress to achieve its goal by statute, rather than follow the route of Constitutional amendment. The third deals with the constitutional power of Congress to act by statute in this area.

I. THE MINIMUM VOTING AGE IN THE UNITED STATES SHOULD BE LOWERED TO 18

Members of the Senate are well aware of the many substantial considerations supporting the proposal to lower the voting age to 18 in the United States, and I shall do no more than summarize them briefly here.

First, our young people today are far better equipped—intellectually, physically, and emotionally—to make the type of choices involved in voting than were past generations of youth. Many experts believe that today's 18 year-old is at least the equal, physically and mentally, of a 21 year-old of his father's generation, or a 25 year-old of his grandfather's generation.

The contrast is clear in the case of education. Because of the enormous impact of modern communications, especially television, our youth are extremely well informed on all the crucial issues of our time, foreign and domestic, national and local, urban and rural.

Today's 18 year-olds, for example, have unparalleled opportunities for education at the high school level. Our 19 and 20 year-olds have significant university experience, in addition to their high school training. Indeed, in many cases, 18 to 21 year-olds already possess a better education than a large proportion of adults among our general electorate. And, they also possess a far better education than the vast majority of the electorate in all previous periods of our history. The statistics are dramatic:

—In 1920, just fifty years ago, only 17% of Americans between the ages of 18 and 21 were high school graduates. Only 8% went on to college.

—Today, by contrast 79% of Americans in this age group are high school graduates. 47% go on to college.

—Even these figures, however do not measure the enormous increase in the quality of education that has taken place in recent years, especially since World War II. We speak of the generation gap, the gap between the new policies and the old policies, but nowhere is the gap more clear than the gap we see as parents between our own education and the education of our children.

Only last week, we read that the winner of the annnal Westinghouse high school science talent search was the son of a Pennsylvania pipefitter. His parents never went to a college,

and the prize he received was for the study of the interactions between two colliding beams of high-energy protons.

Equally significant, it is clear that the increased education of our youth is not measured merely by the quantitative amount of knowledge instilled. It is measured also by a corresponding increase in the priceless quality of judgment. Our 18 year-olds today are a great deal more mature and more sophisticated than former generations at the same stage of development. Their role in issues like civil rights, Vietnam and the environment is as current as today's headlines. Through their active social involvement and their participation in programs like the Peace Corps and Vista, our youth have taken the lead on many important questions at home and overseas. In hundreds of respects, they have set a far-reaching example of insight and commitment for us to emulate.

Second, by lowering the voting age to 18, we will encourage civic responsibility at an earlier age, and thereby promote lasting social involvement and political participation for our youth.

We know that there is already a high incidence of political activity today on campuses and among young people generally, even though they do not have the franchise. None of us who has visited a high school or college in recent years can fail to be impressed by their knowledge and dedication. By granting them the right to vote, we will demonstrate our recognition of their ability and our faith in their capacity for future growth within our political system.

In spite of the progress we have made in recent years, there can be no question that we do more to improve the political participation of our youth, especially our young adults.

Studies of voting behavior in recent elections have consistently shown that persons under 30 vote less often than those who are older. In 1963, President Kennedy's Commission on Registration and Voting Participation expressed its deep concern over the low voting participation in the 21–30 year-old age bracket. It attributed this low participation to the fact that: "by the time they have turned 21 . . . many young people are so far removed from the stimulation of the educational process that their interest in public affairs has waned. Some may be lost as voters for the rest of their lives."

I believe that both the exercise of the franchise and the expectation of the franchise provide a strong incentive for greater political involvement and understanding. By lowering the minimum voting age to 18, we will encourage political activity not only in the 18 to 21 year-old age group, but also in the pre-18 year-old group and the post-21 year-old group as well. By lowering the voting age, therefore, we will extend the franchise both downward and upward. We will enlarge the meaning of participatory democracy in our society. We will give our youth a new arena for their idealism, activism, and energy.

I do not agree with the basic objection raised by some that the recent participation of students in violent demonstrations shows that they lack the responsibility for mature exercise of the franchise. Those who have engaged in such demonstrations represent only a small percent of our students. It would be extremely unfair to penalize the vast majority of all students because of the reckless conduct of the few.

In recent years, there has been perhaps no more embattled institution of learning than San Francisco State University. Yet, as the president of the university, S. I. Hayakawa, eloquently testified in these hearings last month, no more than 1,000 of the 18,000 students on his campus—or about 5 percent—participated in the disturbances. And, of those arrested by the police, more than half were over 21, the present voting age in the State.

Obviously, the maturity of 18 to 21 year-olds varies from person to person, just as it varies for all age groups in our population. However, on the basis of our broad experience with 18 to 21 year-olds as a class, I believe they possess the requisite maturity, judgment, and stability for responsible exercise of the franchise. They deserve the right to vote and the stake in society it represents.

Third, 18 year-olds already have many rights and responsibilities in our society comparable to voting. It does not automatically follow, of course—simply because an 18 year-old goes to war, or works, or marries, or makes a contract, or pays taxes, or drives a car, or owns a gun, or is held criminally responsible, like an adult—that he should thereby be entitled to vote. Each right or responsibility in our society presents unique questions dependent on the particular issue at stake.

Nonetheless, the examples I have cited demonstrate that in many important respects and for many years, we have conferred far-reaching rights on our youth, comparable in substance and responsibility to the right to vote. Can we really maintain that it is fair to grant them all these rights, and yet withhold the right that matters most, the right to participate in choosing the government under which they live?

The well-known proposition—"old enough to fight, old enough to vote"—deserves special mention. To me, this part of the argument for granting the vtoe to 18 year-olds has great appeal. At the very least, the opportunity to vote should be granted in recognition of the risks an 18 year-old is obliged to assume when he is sent off to fight and perhaps die for his country. About 30 percent of our forces in Vietnam are under 21. Over 19,000, or almost half, of those who have died in action there were under 21. Can we really maintain that these young men did not deserve the right to vote?

Long ago, according to historians, the age of maturity was fixed at 21 because that was the age at which a young man was thought to be capable of bearing armor. Strange as it may seem, the weight of armor in the 11th century governs the right to vote of Americans in the 20th century. The medieval justification has an especially bitter relevance today, when millions of our 18 year-olds are compelled to bear arms as soldiers, and thousands are dead in Vietnam.

To be sure, as many critics have pointed out, the abilities required for good soldiers are not the same abilities required for good voters. Nevertheless, I believe that we can accept the logic of the argument without making it dispositive. A society that imposes the extraordinary burden of war and death on its youth should also grant the benefit of full citizenship and representation, especially in sensitive and basic areas like the right to vote.

In the course of the recent hearings I conducted on the draft, I was deeply impressed by the conviction and insight that our young citizens demonstrated in their constructive criticism of our present draft laws. There are many issues in the 91st Congress and in our society at large with comparable relevance and impact on the nation's youth. They have the capacity to counsel us wisely, and they should be heard at the polls.

Fourth, our present experience with voting by persons under 21 justifies its extension to the entire nation. By lowering the voting age we will improve the overall quality of our electorate, and make it more truly representative of our society. By adding our youth to the electorate, we will gain a group of enthusiastic, sensitive, idealistic and vigorous new voters.

Today, four states—Georgia, since 1943, Kentucky, since 1955, and Alaska and Hawaii since they entered the Union in 1959—grant the franchise to persons under 21. There is no evidence whatever that the reduced voting age has caused difficulty in the states where it is applicable. In fact, former governors Carl Sanders and Ellis Arnall of Georgia have testified in the past that giving the franchise to 18 year-olds in their states has been a highly successful experiment. Their views were strongly suggested by the present Governor of Georgia, Lester Maddox, who testified last month before the Senate Subcommittee on Constitutional Rights.

Moreover, a significant number of foreign nations now permit 18 year-olds to vote. This year, Great Britain lowered the voting age to 18. Even South Vietnam allows 18 year-olds to vote. I recognize that it may be difficult to rely on the experience of foreign nations, whose political conditions and experience may be quite different from our own. It is ironic, however, that at a time when a number of other countries, including Great Britain, have taken the lead in granting full political participation to 18 year-olds, the United States, a nation with one of the most well-developed traditions of democracy in the history of the world, continues to deny that participation.

I am aware that many arguments have been advanced to prevent the extension of the franchise to 18 year-olds. It may be that the issue is one—like woman suffrage in the early nineteen hundreds—that cannot be finally resolved by reason or logic alone. Attitudes on the question are more likely to be determined by an emotional or a political response. It is worth noting, however, that almost all of the arguments now made against extending the franchise to 18 year-olds were also made against the 19th Amendment, which granted suffrage to women. Yet, no one now seriously questions the wisdom of that Amendment.

There could, of course, be an important political dimension to 18 year-old voting. As the accompanying table indicates, enfranchisement of 18 year-olds would add approximately ten million persons to the voting age population in the United States. It would increase the eligible electorate in the nation by slightly more than 8%. If there were dominance of any one political party among this large new voting population, or among sub-groups within it, there might be an electoral advantage for that party or its candidates. As a result, 18 year-old voting would become a major partisan issue, and would probably not carry in the immediate future.

For my part, I believe that the risk is extremely small. Like their elders, the youth of America are all political persuasions. The nation as a whole would derive substantial benefits by granting them a meaningful voice in shaping their future within the established framework of our democracy.

The right to vote is the fundamental political right in our constitutional system. It is the cornerstone of all our other basic rights. It guarantees that our democracy will be government of the people and by the people, not just for the people. By securing the right to vote, we help to insure, in the historic words of the Massachusetts Bill of Rights, that our government "may be a government of laws, and not of men." Millions of young Americans have earned the right to vote, and we in Congress should respond.

II. THE FEDERAL GOVERNMENT SHOULD ACT TO REDUCE THE VOTING AGE TO 18 BY STATUTE, RATHER THAN BY CONSTITUTIONAL AMENDMENT

I believe not only that the reduction of the voting age to 18 is desirable, but also that Federal action is the best route to accomplish the change, and that the preferred method of Federal change should be by statute, rather than by constitutional amendment.

In the past, I have leaned toward placing the initiative on the States in this important area, and I have strongly supported the efforts currently being made in many states, including Massachusetts, to lower the voting age by amending the state constitution.

Progress on the issue in the states has been

significant, even though it has not been as rapid as many of us had hoped. The issue has been extensively debated in all parts of the nation. Public opinion polls in recent years demonstrate that a substantial and increasing majority of our citizens favor extension of the franchise to 18 year-olds. In light of these important developments, the time is ripe for Congress to play a greater role.

Perhaps the most beneficial advantage of action by Congress is that it would insure national uniformity on this basic political issue. Indeed, the possible discrepancies that may result if the issue is left to the states are illustrated by the fact that of the four states which have already lowered the voting age below 21, two—Georgia and Kentucky—have fixed the minimum voting age at 18. The other two—Alaska and Hawaii—have fixed the age at 19 and 20, respectively. Left to state initiative, therefore, the result is likely at best to be an uneven pattern of unjustifiable variation.

There is another reason, however, why I feel that action by Congress is appropriate with respect to changes in voting qualifications, a reason that applies equally to changes in literacy requirements, residency requirements, or age requirements. All of these issues are now being widely debated in all parts of the nation. Too often, Congress has neglected its responsibility in these sensitive areas. Too often, when change has come, it has come through the slow and painstaking process of constitutional litigation in the federal courts. In the past, the validity of state voting requirements has been continually subject to judicial challenge, and similar challenges will undoubtedly continue in the future.

In our constitutional system, however, the judicial branch is ill-suited to the sort of detailed fact-finding investigation that is necessary to weigh the many complex considerations underlying one or another requirement for voting. Only Congress is equipped to make a complete investigation of the facts and to resolve the national issues involved. Too often, when a federal district court attempts to sift such issues, there is danger that a parochial local interest will shape the future course of litigation, with the result that paramount national interests receive inadequate consideration.

In sum, the legislative process in far more conducive to balancing conflicting social, economic, and political interests than the judicial process. The more Congress addresses itself to these complex contemporary problems, instead of leaving them for resolution by the courts, the better it will be for the nation as a whole.

Congressional action on the voting age at this time is therefore both necessary and appropriate. The most obvious method of Federal action is by amending the Constitution, but it is not the only method. As I shall discuss in greater detail in the third part of my statement, I believe that Congress has the authority to act in this area by statute, and to enact legislation establishing a uniform minimum voting age applicable to all states and to all elections, Federal, State and local.

The decision whether to proceed by constitutional amendment or by statute is a difficult one. One of the most important considerations is the procedure involved in actually passing a constitutional amendment by two-thirds of the Congress and three-fourths of the State legislatures. The lengthy delay involved is in the ratification of a constitutional amendment to lower the voting age before many years have elapsed.

On the other hand, it is clear that Congress should be slow to act by statute on matters traditionally reserved to the primary jurisdiction of the States under the Constitution. Where sensitive issues of great political importance are concerned, the path of constitutional amendment tends to insure wide discussion and broad acceptance at all levels—Federal, State and local—of whatever change eventually takes place. Indeed, at earlier times in our nation's history, a number of basic changes in voting qualifications were accomplished by constitutional amendment.

At the same time, however, it is worth emphasizing that in more recent years, changes of significant magnitude have been made by statute, one of the most important of which was the Federal Voting Rights Act of 1965. Unlike the question of direct popular election of the President, which is also now pending before the Senate, lowering the voting age does not work the sort of deep and fundamental structural change in our system of government that would require us to make the change by pursuing the arduous route of constitutional amendment.

Because of the urgency of the issue, and because of its gathering momentum, I believe that there are overriding considerations in favor of federal action by statute to accomplish the goal. Ideally, it would be appropriate to incorporate the proposal as an amendment to the bill now pending on the floor of the Senate to extend the Voting Rights Act of 1965. Already, the debate in the Senate is centered on three of the great contemporary issues over the effect of state voting qualifications on the right to vote—race, literacy, and residency. Surely, it is appropriate for Congress to consider the fourth great issue—age. Indeed, if enough support can be generated, it could be possible for 18-year-olds to go to the polls for the first time this fall—November 1970.

However, we must insure that no action we take on 18-year-old voting will interfere with the prompt consideration of the pending Voting Rights bill, or delay its enactment by the Senate or the House. We must guarantee that its many important provisions are enacted into law at the earliest opportunity.

We know that there is broad and bipartisan support for the principle of 18-year-old voting. Well over two-thirds of the Senate has joined in support of the principle. Last month, the Administration gave its firm support to the cause. I am hopeful that we can proceed to the rapid implementation of our goal.

III. CONGRESS HAS THE CONSTITUTIONAL POWER TO ACT BY STATUTE TO LOWER THE VOTING AGE TO 18

As I have indicated, I believe that Congress has ample authority under the Constitution to reduce the voting age to 18 by statute, without the necessity for a constitutional amendment. The historic decision by the Supreme Court in the case of *Katzenbach* v. *Morgan* in June 1966 provides a solid constitutional basis for legislation by Congress in this area. And, it is clear that the power exists not only for Federal elections, but for state and local elections as well.

There can be no question, of course, that the Constitution grants to the states the primary authority to establish qualifications for voting. Article I, Section 2, of the Constitution and the Seventeenth Amendment specifically provide that the voting qualifications established by a State for members of the most numerous branch of the State legislature shall also determine who may vote for United States Representatives and Senators. Although the Constitution contains no specific reference to qualifications for voting in Presidential elections or state elections, it has traditionally been accepted that the States also have primary authority to set voting qualifications in these areas as well.

At the same time, however, these constitutional provisions are only the beginning, not the end, of the analysis. They must be read in the light of all the other specific provisions of the Constiution, including the Amendments that have been adopted at various periods throughout the nation's history. Many of the great amendments to the Constitution, like the Fourteenth Amendment and the other Civil War Amendments, have become an extremely important part of the basic fabric of the document. Merely because they were adopted at a later date than the original Constitution, they are no less significant. Clearly, they must be read as a gloss on the earlier text, so that the entire document is interpreted as a unified whole.

Thus, although a State may have primary authority under Article I of the Constitution to set voting qualifications, it has long been clear that it has no power to condition the right to vote on qualifications prohibited by other provisions of the Constitution, including the Fourteenth Amendment. No one believes, for example, that a State could deny the right to vote to a person because of his race or his religion.

Indeed, the Supreme Court has specifically held that the Equal Protection Clause of the Fourteenth Amendment itself prohibits certain unreasonable state restrictions on the franchise. In *Carrington* v. *Rash* in 1965, the Court held that a State could not withhold the franchise from residents merely because they were members of the armed forces. In *Harper* v. *Virginia Board of Elections* in 1966, the Court held that a State could not impose a poll tax as a condition of voting. And, in *Kramer* v. *Union School District* in 1969, the court held that a State could not withhold the franchise from residents in school district elections merely because they owned no property or had no children attending the district schools.

As the text of the Fourteenth Amendment makes clear, however, the provisions of the Equal Protection Clause are not merely enforceable through litigation in the courts. They are also enforceable by Congress. Section 5 of the Fourteenth Amendment provides that:

'The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

In other words, Congress is given the power under Section 5 to enact legislation to enforce the Equal Protection Clause, the Due Process Clause, and all the other great provisions contained in Section 1 of the Amendment. It is Section 5 that gives Congress the power to legislate in the area of voting qualifications, as well as in many other areas affecting fundamental rights. Thus, the authority of Congress to reduce the voting age by statute is based on Congress' power to enforce the Equal Protection Clause by whatever legislation it believes is appropriate.

Historically, at the time the Fourteenth Amendment was enacted, the power conferred on Congress by Section 5 was viewed as the cardinal provision of the Amendment. Indeed, it was the original understanding at the time the amendment was adopted that Congress was being given far greater power under Section 5 than Congress has in fact exercised in subsequent years, and far greater power than it was thought the Supreme Court would have under the provisions of Section 1 of the Amendment. In other words, as a matter of history, it was originally expected that Congress would be the principal enforcer of the Fourteenth Amendment.

Prior to the Supreme Court's decision in *Katzenbach* v. *Morgan* in 1966, the scope of Congress' power under Section 5 to pre-empt State legislation was unclear. Obviously, if the State legislation was itself invalid under the Equal Protection Clause, Congress would have power under Section 5 to invalidate the legislation. But, if this were the limit of Congress' power, the authority would

merely duplicate the power already possessed by the Supreme Court to declare the legislation invalid.

In *Katzenbach* v. *Morgan*, however, the Supreme Court explicitly recognized that Congress had broader power to legislate in the area of the Equal Protection Clause and state classifications for the suffrage.

The issue in the *Morgan* case was the constitutionality of Section 4(e) of the Voting Rights Act of 1965. The section in question, which originated as a Senate amendment sponsored by Senator Robert Kennedy and Senator Jacob Javits, was designed to enfranchise Puerto Ricans living in New York. The section provided, in effect, that any person who had completed the sixth grade in a Puerto Rican school could not be denied the right to vote in a Federal, State or local election because of his inability to pass a literacy test in English.

By a strong 7–2 majority, the Supreme Court sustained the constitutionality of Section 4(e) of the Voting Rights Act as a valid exercise by Congress of its power to enforce the Fourteenth Amendment, even though, in the absence of a declaration by Congress, the Court would not have held that the English literacy test was unconstitutional. Indeed, as recently as 1959, in a North Carolina test case, the Court had declined to hold that literacy tests were unconstitutional on their face as a qualification for voting.

Seen in perspective, the *Morgan* case was not a new departure in American constitutional law. Rather, it was a decision characterized by clear judicial restraint and exhibiting generous deference by the Supreme Court toward the actions of Congress.

As we know, Congress in this century has twice chosen to proceed by constitutional amendment in the area of voting rights in the nation. The Nineteenth Amendment, ratified in 1920, provided that a citizen of the United States could not be denied the right to vote in any election on account of sex. The Twenty-Fourth Amendment, ratified in 1964, provided that a citizen could not be denied the right to vote in Federal elections because of his failure to pay a poll tax.

Nevertheless, in spite of this past practice, *Katzenbach* v. *Morgan* and other decisions by the Supreme Court demonstrate that those particular amendments are in no way limitations on Congress' power under the Constitution to lower the voting age by statute, if Congress so chooses.

In essence, the *Morgan* case stands for the proposition that Congress has broad power to weigh the facts and make its own determination under the Equal Protection Clause. If the Supreme Court determines that there is a reasonable basis for legislation by Congress in this area, then the legislation will be sustained. As the Court itself stated in the *Morgan* case:

"It was for Congress . . . to assess and weigh the various conflicting considerations—the risk of 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 . . . *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.*" (Italics added.)

In other words, with respect to granting the vote to 18 year-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 power of Congress to legislate in the area of voting qualifications is enhanced by the preferred position the Supreme Court has consistently accorded the right to vote. In numerous decisions throughout its history, the Court has recognized the importance of the right to vote in our constitutional democracy, and has made clear that any alleged infringement of the right must be carefully and meticulously scrutinized. As the Court stated only last June, in its decision in *Kramer* v. *Union School District,*:

"Statutes distributing the franchise constitute the foundation of our representative society. Any unjustified discrimination in determining who may participate in political affairs or in the selection of public officials undermines the legitimacy of representative government."

In fact, the Supreme Court's holding in the *Morgan* case is consistent with a long line of well-known decisions conferring broad authority on Congress to carry out its powers granted by the Constitution. Thus, in the *Morgan* case, the Court gave Section 5 the same construction given long ago to the Necessary and Proper Clause of the Constitution by Chief Justice John Marshall in the famous case of *McCulloch* v. *Maryland*, which was decided by the Supreme Court in 1819. In the historic words of Chief Justice Marshall in that case:

"Let the end be legitimate, let it be within the scope of the Constitution, and all means which are not prohibited, but consistent with the letter and spirit of the constitution, are constitutional."

In the *Morgan* case the Supreme Court applied the test of John Marshall and upheld Section 4(e) of the Voting Rights Act for two separate and independent reasons. *First*, the Court said, Congress could reasonably have found that Section 4(e) was well adapted to enable the Puerto Rican community in New York to gain more nearly equal treatment in such public services as schools, housing, and law enforcement.

Second, the Court said, Congress could reasonably have found that Section 4(e) was well adapted to eliminate the unfairness against Spanish-speaking Americans caused by the mere existence of New York's literacy test as a voter qualification, even though there were legitimate state interests served by the test.

I believe that legislation by Congress to reduce the voting age can be justified on either ground of the *Morgan* decision. If Congress weighs the various interests and determines that a reasonable basis exists for granting the franchise to 18 year-olds, a statute reducing the voting age to 18 could not be successfully challenged as unconstitutional.

It is clear to me that such a basis exists. *First*, Congress could reasonably find that the reduction of the voting age to 18 is necessary in order to eliminate a very real discrimination that exists against the nation's youth in the public services they receive. By reducing the voting age to 18, we can enable young Americans to improve their social and political circumstances, just as the Supreme Court in the *Morgan* case accepted the determination by Congress that the enfranchisement of Puerto Ricans in New York would give them a role in influencing the laws and protect and affect them.

Although 18–21 year-olds are not subject to the same sort of discrimination in public services confronting Puerto Ricans in New York, the discriminations, actual and potential, worked against millions of young Americans in our society are no less real. We know that increasing numbers of Federal and State programs, especially in areas like education and manpower, are designed for the benefit of our youth. In connection with such approaches, we can no longer discriminate against our youth by denying them a voice in the political process that shapes these programs.

Equally important, a State's countervailing interest in denying the right to vote to 18–21 year-olds is not as substantial as its interest in requiring literacy in English, the language of the land. Yet, in the *Morgan* case, the Supreme Court made it unmistakably clear that Congress had the power to override the State interest. Surely, the power of Congress to reduce the voting age to 18 is as great.

Second, Congress could reasonably find that the disfranchisement of 18–21 year-olds constitutes on its face the sort of unfair treatment that outweighs any legitimate interest in maintaining a higher age limit, just as the Supreme Court in the *Morgan* case accepted the determination that the disfranchisement of Puerto Ricans was an unfair classification that outweighed New York's interest in maintaining its English literacy test.

There are obvious similarities between legislation to reduce the voting age and the enactment of Section 4(e) of the Voting Rights Act. Just as Congress has the power to find that an English literacy test discriminates against Spanish-speaking Americans, so Congress has the power to recognize the increased education and maturity of our youth, and to find discrimination in the fact that young Americans who fight, work, marry, and pay taxes like other citizens are denied the right to vote, the most basic right of all. The *Morgan* decision is thus a sound precedent for Congress to act by statute to eliminate this inequity in all elections—Federal, State and local.

It is worth emphasizing that no issue is raised here concerning the power of Congress to reduce the voting age even lower than 18. Essentially the sole focus of the current debate over the voting age is on whether *18 year-olds* should be entitled to vote. There is a growing national consensus that they deserve the franchise, and I feel that Congress has the power to act, and ought to act, on that consensus.

The legal position I have stated is supported by two of the most eminent constitutional authorities in America. Both Professor Archibald Cox of Harvard Law School, who served with distinction as Solicitor General of the United States under President Kennedy and President Johnson, and Professor Paul Freund of Harvard, the dean of the Nation's constitutional lawyers, have unequivocally stated their view that Congress has power under the Constitution to reduce the voting age by legislation, without the necessity of a constitutional amendment.

As long ago as 1966, in a lengthy and scholarly article in the Harvard Review, Professor Cox recognized and approved the breadth of the Supreme Court's decision in *Katzenbach* v. *Morgan*. As an example of Congress' power under the *Morgan* case, Professor Cox expressly wrote that Congress has the power to reduce the voting age to 18 by statute. As Professor Cox stated:

"The desire to expand the electorate by . . . reducing the age for voting . . . can probably be realized by legislation without constitutional amendment. If Congress can make a conclusive legislative finding that ability to read and write English as distinguished from Spanish is constitutionally irrelevant to voting, then . . . Congress would seem to have power to make a similar finding about state laws denying the franchise to eighteen, nineteen, and twenty year-olds

even though they work, pay taxes, raise families, and are subject to military service."

More recently in testimony last month before the Senate Subcommittee on Constitutional Rights, Professor Cox reaffirmed his view that Congress has power under the Constitution to reduce the voting age to 18 by statute. In the course of his testimony, Professor Cox emphasized that his views were not newly developed for the occasion of his testimony, since he had originally stated them in 1966.

The constitutional power of Congress to reduce the voting age by statute was approved by Professor Freund in 1968 in the course of an address at Cornell College in Iowa. In a brief but forceful passage emphasizing his belief that the voting age should be reduced, and that Congress has the power to do so by statute, Professor Freund stated:

"Not only the younger generation, but all of us, will be better if the vote is conferred below the age of twenty-one; we need to channel the idealism, honesty, and openhearted sympathies of these young men and women, and their informed judgments into responsible political influences. *In my judgment, as a lawyer, this uniform extension of the suffrage could be conferred by Congress under its power to enforce the equal protection guarantee of the Fourteenth Amendment without having to go through the process of a Constitutional amendment.*" (Italics added.)

If a statute to reduce the voting age is enacted, it should include a specific provision to insure rapid judicial determination of its validity, in order that litigation challenging the legislation may be completed at the earliest possible date. Similar expediting procedures were incorporated in the Voting Rights Act of 1965. In addition, to insure that litigation under the statute does not cloud the outcome of any election, it might be desirable to include a provision limiting the time within which a legal challenge could be initiated, or postponing the effective date of the statute for a period sufficient to guarantee that a final judgment of the Supreme Court as to its validity will be obtained before an election.

In closing, it is worth calling attention to the fact that essentially the same constitutional arguments I have made here for action by statute to lower the voting age must also be made by supporters, including the Administration, of the House-passed Voting Rights bill, if they are to justify two of the most important provisions in the bill:

First, the bill proposes a nationwide ban on the use of state literacy tests as a qualification for voting.

Second, the bill proposes to reduce the length of state residence requirements as a qualification for voting in Presidential elections.

Surely, the constitutional power of Congress to override State voting qualifications is as great in the case of age requirements as in the case of literacy requirements or residence requirements. With respect to both literacy and residence, the Supreme Court's decision in *Katzenbach* v. *Morgan* is the major constitutional justification for the power of Congress to act by statute in these areas. To be sure, it is possible to invoke additional constitutional arguments in each of these areas, but the distinctions are small, and the *Morgan* case must necessarily be the principal justification.

With respect to literacy, it can be argued that such tests would be held unconstitutional by the Supreme Court even in the absence of action by Congress, because they unfairly discriminate against black citizens and other minority groups who have received an inferior education. But, this position is not yet the law, even though the Supreme Court's decision last June in *Gaston County* v. *United States* points in that direction.

In any event, if constitutional justifications based on racial discrimination are invoked to support the power of Congress to bar literacy tests by statute, similar justifications can be invoked in the case of age. For example, Congress could reasonably find that reducing the voting age to 18 would bring black Americans and other minorities into fuller participation in the political process, and thereby promote the more rapid elimination of racial discrimination.

With respect to residency, as in the case of literacy, it can be argued that lengthy residence requirements for voting, at least in Presidential elections, would be held unconstitutional by the Supreme Court even in the absence of action by Congress. According to this argument, the issues in Presidential elections are national, and no substantial State interest is served by lengthy residence requirements. Also, it is argued, such requirements infringe upon a separate constitutional right, the right to move freely from State to State.

It is not clear to me, however, that no State interests are served by residence requirements in Presidential elections. In general, residence requirements for voting are justified on the ground that a State may reasonably require its voters to be familiar with the local interests affected by the election. Although the issues in Presidential elections may be national in large part, their resolution will inevitably have a substantial impact on local interests, so that a residence requirement for voting would not necessarily be declared unconstitutional by the Supreme Court. The issue was raised in the Supreme Court last year in *Hall* v. *Beals*, a case challenging a six month residence requirement imposed by Colorado. The majority of the Court disposed of the case on a procedural ground, without ruling on the constitutionality of the residence requirement. However, two of the Justices wrote a separate opinion stating their view that the requirement violated the Equal Protection Clause.

Nor is it clear that the Supreme Court would invalidate lengthy residence requirements because they infringe the right to move freely from State to State. The question was squarely raised in the *Hall* case, but the Court declined to decide it. Significantly, the two Justices who discussed the question and stated that the residence requirements was unconstitutional based their view solely on the Equal Protection Clause, and did not mention the right to move from State to State.

In sum, I believe that the basic constitutional arguments supporting the power of Congress to change voting qualifications by statute are the same in the case of literacy, residence, or age. So far as I am aware, the Administration proposals in the area of literacy and residence have encountered no substantial opposition on constitutional grounds. Both proposals were incorporated as amendments to the Voting Rights Act in the bill passed by the House of Representatives late last year, and they are now pending before the Senate. If Congress has the authority to act by statute in these areas, as it must if the Administration bill passed by the House is constitutional, then Congress also has the authority to act by statute to lower the voting age to 18.

I am hopeful, therefore, that we can achieve broad and bipartisan agreement on the statutory route to reach our vital goal of enlarging the franchise to include 18-year-olds.

INCREASE IN VOTING POPULATION BY LOWERING VOTING AGE TO 18

	Voting age population under current law	Population voting for President 1968		Increase in voting population by lowering age to 18	
		Number	Percent	Number	Percent
Alabama	2,056,000	1,033,740	50.3	194,000	9.4
Alaska	154,000	82,975	53.9	6,000	3.8
Arizona	948,000	486,936	51.3	91,000	9.5
Arkansas	1,176,000	609,590	51.8	101,000	8.5
California	11,904,000	7,251,550	60.9	1,054,000	8.8
Colorado	1,181,000	806,445	68.3	112,000	9.4
Connecticut	1,825,000	1,256,232	68.8	137,000	7.5
Delaware	306,000	214,367	70.0	27,000	8.8
District of Columbia	509,000	170,568	33.5	46,000	9.0
Florida	3,839,000	2,187,805	57.0	315,000	8.2
Georgia	2,883,000	1,236,600	42.9	0	0
Hawaii	424,000	236,218	55.8	34,000	8.2
Idaho	401,000	291,183	72.6	36,000	8.9
Illinois	6,605,000	4,619,749	69.9	507,000	7.6
Indiana	2,957,000	2,123,561	71.8	249,000	8.4
Iowa	1,650,000	1,167,539	70.8	130,000	7.8
Kansas	1,372,000	872,783	63.6	121,000	8.8
Kentucky	2,061,000	1,055,893	51.2	0	0
Louisiana	2,040,000	1,097,450	53.8	201,000	9.8
Maine	582,000	392,936	67.5	53,000	9.1
Maryland	2,187,000	1,235,039	56.5	204,000	8.3
Massachusetts	3,361,000	2,331,699	69.4	264,000	7.8
Michigan	4,965,000	3,306,250	66.6	419,000	8.4
Minnesota	2,091,000	1,588,340	76.0	174,000	8.3
Mississippi	1,292,000	654,510	50.6	132,000	10.2
Missouri	2,818,000	1,809,502	64.2	219,000	7.7
Montana	405,000	274,404	67.8	37,000	9.1
Nebraska	865,000	536,850	62.1	75,000	8.6
Nevada	282,000	154,218	54.8	26,000	9.2
New Hampshire	424,000	297,190	70.0	36,000	8.4
New Jersey	4,412,000	2,875,396	65.2	328,000	7.4
New Mexico	534,000	325,762	61.0	62,000	11.4
New York	11,731,000	6,790,066	57.9	854,000	7.2
North Carolina	2,948,000	1,587,493	53.9	298,000	10.1
North Dakota	366,000	247,848	67.8	35,000	9.5
Ohio	6,238,000	3,959,590	63.5	522,000	8.3
Oklahoma	1,533,000	948,086	61.9	129,000	8.4
Oregon	1,240,000	818,477	66.0	102,000	8.2
Pennsylvania	7,261,000	4,745,662	65.4	536,000	7.3
Rhode Island	561,000	384,938	68.6	49,000	8.7
South Carolina	1,453,000	666,978	45.9	165,000	11.3
South Dakota	386,000	281,264	72.8	35,000	9.0
Tennessee	2,367,000	1,248,617	52.7	212,000	8.9
Texas	6,346,000	3,079,406	48.5	609,000	9.5
Utah	555,000	422,299	76.1	57,000	10.2
Vermont	246,000	161,403	65.6	21,000	8.5
Virginia	2,698,000	1,359,928	50.4	286,000	10.6
Washington	1,836,000	1,304,281	71.0	170,000	9.2
West Virginia	1,079,000	754,206	69.9	90,000	8.3
Wisconsin	2,469,000	1,689,196	68.4	198,000	8.0
Wyoming	186,000	127,205	68.4	17,000	9.1
Total	120,006,000	73,160,223	61.0	9,778,000	8.1

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senator from North Carolina, I would like at this time to make a unanimous-consent request that the amendment to be offered by the distinguished Senator from Iowa (Mr. MILLER) be under the 2-hour limitation, as has been the case heretofore, with the exception of the amendment to be offered by the Senator from Alabama (Mr. ALLEN).

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 549

Mr. COOPER. Mr. President, I call up my amendment, No. 549 to the Scott-Hart substitute amendment No. 544.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. COOPER. 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:

AMENDMENT No. 549

On page 2, between lines 6 and 7, insert the following new section:

"SEC. 4. Section 4(b) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by adding at the end of the first paragraph thereof the following new sentence: 'On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.'"

On page 2, line 7, strike out "SEC. 4" and insert in lieu thereof "SEC. 5".

Mr. COOPER. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 15 minutes.

Mr. COOPER. Mr. President, I do not intend to discuss this at length. It is amendment No. 549 and is on the desk of each Senator. I have prepared a short statement as to the purpose of the amendment and its effect, which is also on the desk of each Senator. I have prepared another statement which lists the States or political subdivisions which would be affected if the amendment I propose is adopted.

I can explain the amendment very quickly. Amendment No. 549 to the Scott-Hart amendment which, as the Senate knows, is in the nature of a substitute to the pending bill, would not change the status of those States and political subdivisions which were brought under the coverage formula by section 4(b) of the Voting Rights Act of 1965 for having failed to register at least 50 percent of those residents of voting age in the State, or because less than 50 percent of the residents of voting age voted in the presidential election of 1964.

I repeat, the amendment offered does not change the status of those States and subdivisions. They remain covered by section 4(b) and other sections of the Voting Rights Act of 1965.

The pending amendment would bring under coverage of the Voting Rights Act of 1965, and under the triggering device, described in section 4(b), those States or political subdivisions which the Attorney General may determine as of November 1, 1968, employed a test or device and where less then 50 percent of persons of voting age were registered or less than 50 percent of such persons voted in the presidential election of November 1968.

The language of the amendment is clear, and I shall read the operative part.

"SEC. 4. Section 4(b) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by adding at the end of the first paragraph thereof the following new sentence: 'On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.'"

Mr. President, it may be asked, what is the object and effect of my amendment if it should be adopted?

One of its purposes is to establish the principle that the Voting Rights Act of 1965 and, in particular, its formula, section 4(b), which is called the trigger, is applicable to all States and political subdivisions and is not restricted to the Southern States.

I do not think it should be necessary for me to state this principle, because the Voting Rights Act of 1965, by its terms, covered all the States and political subdivisions in the country. The Attorney General found and the Director of the Census certified, in applying the trigger of section 4(b) at the time of the enactment of the act, it covered six Southern States, 40 North Carolina counties, and a few counties in Arizona, Hawaii, Idaho, and the State of Alaska.

The amendment also establishes the principle which has been approved in our debate—that legislation to secure the voting rights must apply to all the people of this country, and to all the States. It is not restricted to a fixed date in the past, whether 1964 or 1968. It is a continuing effort to secure and assure voting rights to all the people of our country. This is the reason for using the election year of 1968 to test the formula in the latest presidential elections, to determine if discrimination may be found.

I do not know that one constitutional right can be established as superior to any other, but many great judges have stated that the right to vote is one which must be preserved and assurred, as the base of securing other constitutional rights.

It may be argued that no record of past discrimination may be found in the States or political subdivisions which would be covered by my amendment, and I will respond to that argument. First, I will read the list of States which continue to be covered under the 1965 act, based on the 1964 registration, and voting record in the presidential election of that year.

My information is provided by the Civil Rights Division of the Department of Justice.

First, I shall name the States and counties which are covered by the 1965 act:

First. Alabama.
Second. Louisiana.
Third. Mississippi.
Fourth. Georgia.
Fifth. South Carolina.
Sixth. Virginia.

Seventh. North Carolina—40 counties, of which one county obtained a declaratory judgment provided under the act and obtain relief from the act's provisions. Thus, 39 counties in North Carolina are presently covered by the 1965 act.

Eighth. Arizona—four counties of which three have already obtained declaratory judgments, leaving one county, Yuma, presently covered by the 1965 act.

Ninth. Hawaii—one county which is still covered by the 1965 act. I am not aware that it has sought to obtain a declaratory judgment.

Tenth. Alaska—the State secured a declaratory judgment relieving it from the provisions of the act.

Eleventh. Idaho—one county, Elmore, obtained a declaratory judgment relieving it from the act's provisions.

Mr. President, if my amendment should be adopted, the States and subdivisions which I shall now name will be brought under the coverage of section 4(b) of the act. They are States and counties which registered fewer than 50 percent of their residents qualified to vote on November 1, 1968, or in which less than 50 percent of such residents voted in the presidential election of 1968.

I shall name them.

Alaska, three districts—districts 11, 12, and 16.

Arizona, one county, Apache.

California, one county, Imperial.

Idaho, one county, Elmore.

New York, three counties, Bronx, Kings, and New York.

Oregon, one county, Wheeler.

The States and subdivisions that I

have named will be brought under the coverage of section 4 of the Voting Rights Act of 1965.

Mr. President, I do not think I need to explain further the purpose of the amendment. I have given my reasons for its adoption, and I shall repeat them.

First, it would establish that the Voting Rights Act of 1965 and the so-called "trigger" apply equally to all States and all counties in our country.

Second, it indicates the intention of the Senate and the House of Representatives to continue its effort, not limited by a certain year, to assure the enjoyment of voting rights throughout the country to all citizens.

That is all I care to say at this time.

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

Mr. COOPER. I yield.

Mr. ALLEN. Mr. President, I would like to ask the distinguished Senator if it is the purpose of his amendment to retain coverage under the automatic trigger provision of the act of those States that did not come up to the prescribed criteria in 1964 and then to set up an entirely new classification consisting of those who do not come up to a similar formula based on 1968, but not giving any relief to those States affected by the figures in the 1964 elections that have come up to the level by 1968.

Mr. COOPER. I think that is a fair statement. That would be the effect of the amendment.

Mr. ALLEN. There is no relief for States presently covered.

Mr. COOPER. No. The Senator is correct.

Mr. ALLEN. Mr. President, there is only a reaching out by a similar trigger formula to bring in other States on a mathematical basis.

Mr. COOPER. The Senator is correct. I know it might be argued that there is an inconsistency in this approach, but I do not think so.

If I wanted to update the 1965 act by applying the 1968 elections to all States and counties in the Union, it may be asked why should not the Southern States now covered be treated in the same way, and judged by the records of 1968?

The Supreme Court in South Carolina against Katzenbach, in particular—and I do not like to debate this subject at length because it has been discussed in the debate again and again—has determined that a pattern of discrimination in many States had been practiced in these States for many years. Sometimes discrimination was carried out by means of tests and devices. In the field of education, it had been practiced under the doctrine of equal but separate schools.

With respect to this last category, Kentucky was one State which maintained separate schools until the Brown decision, with the exception of a few communities and colleges which had integrated.

This unequal education, discriminates against Negroes and others in the application of tests. It is a continuing problem, and a continuing struggle until we have, at the least, assured all citizens the right to vote.

Mr. ALLEN. Mr. President, much as I would like to agree with the distinguished senior Senator from Kentucky, and much as I would like to see the Scott amendment amended beyond recognition, I do not believe that adding an entirely new classification and bringing in more States by mathematical formula would be the best way to amend the Scott substitute.

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

Mr. COOPER. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 1 minute.

Mr. COOPER. I do not consider that the amendment establish two classifications of States or persons, because two presidential election years are used. We are talking about the same problem of discrimination, whether it occurred in 1964 or in 1968, and which persists today.

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

Mr. COOPER. I yield.

Mr. SPONG. Mr. President, in the answer the Senator from Kentucky gave the Senator from Alabama, he stated there would be two catagories.

I ask if the Senator has considered or would consider using the latest presidential election rather than using 1968.

I ask the question for this reason. Assuming that the Senator's amendment is agreed to and we have two categories, I am concerned over what would happen in the years between 1968 and 1972 if there were counties throughout the United States which, for one reason or another, fell below the criteria established and yet would not be brought under the law.

I wonder if consideration was given to designating the last presidential election instead of using a date.

Mr. COOPER. No. I used the 1968 presidential election results for two reasons. In the 1965 act we used the most recent election results—the 1964 presidential election. I think that as a general rule the largest number of votes cast have been cast in presidential elections. At least this is true in my State.

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

Mr. COOPER. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. COOPER. If other States in the period between 1968 and 1972 discriminate in the case of voting rights, as the Senator knows, the Voting Rights Act provides a means for reaching discrimination. The Attorney General can exercise his power, to go into court, and secure proper orders and have examiners appointed.

Mr. SPONG. Mr. President, does the Senator from Kentucky have any time that he will yield to me?

Mr. COOPER. Mr. President, I yield 5 minutes to the Senator from Virginia.

Mr. SPONG. Mr. President, I thank the Senator from Kentucky. Earlier, I understood the Senator to say that the new political subdivisions that would be brought under the act—and he enumerated them—were in Alaska, Arizona, California, Idaho, New York, and Oregon.

The Senator from Kentucky also said it might be argued that those States should not be brought under the act because there has been no voter discrimination in the political subdivisions which will be brought in under this amendment.

I ask the Senator from Kentucky if he is aware that the State of Virginia has been under the act from the beginning without any recorded instance of violation? The State of Virginia has not in any way been found to have discriminated or to have violated the Voting Rights Act.

I would specifically refer to the 1961 report of the United States Civil Rights Commission where on page 102, it is stated that in Virginia there appears to be no voter discrimination.

I have some reservations about two categories. I would hope that there could be a national standard. I appreciate what the Senator from Kentucky is trying to do, because I think this law if it is to be extended should apply to every section of the United States wherein voter participation falls below the standard set.

Mr. COOPER. I do not believe the amendment I am presenting establishes two categories. It establishes a category of States and subdivisions, which at a particular time specified by Congress whether 1964 or 1968, are presumed to be practicing discrimination. I do not believe I am creating two categories.

The Senator is familiar with the decisions of the Supreme Court held in the case of South Carolina against Katzenbach, and also in Gaston County against United States. I do not know if the Senator agrees with the reasoning of the court, but it was argued that States with dual school systems, my State was one of them, had denied equality of education throughout the years, that the inequality continued and, therefore, discrimination persisted in the relative ability to meet voting tests. I believe the continuing inequality of education, and ability to meet voting tests is the reason so many vote for maintaining the Voting Rights Act of 1965 for at least 5 additional years.

The distinguished Senator from Pennsylvania can express his views, but a reason for voting to extend the act is to wipe out, as far as possible, those inequalities which arose from the use of tests and the inequalities in education, continue to deny equal voting rights.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. COOPER. I yield the Senator an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. SPONG. Mr. President, I thank the Senator from Kentucky. Perhaps the Senator from Pennsylvania can help us with this matter.

The Senator from Kentucky mentioned the Gaston case.

Mr. COOPER. Yes.

Mr. SPONG. Would the Senator from

Kentucky agree that if the Scott-Hart substitute in its entirety is agreed to, that the finding in the Gaston case might no longer be persuasive as far as States getting out from under the Voting Rights Act is concerned?

Mr. COOPER. No. The method of escaping from the provisions of the Voting Rights Act would remain the same.

Mr. SPONG. If I understand the Scott-Hart substitute, it would universally do away with literacy tests. Is that correct?

Mr. COOPER. It would suspend them.

Mr. SPONG. Suspend them. I am not saying with certainty, but I believe we should be mindful that the substitute might well affect some aspects of the holding in the Gaston case.

Mr. COOPER. I do not think it would deny any State its opportunity to come into court and seek to be relieved of its obligations under the Voting Rights Act. I must say, in reading the cases, it looks to me as if we may be approaching the time when the Supreme Court may hold that literacy and other voting tests may be eliminated entirely.

I would like to see the day come when restrictions of this nature would not have to be applied to States and political subdivisions and when they would not always be levied at the South.

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

Mr. COOPER. I yield myself 2 additional minutes.

I voted for the amendment of the distinguished Senator from North Carolina to establish jurisdiction of these matters be tried in the Federal courts of the States. I thought it eminently fair to do so. I think it derogatory of the courts to provide in effect that one Federal court could be trusted and another could not.

I voted for another amendment offered by the distinguished Senator from North Carolina along the same line. I think it is bad for our Federal judicial system, when it is held that certain Federal courts cannot be trusted. I hope the time will come when we abandon the attitude which existed for such a long time after the Civil War and during the period of reconstruction and may persist in some degree today. I hope it will come soon.

When we had the HEW bill before us, the Senator from Mississippi (Mr. STENNIS) and the Senator from Connecticut (Mr. RIBICOFF) pointed out that discrimination does not exist solely in a few States. My amendment is directed toward the end, to provide that adequate measures will continue to be available to enforce voting rights which have been long denied in some States, and to apply the principle for the entire country.

Mr. SCOTT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SCOTT. Mr. President, I have a great deal of sympathy and a great deal of understanding for the concern which the distinguished Senator from Kentucky has expressed. I would like to see this situation not only ameliorated but entirely ended. I personally do not like any regional application of laws or even the implication of it, except as laws necessarily may have to be applied to meet the problems which do exist.

The Senator from Virginia, for example, is in something of a statistical trap. I would hope to see the time when Virginia could present their case before the courts and, as the Senator from Kentucky indicated, find a way to extricate themselves from a situation which applies to a number of States. This may be true as we go along State by State, as the courts rule on these matters from time to time.

But with all due respect to the very high motives and excellent intent of the amendment offered by the distinguished Senator from Kentucky, it has the inherent difficulty within it of setting up a third level of administration.

It would turn a present two-level system into three levels. We would then have those States covered by the triggering device under the Voting Rights Act of 1965 in one classification. There would be another set of States or counties covered by the Senator's amendment with a triggering device using a different set of figures, the 1968 figures.

Then, there would be a third set of States which would be excluded from the first two categories, where the present situation would still apply, and they would be States not subject to the triggering device, where the burden of proof is not upon the States but upon the Attorney General to establish that voting rights are being denied some portion of the citizenry of those counties or States. That is the third category. The difference from the present law would be that under those circumstances the Attorney General has the onus probandi of establishing an act exists, contemplated by the act, which warrants judicial relief for the benefit of those who may be discriminated against.

Therefore, while the intent is excellent, while the purpose of the amendment is such that it can be argued for an equal application of the laws, nevertheless it provides, not two standards, under which we live now, but provides three standards, and therefore the law would become, not less equal, but more unequal than before.

Therefore, it is not surprising that those who oppose the Scott-Hart amendment appear to be speaking in support of the Cooper amendment. Yet those who oppose the Scott-Hart amendment ought to oppose the Cooper amendment because of the three-level insertion here, the three levels of categories covered, which would make the administration of the act that much more complex, that much more difficult, and therefore I at this time——

Mr. COOPER. Mr. President, will the Senator yield for a moment? I hope he is not getting ready to move to table.

Mr. SCOTT. No; I was about to yield the floor for the time being. I understand the Senator from Iowa (Mr. MILLER) is seeking recognition.

Mr. COOPER. I thank the Senator. Let me say, in reply, there are not three classifications. There are two classifications in the act. One results from the finding that fewer than 50 percent were registered on November 1, 1964, or that fewer than 50 percent voted in the presidential election of 1964. There is nothing in the trigger section of 4(b) that refers to discrimination. It simply provides that, if that formula applies, a presumption arises and powers are given to the Attorney General to move, which are not given to him, respecting other States, even though discrimination might be practiced in them.

A second classification is provided. The Attorney General is empowered—in fact, he has been empowered under previous voting rights acts—to go into court to establish discrimination to secure proper court order and appointment of examiners if necessary.

There are two classifications, both in the Voting Rights Act and the act as I would amend it.

The amendment I offer establishes the presumption of discrimination if the formula is found to prevail. I can only say what I said a few minutes ago, that if the formula used in 1964 was effective to hold those States under a presumption of discrimination, and no other States were found discriminating at that time, is it intended to let the one test stand forever? Would not we at some time in the future inquire again to see if new discrimination is being practiced? Or will we relate all to 1964? I do not think so and I think it is illogical to argue that is the intent of the act.

I say again that my amendment is an attempt to challenge continued discrimination, not only in the South but throughout the Nation. I believe I have voted for every civil rights bill that has been before us. The usual defensive arguments are made. I have introduced or joined in many of them, before they were adopted by the Congress. But, I have felt that the practice of applying them out against a few States forever, is not right. I voted for the Civil Rights Act of 1965, but I did not vote for title VI, even though I knew we needed means of enforcement. I remember I said on the floor that day that I could see looming ahead the shadows of Reconstruction.

If these States purge themselves, they should be set free at some time. Evidently, we do not think they have purged themselves fully and I agree because the black children who never got an equal chance in school cannot meet the voting tests. We hold the power of the Congress and the courts and the Attorney General over them and we should, but for the Lord's sake, let us put other States and subdivisions under the same standards, including my State. But I cannot understand the Senator's argument that my amendment will not reach discrimination in voting rights, the right which many have said is the most precious right of all, the right to vote.

Mr. SCOTT. Mr. President, I yield myself 1 minute only to say that the amendment offered by the Senator from Kentucky is a pro-civil rights amendment. It is a pro equality amendment. But I was pointing out that in its application and administration, it provides three

ways of doing it, one under the 1964 figures, one under the 1968 election figures, and one that is not presently revealed by any figures, but which might be revealed by the Attorney General in the course of seeking to enforce a situation which does not exist under either of the two categories contemplated by the Senator.

The Senator has always supported civil rights legislation, courageously and often when he was not supported by as much volume of support as subsequently came about.

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

Mr. SCOTT. I yield myself 1 additional minute.

But it is clearly a pro-civil rights amendment which he has offered. I am simply pointing out, with great respect, that he could be right and I could be wrong, but I happen to believe I am right.

I say, with a great deal of reluctance, in view of my great respect for the Senator, that, pro-civil rights though the amendment may be, and proequality though it may be, embracing the compassion that he always does, nevertheless I have the fear that it is not a very workable proposal.

I thank the Senator.

Mr. MILLER. Mr. President, will the Senator from Kentucky yield me 5 minutes?

Mr. SCOTT. Mr. Prsident, I will yield 5 minutes to the Senator from Iowa. The Senator from Kentucky has used up most of his time.

Mr. MILLER. Mr. President, I have listened with a great deal of interest to the comments made by the distinguished Senator from Pennsylvania. I frankly am not as concerned about the three-tier approach in the Cooper amendment as I am concerned about the point the Senator from Pennsylvania made about unequal treatment.

As I understand the Cooper amendment, the States that are covered under the 1964 triggering device are going to be covered for the duration of the extension of the Voting Rights Act that is now before us, but in his treatment of other States that do not meet the test as of November 1, 1968, there is indeed unequal treatment, because the Voting Rights Act would not apply to them for the duration of the pending act.

The only way we can get around that problem is to add some language, and I am going to suggest the language to be added, and I hope my colleague from Kentucky will carefully consider it, because I hope he would see fit to modify his amendment to include this language. If he does, then the unequal point the Senator from Pennsylvania makes will no longer be valid, it seems to me.

For example, in the case of other States than those covered by the 1964 triggering device, the coverage will apply to any State or political subdivision of a State which the Attorney General determines maintained on November 1, 1968, any test or device. But if they put one on in 1970, they are "home free," whereas the other States covered by the 1964 device are not "home free," under any circumstances, for the duration of the act.

If the Senator wants to make sure there is equal treatment, he should add after the words "on November 1, 1968" on line 2 the following, "or on November 1 of any subsequent presidential year." That means they have to measure up for the Voting Rights Act in 1970.

Then on line 5 of page 2, where we have the 50-percent test, the Cooper amendment provides for registration on November 1, 1968, but says nothing about November 1, 1972. In that case, the amendment, I think, should be modified to provide "on November 1, 1968, or on November 1 of any subsequent presidential election year." That will put them under the coverage for the duration of the act.

Finally, on line 7, he provides for the 50-percent vote in the Presidential election of November 1968, and I would suggest that if he modifies it, he add the words "or in any subsequent Presidential election year."

If the Cooper amendment is so modified, we will have three tiers, but the two tiers, the one with the triggering device of 1964 and the other with the triggering device of 1968, will be handled equally, because they will be covered for the duration of the act.

I hope that the Senator from Kentucky will see fit to modify his amendment, because I do think the Senator from Pennsylvania made a very telling point. We do not want these States that are going to be home free on November 1, 1968, to regress, so that on November 1, 1972, they are not covered by the special provisions which are applicable to the States covered by the 1964 triggering device. At least I hope we do not want them to regress. I know I do not.

This will nail it down so that any State or political subdivision which meets the test on November 1, 1968, will regress at its peril, because we will provide for coverage in any subsequent presidential year, and if they do regress, they are going to be met with the same treatment that those States covered by the 1964 triggering device are met with.

Mr. COOPER. Mr. President, as I said earlier, I would hope that at some point in the future these laws could be terminated. As I see it, the effect of the Senator's amendment is one which would apply the Voting Act in successive presidential elections and we would never end this act. I hope the good spirit and the good efforts of the people of this country will, at some point end discrimination and bring these acts to a close. I may be optimistic, but I would prefer to be than to believe that these acts will be imposed perpetually.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. COOPER. I yield.

Mr. HRUSKA. It was not my privilege to be on the floor when the Senator gave the main explanation of his amendment, but may I ask whether this is the fact: That the present coverage of the act, if it is extended for 5 years, would continue to apply to the six States that were affected by the original act, plus the several counties in the seventh State?

Mr. COOPER. That is correct.

Mr. HRUSKA. But in addition to that, if there are determined by the Attorney General to be States or political subdivisions within a State that maintain a test or device, and that have less than a 50-percent registration of persons of voting age registered as of November 1, 1968, then the coverage will apply to such State or political subdivision, and in addition thereto, if there are States determined by the Attorney General to have had less than 50 percent of the eligible persons voting in the presidential election of November 1968, that latter class will also fall within the coverage of the act. Is that a fair statement of the Senator's amendment?

Mr. COOPER. Not only fair, but correct.

Mr. HRUSKA. Well, that is fine. Under that interpretation, therefore, there will be equal coverage of other derelict States or political subdivisions, just the same as the six States, and the seventh in which some counties were affected, have heretofore been covered?

Mr. COOPER. The Senator is correct.

Mr. HRUSKA. Under that interpretation and with that confirmation of the way I read the amendment, I support the amendment. I think it would be a wonderful thing to have the beneficial features and characteristics that have been so highly praised and so greatly approved by everyone as applied to those several States down South applied universally. I think the rest of the country ought to have the benefit of those fine things. I highly commend the Senator from Kentucky for proposing such a fine amendment. I support it, and I urge its support.

Mr. COOPER. I thank the Senator for his support, and for his correct interpretation.

Mr. MILLER. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. How much time does the Senator want?

Mr. MILLER. Two minutes.

Mr. SCOTT. I yield 2 minutes to the Senator from Iowa.

Mr. MILLER. Mr. President, the trouble with the Cooper amendment is that these States that do measure up on November 1, 1968, are off the hook, and they can regress; and in 1972, they can have under 50 percent voting and under 50 percent registration, and they can have a test or device, and there is no problem. That is the reason why I suggested—the Senator from Nebraska shakes his head; but I read the King's English, ar ' that is what the Senator from Kentucky, the author of the amendment, recognized to be the case.

Mr. HRUSKA. Mr. President, if the Senator will yield, they are not off the hook, on two counts. One is that if there is a test or device, or any mechanism at all which results in discrimination, the Attorney General can bring them into court and bring into play registrars and examiners and everything else.

The second count is this: Whether or not there is a test or device, if there were fewer than 50 percent of the peo-

ple of voting age who voted in the 1968 election, they would be on the hook just as severely as anyone else. On both counts, I would say there is no off-the-hook business.

We do have a vigilant Attorney General, who will see to it that they are brought to the bar of justice if there is any technical seeking to get away from this particular amendment whereby they come into collision with other provisions in the Voting Rights Act.

Mr. MILLER. Mr. President, perhaps we ought to make clear what we are talking about here. I did not mean they would be off the hook completely. I recognize that the Attorney General could bring such an action.

My point is that they would be off the same hook that the States covered by the 1964 triggering device would be on. My suggestion is that they be kept on the same hook, because if they are not, then the point of the Senator from Pennsylvania as to unequal treatment is a valid point.

Those States and political subdivisions that met the test on November 1, 1968, and fulfilled the requirements, can regress so that by 1972 they will be off the same hook that the States covered by the 1964 trigger device are on. My suggestion is that they be treated equally, and put on the same hook. That is why I deeply regret that my colleague from Kentucky cannot see fit to modify his amendment, because I know he offers it in the utmost good faith.

Mr. SCOTT. Mr. President, if the Senator from Kentucky has no further demands for time, I have not. I am prepared to yield back——

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

Mr. SCOTT. Mr. President, I yield the Senator from Hawaii 3 minutes.

Mr. FONG. Mr. President, I ask unanimous consent that immediately after the vote on the Cooper amendment, I be allowed 15 minutes to answer what Columnist Jack Anderson wrote about me this morning in the Washington Post.

Mr. MANSFIELD. Mr. President, reserving the right to object—and I shall not object—will the Senator from Hawaii permit me, before he speaks, to offer an amendment and make it the pending busines for tomorrow?

Mr. FONG. Yes.

Mr. PRESIDING OFFICER. Is there objection to the request of the Senator from Hawaii? Without objection, it is so ordered.

Mr. DODD. Mr. President, will the Senator from Pennsylvania also yield me 5 minutes?

Mr. SCOTT. Does the Senator wish to speak after the vote? Is that my understanding?

Mr. DODD. I understood the Senator from Hawaii to say that——

Mr. SCOTT. The Senator from Hawaii requested permission to speak for 15 minutes at the conclusion of the vote on this amendment. Did the Senator from Connecticut wish to make a similar request for time, or to speak now?

Mr. DODD. Yes, for about 5 minutes.

Mr. SCOTT. The Senator from Connecticut is asking for 5 minutes at the conclusion of the vote, following the Senator from Hawaii?

Mr. DODD. That is correct.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. I ask for 5 minutes thereafter.

Mr. SCOTT. And I yield the Senator from Alaska 5 minutes after him.

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

Mr. SCOTT. Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Does the Senator request the yeas and nays?

Mr. SCOTT. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. SCOTT. All remaining time has been yielded back, Mr. President.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (No. 549) of the Senator from Kentucky (Mr. COOPER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Illinois (Mr. SMITH), and the Senator for Delaware (Mr. WILLIAMS) are necessarily absent.

The Senator from Delaware (Mr. BOGGS) is absent to attend the funeral of a friend.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Illinois (Mr. SMITH) would vote "nay."

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Delaware (Mr. BOGGS). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Delaware would vote "nay."

The result was announced—yeas 43, nays 43, as follows:

[No. 90 Leg.]

YEAS—43

Aiken	Burdick	Curtis
Allott	Cannon	Dodd
Anderson	Cooper	Dole
Bellmon	Cotton	Dominick
Bennett	Cranston	Eagleton
Eastland	McIntyre	Smith, Maine
Fong	Miller	Sparkman
Gore	Montoya	Spong
Griffin	Murphy	Stennis
Hansen	Packwood	Symington
Hruska	Pearson	Thurmond
Hughes	Pell	Tower
Mansfield	Prouty	Young, N. Dak.
Mathias	Proxmire	
McGee	Ribicoff	

NAYS—43

Allen	Hart	Moss
Bayh	Hartke	Muskie
Bible	Hatfield	Nelson
Brooke	Holland	Pastore
Byrd, Va.	Hollings	Percy
Byrd, W. Va.	Inouye	Schweiker
Case	Jackson	Scott
Church	Javits	Stevens
Cook	Jordan, N.C.	Talmadge
Ervin	Kennedy	Tydings
Fannin	Long	Williams, N.J.
Fulbright	Magnuson	Yarborough
Goldwater	McClellan	Young, Ohio
Goodell	McGovern	
Harris	Mondale	

NOT VOTING—14

Baker	Jordan, Idaho	Russell
Boggs	McCarthy	Saxbe
Ellender	Metcalf	Smith, Ill.
Gravel	Mundt	Williams, Del.
Gurney	Randolph	

So Mr. COOPER's amendment was rejected.

Mr. MANSFIELD. Mr. President——

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER (Mr. EAGLETON in the chair). There is no motion to table before the Senate at the moment.

Mr. ALLEN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered, and I ask for the yeas and nays, having voted with the prevailing side.

Mr. LONG. Mr. President, a point of order. Is the Senator who is moving to reconsider the vote one who voted on the prevailing side?

Mr. ALLEN. The prevailing side is nay. The Senator from Alabama voted nay.

The PRESIDING OFFICER. The Senator from Alabama is correct.

Is there a sufficient second? The yeas and nays were ordered.

Mr. COOPER. Mr. President——

The PRESIDING OFFICER. The Senate will be in order, so that we can hear the Senator from Kentucky.

Mr. COOPER. Mr. President, may I be heard for 5 minutes?

The PRESIDING OFFICER. The motion is debatable.

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

Mr. COOPER. I yield.

Mr. MANSFIELD. Mr. President, I would like, on behalf of the joint leadership, to ask the attachés on both sides of the aisle to call the Senators' offices and tell them that the advice given to them earlier that there would be no more rollcall votes tonight is not correct, and that they should start to run back.

The PRESIDING OFFICER. The Senate will be in order, so that we can hear the Senator from Kentucky.

The Senator will please suspend until we have order in the Chamber.

The Senator from Kentucky may proceed.

Mr. COOPER. Mr. President, I shall be brief. I will explain the amendment because some Senators were not present in the Chamber when I called up the amendment.

The amendment has two effects. First, I want to make it very clear that all those Senators who either sponsored or supported the amendment offered by the Senator from Pennsylvania (Mr. SCOTT), the Senator from Michigan (Mr. HART), and others that my amendment does not change in any way the status of those States and divisions which come under the coverage of the Voting Rights Act of 1965 and are subject to the enforcement procedures of that act.

My amendment recognizes that the problem of enforcing the voting rights is a continuing problem. It is not one which rests upon the date of the presidential election of 1964. It may be years in this country before we can assure equal voting rights to everyone.

In addition to using the dates of November 1, 1964, to determine whether fewer than 50 percent of the eligible voters in a State were registered, whether fewer than 50 percent voted, my amendment then applies that same formula to November 1, 1968, to determine if fewer than 50 percent were registered on that date, or voted in the presidential election of 1968.

In either case, if fewer than 50 percent were found to have registered or to have voted in those States or political subdivisions, they would come under exactly the same conditions of enforcement as those six States and 39 counties in the South.

The consequence and effect of the amendment to that a limited number of States and counties will come under the trigger of section 4(b) of the act. But if the problem of securing equal rights to register and to vote is more than a sectional one, why should they not be enforced under the same provisions of the law?

There is no magic date and this is a continuing struggle, and I think my amendment helps.

If the States and counties which I shall name have not used these tests, they can come into court, as the other States have, and ask for a declaratory judgment and be relieved.

In Alaska three districts are involved, districts 11, 12, and 16.

In Arizona, there is one county, Apache.

In California, there is one county, Imperial.

In Idaho, there is one county, Elmore.

In New York, there are three counties, Bronx, Kings and New York.

In Oregon, there is one county, Wheeler.

This does not add up to a large number of States or counties. But, I speak for the principle of establishing that the Voting Rights Act actually applies to all States and subdivisions in this country. If a formula obtains in one situation, it should obtain in another. I would say to those who favor the Scott amendment that my amendment would not change the status of States covered by it at all. And those who believe that a continuing effort should be made to register voters and have citizens throughout the United States vote, I believe, should support the amendment.

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

Mr. COOPER. I yield.

Mr. KENNEDY. Mr. President, with respect to the areas the Senators identified in Alaska and Arizona, and those counties, is the reason that they would fall under the trigger of the act in those areas, the fact that there are a substantial number of Indians that have not registered or voted?

Could the Senator give us the information on those counties?

Mr. COOPER. My amendment was offered following a colloquy with the Senator from Nebraska (Mr. HRUSKA) and the Senator from Pennsylvania (Mr. SCOTT). The question was asked by me whether there was some way to assure the Voting Rights Act is applicable to all States. It was said that the matter was being considered. I drafted the amendment not knowing what countries or States would be affected. After I drafted the amendment, I then asked the Civil Rights Division of the Department of Justice to provide the names of counties and States that would be affected. This is the list.

I have since inquired into the conditions in several of these situations.

Alaska was covered by the 1965 act. It came into court, obtained a declaratory judgment and was relieved. Since the last election, districts 11, 12, and 16 would come under the formula provided by my amendment.

Mr. KENNEDY. Mr. President, I know it is very difficult to expect a detailed profile on any of these areas.

Mr. COOPER. I am ready to give it.

In Arizona there is one county. Four counties fell under the trigger of the 1965 act of which three counties have obtained relief. Yuma County remains under the act's coverage.

In California there is one county—Imperial. I think it is the first time it has been placed in this category. I asked the Senator from California (Mr. MURPHY) if this was a county in which the population was composed chiefly of people of Mexican descent. He told me today that it had a general population.

In Idaho, one county came under the 1965 act. It obtained a declaratory judgment.

In Oregon one county, Wheeler, came under the formula. I do not know what the circumstances arising from the 1968 presidential election were.

The chief State involved is the State of one of the best friends I have in the Senate, the Senator from New York (Mr. JAVITS). Three counties of New York were involved, Bronx, Kings, and New York. In the 1964 election more than 50 percent of the voters were registered and more than 50 percent voted. However, for some reason in the 1968 election 50 percent were not registered or voting.

One of its effects, if the amendment is agreed to, is that it would cause larger registration in these counties. That will be helpful. It is usually followed by a larger vote.

Arizona has one county, Apache County, and I understand that county is chiefly populated by Indians.

I think the amendment speaks for itself.

I do not believe my amendment should offend those who support the Scott amendment. I do not think the amendment could offend those who have been speaking for equal application of the laws throughout the country. I believe it will show a continuing interest in the problem of voting rights.

Mr. MONTOYA. Mr. President, I voted for the Senator's amendment. I voted for it because I am surely aware there are some States outside of the original application of this amendment where segments of the population are being deprived because of literacy tests. One of these States is Arizona, where the Navahos and the Hopis have been deprived of registration or failed to pass literacy tests that the State of Arizona provides as a preliminary requisite to voting.

In 1960 I went to New York to try to help in a registration campaign among the Spanish-speaking population, the Puerto Ricans. They are having difficulty satisfying the requirements of registration laws of New York because under either the constitution of New York or the laws of New York as a prerequisite they had to answer some questions relating to the constitution of the State of New York. It was because of this difficulty that Senator Robert Kennedy placed a rider on one of the voting rights laws that we considered here previously.

Many similar situations are occurring. I think the Senator's amendment is fair if applied to the entire country. I heartily endorse it.

Mr. COOPER. I thank the Senator. The Senator is correct. The efforts of the late Senator Kennedy and the distinguished senior Senator from New York (Mr. JAVITS) culminated in an amendment placed in the act of 1965 to enable persons of Puerto Rican birth to have an equal chance to vote. The court not only sustained that amendment but held these people should have the equal protection of the law, in exercising the right to vote. My amendment would provide also that equal right to vote.

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

Mr. COOPER. I yield.

Mr. RIBICOFF. Mr. President, I commend the Senator from Kentucky on the points he has made and I commend the Senator from New Mexico. I think the amendment is eminently fair, and I am proud to vote for the proposal of the Senator from Kentucky.

Mr. COOPER. I thank the distinguished Senator from Connecticut.

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

Mr. COOPER. I yield.

Mr. LONG. Mr. President, I regret to say I did not hear the entire debate prior to the previous vote. I voted against the Senator's amendment. I expect to vote with him on this amendment.

Mr. COOPER. I thank the Senator.

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

Mr. COOPER. I yield.

Mr. MURPHY. Mr. President, in an effort to be consistent I think that when

we write laws in this Chamber they should apply to everyone. I am amazed to learn I have a county in my State that would come under this category. Some of the people in the county may scold me but I expect to get out to make certain the right to vote is just as privileged in that county as in any other county in my State.

Later on I understand there will be a question about restrictions and the language barrier. I am going to have something to say about that because we have many, many people who come from Spanish-speaking homes. I think under present conditions many of these fine people are apt to know a good deal about the problems and the issues and they have the greatest regard for the right of franchisement, the right to vote. I want to make certain they are not denied the right to vote because of a lack of understanding.

I also wish to say that much has been done through the media. These people do have Spanish radio broadcasts, and Spanish-speaking programs. They are capable and knowledgeable and, therefore, they should not be denied the right to vote.

I enthusiastically endorse the Senator's amendment.

Mr. COOPER. I thank the Senator.

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

Mr. COOPER. I yield.

Mr. JAVITS. Mr. President, in the first place, I wish to thank the Senator from Kentucky (Mr. COOPER) for recalling that Senator Kennedy and I sponsored what is now section 4(e) of the law which gave our Spanish-speaking people in New York the opportunity to vote.

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

Mr. JAVITS. I have not made a point yet. However, I yield.

Mr. MONTOYA. I had forgotten to mention the senior Senator from New York and to give him credit for this amendment in conjunction with Senator Robert Kennedy. I apologize to the Senator for that omission.

Mr. JAVITS. The Senator is very kind.

Mr. President, I think the Senator is owed an explanation on my part because I voted no. I think my credentials in this Chamber—I presume and I hope I am right—are such that I would not necessarily vote against an amendment because I thought it would have an effect in my State. I have stated here publicly and, frankly, in connection with another matter, that in connection with a law our State legislature passed and which was signed by our Governor, I thought our State was wrong and that I would do my utmost to undo it.

But the reason I voted as I did and the point of explanation I wish to make is as follows: It will be noted that section 4(b), which the Senator from Kentucky (Mr. COOPER) seeks to amend, is not the only pertinent section. Section 4(b) refers back to section 4(a), and that is really the essence of why we legislated as we did.

Section 4(a) states that a State may get out of the inhibitions of this particular law if in a declaratory judgment suit it is determined:

That no such test or device has been used during the past five years—

Now to be 10 years—

preceding the filing of the action for the purpose with the effect of denying or abridging the right to vote on account of race or color.

Then, it goes on to state:

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

Mr. President, we do not pass laws just to pass laws. We pass laws where some factual basis has been shown to necessitate a law. There is no proof whatever that in any of the counties referred to by the Senator from Kentucky anything occurred other than the fact that less than 50 percent of the people have voted. He has already exculpated the New York counties he mentioned by pointing out that in the 1964 election more than 50 percent voted. So obviously we did not face this kind of condition in New York except regretfully and deplorably we face a condition where people do not vote as often as they should vote. I think this is a very key point. I do not think in Congress we have to strain to pass a law because we want people to take a placebo to make them feel better because if there is discrimination on account of race or color in any State it will not be reached if the Senator's amendment is agreed to. The only point is that the affirmative mechanisms of the Voting Rights Act do not apply because they are irrelevant.

Whether the Senate adopts the amendment or not, every Senator knows, when he votes for it—if he does—that it is extremely unlikely that in any of the counties which fall into the category where a test or a device has been used to deny or abridge the right to vote on account of race or color, it will do any more than to cause the Attorney General to pass on eight or 10 or more cases, so that the people will feel better.

So speaking only for myself, without any reference to my community, which I feel sure will succeed in any declaratory judgment suit that may be brought, I do not think it is necessary to vote for laws which are irrelevant and unnecessary to attain the objective which we seek to attain.

If any case had been made out, of any kind or character, showing the need for the Voting Rights Act of 1965, now sought to be extended to other areas which were not reached—we argued that point on the original amendment offered by the Senator from North Carolina (Mr. ERVIN)—because they were denied the right to vote, or their vote was abridged, on account of race or color, I should have voted for the Ervin amendment. For that reason, because I think it is necessary to state my position to the Senate, as my own city, a major city, seems, by all odds, to be the most populous place to be affected, I feel that I must vote "nay" on the amendment.

Mr. COOPER. Mr. President, I want to respond for a moment to the statement of the Senator from New York. I have not asked and I do not want to have adopted an amendment which has no useful purpose. But I do make these points: First, the formula of 461 which triggers the action says nothing about discrimination. It establishes a presumption of discrimination which can be overturned. It is equally applicable to all States.

Second—in the case of Katzenbach against Morgan, or Morgan against Katzenbach, the court held that the State of New York's tests were discriminatory. In fact, the court in the set aside a section of the Voting Rights Act of 1965 on the ground that it was discriminatory and denied the equal protection of the laws to its citizens. It referred to the debate at the time the laws had been passed by the State of New York where it was said for the protection of the Anglo-Saxon population against the infusion of immigrants and foreigners, it suggested that the laws enacted in 1922 were partly enacted out of prejudice. I do not like to do so, but have to make that statement, because I do not want to have a law passed merely for the sake of having it passed. But if these facts are correct, and the formula under my amendment comes into effect these tests and devices in the State of New York would be suspended. If there has been no discrimination, a State can come out from under the Act.

Mr. JAVITS. Mr. President, I would like to respond to that statement, if I may, by saying I do not believe anything in Katzenbach against Morgan set aside any provision of any law. All it did was to sustain the action of the Senate in respect to the particular provision which would qualify Spanish-speaking people who had gone to school under the American flag.

I find nothing except in a footnote of this law attributing some purpose to the New York State Legislature in 1922, which came out of the debate in the State legislature, by somebody who was arguing the case, which might have intimated a shadow of prejudice at that time.

If the States which are being reached by the Voting Rights Act of 1965 had discriminated in 1922—even assuming New York had, which is a broad assumption—they would not be under the Voting Rights Act of 1965 at all, because the trigger operates on a 5-year basis, not on a basis of 43 years.

So I repeat that this amendment is irrelevant to the issue which is sought to be met by the Voting Rights Act of 1965, and as I can see no relevancy, and no factual basis having been laid, except the idea that we want to make everybody the same whether there is any cause or not, I am not persuaded, and I do not think this case in any way sustains the point of view that the amendment should be adopted.

Mr. YARBOROUGH. Mr. President, I shall vote against the motion to reconsider, because this amendment as offered

makes no allowance for a disinclination of citizens to vote when they are so disinclined. In my State we had over 4 million qualified voters in 1968. The number of qualified voters was between 4 million and 4,100,000. In that presidential election somewhere between 3 million and 3,100,000 voted. One million who were registered and qualified to vote did not vote. I can speak from personal experience, because I was chairman of the statewide committee for the Humphrey-Muskie ticket. I was told by many people that they did not care to vote for either of the parties. I am not saying that in derogation of any individual, but only because it is a fact of life. A million voters in my State did not want to vote for either party or for either candidate, because of conflicting positions. The result was that the number of voters who participated was pulled down to below 50 percent; 40.8 percent of the qualified voters voted, but a million more could have voted and were not prevented from doing so.

The amendment would reach into a State when the people within that State may not have wanted to vote.

I think the motion to reconsider should be defeated.

Mr. HART. Mr. President, very briefly, the Senator from Pennsylvania and I have discussed our position with respect to this amendment. It is our continued feeling that it is not a helpful addition to the substitute. We hope that the Senate does not reconsider the vote. I think we should all be reminded that, under the substitute, literacy tests anywhere and everywhere are suspended.

There has been no suggestion that the test or device—the literacy test—in any of the areas that will be brought under the automatic trigger under the Cooper amendment have had a discriminatory purpose or consequence at least in the recent past.

I was not conscious, nor did I hear the full exchange between the Senator from Kentucky and the Senator from New York in their discussion of the 1922 New York statute, of the possibility that its purpose in part was discriminatory. No evidence of which I am aware was ever presented to the Attorney General which would persuade him to act, as he can, under the 1965 act, to go in and have the test lifted and preclearance established.

It would appear to us that the drastic mechanism of the 1965 act is simply not appropriate or needed in the areas that would be reached by the Cooper amendment.

In conclusion, and to repeat, the adoption of the subtitute will lift the literacy tests everywhere.

Mr. GRIFFIN. Mr. President, I find myself in agreement with the Senator from Kentucky. I voted for the amendment, and I shall vote for reconsideration.

It occurs to me that the Court found in the Gaston case that there was discrimination merely because in the South there were separate school systems. Now, then, if those who were educated in the South, or in situations where they were segregated in school, then chose to move to the North, whether it be Michigan, New York, or some other State, and they had not had equal education opportunities, and because of that fact they were then denied the right to register and vote in another State, it seems to me this should be as much a concern of the Congress as if they had moved from one county to another in a different State. It seems to me this is the minimum fairness that we could write into the law.

I have been personally troubled by the fact that we were extending the 1965 act to the South and using only the 1964 election results as the basis for doing it.

It seems to me that the minimum that we could do is apply the 1968 election statistics to the rest of the country, including the North. The answer to the arguments that have been made, it seems to me, is that if there is no discrimination, the courts will so rule; and there is a provision in subsection 4(a) for bringing that matter to a test in the courts.

Mr. SYMINGTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SYMINGTON. A "yea" vote is a vote for the Cooper amendment; is that correct?

The PRESIDING OFFICER. A "yea" vote is a vote to reconsider the vote by which the amendment was rejected.

Mr. SYMINGTON. Mr. President, I shall vote for the Cooper amendment. I think the amendment is cogent and wise. I simply wanted to be sure .

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment of the Senator from Kentucky (Mr. COOPER) was rejected. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Louisiana (Mr. ELLENDER), If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Illinois (Mr. SMITH) and the Senator from Delaware (Mr. WILLIAMS) are necessarily absent.

The Senator from Delaware (Mr. BOGGS) is absent to attend the funeral of a friend.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Illinois (Mr. SMITH) would vote "nay."

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Delaware (Mr. BOGGS). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Delaware would vote "nay."

The result was announced—yeas 47, nays 38, as follows:

[No. 91 Leg.]

YEAS—47

Aiken	Eagleton	Pearson
Allen	Eastland	Pell
Allott	Fong	Prouty
Anderson	Gore	Proxmire
Bellmon	Griffin	Ribicoff
Bennett	Hansen	Smith, Maine
Burdick	Hruska	Sparkman
Byrd, W. Va.	Hughes	Spong
Cannon	Long	Stennis
Cooper	Mathias	Stevens
Cotton	McGee	Symington
Cranston	McIntyre	Talmadge
Curtis	Miller	Thurmond
Dodd	Montoya	Tower
Dole	Murphy	Young, N. Dak.
Dominick	Packwood	

NAYS—38

Bayh	Hartke	Mondale
Bible	Hatfield	Moss
Brooke	Holland	Muskie
Byrd, Va.	Hollings	Nelson
Case	Inouye	Pastore
Church	Jackson	Percy
Cook	Javits	Schweiker
Ervin	Jordan, N.C.	Scott
Fannin	Kennedy	Tydings
Fulbright	Magnuson	Williams, N.J.
Goodell	McCarthy	Yarborough
Harris	McClellan	Young, Ohio
Hart	McGovern	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—14

Baker	Gurney	Russell
Boggs	Jordan, Idaho	Saxbe
Ellender	Metcalf	Smith, Ill.
Goldwater	Mundt	Williams, Del.
Gravel	Randolph	

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Kentucky.

Mr. COOPER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, is it possible to make a comment on this matter at this time?

The PRESIDING OFFICER. The amendment was under controlled time, and that time has been exhausted.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Oregon may be permitted to speak for 2 minutes.

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

Mr. HATFIELD. Mr. President, I

should like to refer to this matter as it relates to the county listed in the State of Oregon; namely, Wheeler County.

I have just been on the telephone with the county clerk of that county, Arlene Stegner, and I find that in that county of 1,800 population, 953 people are registered—over 50 percent of the people. In November 1968, 776 of them voted, which meant a 72-percent vote.

So I would like to make sure the RECORD is clear that Wheeler County, in Oregon, should not be listed as one such county in which a device was employed as of November 1968 and less than 50 percent of the eligible voters voted, because that is not the case.

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

Mr. HATFIELD. I yield.

Mr. COOPER. I do not doubt the statement of the Senator. The information was given to me by the Department of Justice.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from Kentucky. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. I announce that the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. RUSSELL), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

On this vote, the Senator from Georgia (Mr. RUSSELL) is paired with the Senator from West Virginia (Mr. RANDOLPH). If present and voting, the Senator from Georgia would vote "nay" and the Senator from West Virginia would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Illinois (Mr. SMITH), and the Senator from Delaware (Mr. WILLIAMS) are necessarily absent.

The Senator from Delaware (Mr. BOGGS) is absent to attend the funeral of a friend.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Illinois (Mr. SMITH) would vote "nay."

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Delaware (Mr. BOGGS). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Delaware would vote "nay."

The result was announced—yeas 50, nays 37, as follows:

[No. 92 Leg.]

YEAS—50

Aiken	Eastland	Murphy
Allen	Ellender	Packwood
Allott	Fong	Pearson
Anderson	Gore	Pell
Bellmon	Griffin	Prouty
Bennett	Hansen	Proxmire
Burdick	Hruska	Ribicoff
Byrd, W. Va.	Hughes	Smith, Maine
Cannon	Jordan, N.C.	Sparkman
Cooper	Long	Spong
Cotton	Mansfield	Stennis
Cranston	Mathias	Stevens
Curtis	McClellan	Symington
Dodd	McGee	Thurmond
Dole	McIntyre	Tower
Dominick	Miller	Young, N. Dak.
Eagleton	Montoya	

NAYS—37

Bayh	Hart	Moss
Bible	Hartke	Muskie
Brooke	Hatfield	Nelson
Byrd, Va.	Holland	Pastore
Case	Hollings	Percy
Church	Inouye	Schweiker
Cook	Jackson	Scott
Ervin	Javits	Talmadge
Fannin	Kennedy	Tydings
Fulbright	Magnuson	Williams, N.J.
Goldwater	McCarthy	Young, Ohio
Goodell	McGovern	
Harris	Mondale	

NOT VOTING—13

Baker	Metcalf	Smith, Ill.
Boggs	Mundt	Williams, Del.
Gravel	Randolph	Yarborough
Gurney	Russell	
Jordan, Idaho	Saxbe	

So Mr. COOPER's amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. COOPER. Mr. President, I move that the motion to——

The PRESIDING OFFICER. The motions are not in order. It has occurred once.

Mr. MANSFIELD. All right. It has passed.

AMENDMENT NO. 545

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nevada (Mr. BIBLE), the Senator from New York (Mr. JAVITS), the Senator from Rhode Island (Mr. PELL), the Senator from Alaska (Mr. STEVENS), the Senator from Hawaii (Mr. INOUYE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. TYDINGS), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from New Mexico (Mr. ANDERSON), the Senator from Utah (Mr. MOSS), the Senator from Texas (Mr. YARBOROUGH), the Senator from Wisconsin (Mr. NELSON), the Senator from South Carolina (Mr. HOLLINGS), and myself, I call up my amendment No. 545. I do this so that the amendment will become the pending business.

The PRESIDING OFFICER. The amendment will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Montana (Mr. MANSFIELD) proposes an amendment, for himself and other Senators identified as No. 545, as follows:

On page 2, line 9, strike out the word "title" and insert in lieu thereof "titles".

On page 8, line 8, strike out the quotation marks and the last period therein.

On page 8, after line 8, insert the following new title:

"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. 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.

"ENFORCEMENT

"SEC. 303. (a)(1) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution, and section 5 of the fourteenth amendment of the Constitution, the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this title.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title, which 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 lie to the Supreme Court. 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.

"(b) Whoever shall deny or attempt to deny any person of any right secured by this title shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"DEFINITION

"SEC. 304. As used in this title the term 'State' includes the District of Columbia."

Mr. MANSFIELD. Mr. President, this amendment is the so-called 18-year-old vote amendment.

There will be no discussion on it tonight.

We have taken the last vote for this evening.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this evening, it stand in adjournment until 9:30 tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO, SENATOR BELLMON, AND SENATOR ALLOTT TOMORROW MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after approval of the Journal on tomorrow, the Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 15 minutes.

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

Mr. MANSFIELD. Following the remarks of the Senator from Ohio, I ask unanimous consent that the Senator from Oklahoma (Mr. BELLMON) be recognized for not to exceed 15 minutes.

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

Mr. ALLOTT. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. ALLOTT. I wonder whether the Senator from Montana would include in his unanimous-consent request that after the Senator from Oklahoma (Mr. BELLMON) has completed his remarks, I may be recognized for 30 minutes.

Mr. MANSFIELD. Mr. President, under the circumstances I shall be delighted, because we had thought we would start on the morning business at 10 o'clock. We can step it up one-half hour to take care of Senators BELLMON and YOUNG, and on that basis, Mr. President, I ask unanimous consent that after the Senator from Oklahoma has completed his remarks, the Senator from Colorado (Mr. ALLOTT) be recognized for not to exceed 30 minutes.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from Colorado (Mr. ALLOTT), there be a brief morning hour and that the time on the pending amendment will not run until the pending business has been laid down tomorrow at the conclusion of morning business.

LIMITATION OF STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Colorado (Mr. ALLOTT), there be a time limitation of 3 minutes during the period for the transaction of routine morning business.

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

ORDER OF BUSINESS

Mr. GOLDWATER. Mr. President, what is the limitation on the Mansfield amendment?

Mr. MANSFIELD. Two hours, an hour to each side.

Mr. GOLDWATER. I thank the Senator. I have no objection.

Mr. FONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Hawaii will state it.

Mr. FONG. In accordance with the unanimous-consent agreement, was not the Senator from Hawaii to be granted the floor after the vote on the Cooper amendment?

The PRESIDING OFFICER. The Senator from Hawaii is correct. The Senator from Hawaii is recognized.

Mr. FONG. I thank the Chair.

JACK ANDERSON CHARGED WITH DISTORTING AND OMITTING FACTS AGAIN

Mr. DODD. Mr. President, when I opened the morning paper to the comic page to see what the Head Beagle was doing, I noted that Jack Anderson was at it again.

Anderson labeled me and two of my able colleagues as the "Three Musketeers."

It is a pleasure to be in such distinguished company for a change.

Mr. President, I do not want to belabor this nonsense. A transcript exists of the executive session of the Antitrust and Monopoly Subcommittee to which the Anderson column referred, and the chairman of the subcommittee issued a press release following the executive meeting of the subcommittee.

Since the press release provides an accurate report of what transpired at the meeting, I ask unanimous consent to have the text of the press release printed in the RECORD.

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

FROM THE OFFICE OF SENATE ANTITRUST AND MONOPOLY SUBCOMMITTEE

The Senate Antitrust and Monopoly Subcommittee today voted to respect the right of Bernard Webb to appear as a private citizen before the Wisconsin Insurance Department Tuesday hearings on the conversion of Hardware Mutual Fire Insurance Company into a stock company.

"Webb would appear as a policyholder—not as a subcommittee consultant," said Chairman Philip A. Hart (D-Mich.).

Professor Webb, of Georgia State College, did an analysis of the conversion for the subcommittee as part of its 18-month study of auto insurers. Part of the subcommittee study centered on changes in ownership of insurers, including the move toward holding companies.

"We received Professor Webb's report in executive session on Monday," said Hart. "It will not be released until company officials have an opportunity to appear. Because our investigation is not complete, the subcommittee felt it inappropriate to forward the Webb report to the Wisconsin Department. There was also some concern over federal interference with state business.

"However, they did agree to let Professor Webb exercise his right to challenge the conversion as a private citizen, if he desires to do so."

Mr. DODD. Mr. President, for my own part, I had not read the document in question prior to the subcommittee meeting on December 11, and I still have not read it to date.

My position on the matter is quite clear, however. I felt that Professor Webb's testimony as presented to the subcommittee should not be released with official subcommittee sanction because:

First. The members of the subcommittee had not yet read the report or approved it, and it was not complete.

As I said on page 43 of the transcript:

I have not read one word of these documents, but I think we have always been careful about giving the other party a chance to explain or defend himself.

Without an explanation from the other party, the report in question is "ex parte documentation."

Second. It is an established fact that Professor Webb was a policyholder in the company and an ex-employee, who was possibly disgruntled.

I had the distinct feeling during the subcommittee meeting, and the feeling remains with me, that Professor Webb could be "using" the subcommittee, especially because some of the material in Professor Webb's report was the result of the use of the subcommittee's subpena power.

I said on page 33:

What I suspect and worry about is that he is a five- or six-year employee of one of these companies and the policyholder of a mutual, which means that he is a part-owner. All of this information that he puts in here could have gone directly to that Commission." (The Wisconsin State Insurance Commission.)

Third. I felt strongly, nonetheless, that Professor Webb should be allowed, as an individual, to testify before the Wisconsin State insurance commission, and I said so repeatedly in the transcript. On page 51, I said:

I do not think we should do anything to interfere with his testimony before that Commission.

On page 55:

What I am worried about is that there may be something very bad in here, and then it would look awful. Somebody could say, "You fellows could have let that be known, and you did not do so."

Fourth. With regard to the alleged secrecy of the subcommittee meeting, there was no secrecy at all. It was simply an executive session of a Senate subcommittee. There is an official Ward and Paul transcript of the proceedings. There were seven Senators present, and there were eight staff members present.

My concern at that meeting, and it is a concern which I hold right now, is over the fact that staff members of the subcommittee took it upon themselves to give copies of the report to the press without the prior approval of the members of the subcommittee. I said during the meeting that such action was a "disgrace" and I stand by that comment. As one of my colleagues said during the meeting, staffers "are not policymaking people, and decisions are to be made by the chairman in the first instance and by the subcommittee."

Fifth. Finally, it was not, as Anderson reported, the "Three Musketeers" who decided not to send the subcommittee report to the Wisconsin State Insurance Commission. The action was taken by unanimous vote of the subcommittee.

Frankly, Mr. President, I am much

more interested in what the head beagle is doing than anything Jack Anderson is doing ever.

Mr. FONG. Mr. President, an article published today in the Washington Post over the byline of columnist Jack Anderson is a gross distortion and omission of essential facts to fabricate a smear job against me and two of my colleagues, the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from Connecticut (Mr. DODD).

I rise today to give the facts and set the record straight.

The headline itself sets the tone for the import and implication of the entire article. Under the heading "Insurance 'Skullduggery' in Congress," the article portrays me as one of a triumvirate of Senators trying to "hush up an insurance scandal."

This is not true.

The record shows this is not true.

At issue before the Senate Antitrust Subcommittee, on which I serve, was the question of how to apprise the Wisconsin insurance commissioner of information obtained by the subcommittee in a not-yet-completed investigation of auto insurance.

Some of the information had been obtained through the subcommittee's subpena power. Some had been obtained from a consultant to the subcommittee, who had prepared an analysis of a mutual insurance company's proposal to convert to a stock company. The proposal at the time was pending before the Wisconsin insurance commissioner.

Subcommittee members were asked whether the report of the consultant, Mr. Webb, should be forwarded to the commissioner, or whether Mr. Webb should be notified that he could appear as a private individual, not as a subcommittee representative, and testify to what he knew.

Anderson accuses me of trying to "hush up" the information. But the fact is, I voted in favor of notifying Webb that he was not precluded from appearing before the commissioner or from telling all he knew about the case.

All seven Senators on the subcommittee were unanimously in favor of doing so.

Anderson failed to report those very pertinent and essential facts in his column.

Anderson implied that the blame for not forwarding the Webb report to the Wisconsin commissioner rested with myself and two other Senators.

The fact is, every single one of the Senators on the Antitrust Subcommittee voted not to forward the Webb report.

Chairman HART, Senators KENNEDY, MCCLELLAN, and ERVIN, voted to withhold the report, just as did Senators DODD, HRUSKA, and myself.

I and other Senators on the subcommittee unanimously agreed that the Webb report—unread by most of the Senators, unapproved and incomplete at that time—should not be forwarded, as it was not an official subcommittee document.

There was unanimous agreement that, as the subcommittee's investigation was still in progress and as the company's proposal was then pending before the Wisconsin insurance commissioner who has sole jurisdiction in these matters, the report should not be released to the public at that time.

Anderson also failed to report those very pertinent and essential facts. Had he done so, he would have had no sensational story. By omission of those vital facts, he actually manufactured a story which condemned me and two of my colleagues.

The Anderson column is particularly reprehensible inasmuch as Mr. Anderson claimed, in an advance copy of his article to the Honolulu Star-Bulletin, that he had a verbatim copy of the discussion in the Antitrust Subcommittee executive session on December 11.

The facts I have cited are in the verbatim transcript and therefore were available to Anderson if, as he claims, he has a copy of the transcript.

Now let me dissect and expose the Anderson article further.

In the first paragraph, Anderson stated that the decision was taken "in dark secrecy" and he implied in paragraph two that I and two other Senators were responsible for the secrecy. The fact is, this December 11 meeting, was called by the chairman as an executive session, to which all subcommittee members were invited. All subcommittee members attended: Chairman HART, Senators KENNEDY, ERVIN, MCCLELLAN, DODD, HRUSKA, and myself.

It was so "secret" that on page D1191 of the December 10 CONGRESSIONAL RECORD Daily Digest the following notice appeared—for all the world to read—under the heading "Committee Meeting for Thursday, December 11":

Committee on the Judiciary, Antitrust and Monopoly Subcommittee, executive, to consider the transmittal of testimony by Bernard Webb to the Wisconsin Insurance Department, 10 a.m., room S–208, Capitol.

There it was, Mr. President, notice one day in advance that the subcommittee would meet, together with the specific subject of the meeting.

The meeting was so "secret" that soon after the meeting concluded, Chairman HART issued a press release available to all media for all the world to note, announcing the action of the subcommittee.

In addition, the CONGRESSIONAL RECORD Daily Digest page D1195 reporting on committee meetings held on December 11, carried the following item under the heading "Committee Meetings"—

AUTO INSURANCE

Committee on the Judiciary: Antitrust and Monopoly Subcommittee met in executive session to consider the transmittal of testimony of Bernard Webb, Georgia State College, to the Wisconsin Insurance Department, Subcommittee agreed that it would not forward such testimony, as their investigation was not complete, but gave its permission to let Professor Webb appear before the Wisconsin department in his capacity as a policy-holder, and not as a representative of the subcommittee.

All of Anderson's "dark secrecy" is baseless sensationalism. The meeting and subject were announced in advance. It was a typical executive session. The decisions were publicly announced soon after the meeting concluded.

Now for some further facts about the subcommittee meeting.

We met in the Capitol Building for the simple reason that the Senate was in session that morning and we anticipated rollcall votes and we wanted to be near the Senate Chamber to vote. As a matter of fact, there were two rollcall votes which interrupted our meeting.

At the meeting, I learned—for the first time—that a consultant hired by the subcommittee had prepared a staff report on auto insurance. Senators attending the meeting were told the report included an analysis of the proposal of Hardware Mutual Fire Insurance Co. to convert to a stock company. The proposal was then pending before the Wisconsin Insurance Department for approval.

I had not seen nor read the report—and I have not seen it to this day.

As the report had not been reviewed nor approved by subcommittee members, it was not an official report of the subcommittee, but only a staff consultant's report written before the subcommittee investigation had concluded.

After discussing the matter, the subcommittee members—unanimously—agreed not to intervene in an official capacity in the State hearing soon to be held.

At the same time, the subcommittee agreed—unanimously—not to preclude the consultant who prepared the report from testifying at the public hearing in Wisconsin.

This unanimous action—agreed to by Chairman HART and Senators KENNEDY, MCCLELLAN, and ERVIN, as well as HRUSKA, DODD, and myself—proves that neither I nor my colleagues were trying to withhold any information or to protect anyone.

The question was: How should the information be supplied to the Wisconsin insurance department—in an unapproved staff report, or directly by testimony of the staff writer who prepared the report?

The subcommittee's decision was announced shortly after the meeting by Chairman HART in a press release stating the report would not be issued at that time. He revealed the subcommittee had voted not to prevent the consultant from appearing at the Wisconsin hearing.

Chairman HART explained:

Because our investigation is not complete, the subcommittee felt it inappropriate to forward the Webb report to the Wisconsin Department. There was also some concern over federal interference with state business.

The consultant was permitted to testify as an individual and as a policyholder as to information within his knowledge, including if he chose, information gained by use of subcommittee subpenas.

I understand the consultant did testify. I also understand the proposal is still pending before the Wisconsin insurance commissioner.

The Anderson article quoted me as saying that I did not think the subcommittee had an "obligation" to tell the Wisconsin insurance commissioner of the information the subcommittee had and that I thought it would be "officious" on our part to do that.

The fact is, the McCarran-Ferguson Act of 1945 gave to the States, not the Federal Government, jurisdiction over insurance. It was enacted in response to a Supreme Court ruling that insurance is subject to Federal antitrust laws because it is interstate commerce.

Inasmuch as Congress has by law determined that insurance regulation is a State matter, the subcommittee members were concerned that our subcommittee should be careful not to inject itself into State business. All this is brought out in the verbatim transcript, which Anderson claimed he had obtained.

Again, Anderson failed to mention this essential fact.

The article also claims I "made no complaint about the company getting a copy of the critical—Webb—report" but claims I objected to letting the public and policyholders see it.

The fact is, I had no knowledge until the meeting that a copy of the report had gone to the company. This was done by a staff member, without my knowledge and without the knowledge of other subcommittee members. This, too, is plainly brought out in the transcript of the meeting, a copy of which Anderson indicated he had in his possession.

As I have already stated, there was no one on the subcommittee willing to release the Webb report to the public, as the transcript made very clear.

By identifying me as president of an insurance company and by singling me out as unwilling to make the report public, the Anderson article implied I am trying to protect a fellow insurance company.

The fact is, to my knowledge, I do not know any of the officers, employees, or policyholders of the company involved.

I have no knowledge of this matter other than what I was orally told at the subcommittee meeting on December 11.

I have no financial or other interest in this matter.

In paragraph two, the article labels me one of the "three musketeers of the insurance industry," leaving the impression I am acting jointly with my colleagues, Senator HRUSKA and Senator DODD on insurance matters.

The fact is, I act independently on these matters and have no arrangement, tacit or implied, with them regarding insurance matters of any kind or regarding any other matter.

The foregoing facts show how Jack Anderson, through gross distortion and omission of essential facts, has fabricated a smear job against me and two of my colleagues.

Mr. President, it is a known fact that in the 5 years I have been a member of the Antitrust Subcommittee, because I am the president of a life insurance company in Hawaii I have meticulously avoided participation in hearings on insurance so that my presence would not be misconstrued as trying to protect the insurance industry.

Mr. President, so that the record will be complete, I ask unanimous consent that the following items be inserted in the RECORD at this point: the Anderson article, the December 11 press release of Chairman HART, and the chairman's telegrams of December 11 to the staff consultant, Mr. Bernard L. Webb, Wisconsin insurance commissioner Stanley DuRose, and Mr. John Joanis, president of the Sentry Insurance Co., advising them of the subcommittee action.

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

[From the Washington Post, Mar. 10, 1970]

INSURANCE 'SKULLDUGGERY' IN CONGRESS

(By Jack Anderson)

The insurance industry, with its billions of dollars, has influential friends on Capitol Hill who do their best work against policyholders in dark secrecy.

Thus Senators Roman Hruska (R-Neb.), Hiram Fong (R-Hawaii), and Tom Dodd (D-Conn.), the three musketeers of the insurance industry, made sure the doors were shut tight when they tried to hush up an insurance scandal.

Sen. Phil Hart (D-Mich.), the antitrust subcommittee chairman, called the secret meeting to get approval to send an investigative report by staff consultant Bernard Webb to the Wisconsin Insurance Commission.

The Webb report blows the lid off a scheme by high Republicans, including Assistant Secretary of Defense Robert Froehlke, to convert Hardware Dealers Mutual Fire Insurance, a Wisconsin outfit with $86 million in assets, into a stock company. This would have transferred control of the mutual company from the 341,500 policyholders to president John Joanis, Froehlke, and 31 of their pals.

Froehlke resigned as a Hardware vice president when his friend, Secretary of Defense Melvin R. Laird, brought him into the Pentagon. Yet Froehlke attended a board meeting after his resignation and retained a $200,000 share in the stock company deal.

$10 MILLION DEAL

All told, the 33 stood to make a $10 million bonanza at the expense of the policyholders. The Webb report showed that the Wisconsin Insurance Department had actually helped with the planning. And the Chase Manhattan Bank assisted with a $4.5 million loan promise, worked out secretly in advance.

Hart convened the meeting in Senate Majority Leader Mike Mansfield's private conference room, explaining that Hruska had insisted on the secrecy to keep the Webb report from leaking out. Public disclosure of it, of course, would have foiled the take-over scheme.

"I thought," Hart said, "we would forward the testimony—but not officially—to the Wisconsin Commission," then about to hold hearings on the takeover.

But Hruska was ready with his objections. His committee aide, Pete Chumbris, had been primed by the company's general counsel and vice president who had been sent an advance copy of the report by the scrupulous Hart.

"I would say on ethical grounds we are on awfully skimpy, skimpy ice," scowled Hruska. Thus, ironically in the name of ethics, he objected to sending the report to the commission in order to protect the policyholders. Hruska is no expert on ethics. Only three weeks earlier, he had collected a $1,000 speaking fee from the insurance industry.

MORE SECRECY

Then Fong, the suave millionaire president of Grand Pacific Life Insurance of Hawaii, turned on Hart, too.

"First of all," he said blandly, "I do not think we have an obligation to do it. Secondly, I think it would be officious on our part to tell (the Wisconsin Commissioner) that we have something like this." Thus Fong, who made no complaint about the company getting a copy of the critical report, objected to letting the public and policyholders see it.

Dodd, the third musketeer, quickly sided with the other two. But he feared the public might learn of his secret efforts to muzzle the story of the attempted takeover. He warned of press leaks.

"There is too much of that around here. It is all a disgrace," he said, peering about, as if the dignified Negro serving coffee might be listening in.

Hart cautioned that if the coup succeeded in Wisconsin, it would open the floodgates to similar takeovers, costing millions of insured Americans hundreds of millions of dollars.

Already the counsel for County Mutual Insurance of Bloomington, Ill., had written confidentially to Hardware lawyers about "converting our mutual casualty and property insurance company to a stock company."

And Union Mutual Life Insurance of Portland, Me., with assets of $239 million and a board made up of leading GOP businessmen, had also written to Hardware for information on how-to-do-it.

Meanwhile, cracker-voiced Sen. John McClellan (D-Ark.), had been let in through the closed doors. Despite banking conflicts of his own, there was too much of the inquisitive cop in McClellan for Hruska to take him for granted.

"John . . . there is a matter of ethics involved here," said Hruska, again raising ethics to defend the unethical. "Here is . . . a pending proceeding in Wisconsin." McClellan cocked his old rooster eye at Hruska.

"It is being contested?"

"It is in full force and flower right now," soothed Hruska.

"It is being contested?" demanded McClellan, now skeptical.

"Oh," conceded Hruska, seeing another vote slip out of his hands, "I suppose it is."

Another installment, illustrating how the special interests pull political strings in the back rooms, will be published in a future column.

FROM THE OFFICE OF SENATE ANTITRUST AND MONOPOLY SUBCOMMITTEE, DECEMBER 11, 1969

The Senate Antitrust and Monopoly Subcommittee today voted to respect the right of Bernard Webb to appear as a private citizen before the Wisconsin Insurance Department Tuesday hearings on the conversion of Hardware Mutual Fire Insurance Company into a stock company.

"Webb would appear as a policyholder—not as a subcommittee consultant," said Chairman Philip A. Hart (D-Mich.).

Professor Webb, of Georgia State College, did an analysis of the conversion for the subcommittee as part of its 18-month study of auto insurers. Part of the subcommittee study centered on changes in ownership of insurers, including the move toward holding companies.

"We received Professor Webb's report in executive session on Monday," said Hart. "It will not be released until company officials have an opportunity to appear. Because our investigation is not complete, the subcommittee felt it inappropriate to forward the Webb report to the Wisconsin Department. There was also some concern over federal interference with state business.

"However, they did agree to let Professor Webb exercise his right to challenge the conversion as a private citizen, if he desires to do so."

SENATE ANTITRUST AND MONOPOLY SUBCOMMITTEE,
December 11, 1969.

BERNARD L. WEBB,
Dunwoody, Ga.:

The Senate Antitrust and Monopoly Subcommittee voted today not to preclude you from testifying in your capacity as a policyholder and an individual before the Wisconsin State Insurance Commissioner re: The

proposed Conversion Hardware Dealers Mutual Fire Insurance Company. Telegrams have been sent to the Wisconsin State Insurance Commissioner and the Hardware Dealers Mutual Fire Insurance Company notifying them that since the subcommittee investigation is still in progress, your views cannot be understood to necessarily represent those of the subcommittee. In addition, neither your report to the subcommittee or any documents obtained by subcommittee subpoena are to be released to the Wisconsin Insurance Commissioner or to the public.

PHILIP A. HART, *Chairman.*

SENATE ANTITRUST AND MONOPOLY
SUBCOMMITTEE,
December 11, 1969.

STANLEY DUROSE,
Commissioner of Insurance,
Wisconsin Department of Insurance
Madison, Wis.:

Bernard L. Webb has acted as a consultant to the Senate Antitrust and Monopoly Subcommittee in its automobile insurance study including the proposed conversion of Hardware Dealer Mutual Fire Insurance Company to a stock company. It is our understanding that Mr. Webb desires to testify before the Wisconsin Insurance Department re: Hardware Dealers Mutual proposal. The subcommittee does not desire to preclude him from testifying in his capacity as a policyholder and individual. However, Mr. Webb will not be testifying as a consultant to the subcommittee, and since the investigation is still in progress, his views cannot be understood to necessarily represent those of the subcommittee.

PHILIP A. HART, *Chairman.*

SENATE ANTITRUST AND MONOPOLY
SUBCOMMITTEE,
December 11, 1969.

JOHN JOANIS,
President, Sentry Insurance Co.,
Stevens Point, Wis.:

Bernard L. Webb has acted as a consultant to the Senate Antitrust and Monopoly Subcommittee on its automobile insurance study including the proposed conversion of Hardware Dealer Mutual Fire Insurance Company to a stock company. It is our understanding that Mr. Webb desires to testify before the Wisconsin Insurance Department re: Hardware Dealers Mutual proposal. The subcommittee does not desire to preclude him from testifying in his capacity as a policyholder and individual. However, Mr. Webb will not be testifying as a consultant to the subcommittee, and since the investigation is still in progress, his views cannot be understood to necessarily represent those of the subcommittee.

PHILIP A. HART, *Chairman.*

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

Mr. FONG. I am happy to yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, the Senator from Hawaii has well described and documented the happenings during the meeting on December 11 referred to. The documents show without any question that there was not a secret meeting and that all of the steps were taken to not only publicize, but to publicize well in advance and report it after it was completed.

I wish to ask the Senator, is it not a fact that, in addition to the seven members of the subcommittee who attended that meeting there were an equal number or greater number of members of the staff present at that meeting.

Mr. FONG. That is very true.

Mr. HRUSKA. The Senator from Nebraska has no objection to anyone seeing the entire transcript of the meeting that was held. The author of the article to which the Senator from Hawaii refers claims he had a copy of the transcript. It seems to me that would have placed an added burden on him, not only to refrain from making selected and out-of-context references and quotations from it, but also, since he had a copy—so he claimed, and I do not know if he did or not—that he would faithfully and in context put the language and all the statements, together with an official and accurate account of what was done by way of a formal vote taken at the meeting.

I ask the Senator if such a faithful account was given in the article.

Mr. FONG. The article was given in advance to the Honolulu Star-Bulletin and was read to me on the telephone. I understand the author said he had a verbatim copy of the transcript of the meeting, but in the column in the Washington Post this morning it did not carry any statement that he had a verbatim copy of the transcript of the meeting. As I have said, he made no mention of the fact all seven members of the subcommittee voted to advise Webb he could testify, but not as a representative of the subcommittee.

Mr. HRUSKA. Inasmuch as the vote of the subcommittee was unanimous on the official action taken, is there any ground for singling out any one, two, or three Senators and saying they are the culprits and engaged in skullduggery, but not anyone else on the committee?

Mr. FONG. The action taken by the committee was unanimous. All members of the committee were present. However, he only chose to single out the Senator from Nebraska, the Senator from Connecticut, and me as trying to protect the insurance company. The only question was whether we would send the report to the commissioner or allow Mr. Webb to testify. We voted unanimously.

Mr. HRUSKA. Was this not to protect the integrity of the subcommittee? Had we forwarded it to the insurance commissioner or publicized to the world that it had the imprimatur of the subcommittee, we would have given it approval and respect which we could not in any way indulge.

I am in company with the Senator from Hawaii. I have not read the report. I have not read it to this day. Therefore, we voted not to forward it under any shape or form that would lead anyone to conclude we endorsed it or that it was official.

Mr. FONG. This was the unanimous vote of all present.

Mr. HRUSKA. It is regretted the completeness of the record was so neglected in the article.

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

Mr. FONG. I yield.

Mr. HART. Mr. President, I think this entire subject would have added depth in terms of content if we included some explanation why the Webb testimony was treated as executive. Although I do not have the dates clearly in mind, I do recall that Professor Webb was listed as a witness to be heard at an open session scheduled a day or two before the executive session to which the Senator from Hawaii referred.

When I arrived for that scheduled open hearing I was told—and the information was correct—by a staff counsel of the committee who had read the Webb testimony which had been filed pursuant to committee rules a day or two before, that it bore on a matter which was then pending for public hearing before the Wisconsin insurance commissioner; that it would suggest one course of action with respect to the case then pending in Wisconsin. Because of the pendency of the Wisconsin litigation it was my decision that the testimony be received in executive session.

It seemed to me then, and it does now, that to have received that kind of testimony, at least without time available for response and reply by those criticized in the study in the brief period of days before the Wisconsin hearing, would have prejudiced a proceeding in Wisconsin. It was I, then, who moved the committee into executive session and we received the Webb testimony in executive session.

Having received it, I then called a meeting of the subcommittee for an executive session, notice of which was given, as the Senator from Hawaii said, to consider what action we ought to take.

Having been informed by Professor Webb that an action was pending in Wisconsin, I was convinced we would perhaps have done a disservice, that we ought to insure that we not retain information which, if we had been the Wisconsin commissioner, we would have benefited from having.

As I recall, there were several suggestions made as to how we should respond—by sending the commissioner, but in an ex parte fashion, the testimony, explaining that we did not endorse it, and could not, and releasing the professor to free him to testify.

The desire the chairman had was that we not be in the position of appearing to disarm the Wisconsin commissioner by withholding from him testimony which might be relevant, having the commissioner make his decision, and then his learning, upon completion of our record, that we had material which, if it had been known to the commissioner, would have resulted in his having taken a different course of action. That was the concern I had.

After much discussion, the committee unanimously agreed that we assure that the information could be made available to the Wisconsin commissioner by releasing Professor Webb and freeing him to testify, as the Senator from Hawaii indicates the professor did. The subcommittee then advised the Wisconsin commissioner of our action. He was put on notice of it. We advised Professor Webb that he was testifying as a policy witness, and not as a spokesman for the committee. We advised the company that was involved, and invited the company to present for the subcommittee its position in respect to the Webb testimony which we had received; that upon receipt of that testimony, the commit-

tee then would be in a position to conclude the hearings and release the hearing record, which at that time would have a balanced presentation.

I am advised that the company responded by saying that as soon as the Wisconsin case had concluded, they did want an opportunity to file a statement regarding their position, because, as they put it, they did not want the record to stand as it was then.

Mr. FONG. Mr. President, I ask unanimous consent that we be given another 3 minutes.

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

Mr. HART. Mr. President, I think that describes fully the action taken unanimously by the committee. This does not mean there was not disagreement as to the appropriate course to be followed, and the transcript will show that; but, on balance, I think the decision was a sound one.

Mr. FONG. I agree that the decision was a sound one.

I want to ask the Senator if this was a secret hearing, as Mr. Anderson has described it—"in dark secrecy" his words were.

Mr. HART. It is probably true that not too many people read the record that we worry about each day, but there was public notice of the intention to take the testimony of Professor Webb initially. He was listed as a witness. That public notice was filed in the subsequent executive committee record, and a note attached to that notice described the subject matter, namely, what action should be taken on the Webb testimony.

Mr. FONG. I believe the Senator from Michigan issued a press release after that.

Mr. HART. Which I believe the Senator from Hawaii has put in the RECORD.

Mr. FONG. Yes; I have put it in the RECORD.

Mr. HART. One always hopes that press releases indicate that we would like attention to the subject matter, not suppression of it.

Mr. FONG. May I ask the distinguished Senator one more question? The decision of the committee was unanimous, was it not?

Mr. HART. I have said that. I repeat it. The Senator is quite correct.

Mr. FONG. The unanimous decision was to have Mr. Webb testify, but not to have the report sent.

Mr. HART. The Senator is correct.

Mr. FONG. I thank the distinguished Senator for clarifying this matter.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska (Mr. STEVENS), is recognized for 5 minutes.

NOMINATION OF JUDGE G. HARROLD CARSWELL TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. STEVENS. Mr. President, since President Nixon announced the nomination of Judge G. Harrold Carswell to be an Associate Justice of the Supreme Court, much has been said about the nominee. The principal characteristic of most of these comments on Judge Carswell has been a lack of any personal knowledge of Judge Carswell on the part of the commentators. As one of the few Members of the Senate who has known Judge Carswell in the past, I feel it important to share those experiences with my colleagues.

In 1953, I was appointed U.S. attorney for Fairbanks, Alaska, and served in that capacity until joining the staff of Secretary Fred Seaton in the Interior Department in 1956. During that period, Harrold Carswell was serving as U.S. attorney to the northern district of Florida. We had occasion to meet, at least annually, at the national U.S. attorney conferences during our service as U.S. attorneys. These were memorable days for me as a U.S. attorney. Not only was the law being changed dynamically by the Congress, but the direction of law enforcement and those charged with prosecution of violators were also changed under the leadership of Attorney General Brownell and his capable Deputy Attorney General, now Secretary of State Bill Rogers. We also were given great leadership in the field of Federal civil litigation by the then Assistant Attorney General in charge of the Civil Division, the present Chief Justice of the U.S. Supreme Court, Warren E. Burger.

As U.S. attorneys, our duty was to enforce the laws and to follow the policy guidance we received from Washington. Just as we all did, Harrold Carswell responded to that duty. I particularly remember during one of these conferences following the Supreme Court's decision in Brown against Board of Education, Harrold Carswell indicated his own sincere desire to enforce this decision. At that time, the whole Eisenhower administration was ready to assume the challenge and anxious to participate in complying with the Supreme Court's decision.

G. Harrold Carswell, a southerner by birth and rearing, was living in the South. Yet he responded to the challenge as a trial attorney would, and his actions led to his appointment as a U.S. district judge.

Now I do not want to leave the impression that I have been a long-time personal friend of Judge Carswell. I have not been. But those of us who served with him in the 1950's know he is not the man his detractors want us to believe he is.

Joseph H. Lesh, who served as a U.S. attorney during this same period and later here in Washington, D.C., reported in a telegram to the chairman of the Senate Judiciary Committee as follows:

> This will advise you that I have known Judge Harrold Carswell for approximately fifteen years. My acquaintance with him stems from my appointment by President Eisenhower as U.S. Attorney for northern Indiana, and later as Special Assistant to Attorney General Herbert Brownell and then William P. Rogers as executive officer in charge of all U.S. Attorneys. Shortly following the controversial *Brown* decision on segregation I held a conference in Washington of all the southern U.S. Attorneys to help the Department of Justice to implement the decision. Harrold Carswell was the only U.S. Attorney who was helpful to me and the department in this respect. I will be glad to substantiate this by personal testimony or affidavit. Please feel free to call upon me to assist your honorable committee in any way that I can.

Joe Lesh has come forward to stand up for Harrold Carswell, and I want to do the same thing. Judge Carswell was confirmed by this body as a U.S. attorney. He was confirmed as a U.S. district judge on March 26, 1958, and he was confirmed a judge of the U.S. court of appeals on June 19, 1969.

As I pointed out earlier, most of the criticism of Judge Carswell's record has stemmed, not from those who have had any personal contact with him, but rather from those whose political philosophy is clearly in conflict with that of the judge. It must be viewed in that light. Those who have known him feel, as I do, that his nomination should be confirmed. This is not to say that I agree or disagree with his philosophy but that I know he has the background and the training to be a distinguished member of the U.S. Supreme Court.

Separation of powers—and this is a fundamental part of our constitutional republic—is really the basic question we face. Our Constitution provides that the President shall appoint Justices to the Supreme Court and the Senate shall decide whether to advise and consent to those nominations. In the past few years the question has been raised whether the Senate can, by repeatedly rejecting the President's nominees, coerce the President into nominating the Senate's choice. In other words, can the Senate usurp the Presidential power of appointment and thus make the Supreme Court a product of this branch alone. Should this happen, a serious breach in the doctrine of separation of powers will have occurred.

Mr. President, I do not believe this Nation is best served by the Senate attempting to detract from the Presidential power of appointment. The Senate's function should be to assure that the President's nominee is qualified to be an Associate Justice. Judge Carswell has extensive experience, both as a U.S. attorney and as a district and appellate court judge. He has the endorsement of the American Bar Association, a prestigious assembly of peers. Those who have known him personally support his nomination. He is qualified.

An interesting fact has escaped many people. Judge Haynsworth and now Judge Carswell were nominated by President Nixon to fill the vacancy created by the resignation of Justice Abe Fortas of Tennessee. Somehow, many people read into these nominations by our new President ominous signs of a "southern strategy" or implications of a change of philosophy by this administration. I cannot subscribe to either theory. Geographical balance has been a fact of life on the Supreme Court, and acceptance of this fact by the Senate has not been detrimental to the Court in the past.

Some people apparently want us to count the pages of Judge Carswell's opinions to determine whether he was a good trial judge. Others decry the lack of published legal treatises by the Judge

during his 17 years of public service. And there are those among us who appear to be saying that we should have another chance to vote on Judge Haynsworth.

I, for one—as a former U.S. attorney, as one who served as Solicitor of the Department of the Interior, and as a lawyer who stuck up his own shingle in a new State—am grateful to President Nixon for nominating to the Court a man whose complete background spells commonsense, and the crying need in our system today is for commonsense decisions. Commonsense is too often an uncommon virtue among lawyers and judges and law professors.

In any event, these attacks on Judge Carswell are misguided. The ultimate conclusion from them could only be that there is a senatorial-determined mold for Supreme Court Justices and, if the nominee does not fit the mold, he should be rejected. The fact remains that our role has not been, and should not be, either that of coercing the choice of the nominee or the establishment of a mold which in fact limits the freedom of choice of the Chief Executive.

I shall vote for the confirmation of G. Harrold Carswell to become a Justice of the Supreme Court.

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

Mr. STEVENS. I yield.

Mr. HRUSKA. Mr. President, I commend the Senator from Alaska for the statement he has made. He spoke as one who has followed the nomination and the nomination hearings in the Judiciary Committee very carefully, and who has scanned and studied the printed record in that respect.

The testimony of the Senator from Alaska is especially meaningful here on two counts, at least: First because of the research and the documentation that he has lent it by reason of his reference to the record, and second because his statement comes from a man who has known and observed the nominee.

Mr. President, when the testimony of some academicians and practitioners holding to the idea that Judge Carswell is a mediocre judge and that he does not possess the necessary quality to be a Supreme Court Justice is scanned, it is readily seen that it comes from men who have not known or observed the nominee. And that is very, very meaningful. There is ample testimony from many, including now the Senator from Alaska, who have known him, who have observed him, and who are acquainted with his record which will certainly be very helpful as a foundation for those who will support Judge Carswell.

I commend the Senator again, and thank him for that very serious and close study that he obviously has given to the record compiled in this connection.

Mr. STEVENS. Mr. President, I thank the Senator from Nebraska.

I think that the time for those who wished to object to Judge Carswell should have been at the time when we advanced him from the district judgeship to the court of appeals.

Mr. HRUSKA. Which was last June.

Mr. STEVENS. That is right. At that time he had 17 years' experience, or approximately that, in Federal service. He certainly had a record, and a record that was open to everyone. It was available for those who might want to object to his record. And yet we elevated him without opposition, as I understand it.

Mr. HRUSKA. That is correct.

Mr. STEVENS. To the position of judge of the court of appeals. That, to my knowledge, above everything else, means that today those who detract from this nomination are doing so on the basis, not of his judicial qualifications nor his experience, nor his ability to become a good Supreme Court Justice, but on the basis of what they consider to be his personal philosophy.

I think Joe Lesh's telegram demonstrates that those of us who knew him at the time of the very critical decisions of the Supreme Court in the early 1950's know that Harrold Carswell was willing to face up to the problem of implementing those court decisions in the Deep South, and he has done so.

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

Mr. STEVENS. I yield.

Mr. ALLOTT. I congratulate the Senator on his brilliant statement on Judge Carswell, which reflects my own attitude and beliefs.

I think the point the Senator has made that there are some who think perhaps they might carry on a continued vendetta against the President of the United States, in the hopes that eventually they could take away from the President, by resistance to his nominations, the right which he possesses under the Constitution to make such nominations, is a very pertinent one, and it is reflected quite often in the statements of those who have spoken against him.

I only want to say, as one who has known the distinguished Senator from Alaska for a long time, and who has observed particularly his work as U.S. attorney and as a solicitor for the Department of the Interior, that what he says should carry great weight. It does with me, and I am sure it will with all those who have known him.

I thank the Senator for making this statement.

SENSIBLE USE OF OUR OPEN LAND

Mr. STEVENS. Mr. President, at a time when the Nation is faced with serious environmental deterioration from overpopulated cities, poor use of mineral resources, and irreparable damage to streams, lakes, and forest lands, S. 3389, introduced by the Senator from Washington (Mr. JACKSON), opens the way for careful protection and enhancement of recreation values for unimproved public domain land in the United States.

To fulfill the demand for recreational areas within the public domain, the Secretary is empowered under S. 3389 to plan and build the necessary access roads and facilities for recreational use. This will eliminate the present dangerous practice whereby hunters and outdoor enthusiasts reach wilderness areas by dozens of trails which they have cleared themselves. Today refuse clutters popular wilderness sites because proper disposal facilities are lacking.

Under S. 3389 the Secretary of the Interior is furnished with the tools to practice orderly and planned development of the American public domain. He is authorized to apply the multiple use concept to Federal lands to insure its highest and best use. In conjunction with multiple use the sustained yield principle allows regular utilization and harvest of renewable resources as long as there is no impairment of the land.

Nowhere is this bill more important than in my State of Alaska where over 273 million acres, or 75 percent of the total 375 million acres of the State, are included in the public domain administered by the Bureau of Land Management Division of the Department of the Interior. Presently Federal lands in Alaska have been withdrawn from homesteading, purchase, or other transfers until Congress acts on the native land claims, or until December 31, 1970. But when the land freeze in my State expires, planned development of the public domain is essential both in terms of conservation and sound economies.

This is particularly important since the State is undergoing tremendous growth. New residents and tourists lured by the wilderness of the last huge undeveloped region in the United States, or attracted by the economic prospects of the rich oil reserves on the north slope, are coming to the north country. The demand for land to buy or to homestead has nearly exhausted the available supply and pushed prices up. When the land freeze expires, the Secretary of the Interior must be equipped with a logical program for use of its public domain land. Therefore, it is vitally important that he has the flexibility provided under S. 3389 to design a land use program for Alaska and the rest of the United States that meets the resource needs of the present and the future of our Nation as a whole.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

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

Mr. ALLOTT. Mr. President, may I inquire of the distinguished Senator from Virginia how much time he wishes to take?

Mr. BYRD of Virginia. Three minutes.

Mr. ALLOTT. Mr. President, if I may, I will yield the floor to the distinguished Senator from Virginia, and ask that I be recognized at the end of his address.

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

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

Mr. BYRD of Virginia. Mr. President, I firmly and strongly oppose the Kennedy-Mansfield plan to lower the voting age in each State by a simple statute of Congress.

In my opinion, this is a distortion of the constitutional process and is clearly wrong.

Two years ago, Senator MANSFIELD introduced a constitutional amendment to lower the voting age. That is the proper procedure.

If we are to establish national age requirements for voting that are binding on all the States, it should be done with a constitutional amendment, rather than by an act of the Congress.

Senator MANSFIELD recognized this as being the proper procedure when he introduced such a constitutional amendment.

I feel very strongly that the matter of voting age is a matter to be determined by the individual States. Any State that wishes to lower the voting age may do so now. Every State has had this authority for nearly 200 years since the adoption of the Constitution.

Four States have lowered the voting age. Kentucky and Georgia, some years ago, lowered the age to 18. More recently, Alaska has lowered the age to 19, and Hawaii to 20.

A number of other States have rejected proposals to lower the voting age, either by legislative action or by public referendum.

One of the problems facing our Nation today is that too many Members of the Congress become impatient when something they want done is not achieved instantly. In order to get instant action, they then seek ways to circumvent the Constitution.

I say that the proposal which Senator KENNEDY sent to each Member of the Senate is a clear evasion of the Constitution and an attempt to circumvent the Constitution.

I feel constitutional government is important.

I feel that when we get away from constitutional government, then we are opening the door to the loss of individual liberty.

This proposal, I feel, is irresponsible. If the individual States are to be denied the right to determine the voting age of their citizens, then clearly this should be done with a constitutional amendment upon which the people themselves can pass, rather than by congressional action.

Do we not trust the people? For myself, I trust the people, and I feel that constitutional change should come about only by the vote of the people.

THE CLOSING OF THE U.S. CONSULATE IN RHODESIA

Mr. BYRD of Virginia. Mr. President, before the United States agreed to close its consulate in Rhodesia, it should have insisted that Great Britain close its consulate in Hanoi.

Furthermore, this Nation should have obtained from the British a commitment to stop sending ships flying their flag to North Vietnam. During 1969, 74 ships flying Britain's flag carried cargo to Haiphong.

I am greatly disappointed in this action toward Rhodesia on the part of the Nixon administration.

The Johnson administration was grossly unfair to Rhodesia in placing economic sanctions on that peaceful country.

Our Nation, I feel, has acted in a most unprincipled way toward Rhodesia. After all, that country has followed a course which the United States itself took in 1776—namely, sought its independence from Great Britain.

To the argument that Rhodesia is governed by a minority, it should be answered that most of the nations of the world are so governed.

The foremost example is the Soviet Union, where a relatively small Communist Party controls a nation of 200 million. Yet, we maintain a full-scale embassy in Moscow.

I feel strongly that the closing of our consulate in Rhodesia is both mistaken and unfair.

I appreciate the courtesy of the Senator from Colorado in yielding to me.

Mr. ALLOTT. Mr. President, I am always happy to accommodate the distinguished Senator from Virginia.

I must say that I agree with him generally on both counts in the statements he has made, and I hope to talk about the Rhodesian question at a later time.

I do want to say to the Senator from Virginia that I agree wholeheartedly with the statement he made with respect to the constitutional amendment phases and facets of the voting age. In fact, I was just about to make a statement on that subject, and I will proceed to do so now.

LOWERING THE VOTING AGE

Mr. ALLOTT. Mr. President, there is considerable interest these days in the idea of giving 18-year-olds the right to vote.

This is a subject about which honorable men and women—and not just honorable old men and women—disagree. There are powerful arguments on both sides of the issue.

I do not want to speak today on the wisdom of lowering the voting age. But I do want to indicate my belief that if the vote is to be given to 18-year-olds, it should be given by constitutional amendment rather than by simple act of Congress.

The reasons for preferring a constitutional amendment were explained with power and clarity today by Assistant Attorney General William H. Rehnquist in testimony before the Subcommittee on Constitutional Amendments.

I hope Mr. Rehnquist's testimony—a copy of which will be placed on the desk of each Senator tomorrow—will receive the careful consideration it deserves. I ask unanimous consent that his statement before the subcommittee be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. ALLOTT. There are two matters in this statement to which I specifically direct the attention of my colleagues.

The first is the Justice Department's analysis of the recent case of Katzenbach against Morgan. I have read the Morgan case and concur wholeheartedly in Mr. Rehnquist's conclusion that it does not mean that Congress, by a statutory enactment, may supersede State voting age requirements, contrary to some interpretations. It is clear to me that the Supreme Court went to considerable length in order to avoid establishing a precedent. So that the Morgan case can be evaluated on the basis of a reading of it, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLOTT. Second, I want to call particular attention to Mr. Rehnquist's discussion in his section on constitutional validity. He asks:

> What is the "discrimination" which Congress would here seek to eliminate? Unless voting is to be done from the crib, the minimum age line must be drawn somewhere; can it really be said that to deny 20-, 19-, and 18-year-olds is "discrimination," while to deny the vote to 17-year-olds is sound legislative judgment?

Mr. President, when we are considering laws of questionable constitutionality, laws which we may not have constitutional authority to enact, we should proceed with caution. The end cannot justify the means, and it especially cannot justify unconstitutional means.

EXHIBIT 1

KATZENBACH, ATTORNEY GENERAL, ET AL. *v.* MORGAN ET UX.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

No. 847. Argued April 18, 1966.—Decided June 13, 1966*

MR. JUSTICE BRENNAN delivered the opinion of the Court.

These cases concern the constitutionality of § 4(e) of the Voting Rights Act of 1965.[1] That law, in the respects pertinent in these cases, provides that no person who has successfully completed the sixth primary grade in a public school in, or a private school accredited by, the Commonwealth of Puerto Rico in which the language of instruction was other than English shall be denied the right to vote in any election because of his inability to read or write English. Appellees, registered voters in New York City, brought this suit to challenge the constitutionality of § 4(e) insofar as it *pro tanto* prohibits the enforcement of the election laws of New York[2] requiring an ability to read and write English as a condition of voting. Under these laws many of the several hundred thousand New York City residents who have migrated there from the Commonwealth of Puerto Rico had previously been denied the right to vote, and appellees attack § 4(e) insofar as it would enable many of these citizens to vote.[3] Pursuant to § 14(b) of the Voting Rights Act of 1965, appellees commenced this proceeding in the District Court for the District of Columbia seeking a declaration that § 4(e) is invalid and an injunction prohibiting appellants, the Attorney General of the United States and the New York City Board of Elections, from either enforcing or complying with § 4(e).[4] A three-judge district court was designated. 28 U.S.C. §§ 2282, 2284 (1964 ed.). Upon cross motions for summary judgment, that court, one judge dissenting, granted the declaratory and injunctive relief appellees sought. The court held that in enacting § 4(e) Congress exceeded the powers granted to it by the Constitution and therefore usurped powers reserved to the States by the

Footnotes at end of article.

Tenth Amendment. 247 F. Supp. 196. Appeals were taken directly to this Court, 28 U.S.C. §§ 1252, 1253 (1964 ed.), and we noted probable jurisdiction. 382 U.S. 1007. We reverse. We hold that, in the application challenged in these cases, § 4(e) is a proper exercise of the powers granted to Congress by § 5 of the Fourteenth Amendment[5] and that by force of the Supremacy Clause, Article VI, the New York English literacy requirement cannot be enforced to the extent that it is inconsistent with § 4(e).

Under the distribution of powers effected by the Constitution, the States establish qualifications for voting for state officers, and the qualifications established by the States for voting for members of the most numerous branch of the state legislature also determine who may vote for United States Representatives and Senators, Art. I, § 2; Seventeenth Amendment; *Ex parte Yarbrough*, 110 U.S. 651, 663. But, of course, the States have no power to grant or withhold the franchise on conditions that are forbidden by the Fourteenth Amendment, or any other provision of the Constitution. Such exercises of state power are no more immune to the limitations of the Fourteenth Amendment than any other state action. The Equal Protection Clause itself has been held to forbid some state laws that restrict the right to vote.[6]

The Attorney General of the State of New York argues that an exercise of congressional power under § 5 of the Fourteenth Amendment that prohibits the enforcement of a state law can only be sustained if the judicial branch determines that the state law is prohibited by the provisions of the Amendment that Congress sought to enforce. More specifically, he urges that § 4(e) cannot be sustained as appropriate legislation to enforce the Equal Protection Clause unless the judiciary decides—even with the guidance of a congressional judgment—that the application of the English literacy requirement prohibited by § 4(e) is forbidden by the Equal Protection Clause itself. We disagree. Neither the language nor history of § 5 supports such a construction.[7] As was said with regard to § 5 in *Ex parte Virginia*, 100 U.S. 339, 345, "It is the power of Congress which has been enlarged. Congress is authorized to *enforce* the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective." A construction of § 5 that would require a judicial determination that the enforcement of the state law precluded by Congress violated the Amendment, as a condition of sustaining the congressional enactment, would depreciate both congressional resourcefulness and congressional responsibility for implementing the Amendment.[8] It would confine the legislative power in this context to the insignificant role of abrogating only those state laws that the judicial branch was prepared to adjudge unconstitutional, or of merely informing the judgment of the judiciary by particularizing the "majestic generalities" of § 1 of the Amendment. See *Fay* v. *New York*, 332 U.S. 261, 282–284.

Thus our task in this case is not to determine whether the New York English literacy requirement as applied to deny the right to vote to a person who successfully completed the sixth grade in a Puerto Rican school violates the Equal Protection Clause. Accordingly, our decision in *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45, sustaining the North Carolina English literacy requirement as not in all circumstances prohibited by the first sections of the Fourteenth and Fifteenth Amendments is inapposite. Compare also *Guinn* v. *United States*, 238 U.S. 347, 366; *Camacho* v. *Doe*, 31 Misc. 2d 692, 221 N.Y.S. 2d 262 (1958), aff'd 7 N.Y. 2d 762, 163 N.E. 2d 140 (1959); *Camacho* v. *Rogers*, 199 F. Supp. 155 (D. C. S. D. N. Y. 1961). *Lassiter* did not present the question before us here: Without regard to whether the judiciary would find that the Equal Protection Clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the state law by legislating under § 5 of the Fourteenth Amendment? In answering this question, our task is limited to determining whether such legislation is, as required by § 5, appropriate legislation to enforce the Equal Protection Clause.

By including § 5 the draftsmen sought to grant to Congress, by a specific provision applicable to the Fourteenth Amendment, the same broad powers expressed in the Necessary and Proper Clause, Art. I, § 8, cl. 18.[9] The classic formulation of the reach of those powers was established by Chief Justice Marshall 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."

Ex parte Virginia, 100 U.S., at 345–346, decided 12 years after the adoption of the Fourteenth Amendment, held that congressional power under § 5 had this same broad scope:

"Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the 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."

Strauder v. *West Virginia*, 100 U.S. 303, 311; *Virginia* v. *Rives*, 100 U.S. 313, 318. Section 2 of the Fifteenth Amendment grants Congress a similar power to enforce by "appropriate legislation" the provisions of that amendment; and we recently held in *South Carolina* v. *Katzenbach*, 383 U.S. 301, 326, that "[t]he basic test to be applied in a case involving § 2 of the Fifteenth Amendment is the same as in all cases concerning the express powers of Congress with relation to the reserved powers of the States." That test was identified as the one formulated in *McCulloch* v. *Maryland*. See also *James Everard's Breweries* v. *Day*, 265 U.S. 545, 558–559 (Eighteenth Amendment.) Thus the *McCulloch* v. *Maryland* standard is the measure of what constitutes "appropriate legislation" under § 5 of the Fourteenth Amendment. 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.

We therefore proceed to the consideration whether § 4(e) is "appropriate legislation" to enforce the Equal Protection Clause, that is, under the *McCulloch* v. *Maryland* standard, whether § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause, whether it is "plainly adapted to that end" and whether it is not prohibited by but is consistent with "the letter and spirit of the constitution."[10]

There can be no doubt that § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause. Congress explicitly declared that it enacted § 4(e) "to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English." The persons referred to include those who have migrated from the Commonwealth of Puerto Rico to New York and who have been denied the right to vote because of their inability to read and write English, and the Fourteenth Amendment rights referred to include those emanating from the Equal Protection Clause. More specifically, § 4(e) may be viewed as a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government—both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement.

Section 4(e) may be readily seen as "plainly adapted" to furthering these aims of the Equal Protection Clause. The practical effect of § 4(e) is to prohibit New York from denying the right to vote to large segments of its Puerto Rican community. Congress has thus prohibited the State from denying to that community the right that is "preservative of all rights." *Yick Wo* v. *Hopkins*, 118 U.S. 365, 370. This enhanced political power will be helpful in gaining nondiscriminatory treatment in public services for the entire Puerto Rican community.[11] Section 4(e) thereby 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 this 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, as the branch that made this judgment, to assess and weight 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 nullifications 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. There plainly was such a basis to support § 4(e) in the application in question in this case. Any contrary conclusion would require us to be blind to the realities familiar to the legislators.[12]

The result is no different if we confine our inquiry to the question whether § 4(e) was merely legislation aimed at the elimination of an invidious discrimination in establishing voter qualifications. We are told that New York's English literacy requirement originated in the desire to provide an incentive for non-English speaking immigrants to learn the English language and in order to assure the intelligent exercise of the franchise. Yet Congress might well have questioned, in light of the many exemptions provided,[13] and some evidence suggesting that prejudice played a prominent role in the enactment of the requirement,[14] whether these were actually the interests being served. Congress might have also questioned whether denial of a right deemed so precious and fundamental in our society was a necessary or appropriate means of encouraging persons to learn English, or of furthering the goal of an intelligent exercise of the franchise.[15] Finally, Congress might well 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.[16] Since Congress undertook to legislate so as to preclude the enforcement of the state law, and did so in the context of a general appraisal of literacy requirements for voting, see *South Carolina* v. *Katzenbach*, *supra*, to which it brought a specially informed legislative competence,[17] it was Congress' prerogative to weigh these competing considerations. Here again, it is enough that we perceive a basis upon which Congress might predicate a judgment that the ap-

Footnotes at end of article.

plication of New York's English literacy requirement to deny the right to vote to a person with a sixth grade education in Puerto Rican schools in which the language of instruction was other than English constituted an invidious discrimination in violation of the Equal Protection Clause.

There remains the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent "with the letter and spirit of the constitution." The only respect in which appellees contend that § 4(e) fails in this regard is that the section itself works an invidious discrimination in violation of the Fifth Amendment by prohibiting the enforcement of the English literacy requirement only for those educated in American-flag schools (schools located within United States jurisdiction) in which the language of instruction was other than English, and not for those educated in schools beyond the territorial limits of the United States in which the language of instruction was also other than English. This is not a complaint that Congress, in enacting § 4(e), has unconstitutionally denied or diluted anyone's right to vote but rather that Congress violated the Constitution by not extending the relief effected in § 4(e) to those educated in non-American-flag schools. We need not pause to determine whether appellees have a sufficient personal interest to have § 4(e) invalidated on this ground, see generally *United States* v. *Raines*, 362 U.S. 17, since the argument, in our view, falls on the merits.

Section 4(e) does not restrict or deny the franchise but in effect extends the franchise to persons who otherwise would be denied it by state law. Thus we need not decide whether a state literacy law conditioning the right to vote on achieving a certain level of education in an American-flag school (regardless of the language of instruction) discriminates invidiously against those educated in non-American-flag schools. We need only decide whether the challenged limitation on the relief effected in § 4(e) was permissible. In deciding that question, the principle that calls for the closest scrutiny of distinctions in laws *denying fundamental* rights, see n. 15, *supra*, is inapplicable; for the distinction challenged by appellees is presented only as a limitation on a reform measure aimed at eliminating an existing barrier to the exercise of the franchise. Rather, it decided the constitutional propriety of the limitation in such a reform measure we are guided by the familiar principles that a "statute is not valid under the Constitution because it might have gone farther than it did," *Roschen* v. *Ward*, 279 U.S. 337, 339, that a legislature need not "strike at all evils at the same time," *Semler* v. *Dental Examiners*, 294 U.S. 608, 610, and that "reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind," *Wiliamson* v. *Lee Optical Co.*, 348 U.S. 483, 489.

Guided by these principles, we are satisfied that appellees' challenge to this limitation in § 4(e) is without merit. In the context of the case before us, the congressional choice to limit the relief effected in § 4(e) may, for example, reflect Congress' greater familiarity with the quality of instruction in American-flag schools,[18] a recognition of the unique historic relationship between the Congress and the Commonwealth of Puerto Rico,[19] an awareness of the Federal Government's acceptance of the desirability of the use of Spanish as the language of instruction in Commonwealth schools,[20] and the fact that Congress has fostered policies encouraging migration from the Commonwealth to the States.[21] We have no occasion to determine in this case whether such factors would justify a similar distinction embodied in a voting-qualification law that denied the franchise to persons educated in non-American-flag schools. We hold only that the limitation on relief effected in § 4(e) does not constitute a forbidden discrimination since these factors might well have been the basis for the decision of Congress to go "no farther than it did."

We therefore conclude that § 4(e), in the application challenged in this case, is appropriate legislation to enforce the Equal Protection Clause and that the judgment of the District Court must be and hereby is *Reversed*.

MR. JUSTICE DOUGLAS joins the Court's opinion except for the discussion, at pp. 656–658, of the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent with "the letter and spirit of the constitution." On that question, he reserves judgment until such time as it is presented by a member of the class against which that particular discrimination is directed.

MR. JUSTICE HARLAN, whom MR. JUSTICE STEWART joins, dissenting.

Worthy as its purposes may be thought by many, I do not see how § 4(e) of the Voting Rights Act of 1965, 79 Stat. 439, 42 U.S.C. § 1973b(e) (1964 ed. Supp. I), can be sustained except at the sacrifice of fundamentals in the American constitutional system—the separation between the legislative and judicial function and the boundaries between federal and state political authority. By the same token I think that the validity of New York's literacy test, a question which the Court considers *only* in the context of the federal statute, must be upheld. It will conduce to analytical clarity if I discuss the second issue first.

I. THE CARDONA CASE (No. 673)

This case presents a straightforward Equal Protection problem. Appellant, a resident and citizen of New York, sought to register to vote but was refused registration because she failed to meet the New York English literacy franchise.[1] She maintained that although she could not read or write English, she had been born and educated in Puerto Rico and was literate in Spanish. She alleges that New York's statute requiring satisfaction of an English literacy test is an arbitrary and irrational classification that violates the Equal Protection Clause at least as applied to someone who, like herself, is literate in Spanish.

Any analysis of this problem must begin with the established rule of law that the franchise is essentially a matter of state concern, *Minor* v. *Happersett*, 21 Wall. 162; *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45, subject only to the overriding requirements of various federal constitutional provisions dealing with the franchise, *e. g.*, the Fifteenth, Seventeenth, Nineteenth, and Twenty-fourth Amendments,[2] and, as more recently decided, to the general principles of the Fourteenth Amendment. *Reynolds* v. *Sims*, 377 U.S. 533; *Carrington* v. *Rash*, 380 U.S. 89.

The Equal Protection Clause of the Fourteenth Amendment, which alone concerns us here, forbids a State from arbitrarily discriminating among different classes of persons. Of course it has always been recognized that nearly all legislation involves some sort of classification, and the equal protection test applied by this Court is a narrow one: a state enactment or practice may be struck down under the clause only if it cannot be justified as founded upon a rational and permissible state policy. See *e. g.*, *Powell* v. *Pennsylvania*, 127 U. S. 678; *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U. S. 61; *Walters* v. *City of St. Louis*, 347 U. S. 231.

It is suggested that a different and broader equal protection standard applies in cases where "fundamental liberties and rights are threatened," see *ante*, p. 655, note 15; dissenting opinion of DOUGLAS, J., in *Cardona*, *post*, pp. 676–677, which would require a State to show a need greater than mere rational policy to justify classifications in this area. No such dual-level test has ever been articulated by this Court, and I do not believe that any such approach is consistent with the purposes of the Equal Protection Clause, with the overwhelming weight of authority, or with well-established principles of federalism which underlie the Equal Protection Clause.

Thus for me, applying the basic equal protection standard, the issue in this case is whether New York has shown that its English-language literacy test is reasonably designed to serve a legitimate state interest. I think that it has.

In 1959, in *Lassiter* v. *Northampton Election Bd.*, *supra*, this Court dealt with substantially the same question and resolved it unanimously in favor of the legitimacy of a state literacy qualification. There a North Carolina English literacy test was challenged. We held that there was "wide scope" for State qualifications of this sort. 360 U.S., at 51. Dealing with literacy tests generally, the Court there held:

"The ability to read and write . . . has some relation to standards designed to promote intelligent use of the ballot. . . . Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise. . . . It was said last century in Massachusetts that a literacy test was designed to insure an 'independent and intelligent' exercise of the right of suffrage. *Stone* v. *Smith*, 159 Mass. 413–414, 34 N.E. 521. North Carolina agrees. We do not sit in judgment on the wisdom of that policy. We cannot say, however, that it is not an allowable one measured by constitutional standards." 360 U.S., at 51–53.

I believe the same interests recounted in *Lassiter* indubitably point toward upholding the rationality of the New York voting test. It is true that the issue here is not so simply drawn between literacy *per se* and illiteracy. Appellant alleges that she is literate in Spanish, and that she studied American history and government in United States Spanish-speaking schools in Puerto Rico. She alleges further that she is "a regular reader of the New York City Spanish-language daily newspapers and other periodicals which . . . provide proportionately more coverage of government and politics than do most English-language newspapers," and that she listens to Spanish-language radio broadcasts in New York which provide full treatment of governmental and political news. It is thus maintained that whatever may be the validity of literacy tests *per se* as a condition of voting, application of such a test to one literate in Spanish, in the context of the large and politically significant Spanish-speaking community in New York, serves no legitimate state interest, and is thus an arbitrary classification that violates the Equal Protection Clause.

Although to be sure there is a difference between a totally illiterate person and one who is literate in a foreign tongue, I do not believe that this added factor vitiates the constitutionality of the New York statute. Accepting appellant's allegations as true, it is nevertheless also true that the range of material available to a resident of New York literate only in Spanish is much more limited than what is available to an English-speaking resident, that the business of national, state, and local government is conducted in English, and that propositions, amendments, and offices for which candidates are running listed on the ballot are likewise in English. It is also true that most candidates, certainly those campaigning on a national or statewide level, make their speeches in Eng-

Footnotes at end of article.

lish. New York may justifiably want its voters to be able to understand candidates directly, rather than through possible imprecise translations or summaries reported in a limited number of Spanish news media. It is noteworthy that the Federal Government requires literacy in English as a prerequisite to naturalization, 66 Stat. 239, 8 U. S. C. § 1423 (1964 ed.), attesting to the national view of its importance as a prerequisite to full integration into the American political community. Relevant too is the fact that the New York English test is not complex,[3] that it is fairly administered,[4] and that New York maintains free adult education classes which appellant and members of her class are encouraged to attend.[5] Given the State's legitimate concern with promoting and safeguarding the intelligent use of the ballot, and given also New York's long experience with the process of integrating non-English-speaking residents into the mainstream of American life, I do not see how it can be said that this qualification for suffrage is unconstitutional. I would uphold the validity of the New York statute, unless the federal statute prevents that result, the question to which I now turn.

II. THE MORGAN CASES (NOS. 847 AND 877)

These cases involve the same New York suffrage restriction discussed above, but the challenge here comes not in the form of a suit to enjoin enforcement of the state statute, but in a test of the constitutionality of a federal enactment which declares that "to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such person on ability to read, write, understand, or interpret any matter in the English language." Section 4(e) of the Voting Rights Act of 1965. Section 4(e) declares that anyone who has successfully completed six grades of schooling in an "American-flag" school, in which the primary language is not English, shall not be denied the right to vote because of an inability to satisfy an English literacy test.[6] Although the statute is framed in general terms, so far as has been shown it applies in actual effect only to citizens of Puerto Rican background, and the Court so treats it.

The pivotal question in this instance is what effect the added factor of a congressional enactment has on the straight equal protection argument dealt with above. The Court declares that since § 5 of the Fourteenth Amendment[7] gives to the Congress power to "enforce" the prohibitions of the Amendment by "appropriate" legislation, the test for judicial review of any congressional determination in this area is simply one of rationality; that is, in effect, was Congress acting rationally in declaring that the New York statute is irrational? Although § 5 most certainly does give to the Congress wide powers in the field of devising remedial legislation to effectuate the Amendment's prohibition on arbitrary state action, *Ex parte Virginia*, 100 U.S. 339, I believe the Court has confused the issue of how much enforcement power Congress possesses under § 5 with the distinct issue of what questions are appropriate for congressional determination and what questions are essentially judicial in nature.

When recognized state violations of federal constitutional standards have occurred, Congress is of course empowered by § 5 to take appropriate remedial measures to redress and prevent the wrongs. See *Strauder* v. *West Virginia*, 100 U.S. 303, 310. But it is a judicial question whether the condition with which Congress has thus sought to deal is in truth an infringement of the Constitution, something that is the necessary prerequisite to bringing the § 5 power into play at all. Thus, in *Ex parte Virginia, supra*, involving a federal statute making it a federal crime to disqualify anyone from jury service because of race, the Court first held as a matter of constitutional law that "the Fourteenth Amendment secures, among other civil rights, to colored men, when charged with criminal offences against a State, an impartial jury trial, by jurors indifferently selected or chosen without discrimination against such jurors because of their color." 100 U.S., at 345. Only then did the Court hold that to enforce this prohibition upon state discrimination, Congress could enact a criminal statute of the type under consideration. See also *Clyatt* v. *United States*, 197 U.S. 207, sustaining the constitutionality of the anti-peonage laws, 14 Stat. 546, now 42 U.S.C. § 1994 (1964 ed.), under the Enforcement Clause of the Thirteenth Amendment.

A more recent Fifteenth Amendment case also serves to illustrate this distinction. In *South Carolina* v. *Katzenbach*, 383 U.S. 301, decided earlier this Term, we held certain remedial sections of this Voting Rights Act of 1965 constitutional under the Fifteenth Amendment, which is directed against deprivations of the right to vote on account of race. In enacting those sections of the Voting Rights Act the Congress made a detailed investigation of various state practices that had been used to deprive Negroes of the franchise. See 383 U.S., at 308–315. In passing upon the remedial provisions, we reviewed first the "voluminous legislative history" as well as judicial precedents supporting the basic congressional finding that the clear commands of the Fifteenth Amendment had been infringed by various state subterfuges. See 383 U.S., at 309, 329–330, 333–334. Given the existence of the evil, we held the remedial steps taken by the legislature under the Enforcement Clause of the Fifteenth Amend- to be a justifiable exercise of congressional initiative.

Section 4(e), however, presents a significantly different type of congressional enactment. The question here is not whether the statute is appropriate remedial legislation to cure an established violation of a constitutional command, but whether there has in fact been an infringement of that constitutional command, that is, whether a particular state practice, or, as here, a statute is so arbitrary or irrational as to offend the command of the Equal Protection Clause of the Fourteenth Amendment. That question is one for the judicial branch utimately to determine. Were the rule otherwise, Congress would be able to qualify this Court's constitutional decisions under the Fourteenth and Fifteenth Amendments, let alone those under other provisions of the Constitution, by resorting to congressional power under the Necessary and Proper Clause. In view of this Court's holding in *Lassiter, supra*, that an English literacy test is a permissible exercise of state supervision over its franchise, I do not think it is open to Congress to limit the effect of that decision as it has undertaken to do by § 4 (e). In effect the Court reads § 5 of the Fourteenth Amendment as giving Congress the power to define the *substantive* scope of the Amendment. If that indeed be the true reach of § 5, then I do not see why Congress should not be able as well to exercise its § 5 "discretion" by enacting statutes so as in effect to dilute equal protection and due process decisions of this Court. In all such cases there is room for reasonable men to differ as to whether or not a denial of equal protection or due process has occurred, and the final decision is one of judgment. Until today this judgment has always been one for the judiciary to resolve.

I do not mean to suggest in what has been said that a legislative judgment of the type incorporated in § 4(e) is without any force whatsoever. Decisions on questions of equal protection and due process are based not on abstract logic, but on empirical foundations. To the extent "legislative facts" are relevant to a judicial determination, Congress is well equipped to investigate them, and such determinations are of course entitled to due respect.[8] In *South Carolina* v. *Katzenbach, supra*, such legislative findings were made to show that racial discrimination in voting was actually occurring. Similarly, in *Heart of Atlanta Motel, Inc.* v. *United States*, 379 U.S. 241, and *Katzenbach* v. *McClung*, 379 U.S. 294, this Court upheld Title II of the Civil Rights Act of 1964 under the Commerce Clause. There again the congressional determination that racial discrimination in a clearly defined group of public accommodations did effectively impede interstate commerce was based on "voluminous testimony," 379 U.S., at 253, which had been put before the Congress and in the context of which it passed remedial legislation.

But no such factual data provide a legislative record supporting § 4(e)[9] by way of showing that Spanish-speaking citizens are fully as capable of making informed decisions in a New York election as are English-speaking citizens. Nor was there any showing whatever to support the Court's alternative argument that § 4(e) should be viewed as but a remedial measure designed to cure or assure against unconstitutional discrimination of other varieties, *e.g.*, in "public schools, public housing and law enforcement," *ante*, p. 652, to which Puerto Rican minorities might be subject in such communities as New York. There is simply no legislative record supporting such hypothesized discrimination of the sort we have hitherto insisted upon when congressional power is brought to bear on constitutionally reserved state concerns. See *Heart of Atlanta Motel, supra; South Carolina* v. *Katzenbach, supra*.

Thus, we have here not a matter of giving deference to a congressional estimate, based on its determination of legislative facts, bearing upon the validity *vel non* of a statute, but rather what can at most be called a legislative announcement that Congress believes a state law to entail an unconstitutional deprivation of equal protection. Although this kind of declaration is of course entitled to the most respectful consideration, coming as it does from a concurrent branch and one that is knowledgeable in matters of popular political participation. I do not believe it lessens our responsibility to decide the fundamental issue of whether in fact the state enactment violates federal constitutional rights.

In assessing the deference we should give to this kind of congressional expression of policy, it is relevant that the judiciary has always given to congressional enactments a presumption of validity. *The Propeller Genesee Chief* v. *Fitzhugh*, 12 How. 443, 457–458. However, it is also a canon of judicial review that state statutes are given a similar presumption, *Butler* v. *Commonwealth*, 10 How. 402, 415. Whichever way this case is decided, one statute will be rendered inoperative in whole or in part, and although it has been suggested that this Court should give somewhat more deference to Congress than to a state legislature,[10] such a simple weighing of presumptions is hardly a satisfying way of resolving a matter that touches the distribution of state and federal power in an area so sensitive as that of the regulation of the franchise. Rather it should be recognized that while the Fourteenth Amendment is a "brooding omnipresence" over all state legislation, the substantive matters which it touches are all within the primary legislative competence of the States. Federal authority, legislative no less than judicial, does not intrude unless there has been a denial by state action of Fourteenth Amendment limitations, in this instance a denial of equal protection. At least in the area of primary state concern a state stat-

Footnotes at end of article.

ute that passes constitutional muster under the judicial standard of rationality should not be permitted to be set at naught by a mere contrary congressional pronouncement unsupported by a legislative record justifying that conclusion.

To deny the effectiveness of this congressional enactment is not of course to disparage Congress' exertion of authority in the field of civil rights; it is simply to recognize that the Legislative Branch like the other branches of federal authority is subject to the governmental boundaries set by the Constitution. To hold, on this record, that § 4(e) overrides the New York literacy requirement seems to me tantamount to allowing the Fourteenth Amendment to swallow the State's constitutionally ordained primary authority in this field. For if Congress by what, as here, amounts to mere *ipse dixit* can set that otherwise permissible requirement partially at naught I see no reason why it could not also substitute its judgment for that of the States in other fields of their exclusive primary competence as well.

I would affirm the judgments in each of these cases.[11]

FOOTNOTES

*Together with No. 877, *New York City Board of Elections* v. *Morgan et ux.*, also on appeal from the same court.

[1] The full text of § 4(e) is as follows:

"(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

"(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English." 79 Stat. 439, 42 U.S.C. § 1973b (e) (1964 ed., Supp. I).

[2] Article II, § 1, of the New York Constitution provides, in pertinent part:

"Notwithstanding the foregoing provisions, after January first, one thousand nine hundred twenty-two, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English."

Section 150 of the New York Election Law provides, in pertinent part:

". . . In the case of a person who became entitled to vote in this state by attaining majority, by naturalization or otherwise after January first, nineteen hundred twenty-two, such person must, in addition to the foregoing provisions, be able, except for physical disability, to read and write English. A 'new voter,' within the meaning of this article, is a person who, if he is entitled to vote in this state, shall have become so entitled on or after January first, nineteen hundred twenty-two, and who has not already voted at a general election in the state of New York after making proof of ability to read and write English, in the manner provided in section one hundred sixty-eight."

Section 168 of the New York Election Law provides, in pertinent part:

"1. The board of regents of the state of New York shall make provisions for the giving of literacy tests.

* * * * *

"2. . . . But a new voter may present as evidence of literacy a certificate or diploma showing that he has completed the work up to and including the sixth grade of an approved elementary school or of an approved higher school in which English is the language of instruction or a certificate or diploma showing that he has completed the work up to and including the sixth grade in a public school or a private school accredited by the Commonwealth of Puerto Rico in which school instruction is carried on predominantly in the English language or a matriculation card issued by a college or university to a student then at such institution or a certificate or a letter signed by an official of the university or college certifying to such attendance."

Section 168 of the Election Law as it now reads was enacted while § 4(e) was under consideration in Congress. See CONGRESSIONAL RECORD, vol. 111, pt. 8, pp. 19376–19377. The prior law required the successful completion of the eighth rather than the sixth grade in a school in which the language of instruction was English.

[3] This limitation on appellees' challenge to § 4(e), and thus on the scope of our inquiry, does not distort the primary intent of § 4(e). The measure was sponsored in the Senate by Senators Javits and Kennedy and in the House by Representatives Gilbert and Ryan, all of New York, for the explicit purpose of dealing with the disenfranchisement of large segments of the Puerto Rican population in New York. Throughout the congressional debate it was repeatedly acknowledged that § 4(e) had particular reference to the Puerto Rican population in New York. That situation was the almost exclusive subject of discussion. See CONGRESSIONAL RECORD, vol. 111, pt. 8, pp. 11028, 11060–11074, 15666, 16235–16245, 16282–16283, 19192–19201, 19375–19378; see also Voting Rights, Hearings before Subcommittee No. 5 of the House Committee on the Judiciary on H.R. 6400, 89th Cong., 1st Sess., 100–101, 420–421, 508–517 (1965). The Solicitor General informs us in his brief to this Court, that in all probability the practical effect of § 4(e) will be limited to enfranchising those educated in Puerto Rican schools. He advises us that, aside from the schools in the Commonwealth of Puerto Rico, there are no public or parochial schools in the territorial limits of the United States in which the predominant language of instruction is other than English and which would have generally been attended by persons who are otherwise qualified to vote save for their lack of literacy in English.

[4] Section 14(b) provides, in pertinent part:

"No court other than the District Court for the District of Columbia . . . shall have jurisdiction to issue . . . any restraining order or temporary or permanent injunction against the . . . enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto." 79 Stat. 445, 42 U.S.C. § 1973*l*(b) (1964 ed., Supp. I).

The Attorney General of the United States was initially named as the sole defendant. The New York City Board of Elections was joined as a defendant after it publicly announced its intention to comply with § 4(e); it has taken the position in these proceedings that § 4(e) is a proper exercise of congressional power. The Attorney General of the State of New York has participated as *amicus curiae* in the proceedings below and in this Court, urging § 4(e) be declared unconstitutional. The United States was granted leave to intervene as a defendant, 28 U.S.C. § 2403 (1964 ed.); Fed. Rule Civ. Proc. 24(a).

[5] "SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

It is therefore unnecessary for us to consider whether § 4(e) could be sustained as an exercise of power under the Territorial Clause, Art. IV, § 3; see dissenting opinion of Judge McGowan below, 247 F. Supp., at 204; or as a measure to discharge certain treaty obligations of the United States, see Treaty of Paris of 1898, 30 Stat. 1754, 1759; United Nations Charter, Articles 55 and 56; Art. I, § 8, cl. 18. Nor need we consider whether § 4 (e) could be sustained insofar as it relates to the election of federal officers as an exercise of congressional power under Art. I, § 4, see *Minor* v. *Happersett*, 21 Wall. 162, 171; *United States* v. *Classic*, 313 U.S. 299, 315; Literacy Tests and Voter Requirements in Federal and State Elections, Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary on S. 480, S. 2750, and S. 2979, 87th Cong., 2d Sess., 302, 306–311 (1962) (brief of the Attorney General); nor whether § 4(e) could be sustained, insofar as it relates to the election of state officers, as an exercise of congressional power to enforce the clause guaranteeing to each State a republican form of government, Art. IV, § 4; Art. I, § 8, cl. 18.

[6] *Harper* v. *Virginia Board of Elections*, 383 U.S. 663; *Carrington* v. *Rash*, 380 U.S. 89. See also *United States* v. *Mississippi*, 380 U.S. 128; *Louisiana* v. *United States*, 380 U.S. 145, 151; *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45; *Pope* v. *Williams*, 193 U.S. 621, 632–634; *Minor* v. *Happersett*, 21 Wall. 162; cf. *Burns* v. *Richardson*, *ante*, p. 73, at 92; *Reynolds* v. *Sims*, 377 U.S. 533.

[7] For the historical evidence suggesting that the sponsors and supporters of the Amendment were primarily interested in augmenting the power of Congress, rather than the judiciary, see generally Frantz, Congressional Power to Enforce the Fourteenth Amendment Against Private Acts, 73 Yale L. J. 1353, 1356–1357; Harris, The Quest for Equality, 33–56 (1960); tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–217 (1951).

[8] Senator Howard, in introducing the proposed Amendment to the Senate, described § 5 as "a direct affirmative delegation of power to Congress," and added:

"It casts upon Congress the responsibility of seeing to it, for the future, that all the sections of the amendment are carried out in good faith, and that no State infringes the rights of persons or property. I look upon this clause as indispensable for the reason that it thus imposes upon Congress this power and this duty. It enables Congress, in case the States shall enact laws in conflict with the principles of the amendment, to correct that legislation by a formal congressional enactment." Cong. Globe, 39th Cong., 1st Sess., 2766, 2768 (1866).

This statment of § 5's purpose was not questioned by anyone in the course of the debate. Flack, The Adoption of the Fourteenth Amendment 138 (1908).

[9] In fact, earlier drafts of the proposed Amendment employed the "necessary and proper" terminology to describe the scope of congressional power under the Amendment. See tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–190 (1951). The substitution of the "appropriate legislation" formula was never thought to have the effect of diminishing the scope of this congressional power. See, *e. g.*, Cong. Globe, 42d Cong., 1st Sess., App. 83 (Representative Bingham, a principal draftsman of the Amendment and the earlier proposals).

[10] Contrary to the suggestion of the dissent, *post*, p. 668, § 5 does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in ef-

fect to dilute equal protection and due process decisions of this Court." We emphasize that Congress' power under § 5 is limited to adopting measures to enforce the guarantees of the Amendment; § 5 grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by § 5—a measure "to enforce" the Equal Protection Clause since that clause of its own force prohibits such state laws.

[11] Cf. *James Everard's Breweries* v. *Day, supra,* which held that, under the Enforcement Clause of the Eighteenth Amendment, Congress could prohibit the prescription of intoxicating malt liquor for medicinal purposes even though the Amendment itself only prohibited the manufacture and sale of intoxicating liquors for beverage purposes. Cf. also the settled principle applied in the *Shreveport Case* (*Houston, E. & W. T. R. Co.* v. *United States,* 234 U.S. 342), and expressed in *United States* v. *Darby,* 312 U.S. 100, 118, that the power of Congress to regulate interstate commerce "extends to those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end . . . ." Accord, *Atlanta Motel* v. *United States,* 379 U.S. 241, 258.

[12] See, *e.g.,* CONGRESSIONAL RECORD, vol. 111, pt. 8, pp. 11061–11062, 11065–11066, 16240; Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, *supra,* 507–508.

[13] The principal exemption complained of is that for persons who had been eligible to vote before January 1, 1922. See n. 2, *supra.*

[14] This evidence consists in part of statements made in the Constitutional Convention first considering the English literacy requirement, such as the following made by the sponsor of the measure: "More precious even than the forms of government are the mental qualities of our race. While those stand unimpaired, all is safe. They are exposed to a single danger, and that is that by constantly changing our voting citizenship through the wholesale, but valuable and necessary infusion of Southern and Eastern European races . . . The danger has begun. . . . We should check it." III New York State Constitutional Convention 3012 (Rev. Record 1916).

See also *id.,* at 3015–3017, 3021–3055. This evidence was reinforced by an understanding of the cultural milieu at the time of proposal and enactment, spanning a period from 1915 to 1921—not one of the enlightened eras of our history. See generally Chafee, Free Speech in the United States 102, 237, 269–282 (1954 ed.). Congress was aware of this evidence. See, *e.g.,* Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, *supra,* 507–513; Voting Rights, House Hearings, n. 3, *supra,* 508–513.

[15] Other States have found ways of assuring an intelligent exercise of the franchise short of total disenfranchisement of persons not literate in English. For example, in Hawaii, where literacy in either English or Hawaiian suffices, candidates' names may be printed in both languages, Hawaii Rev. Laws § 11–38 (1963 Supp.); New York itself already provides assistance for those exempt from the literacy requirement and are literate in no language, N.Y. Election Law § 169; and, of course, the problem of assuring the intelligent exercise of the franchise has been met by those States, more than 30 in number, that have no literacy requirement at all, see *e.g.,* Fla. Stat. Ann. §§ 97.061, 101.061 (1960) (form of personal assistance); New Mexico Stat. Ann. §§ 3–2–11, 3–3–13 (personal assistance for those literate in no language), §§ 3–3–7, 3–3–12, 3–2–41 (1953) (ballots and instructions authorized to be printed in English or Spanish). Section 4(e) does not preclude resort to these alternative methods of assuring the intelligent exercise of the franchise. True the statute precludes, for a certain class, disenfranchisement and thus limits the States' choice of means of satisfying a purported state interest. But our cases have held that the States can be required to tailor carefully the means of satisfying a legitimate state interest when fundamental liberties and rights are threatened, see, *e.g., Carrington* v. *Rash,* 380 U.S. 89, 96; *Harper* v. *Virginia Board of Elections,* 383 U.S. 663, 670; *Thomas* v. *Collins,* 323 U.S. 516, 529–530; *Thornhill* v. *Alabama,* 310 U.S. 88, 95–96; *United States* v. *Carolene Products Co.,* 304 U.S. 144, 152–153, n. 4; *Meyer* v. *Nebraska,* 262 U.S. 390; and Congress is free to apply the same principle in the exercise of its powers.

[16] See, *e.g.,* CONGRESSIONAL RECORD, vol. 111, pt. 8, pp. 11060–11061, pt. 11, p. 15666, pt. 12, p. 16235. The record in this case includes affidavits describing the nature of New York's two major Spanish-language newspapers, one daily and one weekly, and its three full-time Spanish-language radio stations and affidavits from those who have campaigned in Spanish-speaking areas.

[17] See, *e.g.,* CONGRESSIONAL RECORD, vol. 111, pt. 8, p. 11061 (Senator Long of Louisiana and Senator Young), 11064 (Senator Holland), drawing on their experience with voters literate in a language other than English. See also an affidavit from Representative Willis of Louisiana expressing the view that on the basis of his thirty years' personal experience in politics he has "formed a definite opinion that French-speaking voters who are illiterate in English generally have as clear a grasp of the issues and an understanding of the candidates, as do people who read and write the English language."

[18] See *e.g.,* CONGRESSIONAL RECORD, vol. 111, pt. 8, pp. 11060–11061.

[19] See Magruder, The Commonwealth Status of Puerto Rico, 15 U. Pitt. L. Rev. 1 (1953).

[20] See, *e.g.,* CONGRESSIONAL RECORD, vol. 111, pt. 8, pp. 11060–11061, 11066, 11073, pt. 12, p. 16235. See Osuna, A History of Education in Puerto Rico (1949).

[21] See, *e.g.,* CONGRESSIONAL RECORD, vol. 111, pt. 12, p. 16235; Voting Rights, House Hearings, n. 3, *Supra,* 362. See also Jones Act of 1917, 39 Stat. 953, conferring United States citizenship on all citizens of Puerto Rico.

FOOTNOTES TO CARDONA CASE

*[This opinion applies also to *Cardona* v. *Power, post,* p. 672.]

[1] The pertinent portions of the New York Constitution, Art. II, § 1, and statutory provisions are reproduced in the Court's opinion, *ante,* pp. 644—645, n. 2.

[2] The Fifteenth Amendment forbids denial or abridgment of the franchise "on account of race, color, or previous condition of servitude"; the Seventeenth deals with popular election of members of the Senate; the Nineteenth provides for equal suffrage for women; the Twenty-fourth outlaws the poll tax as a qualification for participation in federal elections.

[3] The test is described in McGovney, The American Suffrage Medley 63 (1949) as follows: "The examination is based upon prose compositions of about ten lines each, prepared by the personnel of the State Department of Education, designed to be of the level of reading in the sixth grade . . . These are uniform for any single examination throughout the state. The examination is given by school authorities and graded by school superintendents or teachers under careful instructions from the central authority, to secure uniformity of grading as nearly as is possible." The 1943 test, submitted by the Attorney General of New York as representative, is reproduced below:

NEW YORK STATE REGENTS
LITERACY TEST

(To be filled in by the candidate in ink)

Write your name here_____
First name Middle initial Last name

Write your address here_____

Write the date here_____
Month Day Year

Read this and then write the answers to the questions

Read it as many times as you need to

The legislative branch of the National Government is called the Congress of the United States. Congress makes the laws of the Nation. Congress is composed of two houses. The upper house is called the Senate and its members are called Senators. There are 96 Senators in the upper house, two from each State. Each United States Senator is elected for a term of six years. The lower house of Congress is known as the House of Representatives. The number of Representatives from each state is determined by the population of that state. At present there are 435 members of the House of Representatives. Each Representative is elected for a term of two years. Congress meets in the Capitol at Washington.

The answers to the following questions are to be taken from the above paragraph

1 How many houses are there in Congress?__
2 What does Congress do?_____
3 What is the lower house of Congress called? _____
4 How many members are there in the lower house? _____
5 How long is the term of office of a United States Senator?_____
6 How many Senators are there from each state? _____
7 For how long a period are members of the House of Representatives elected?_____
8 In what city does Congress meet?_____

[4] There is no allegation of discriminatory enforcement, and the method of examination, see n. 3, *supra,* makes unequal application virtually impossible, McGovney has noted, *op. cit. supra,* at 62, that "New York is the only state in the Union that both has a reasonable reading requirement and administers it in a manner that secures uniformity of application throughout the state and precludes discrimination, so far as is humanly possible." See *Camacho* v. *Rogers,* 199 F. Supp. 155, 159–160.

[5] See McKinney's Consolidated Laws of New York Ann., Education Law § 4605. See generally Handbook of Adult Education in the United States 455–465 (Knowles ed. 1960).

[6] The statute makes an exception to its sixth-grade rule so that where state law "provides that a different level of education is presumptive of literacy," the applicant must show that he has completed "an equivalent level of education" in the foreign-language United States school.

[7] Section 5 of the Fourteenth Amendment states that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

[8] See generally Karst, Legislative Facts in Constitutional Litigation, 1960 The Supreme Court Review 75 (Kurland ed.); Alfange, The Relevance of Legislative Facts in Constitutional Law, 114 U. Pa. L. Rev. 637 (1966).

[9] There were no committee hearings or reports referring to this section, which was introduced from the floor during debate on the full Voting Rights Act. See CONGRESSIONAL RECORD, vol. 111, pt. 8, pp. 11027, 15666, pt. 12, p. 16234.

[10] See Thayer, The Origin and Scope of the American Doctrine of Constitutional Law, 7 Harv. L. Rev. 129, 154–155 (1893).

[11] A number of other arguments have been suggested to sustain the constitutionality of § 4(e). These are referred to in the Court's

opinion, *ante*, pp. 646–647, n. 5. Since all of such arguments are rendered superfluous by the Court's decision and none of them is considered by the majority, I deem it unnecessary to deal with them save to say that in my opinion none of those contentions provides an adequate constitutional basis for sustaining the statute.

EXHIBIT 2

STATEMENT OF ASSISTANT ATTORNEY GENERAL WILLIAM H. REHNQUIST, OFFICE OF LEGAL COUNSEL, ON PROPOSED STATUTE TO LOWER THE VOTING AGE, BEFORE SUBCOMMITTEE ON CONSTITUTIONAL AMENDMENTS, SENATE JUDICIARY COMMITTEE, MARCH 10, 1970

Mr. Chairman, I appreciate the opportunity to appear before this Subcommittee. Last month, Deputy Attorney General Kleindienst for the Department of Justice testified in support of a constitutional amendment to lower the voting age in national elections to eighteen. Since then the question has arisen as to whether this objective could be achieved equally well by an Act of Congress, rather than by a constitutional amendment. My testimony will be limited to this question.

The Department of Justice reaffirms its support of a constitutional amendment dealing with voting age in national elections. It opposes enactment of a statute for several reasons:

First, the constitutional validity of such a statute would be open to the most serious doubt;

Second, doubt as to the validity of the statute could create confusion and uncertainty as to the outcome of a presidential election;

Third, the amending process, with its requirement of extraordinary majorities both in Congress and among adopting states, is better suited than a statute to manifest the necessary consensus for the proposal in question.

I turn now to a more detailed consideration of these objections, in order to amplify what we believe to be the danger and the undesirability of taking the statutory rather than the constitutional amendment route.

1. *Constitutional Validity of Statute.* The precise question to be answered here, of course, is whether Congress, acting under the power conferred upon it by the Fourteenth Amendment, may by statute lower the voting age in national elections to eighteen. However, the inquiry must begin somewhat further back along the line, with the well-established proposition that a state-imposed voting age minimum of 21 violates no provision of the Federal Constitution. Prior to the adoption of the Constitution each state determined for itself who should have the right to vote, and the traditional age of "majority"—21 years—was in effect in all states. See *Minor* v. *Happersett*, 21 Wall. 162, 172–173 (1874). Far from intending that this matter be withdrawn from state regulation, the evidence is overwhelming that the Founding Fathers intended that the minimum voting age should be a matter to be determined by state law. This is indicated both by the actual provisions of Article I, section 2, respecting the qualifications of electors for representatives, and by debate during the Constitutional Convention in which efforts to set up a national standard for such electors were overwhelmingly defeated.

Repeated statements in recent decisions of the Supreme Court make clear the Court's view that no provision in the Civil War amendments to the Constitution invalidated minimum voting age requirements established by the various states. In *Lassiter* v. *Northampton Election Board*, 360 U.S. 45 (1959), the Court said (pp. 50–51):

"The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised . . . absent of course the discrimination which the Constitution condemns. . . .

"We do not suggest that any standards which a State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, *age*, previous criminal record . . . are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters. . . ." (Emphasis added.)

And while on several recent occasions the Supreme Court has invalidated state restrictions on the franchise because they were found to violate the Fourteenth Amendment, each of these opinions has contained language re-emphasizing the right of states to set, on a non-discriminatory basis, qualifications for the exercise of the franchise. *Carrington* v. *Rash*, 380 U.S. 89 (1965); *Kramer* v. *Union Free School District*, 395 U.S. 621 (1969).

Similar expressions as to the constitutional validity of state provisions limiting the franchise to those who have attained the age of 21 years are contained in recent expressions of the executive and legislative branch. Such expressions reinforce the settled view that such a requirement does not violate the Fourteenth Amendment.

The constitutional basis upon which supporters of the statutory measure proceed, however, is that even if all of this be so, Congress may under the legislative authority conferred upon it by the Fourteenth Amendment require states to grant the franchise to 18-year-olds, even though state refusal to do so would not by itself violate the Fourteenth Amendment. Certainly constitutional law, especially that pertaining to the Fourteenth Amendment, has changed substantially in recent years, and no informed observer could state unequivocally that the statutory approach would *not* pass muster with the Supreme Court. But even more surely, no informed observer can affirmatively state that the statutory approach *would* pass muster with the Supreme Court. Characterizing the chances of success as best I can, in my opinion, I would have to say that they are uncertain and dubious.

In urging that there is a constitutional basis for Congress to act by statute rather than by constitutional amendment, reliance is placed on *Katzenbach* v. *Morgan*, 384 U.S. 461 (1965). That case upheld the validity of section 4(e) of the Voting Rights Act of 1965 (42 U.S.C. 1973b (e) (Supp. IV, 1965–68)) which provides in effect, that no person who has successfully completed the sixth primary grade in a Puerto Rican school where the language of instruction was Spanish shall be denied the right to vote in any federal, state, or local election because of inability to read or write English. The recognized purpose and effect of this section was to give the right to vote to thousands of Spanish-speaking citizens who had moved to New York from Puerto Rico but were barred from voting by New York English literacy tests.

The point of departure in *Morgan* for the advocates of the validity of the statutory route for lowering the voting age is the fact that the Court held that it was unnecessary to decide whether the state's English literacy test denied the equal protection of the laws to its Spanish-speaking citizens, grounding its opinion instead on the conclusion that such constitutional invalidity was not a prerequisite to congressional prohibitions of such a requirement.

The Court concededly in *Morgan* carved out an area in which Congress might prohibit state action even though that state action did not in itself violate the Fourteenth Amendment. To state this, however, is but the beginning of the inquiry as to whether such congressional legislation could extend to the mandatory lowering of the voting age.

The precise rationale upon which the Court's majority rested its conclusion is perhaps as open to debate as the question now before this Subcommittee. There is a good deal of talk in the Court's opinion about how the congressional enactment can be viewed as a measure to secure "non-discriminatory" treatment by various governmental units to the Puerto Rican community. It was for Congress, the Court stated, to assess the "pervasiveness of the discrimination in governmental services" and other factors which had been brought home to Congress during the hearings and debates. It was not for the Court to review the congressional resolution of these factors; it was enough that there was a rational "basis upon which Congress could resolve the conflict as it did." 384 U.S. at 652–653.

An expansive reading of some of the Court's language would suggest that the "rational connection" tests applied to state economic legislation under the "due process" clause of the Fourteenth Amendment is likewise applicable to congressional legislation enforcing the Fourteenth Amendment: Is the means chosen by Congress reasonably related to the goal of lessening discrimination? On the other hand, a narrower but equally tenable reading of the Court's opinion would require a good deal tighter connection between the Congressional enactment and some form of discrimination prohibited by the Fourteenth Amendment itself.

The differences between the evil at which Congress aimed in section 4(e) of the Voting Rights Act and the aim of Congress in a statute lowering the voting age to eighteen are marked. The literacy tests administered to Spanish-speaking citizens of New York, though concededly administered in a non-discriminatory manner to all citizens, undoubtedly had the *effect* of denying the franchise to substantially more Puerto Ricans who had attended Puerto Rican schools than to residents of New York who had attended school in New York. Denial of the franchise to Puerto Ricans produced an unequal result, even though the result was produced by reason of factors other than a discriminatory intent on the part of those who devised and administered the tests. Since a classification which would distinguish *in terms* between Puerto Ricans and New York residents would be invalid, Congress was empowered to prohibit a system of classification which produced the same result, though not *in terms*.

By contrast, not only is the voting age requirement of 21 not discriminatory against any defined class by its terms, but it is not discriminatory in result, at all. We do not here have a situation where the test, though fair on its face, discriminates *in result* between classes which may not be discriminated between *in terms* under the Fourteenth Amendment. There is not the slightest indication that the 18- to 21-year-old voting group in any particular state or in the United States as a whole, is composed of markedly larger numbers of Negroes, women, Spanish-Americans, or any other group which has been the subject of overt discrimination. This, in my opinion, is the principal and very significant factual difference between the 18-year-old vote law and section 4(e) of the Voting Rights Act.

When we deal with 18-year-old voting, we reach no secondary result by applying the statutory voting age requirements—the only identifiable class affected is that set forth in the state voting law in so many words—the class of potential voters between the age of 18 and 21. In contrast, the New York literacy test, although by its terms barring only illiterates, had the result of discriminating against, if not barring, a secondary identifiable class against whom discrimina-

tion was prohibited under the Fourteenth Amendment.

Finally, one may ask, what is the "discrimination" which Congress would here seek to eliminate? Unless voting is to be done from the crib, the minimum age line must be drawn somewhere; can it really be said that to deny 20, 19, and 18-year-olds the vote is "discrimination", while to deny the vote to 17-year-olds is sound legislative judgment?

It is pointless to further elaborate the matter. The Committee and the Congress is faced with one Supreme Court decision on the entire subject, and the reasoning of that decision is not one that he who runs may read. There are striking factual differences between the facts of *Morgan* and the facts that would be involved in determining the validity of a voting age statute; the fact that 46 states presently impose a 21-year-old voting requirement; the fact that 21 was the voting age requirement unanimously enforced by the states which adopted the Constitution; and the fact that a voting age law is one which applies to all citizens alike without resulting in any identifiable discrimination—my conclusion is that *Morgan* is not strong support for the validity of such a statute.

2. *A Statute of Doubtful Validity is Peculiarly Inappropriate in the Context of a National Election.* I have had the privilege of reading Professor Cox's testimony before I appeared here today before this Subcommittee, and am of the opinion that the Department's views are not greatly different from his as to the constitutional validity of the statutory approach. Building outward from the *Morgan* case, he is of the opinion that the statutory approach would be held constitutional, but concedes that other informed students of the subject very probably think otherwise. The practical question facing this Committee, and which will ultimately face the Congress as a whole, is whether to proceed by the statutory route because of the shorter time involved, rather than proceeding by the constitutional route because of the greater certainty involved. The Department is strongly of the view that a worse case for experimentation with a doubtful statute cannot be imagined than one dealing with a national election. While one would hope that the validity of such a statute would be conclusively settled well before any national election governed by the statute were to be held, there can be no guarantee that this will be the case. The elaborate provisions for judicial review and finality of determination suggested by Professor Cox in his testimony are, in my opinion, testimony to the unwisdom of the statutory approach to which its worst enemy would not wish to add a line.

Congress was recently faced with a similar dilemma in dealing with the problem of Presidential inability, and in that case chose the certainty of the constiutional amendment route over the speed of the statutory route.

Public discussion began focusing on the question of Presidential inability in the years following President Eisenhower's heart attack, and at this time there were many eminent scholars (including a number from leading law school faculties) who felt that Congress could deal with the matter by statute under the "necessary and proper" clause. Attorney General Brownell opposed the legislative route, saying:

"Ordinary legislation would only throw one more doubtful element into the picture for the statute's validity could not be tested until the occurrence of the Presidential inability, the very time at which uncertainty must be precluded." Brownell, "Presidential Inability: The Need for a Constitutional Amendment", 68 Yale Law Journal 189, 205 (1958).

Attorneys General Rogers and Kennedy concurred in Attorney General Brownell's conclusion. See 42 Ops. A.G. #5, p. 22 (1961).

3. *Desirability of Substantial Consensus.* Where Congress is dealing with a matter which has been left to the individual states since the adoption of the Constitution, where it is dealing with a question of minimum voting age about which fair minded individuals may reasonably differ, and which has been traditionally thought to be a matter of discretion that could be decided one way as easily as another, conformity to a uniform view should be imposed only by the process of constitutional amendment, rather than by legislative majority in Congress. The voting age bill is not an effort to cure long-standing shortcomings in the enforcement of standards imposed by the Fourteenth Amendment, but rather an effort to enlarge the accepted and traditional age requirement for voting. The Administration agrees that this step is desirable. But it is a step which may best be taken by the process of amending the Constitution.

Indeed, there is an element of disingenuousness, unintended no doubt, in the doctrine urged in support of the statutory route. It is claimed that while the Court itself might not be willing to make a finding that the denial of franchise to the 18- to 21-year-old age group is discriminatory, Congress is empowered to do so under the Fourteenth Amendment. But though the forum is a different one, presumably evidence must be adduced in either one to support such a finding. Can it fairly be said that the states are *discriminating* in violation of the Equal Protection clause in denying the franchise to those between 18 and 21 years of age?

This is not a case of discrimination, but instead a case of whether there is sufficient national consensus to warrant imposing a uniform lower voting age requirement for national elections. If it proves that such national consensus is not present, that in itself is a significant argument against imposing such a requirement by any other means.

I urge, therefore, that this Subcommittee report favorably on the proposed constitutional amendment to reduce the voting age in national elections to eighteen, and that it recommend against enactment of a statute for this purpose.

ALIEN LABOR SITUATION IN THE VIRGIN ISLANDS

Mr. ALLOTT. Mr. President, I take this opportunity to commend Secretary of Labor Shultz and Assistant Secretary of Labor Weber for their announcement on March 5 indicating that the Department of Labor will, for the first time, establish an office in the U.S. Virgin Islands to administer its alien worker certification program there. As Senators are aware, I have been deeply concerned for some time with regard to the alien labor situation in the Virgin Islands, and the Labor Department's announcement last week is one of the first positive steps that has come to my attention in this area.

Mr. President, I ask unanimous consent that the Labor Department's news release be printed at this point in the RECORD.

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

U.S. LABOR DEPARTMENT OPENS ALIEN WORKER CERTIFYING OFFICE IN VIRGIN ISLANDS

The U.S. Department of Labor will establish an office for the first time in the U.S. Virgin Islands to administer its alien worker certification program there, according to Assistant Secretary of Labor Arnold R. Weber.

The new office is expected to be in operation before May 1. It will be under the direct supervision of the Manpower Administration in Washington.

The Assistant Secretary said the change is being made as a result of the size, complexity, and seriousness of the foreign worker situation in the Virgin Islands.

More than 40 percent of the U.S. Virgin Islands labor force is composed of alien workers in nonimmigrant status. Most of these workers cannot become immigrants and eventually citizens, at least within the foreseeable future, because they come from islands in the Caribbean which are dependencies of Eastern Hemisphere countries.

The Immigration and Nationality Act allots a maximum of 200 immigrant visas a year to each such dependent area, and many of this small number of visas are used to admit relatives of citizens or immigrants already in the U.S.

Assistant Secretary Weber said that he is concerned that "the ready availability of foreign workers has kept wage rates low, has impeded full and efficient utilization of American workers, and has resulted in inadequate housing, educational facilities and social services."

Mr. Weber recently visited the U.S. Virgin Islands to study the situation and to discuss the problems and possible solutions with Governor Melvin H. Evans and with a wide spectrum of employers, workers, and government officials.

Mr. ALLOTT. Mr. President, a recent issue of Look magazine contains a feature article with regard to the alien labor situation in the Virgin Islands. The author of the article, Mr. Jack Star, senior editor of Look, captures in many respects the seething atmosphere which I perceive to be growing in the Virgin Islands. I am deeply concerned that comprehensive efforts must be made both within the executive branch as well as by appropriate committees of Congress to develop an adequate program as it pertains to the Virgin Islands alien labor situation. In my judgment, this is a situation which is going to continue to deteriorate unless positive and forthright steps are taken by the Federal Government to deal constructively with the issue. Again, I commend the Department of Labor for assuming some leadership in this issue, and I urge other agencies of the Federal Government which are charged with the responsibility for finding practical solutions to this problem to follow the lead of the Department of Labor in this critical area.

Mr. President, I ask unanimous consent that the Look article be printed in the RECORD.

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

VIRGIN ISLANDS: SHAME IN THE U.S. TROPICS

(By Jack Starr)

In 1948, the slaves were freed on the Virgin Islands—St. Thomas, St. Croix and St. John. Today, ugly echoes of the slave trade are stirring consciences on these predominantly black U.S. isles, only 40 miles east of Puerto Rico.

Some 16,000 so-called "bonded aliens"—a group of blacks as large as the entire resident labor force—have been imported from nearby foreign Caribbean islands under unique provisions of U.S. immigration and labor laws. Without the aliens, the Virgins' boom-

ing tourist and construction industries would collapse. But the way these blacks are treated is almost without parallel in our history. One has to go back to the days of slaves and indentured servants.

The aliens are attracted by the lure of wages higher than those of their impoverished home islands—St. Kitts, Antigua, Nevis, and St. Lucia are the main ones. The U.S. minimum wage of $1.60 an hour does not apply to the Virgin Islands. Some alien women are paid only 54 cents an hour; last year, it was estimated nearly 59 percent of the women earned less than $1.16 an hour. Of the alien men and women, nearly half earned less than $1.76. An alien working as a skilled mason or carpenter may find himself—for salary purposes—classified as a low-paid laborer. Few aliens get the fringe benefits—hospitalization, paid holidays, pensions—that are standard in the States, yet the cost of living is as much as 25 percent higher than on the mainland.

Aliens are powerless. If they complain, they can be fired, rounded up and deported in five days. When they go, some leave behind wives—should they happen to be U.S. citizens—and children. Most aliens come to the Virgin Islands without their families. The only way for an alien's wife to join her husband is either to sneak in, to get a job herself as a bonded alien or to have her temporary visitor's visa renewed every month or so. At any one time, an estimated 16,000 transient aliens—those with visitors' visas—roam the islands, living off relatives or working illegally with the connivance of island employers who regard them as a special bargain.

Living conditions are unspeakable. Many aliens sleep in ancient, abandoned slave quarters or in packing boxes and vermin-infested, leaking shacks. A score of neighbors share an outdoor toilet, some people just use the ground. They haul water from an outdoor spigot. The smell of garbage mingles with the fragrance of hibiscus and bougainvillea.

The aliens receive little in return for the taxes they pay. Only a few hundred of their children have been allowed to enter public schools—and it is estimated that 2,000 alien children whose parents can't afford inexpensive church schools are walking the streets. Alien parents aren't allowed tax deductions for dependents back on their home islands, nor (shades of *Catch-22*) can they collect unemployment compensation even though they pay for it, because they are deported when they lose their jobs. Most aliens will never get any of the Social Security for which they pay. Nor can they use public-welfare services, and they rarely get into public housing.

The pretense of government and employers has been that the aliens are some sort of migratory workers, that they are in the Virgin Islands for only a short while. Actually, many aliens have been around for five and even ten years. They constitute a huge, voteless, unintegrated bloc. Why aren't they more demanding?

"The average alien is terribly afraid," says Nathaniel Richardson, himself an alien black who is working with the Dutch Reformed Church in St. Thomas to help other aliens. "The alien isn't secure in his job. . . . If he asks for more money, his boss can fire him—he has to leave the country, and immediately his boss hires another man cheaper. He has no person to defend him. These blacks won't always be so passive. Someday, and soon, if life continues the way it is, they will become angry."

Franklin S. Anderson is a black labor organizer who was raised on St. Vincent's. "There is a racist mentality among the native blacks toward the alien blacks," he says. "The native blacks constitute 70–80 percent of the U.S. citizens; they are well-off economically and they feel superior. The aliens in turn resent the black Virgin Islanders; they feel their powerlessness. If changes aren't made, there will be an explosion."

Sociologist John W. McCollum knows as much about the islands' problems as anybody. Last summer his company, Social, Educational Research and Development, Inc., of Silver Spring, Md., completed a major study of the alien situation for the Office of Economic Opportunity. He agrees with Anderson: "There are all the ingredients for an explosion, like a case of spontaneous combustion. The people are cut off completely from the community. This is a classic case of alienation. There is nothing to give them a feeling of belonging to society. Remember, they don't compare themselves to how poorly they lived back on their home island but how life is in the Virgin Islands."

Curiously, the prosperity of recent years is responsible for the islands' problems. The U.S. bought the islands from Denmark for $25 million during World War I, to keep the German U-boats out of the Caribbean. For years, the islands were administered as a sleepy tropical colony by the U.S. Navy. Agriculture fizzled out nearly completely: the famous local rum is now made from imported molasses because sugarcane is no longer harvested. With Fidel Castro's take-over of Cuba came sudden hordes of displaced tourists, first by the thousands, then by the hundreds of thousands. Last fiscal year, the tourists increased 38 percent over 1968 to 1,279,292; they spent $125 million. With the tourists have come white "continentals" to take up a new life in semi-retirement or for seasonal stays in condominium apartments. They are not much interested in the islands' social problems. To run the hotels and to build the condominiums takes large numbers of aliens. Incredible as it seems, over 40 percent of the people who live here permanently have government jobs. The other permanents prefer owning taxis or businesses to working with their hands. That is where the aliens come in.

"We on the islands have been too tourist-oriented," says Ariel Melchior, Sr., publisher of the *Daily News of the Virgin Islands* and a local editor for 40 years. "We should have balanced the human interests—there has been too much emphasis placed on tourism and making money, too little on how human beings live."

Melchior charges that the islands have been guilty of "exploitation of poor people—like getting large numbers into construction work and then getting rid of them without any regard." He advocates slowing down the import of aliens to "absorb the more productive ones and give them many of the rights of citizens."

Melchior wants to de-emphasize tourism by attracting light industry. He says: "Condominiums and hotels produce profits for stockholders in the U.S., not for people in the V.I."

The Virgin Islands government has the power to subsidize new industry by offering it a 75 percent rebate on Federal-income and local taxes for a number of years. An aluminum plant and an oil refinery were built on St. Croix, but no other large enterprises have been attracted—except for tourist hotels and condominiums. These plow little back into the economy and contribute instead to the social problems because they require alien labor to build and maintain.

The most powerful man on the islands is Sen. Earle B. Ottley, former president of the Territorial Senate (which is three-quarters black), who also publishes an influential daily newspaper and is founder-president of the powerful Virgin Islands Labor Union, an affiliate of the AFL–CIO Seafarers International. He is also chairman of a governmental commission studying alien problems. Ottley says:

"Tourism is a tiger by the tail. If something happened nationally or internationally, the whole bottom would drop out." To him, the aliens' most important need is clear: "You have to give him self-respect, you have to get rid of the sword of Damocles—the bonding contract—that hangs over his head, so his employer no longer has life-and-death power."

The failure of the islands to provide public housing bothers the Senator. "There are probably 5,000 people on the housing waiting list," he says, "and there are only a couple of hundred units built every year. We should expand the Federal effort and also require more from the importers of alien labor in the way of providing housing for their workmen."

The lackadaisical attitude in Washington toward our former colony accounts for some of the aggravated problems. Sociologist John W. McCollum calls attention to the failure of the U.S. Department of Labor to use its powers to upgrade low wages and poor working conditions. The Immigration and Naturalization Service is also delinquent, he says, in permitting illegal aliens to remain on the islands and in putting up with laws that it knows to be unworkable.

Federal responsibility may receive some attention, at long last, in Congress. Sen. Quentin N. Burdick (D., N.D.), chairman of the Subcommittee on Territories and Insular Affairs, says: "We ought to have some hearings on the subject. There is no easy solution, but I think it is time we should look for some answers." Sen. Gordon Allott, of Colorado, ranking Republican member of the Interior and Insular Affairs Committee, has called upon the President to intervene, saying: "I am convinced that a Cabinet-level committee is the only unified and comprehensively responsible Federal vehicle for dealing with this important matter."

The Virgin Islands government, until very recently, has done nothing about the alien situation. But then, it seems overwhelmed by all the other problems of growth: the bumpy, muddy highway network; the schools, inadequate for citizens, let alone aliens; the 2.5 million gallons of raw sewage dumped daily into the beautiful St. Thomas harbor; lights and telephones that don't work.

"Despite the tourist dollar, this is an underdeveloped area, perpetually in crisis," Dr. Edward L. Towle tells me. He is director of the Caribbean Research Institute at the College of the Virgin Islands. (It is hard to take notes as we talk because his office is in semi-darkness because of one of the power plant's frequent failures.) "We suffer from sheer administrative inefficiency and inexperience," says Dr. Towle. "Sure, we had a 38 percent increase in tourism last year, but we didn't provide a one percent increase in the quality of housing, schools and roads."

Dr. Towle believes the islands are going to have to put a ceiling on tourism. He says: "We would be better advised to have only a ten percent increase in tourism annually and provide a good tourist experience than have a 20 percent increase in tourism that is a bad experience. . . . If we can't provide the vital services, we'll drown in tourism."

This kind of talk enrages civic boosters like Ralph M. Paiewonsky, who was governor from 1961 to 1969. Island-born, son of an immigrant, and a millionaire with many island interests, Paiewonsky—who owns one of the largest "duty free" tourist shops—says, "We're not going to turn the clock back and cut down on tourism. We have improved the quality of living here in every direction. Go down to the other islands and look."

The ex-governor defends the way aliens are treated. "They don't want to establish a permanent residence here," he asserts. "They make their money and go back home." He says that alien blacks "earn three times as much from tourism as from chopping cane" and that the money they send to their home

islands (about $3 million a year) "constitutes our own Alliance for Progress."

The new governor, Dr. Melvin H. Evans, who was appointed by President Nixon only last June, disagrees: "We're going to say no! We're going to tighten up tax incentives on condominiums. We're past the state of welcoming everybody who wants to put up a hotel. We have to slow down. The Virgin Islander is getting angry. He is getting the blame for the alien problem. The money is going off to the mainland and down-island; our taxes and living costs are going up, and the schools deteriorate."

A black man, who gave up a lucrative career as a heart specialist for one in public health, Dr. Evans is a Republican in a place where members of the GOP are almost as rare as snowballs. Next November, the islands will for the first time elect a governor. With the Democrats so overwhelmingly powerful. Dr. Evans may not be around to see that all his promises are kept. For example:

"My policy is that next September, every child of school age 'legally' in the Virgin Islands will be in school. . . . Employers will be required to supply health insurance for aliens. . . . We have introduced legislation requiring employers to provide housing for new alien employees—government can't provide the housing. . . . We will have off-island recruitment of labor so that one hundred people won't be coming here for only ten jobs. . . ."

What the alien blacks seem to need, more than anything, is a bit more power, so they can negotiate with the government. But the very word "power" is frightening to them. Last December, four young VISTA workers who taught alien children unable to get into St. Thomas public schools were summarily ordered off the island. Their crime? They encouraged 100 parents of the children to form an organization whose function was to needle the schools into admitting more alien children. The group called itself People's Organization to Work for Equal Rights—POWER. The local OEO office accused the VISTA's of stirring up trouble.

Curiously, the transfer of the VISTA's received the tacit, if not active, support of the three alien organizations. "We have long observed the divisive actions of the VISTA volunteers involved," the organizations said in a joint statement, "and were cognizant of their attempts not only to pit one alien group against the other but to bring direct confrontation of the alien community and the local government and people."

Such timidity extends all the way into the ruined plantations, overgrown with brush and wild sugarcane. The alien blacks live there in filthy old slave quarters, long buildings of granite partitioned into tiny family hovels. At Castle Coakley, an old plantation on St. Croix, I watched with fascination as a civic-action group organized by the aliens attempted to elect a president. Nobody wanted the job because to become president means to attract the attention of the authorities. The presidency was finally accepted by a huge black man who reminded me of Porgy in the musical *Porgy and Bess*. His name is Jeremiah Joseph, he is 31, and he came here from Antigua ten years ago. He led his group in converting one of the plantation's hovels into a one-room "community center," but no sooner was it finished than squatters moved in. Now he is helping to build a new center in the estate's stables.

"These are people in despair—they think nobody cares," says Sister Marthe Van Rompay, a Belgium-born nun who runs a center for aliens and the native poor.

Rabbi Murray Blackman of the Hebrew Congregation of St. Thomas blames organized religion. "Until recently," he says, "the church was more concerned with salvation than in social issues. Finally, at long last, the churches are spurring government to do something."

The Right Rev. Cedric E. Mills, a black man who is Episcopal bishop of the islands and vice chairman of a commission seeking solutions to the alien problem, says: "There is a tendency here to sweep things under the carpet." At a conference the Bishop helped organize recently, the aliens themselves came up with some suggestions. The primary one was to help end their voicelessness by giving them five ironically voteless representatives in the 15-man legislature.

"I don't know what the answer should be," says Nathaniel Richardson, "but our people should be more free to participate in decision-making. There should be job security, with a real grievance procedure. There should be a place for us to live when we come over to take a job. I know we shouldn't have to live like this."

AMERICA'S ENVIRONMENT PROBLEMS

Mr. ALLOTT. Mr. President, it has been said that armies on the march are no match for an idea whose time has come. If that is true, then armies on the march had better be aware of the idea that the American environment is ailing.

Even if we assume—and we should—that people are only half as excited about this as the press says they are, it is still clear that an interest in environment problems is on the rise. In fact, interest in the problems is growing faster than the problems, and that is as encouraging as it is rare.

Ecology is a science that attempts to see the world as a system constantly changing as men and their surroundings interact.

Suddenly the word "ecology" has become the substitute, in political rhetoric, for the word "motherhood."

It is understandable why this has come to pass. The environment problems are quite real and they have a special meaning for Americans.

Environment is a profoundly meaningful issue for Americans. It speaks to our moral nature and to our own understanding of the meaning and greatness of our Nation. Ours was the first new Nation; ours was the virgin continent. America beckoned as the land of the fresh start, the nation free from the dead hand of mankind's accumulated mistakes.

America was the nation where men could start with vacant canvas and learn just how good free men could be when left to their own devices. For better or for worse, America would be what we made of it, starting from scratch. In short, America would measure human possibilities. America would be the definitive laboratory of liberty, the place where men learned whether they could govern themselves and remain free.

This has made the American experiment both inspiring and exacting. First, the stakes are the highest possible. Upon us rides the good name of free government. Second, this is an experiment without an end. We must justify ourselves in each generation. We must justify ourselves by using freedom well, and we can only do this by improving the world, by making sure the world is better for our having been here.

Thus environment is a special issue for all Americans.

And it is appropriate for the Republican Party to take the lead in confronting the problems of our environment. This is so for several reasons.

First, our environment problems are problems stemming from the fact that we are the world's foremost industrial nation. It was under almost exclusively Republican leadership in the decades from the Civil War until the First World War, that America changed from a predominantly rural and agricultural nation into a modern industrial giant. Moreover, it was at the end of this half century of unprecedented progress that concern for the American environment was put on the national agenda of pressing public business. It was put there by a great Republican President, Theodore Roosevelt. It was during T. R.'s administration that the Reclamation Act was passed. This was in 1902 and it launched Federal activity in the fields of reclamation and irrigation.

It was Teddy Roosevelt who founded the Forest Service and warned the Nation that the proper use of natural resources is "the fundamental problem which underlies almost every other problem of our national life."

Further, vigorous governmental action in the environment field is in accordance with Republican philosophy.

Perhaps the central doctrine of Republicanism is contained in Abraham Lincoln's famous statement of the purpose of government. Lincoln said:

> The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all or cannot do so well for themselves in their separate and individual capacities.

Clearly our environment problems have been created by us all and will only be cured by all of us acting together.

But before we can fashion intelligent environment policies, we must speak clearly about a few fundamental points.

There must be no confusion concerning the real origin and significance of environment problems. And there must be an early and candid assessment of the difficult choices involved in attacking these problems.

A crucial point about our environment problems is that they are the consequences of success.

And a crucial point about the choices that face us is that they are often not choices between good and evil, but choices between competing goods.

It is vital that we understand that many of our problems attest our national fruitfulness.

There is a tendency in America today to focus on the Nation's problems while ignoring its successes. Ignoring this is dangerous for two reasons.

First, if we misunderstand the causes of our problems, they will be just that much harder to cope with. A faulty diagnosis makes the cure more difficult.

Second, when a nation is exclusively preoccupied with its troubles, when it is unfashionable to acknowledge national achievements, then the people become dispirited. They lose their respect for their past and they lose their confidence in their future. The result is a kind of failure of nerve on a national scale. And

it is especially disastrous as it affects the youth, who become cynical and indifferent to the responsibilities of citizenship.

If we rear a generation of young Americans who are aware only of American problems, and who are unaware of the solid achievements that often cause problems, then we will damage the Nation. We will be depriving the youth of a precious legacy—pride in the American capacity to achieve great works. This is important because a nation that does not believe in its own capacity for great works will not retain that capacity. Thus we do ourselves a favor when we recognize that our environment is ailing because our life is basically good.

A new American is born every 7½ seconds. This American has a life expectancy of 70 years. In that time he will consume a prodigious amount. He will want 21,000 gallons of gasoline, over 10,000 pounds of meat, 28,000 pounds of milk and cream, 9,000 pounds of wheat. He will even consume 210 pounds of peanuts.

One of the things that makes being an American pleasant is that we have approached a mastery of the art of using the earth.

According to one estimate—Fortune, February 1970:

> The three million high-technology U.S. farmers put more adverse pressure on their land and rivers than the hundred and fifty million low-productivity peasant families of China put upon their land and rivers.

Thirty years ago R. Buckminster Fuller estimated that the total energy generated in America was equal to the amount of muscular energy that would be generated if every American had 153 slaves. Today the energy-equivalency would be about 500 slaves for every American.

Americans are only one-fifteenth of the world's population. Yet we consume approximately half the world's total product. There really is no reason we Americans should be depressed by our good fortune. In fact, fortune did not have all that much to do with it. Primarily, we are prosperous by dint of hard work.

But we are prosperous, and we do consume a great many goods and services and, as the late Adlai Stevenson said, we must recognize that there are no gains without pains.

Americans have been extremely faithful to the Biblical command to "be fruitful, and multiply and replenish the earth and subdue it."

In our explosive productivity we have sometimes been a little partial to one part of that command. We have been more zealous in subduing the earth than we have been in replenishing it. And this partiality cannot go on. If we do not replenish our environment, it will cease to be fruitful. This is what the President meant when he said:

> The 1970's absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters and our living environment.

It will take effort and money to get our "natural bank account" back into balance. Our hard working natural capital needs help. But this is a debt we should cheerfully pay. We should consider it a deferred payment on the Nation's prosperity, and an investment in tomorrow's progress.

We all know what happens to a business that lives beyond its means, always withdrawing from its investment fund and never replenishing that fund. Such a business is imperiling its future by squandering the resources it will require for future growth. In a word, that business is going broke.

The productivity of our agriculture and industry testifies to the fact that we have used our "natural bank account" of resources often and skillfully. But while we have been using our natural endowment of resources, we have been a little lax in providing for tomorrow's needs. And tomorrow has a way of becoming today.

A nation must be even more judicious than a business in husbanding its natural resources. A reasonably solvent business that runs into shortages can turn to a bank, or to some other outside source of capital.

But there is no similar outside source to which a nation can turn once it has squandered its resources, its "natural capital." A nation cannot borrow land to replace depleted or eroded soil. A polluted lake cannot be replaced by a loan. In short, there are no banks for natural resources.

It is worth recalling that there was a time, in the early years of this Nation, when Americans worried a great deal about whether it would be best for America to resist the growth of industry, and remain a rural nation of small farmers.

This is the sort of question that is really never resolved by a conscious national choice. The way things worked out, America, like Topsy, "just grow'd."

But if there was ever a time when we were content to measure national success simply in terms of a 4.4-percent annual growth in the gross national product, that time has passed.

As the President said in his state of the Union address:

> Our gross national product will increase by $500 billion in the next 10 years. This increase is greater than the entire growth of the American economy from 1790 to 1950.
>
> The critical question is not whether we will grow, but how we will use that growth.

One part of that question about the use of growth concerns the ways in which we make growth conform to our environment. This is what is at issue when the President says:

> In the next 10 years we shall increase our wealth by 50 percent. The profound question is—does this mean that we will be 50 percent richer in a real sense, 50 percent better off, 50 percent happier?

Throughout America people are looking critically at the implications of new growth.

In a coastal county in South Carolina a controversy recently erupted over the proposed construction of $200 million worth of chemical plants. Fishermen, resort owners, and plain citizens are worried about possible damage to the living environment. They are willing to forgo a needed stimulus to the local economy, if it must be purchased at a high cost to the ecological balance of the region.

Further up the coast, in Trenton, Maine, the citizens voted to block lucrative plans to locate a factory in the town. They, too, feared environmental contamination.

These examples could be multiplied from around the Nation. And the President is paying attention to them.

It is highly significant that President Nixon chose New Years Day, 1970, to sign the National Environmental Policy Act. This first Presidential act of the new decade established a three-man council of environmental advisers that will work closely with the President. It is similar to the Council of Economic Advisers, and that is appropriate.

The economic advisers help fashion the policies that keep America producing. The environment advisers will help fashion the policies by which we minimize the price we pay for the progress our economy brings.

It took Americans a long time to take seriously the idea that we would have to worry about the price of economic progress.

Alexis De Tocqueville, writing 135 years ago about "Democracy in America," said this about Americans:

> Their ancestors gave them love of equality and freedom; but God himself gave them the means of remaining equal and free by placing them upon a boundless continent.

And as the President said in his environment message to Congress:

> Conditioned by an expanding frontier, we came only late to a recognition of how precious and how vulnerable our resources of land, water and air really are.

Now we are not only aware of the pressure on our resources, we can hardly escape the most alarming predictions about our impending doom. And the proliferation of doom mongers should alert us to an important fact about the environment issues.

As we get further into the environment debate we must bear in mind that highly technical matters are involved.

This is a field in which there are legitimate experts. But it is also a field in which there are bogus experts. As environment problems become political issues, we can expect bogus experts to be enlisted by persons seeking to use the problems for partisan gain.

This makes it especially important that all laymen—and that includes most of us—understand that even the experts disagree in their predictions.

Let us consider just one issue. There are some people who delight in telling us that America is doomed because of population pressures stemming from skyrocketing birth rates. But it is quite wrong to try to frighten Americans with a Malthusian spector of unusually high birth rates that will inevitably lead to disaster.

The postwar population explosion—the famous "baby boom"—was real enough. Ninety million babies were born between 1946 and 1948. But today our birth rate is as low as it has been since 1940.

If one is looking for the prime source of our population growth, one should

look at our improved death rate. People are not dying as fast as they once did. It is hard to feel bad about this.

American birth rates have been falling for 10 years, and it is possible that by the year 2020 our population may stabilize at not much above the current level.

It is true that between 1950 and 1960 the population of the United States grew by 28 million. But it is also true that during that same period over half our counties lost population.

This is why the President has voiced such interest in the problem of population distribution.

Unfortunately the false prophets of doom do not confine their doom mongering to population problems.

Some of the people say in seriousness what the poet Ogden Nash once said in a whimsical mood. He said:

Progress was all right once—it just went on too long.

There is a lot of despairing talk about our affluent society becoming merely an effluent society.

A moral savant at the Center for the Study of Democratic Institutions, a think tank located in Santa Barbara, Calif., suggests that in "perhaps 10 years" things will be so bad that "economic growth may well have to be eliminated altogether."

The word from the gloom merchants these days is that America has a worse population problem than India. They say that an Indian peasant eats and otherwise consumes so little that he puts little strain on his environment. Perhaps they think it would be progressive to reduce the American's standard of living to that of an Indian peasant.

One professor has delivered himself of the opinion that "what this country needs is Buddhist economics." He would cure our environment problems by shrinking our gross national product until we lived like Tibetan villagers. One wonders what the professor would say if we began by shrinking faculty salaries.

Some suggest that carbon dioxide in the atmosphere is holding in the earth's heat. The result, we are told, will be a rise in the earth's temperature that will melt the polar ice caps and drown us all.

Others suggest that tiny particles of pollution hold out the heat of the sun. The result, we are told, will be a drop in the earth's temperature that will bring on a new Ice Age and we will all freeze to death.

There are two characters from children's stories whose experiences should give us pause. One is Chicken Little and the other is the little boy who cried, "Wolf."

Senators will recall that when an acorn fell on Chicken Little's head, he went tearing off shouting that the sky was falling. This refrain was promptly taken up by Henny-Penny, and others among Chicken Little's peers—Squirlly-Whirly and that crowd. But the sky was not falling, which might eventually have dawned on the alarmists and left them mortified by their behavior. For all we know, they would have lost all interest in the condition of the sky had they not been eaten by Foxy Loxy, who was not much of an environmentalist, either. The moral of the story is: exaggeration will get you nowhere and certainly will not do the sky any good.

The other instructive tale concerns the little boy who cried, "wolf" frequently and falsely, thus squandering his credibility with his neighbors. Then a live wolf came and ate his flock, while the little boy called in vain for help. The moral of the story is: Alarmists dull our capacity to respond to really urgent situations.

Predictions of environmental catastrophe are becoming commonplace and, like most commonplace things, we are learning to live with them, and even to ignore them.

The environmental scaremongers are like all American extremists. They make it harder for men of moderation to get to work on the problems we all want to solve.

The extremists make it difficult in two ways.

On the one hand their extremism seems absurd and thus they tend to discredit and frustrate serious discussion on the entire issue which excites them.

On the other hand, they convince some people. Persons who believe that the end is nigh, that only the form and not the fact of apocalypse is in doubt—such persons will not see any point in resisting the inevitable collapse. They will be useless in the patient efforts which moderate men will make to bring about piecemeal improvements in our environment.

Nothing is more certain than the fact that men who do not believe in the future will not invest in the present.

One thing is certain.

The doomsday prophets are in for a bitter disappointment. The end is not in sight. We are not going to choke to death on soot; we are not going to suffocate from lack of oxygen; we are not going to freeze in a new ice age; we are not going to drown as the polar ice caps melt; and, we are not going to drown in a sea of rising beer cans.

After all the gloomy speculations and alarmist predictions are heard, these questions remain: What are the real dimensions of our problems? What are the practical steps that modern men of good will can take toward solving them? How can we break our many problems down into bite-size units, and bring our Yankee know-how to bear on them?

Fortunately the gloom mongers are not the only persons thinking about these questions.

The burgeoning interest in environment problems is generating an intelligent literature on the subject. One example deserves special praise.

Fortune magazine recently—February 1970—devoted its 40th anniversary issue to these problems. The special issue features a lead article by one of its distinguished editors, Max Ways. Mr. Ways' article "How To Think About the Environment" should be required reading for every American who wishes to play a constructive role in the campaign to improve the environment.

As Mr. Ways has written:

We did not get into this mess through such vices as gluttony, but rather through our virtues, our unbalanced and uncoordinated strengths. If we do not succeed in bringing under control our new-found powers, the failure will be attributable to the father of all vices, inattention to the consequences of our actions.

As the President says in his message to Congress on environment:

The fight against pollution . . . is not a search for villains.

He correctly emphasizes that pollution "results not so much from choices made, as from choices neglected: not from malign intention, but from failure to take into account the full consequences of our actions."

Fortunately the worst environmental ravages may be over.

America has passed through industrialization. That is not the sort of thing that happens to any country twice. We are changing from an industrial society into a technological society. As a result, we have probably passed the period of peak pressure on our environment.

Mr. Ways explains this:

Limits of growth are . . . in sight for the . . . important rate of mass-and-energy used. The heavy environmental pressures come from agriculture and manufacturing (including mining). We are already producing more food than we consume and more than we would need to feed all the hungry in the U.S. The total value of manufactured goods will probably continue to rise for several decades, although substantial reductions in this demand could result from better environmental policies. Many things (e.g., the second family car, the second home) that we now buy are made 'necessary' by wasteful environmental arrangements. The U.S. will probably reach saturation in manufactured goods in any event at some point in the next fifty years, if only because the time to use all the things we buy is becoming scarce.

Meanwhile, this economy will be very hard pressed to keep up with its increasing needs on the 'services' front. A society that is both highly specialized and rapidly changing requires, as ours has already demonstrated, an elaborate 'nerve system,' employing millions, to maintain its cohesion and determine its direction. Among the elements of the 'nerve system' are education, communications, law, finance, etc., which burn little fuel and consume small tonnages of materials.

But Mr. Ways adds this caveat:

The probability that gross pressure on the environment is due to stabilize does not of itself constitute a ground for optimism. It merely indicates that our prospect is not hopeless, and that by a huge and intelligent effort we might reverse the present devastation.

The administration has submitted to Congress the outlines of such an intelligent effort.

The President's 1970 environment message to Congress outlines a 37-point program. It includes 23 legislative proposals and 14 administrative measures or Executive orders.

Mr. President, in the coming days I will be speaking about various aspects of these proposals and the problems they are designed to meet in order to solve them.

CLOSING OF U.S. CONSULATE IN RHODESIA

Mr. BYRD of West Virginia. Mr. President, I am greatly concerned about the U.S. decision to close its consulate general in Salisbury, Rhodesia. In announc-

ing the decision, Secretary of State William P. Rogers declared that the United States continues to regard the United Kingdom as the lawful sovereign in Rhodesia. Therefore, according to Mr. Rogers, the withdrawal of the American consulate has been necessitated by the final break between Rhodesia and Great Britain on March 2 when the new Rhodesian Constitution was officially implemented.

I regard the grounds upon which this decision has been made as ill founded. I call upon President Nixon to delay the State Department's action in regard to the consulate in Rhodesia until the question can be publicly discussed, all opinions aired, and a decision openly arrived at after adequate study of all the factors involved.

This is 1970 not 1770; it is not a time for our foreign policy decisions to be dictated by Whitehall. It is very well for Great Britain to request the United States to close its consulate in Salisbury because it suits the particular strategy which Great Britain has chosen to follow in dealing with a pressing foreign policy problem. But, what about Great Britain's continued trade with North Vietnam and Cuba while turning a deaf ear to American pleas to embargo trade with these nations?

Great Britain has acknowledged that the presence of the American consulate in Rhodesia does not acknowledge official recognition of the present Rhodesian Government. Until today the United States has also made this point clear in the defense of its diplomatic presence in Salisbury. Thirteen other nations have also retained official contacts in Rhodesia; it will be interesting to note if they are similarly led to follow Whitehall's dictates.

I am also appalled at the apparent disregard for the important functions carried out by the American mission in Salisbury. There are 1,500 Americans in Rhodesia who rely on the consulate for protection. Furthermore, there are considerable American investments in Rhodesia which merit protection. The valuable chrome mines owned by American industry represent a vital source of a scarce resource essential to the American economy. At present the United Nations sanctions against Rhodesia are forcing American firms to purchase chrome ore from Russia and Turkey, the only other significant sources of metallurgical chromite. Russian and Turkish chrome is inferior to the Rhodesian ore and is presently being purchased at a considerable premium to the costs of the Rhodesian product.

The decision to close the consulate in Rhodesia is shocking in light of the new turn toward realism that American foreign policy is supposedly taking in the 1970's. If we truly feel we have found new maturity and greater objectivity in our thinking on international problems, we have failed to demonstrate this outlook in reaching this decision. It is difficult to disregard the existence of Rhodesia as an independent sovereign state. Since the unilateral declaration of independence in 1965, the State of Rhodesia has continued to meet the accepted international definition of statehood. It has a permanent population, a defined territory, a working government, and the capacity to enter into international relations. It has done us no wrong.

In view of these facts, I see no other fair and rational course for the President to take than to reopen the question of continuing the operation of our consulate in Rhodesia.

PENDING QUESTION

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. Amendment No. 545, the amendment of the Senator from Montana (Mr. MANSFIELD).

PROGRAM

Mr. BYRD of West Virginia. Mr. President, before I move to adjourn, I wish, by way of recapitulation, to review the orders that have been previously secured by the majority leader.

The Senate will shortly adjourn until 9:30 tomorrow morning.

Following the disposition of the reading of the Journal, the Senator from Ohio (Mr. YOUNG) will be recognized for not to exceed 15 minutes.

Following the Senator from Ohio, the Senator from Oklahoma (Mr. BELLMON) will be recognized for not to exceed 15 minutes.

Following the Senator from Oklahoma, the Senator from Colorado (Mr. ALLOTT) will be recognized for not to exceed 30 minutes.

Following the conclusion of the remarks of the Senator from Colorado, there will be a period for the transaction of routine morning business, with a limitation of 3 minutes on speeches.

When the unfinished business—H.R. 4249—is laid before the Senate, the pending question will be on Senator MANSFIELD's amendment No. 545.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate adjourn until tomorrow, Wednesday, March 11, 1970, at 9:30 a.m.

The motion was agreed to; and (at 7 o'clock and 5 minutes p.m.) the Senate adjourned, in accordance with the previous order, until tomorrow, Wednesday, March 11, 1970, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 10, 1970:

D.C. COUNCIL

The following-named persons to be members of the District of Columbia Council for terms expiring February 1, 1973:

Stanley J. Anderson, of the District of Columbia. (Reappointment)

Henry S. Robinson, Jr., of the District of Columbia. (Reappointment)

Carlton W. Veazey, of the District of Columbia, vice Polly Shackleton, term expired.

HOUSE OF REPRESENTATIVES—*Tuesday, March 10, 1970*

The House met at 12 o'clock noon.

Rev. Noble M. Smith, Trinity Church, Oxford, Philadelphia, Pa., offered the following prayer:

Almighty and ever-living God, who hast given us this great country for our heritage, grant to these Representatives of the people wisdom, sincerity, and patience to continue in their undertakings as one of the world's greatest deliberative bodies. May Thy presence cause their discussions, debates, and decisions to be the result of a body feeling Thy Holy Spirit directing them wisely. May their presence in this House be a witness to the sincerity of each in his endeavor to return thanks for sharing the human responsibility of governing so great a country. Now, O Father, may both You the Heavenly and they the earthly be patient one with the other, never faltering at the desire to serve the needs of mankind the world over. Bless the families of our statesmen. Protect each Congressman through this day, lift whatever may burden him so that he may fulfill his duties with wisdom, sincerity, and patience; through Jesus Christ, our Lord. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2910. An act to amend Public Law 89-260 to authorize additional funds for the Library of Congress James Madison Memorial Building.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 514) entitled "An act to extend programs of assistance for elementary and secondary education, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PELL, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr.