By Mr. BROTZMAN:

H.J. Res. 1125. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. FLYNT:

H.J. Res. 1126. Joint resolution proposing an amendment to the Constitution of the United States relating to powers reserved to the several States; to the Committee on the Judiciary.

By Mr. GALIFIANAKIS:

H.J. Res. 1127. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. NATCHER:

H.J. Res. 1128. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. SMITH of New York:

H.J. Res. 1129. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. SPRINGER:

H.J. Res. 1130. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. CORMAN:

H. Con. Res. 537. Concurrent resolution providing for the printing as a House document the tributes of the Members of Congress to the service of Chief Justice Earl Warren; to the Committee on House Administration.

By Mr. FULTON of Pennsylvania:

H. Con. Res. 538. Concurrent resolution to request the President to call a Conference on the International Exploration of Space; to the Committee on Foreign Affairs.

By Mr. LOWENSTEIN:

H. Con. Res. 539. Concurrent resolution state of the Federal judiciary address; to the Committee on the Judiciary.

By Mr. McDONALD of Michigan:

H. Con. Res. 540. Concurrent resolution expressing the sense of Congress with respect to freedom of choice and compulsory transportation in connection with public schools; to the Committee on Education and Labor.

By Mr. O'NEILL of Massachusetts:

H. Con. Res. 541. Concurrent resolution to express the sense of the Congress on U.S. involvement in Laos; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BRASCO:

H.R. 16438. A bill for the relief of Lesley Earle Bryan; to the Committee on the Judiciary.

By Mr. CHAPPELL:

H.R. 16439. A bill for the relief of Penelope Nesbitt Wagner; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 16440. A bill for the relief of Barbara A. Dalkiran; to the Committee on the Judiciary.

By Mr. ROGERS of Florida (by request):

H.R. 16441. A bill for the relief of Michael J. DiRocco; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 16442. A bill directing the Administrator of the General Services Administration to convey certain surplus property to the county of Santa Barbara, Calif., for the use of the Boys' Club of Lompoc Valley, Inc.; to the Committee on Government Operations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

327. By the SPEAKER: A memorial of the Legislature of the State of Mississippi, relative to amending the Constitution of the United States regarding attendance at public schools; to the Committee on the Judiciary.

328. Also, a memorial of the Legislature of the State of Tennessee, relative to amending the Constitution of the United States regarding taxation of interest paid on obligations of the United States, any State, or agency thereof; to the Committee on the Judiciary.

329. By Mr. KUYKENDALL: Memorial of the Legislature of the State of Tennessee, relative to amending the Constitution of the United States regarding the right of citizens to attend the public schools of their choice; to the Committee on the Judiciary.

SENATE—*Wednesday, March 11, 1970*

The Senate met at 9:30 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 Thou, who hast been our dwelling place in all generations, help us to treat this world as our Father's house wherein Thy family dwells. Deliver us from fear of making this earth our home. Give us wisdom this day and every day to create a dwelling where all may come and go with equity and justice. Help us so to order our lives that this Nation and the whole world may be an abode fit for Thy children to dwell in safety and in peace. Let goodness and mercy abide with us here that we may abide with Thee forever.

In Thy holy name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 11, 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 Tuesday, March 10, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER FOR ADJOURNMENT TO TOMORROW AT 10 A.M.

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.

ORDER FOR RECOGNITION OF SENATOR SCHWEIKER TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that tomorrow, immediately after the prayer, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) be recognized for not to exceed 30 minutes.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Senator from Ohio (Mr. YOUNG) is recognized for not to exceed 15 minutes.

U.S. SECRET WAR IN LAOS MUST END

Mr. YOUNG of Ohio. Mr. President, President Nixon ended a long administration silence about Laos last Friday by announcing that the United States has 1,040 ground forces in Laos, has lost 400 planes there, and has suffered approximately 300 casualties. That statement is, at best, a very conservative estimate of our involvement in Laos. At worst, it represents a massive effort by officials of the Defense Establishment of the United States to deceive the American people. That deception must not be allowed to continue. It is most unfortunate that President Nixon is escalating and expanding our involvement in a civil war in Vietnam by intensifying our fighting on the ground in Laos and bombing areas in Laos, sometimes 200 miles, and more, from the Ho Chi Minh trail. The Pathet Lao, seeking national liberation in Laos, have been fighting for 20 years, first against the French seeking to maintain their lush Indo-Chinese empire and now against the American CIA and air and

ground forces waging a war of aggression seeking to continue the policies of the French in violation of the Geneva agreement, which we approved, to neutralize Laos as a neutral barrier nation.

President Nixon has announced that he is withdrawing combat troops from Vietnam on the basis of a secret timetable. Whatever may be the President's plan—and that plan is still his secret—our withdrawal has clearly been too slow. Now it is obvious that even our gradual disengagement is not a reality. What is really happening is a reengagement in Laos with new titles and different uniforms.

At present we are waging an air war on a tremendous scale in Laos. U.S. planes, including B–52's, are currently hurling more than 16,000 tons of bombs a month onto Laos. Without doubt, our bombing of North Vietnam, which considerably exceeded the bombing in World War II in both the Pacific and European areas, has not ceased as we had been told. That bombing has simply been shifted—as have some of our ground forces—across the border into Laos. Much of our recent bombing has been in the Plain of Jars, in areas more than 200 miles away from the Ho Chi Minh Trail. Therefore, that bombing could have nothing to do with infiltration from North Vietnam.

In October 1965 I spent approximately 10 days in Laos, and again in 1968 I was in every area of Laos, traveling to many places by helicopter in that landlocked country. By the way, Laos was the most underdeveloped country I have been in, and I have been in a great many. Laos is not worth the life of even one American youngster. I had learned from previous visits in Laos and Vietnam that they have a way of directing so-called VIP's over certain areas. I learned in a short time to get away from escort officers, say I was looking for Ohio GI's, and get on my own. With my eyes open, and with a lot of energy throughout the day, and sometimes at night, I tried my best to get away from the restrictions and from the travel programs stipulated by the top brass in Saigon. Less than 2 weeks ago, three American newspapermen did the same thing as I did, on a much larger scale. They walked 8 miles through the jungle without informing anyone of their intention and reached an airfield staffed by a small army of American soldiers dressed as civilians. They observed U.S. B–52 planes taking off from this airfield at the rate of one per minute loaded with tons of bombs.

Mr. President, the United States has lost more than 400 airplanes and many helicopters shot down over Laos or destroyed on the ground by Pathet Lao fire. Many airmen have been killed or are missing—some, no doubt, being held as prisoners of war.

The intervention of this country into the civil war in Laos, a civil war which has continued for more than 20 years, has been achieved without any congressional authority whatever. The discredited Tonkin Gulf Resolution of 1964 gives no authority to pursue military adventures not directly related to the war in Vietnam; our bombing of northern and central Laos clearly has no relation to the Vietnam conflict.

In fact, U.S. military activity in Laos is in direct violation of the National Commitments Resolution which requires specific congressional approval for every new engagement of American troops abroad. It is also contrary to the recent amendment to the defense appropriation bill prohibiting use of funds for U.S. ground combat troops in Laos or Thailand.

President Nixon attempted to make our conduct of the war in Laos as much a secret as his plan for ending the war in Vietnam, which he told about while a candidate for President. He tried to keep it a secret until adverse public opinion and editorial dissent caused him to disclose some of the facts relating to the operations of our CIA in Laos and of our air and ground forces. Primarily through the work of some enterprising correspondents and the persistence of several U.S. Senators, part of the cloak of secrecy has been penetrated. The facts that have been uncovered are shocking.

Military supplies and personnel are ferried throughout Laos by Air America and Continental Air Services, private companies under contract with the U.S. Government. Most of the pilots for these charters—which have come to be known as the "CIA airlines"—are former Air Force officers. Reporters are barred from observing military missions and information regarding our bombing in Laos.

In addition, Thailand-based American jets and bombers, under the euphemism of "armed reconnaissance flights," have mounted aerial bombardments equal to the pounding of North Vietnam just prior to the bombing halt of 1968.

American assistance to Laos is now reliably estimated at almost $300 million per year. Yet only the technical aid budget, about $60 million, is made public. The rest, disguised in the budgets of the Agency for International Development and other agencies, is earmarked almost exclusively for military purposes.

Mr. President, after many of the horrifying aspects of our involvement in Laos had been uncovered by unofficial sources, President Nixon on March 6 undertook an explanation of American policy there. That explanation leaves us more confused than before. The President declared in his report that not one American soldier has been killed in Laos. The next day, however, the Washington Post published an eyewitness report from an American writer disclosing that an American Army adviser, Capt. Joseph Bush, was killed in ground combat on the western edge of the Plain of Jars on February 11, 1969. This was almost 13 months ago. Then just recently White House officials announced that 27 American soldiers have been killed in Laos.

These revelations belie the President's statement early this March that no soldier has been killed in Laos. I hope that this is not a harbinger either of this administration's communication with the public on events in Southeast Asia or its ability to oversee affairs in that quagmire of despair.

Mr. President, I ask unanimous consent that the article entitled "GI Death Reported," written by Don A. Schanche and published in the Washington Post of March 8, 1970, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. YOUNG of Ohio. President Nixon's "explanation" turns out to be nothing more than an attempt to shift the blame to two previous administrations and to the North Vietnamese. This kind of effort to shirk responsibility can only lead us further down the path toward full-scale massive involvement in another Asian civil war.

President Truman kept a sign on his desk in the White House which read, "The Buck Stops Here." That philosophy, to which President Truman was always faithful, should be adopted by the present President. President Nixon must recognize his responsibility to give the facts to the American people and to comply with congressional directives that prohibit U.S. involvement in Laos.

Mr. President, I yield the floor.

EXHIBIT 1

GI DEATH REPORTED

(By Don A. Schanche)

(NOTE.—Don A. Schanche, a free-lance writer and former managing editor of the Saturday Evening Post, was living among the embattled Meo tribesmen last winter, preparing his book, "Mr. Pop: The Adventures of a Peaceful Man in a Small War," to be published in April. Shortly after the fatal military action recounted here, he was ordered by the U.S. Embassy in Vientiane to leave the battle area. Embassy officials refused to discuss the affair or to acknowledge the death of Captain Bush.)

Capt. Joseph Bush, an American army adviser to the Royal Army of Laos, was killed by North Vietnamese soldiers in ground combat at Muong Soui, on the western edge of the Plain of Jars, on Feb. 11, 1969. Before he was almost literally cut in half by enemy automatic weapons fire, Bush, a light-haired, crewcut infantry officer, killed one Communist soldier.

I was spending the night in a Lao refugee village about 30 miles south of Muong Soui on the night Bush died.

Had I not been on hand early the next morning when his assistant, a Negro sergeant called "Smokes" was evacuated for treatment of a bullet wound in the right shoulder, I would never have learned of the incident. The U.S. embassy in Vientiane immediately declared the captain's brave death top secret and has not confirmed it since.

President Nixon's statement that "no American stationed in Laos has ever been killed in ground combat operations," is therefore incorrect.

Bush's death was not the only ground combat fatality in Laos. A half-dozen young Americans, working for USAID and international voluntary services, have been killed in ambushes since the Geneva accords of 1962. One of them, Don Sjustrom of Seattle, Wash., was hit in the head and killed instantly during a North Vietnamese raid on a Lao army base called Nha Khang, north of the Plain of Jars, in January, 1968.

Sjustrom, carrying a loaded shotgun for protection, was cut down as he tried to dash from the hut in which he had been sleeping to radio for help. As a refugee relief worker, he was not technically a combatant, but he did die in combat on the ground.

On Feb. 11, Bush and his sergeant helped coordinate ground action involving Thai artillery, U.S. air power and Lao infantrymen

against a Communist force dug in on a road a few miles east of Muong Soui. After the day's action, the two retired to their own barbedwire compound at the Muong Soui military headquarters. The Thai artillerymen and their adviser were bivouacked on a hill about 20 minutes' walk away.

The midnight attack was a commando raid by a force of from 30 to 40 North Vietnamese soldiers armed with Soviet-made B–40 rockets and AK–47 automatic rifles. The first target was the Lao colonel's house, which collapsed in flames after a North Vietnamese tossed a hand grenade into an open window. The explosion wounded the colonel, his wife and 5-month-old son. His air force doctors saved the critically wounded infant.

After the grenade attack the enemy shot all four Lao guards and began spraying the barbedwire enclosure with rocket and automatic weapons fire. "Smokes" said the hut in which he and Bush had been sleeping burst into flame in seconds.

The raid ended about 20 minutes after the first explosion. Twelve persons, including Bush, were dead, and 20 others, most of them Lao civilians who lived in huts around the compound, were wounded.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized for not to exceed 15 minutes.

THE MUSKIE PROPOSAL—A PREFABRICATED EXCUSE TO CUT AND RUN

Mr. BELLMON. Mr. President, the "let's cut and run in Vietnam" proposal is back with us again, only this time it is being couched in more subtle language than before.

Either that, or I have misinterpreted a recent speech by the junior Senator from Maine. In which case, I would be glad to have him set me straight.

Let me say first, however, that the Senator has put his proposition well and disguised it neatly with the statement that he believes a real end to the war can come only through negotiations. That point may or may not be valid. Suffice it to say that to date the North Vietnamese have shown little sign of wanting to negotiate on any realistic terms.

Largely, I suspect, because they have been encouraged, time after time, to believe that we will negotiate on their terms or, failing that, just plain cut out.

Certainly, these are the alternatives the Senator seems to be proposing, or, rather demanding. He tells the President he, and I quote, "must develop a proposal that is negotiable." That proposal he says is "a U.S. withdrawal timetable" coupled with "an informal arrangement regarding the withdrawal of North Vietnam forces."

Now there you have it. First we must work with the North Vietnamese and find for them a satisfactory time when we shall get out. In return, we get "an informal arrangement" regarding their withdrawal.

Mr. President, another President, a Democratic President, if you will, tried the same thing once before in Laos.

Except that in that case the North Vietnamese formally agreed to get out.

We now know what happened. We got out. The North Vietnamese did not. In fact, they now have 67,000 troops in that country. That fact shows how the North Vietnamese live up to their agreements.

Yet, the Senator from Maine would have us put our faith in them anyway. I respect his faith. But I fear it is misplaced.

Mr. President, perhaps another Member will stand up and tell me about the thousand-plus personnel we have in Laos and use that as an excuse for the North Vietnamese presence there.

Of course, there really is no comparison—for two reasons. One—we went back into Laos at the invitation of the lawful Laotian Government when it became obvious that the North Vietnamese would not leave. Two—67,000 troops with tanks and artillery is not quite the same as a thousand advisers and support personnel.

The Senator tells us that "there is some reason to believe that Hanoi would be receptive" to the negotiating approach he mentions. I am sure there is. But from their record, there is no reason to believe the North Vietnamese would live up to such an agreement should it be made.

The Senator must know this. Every thinking person in the country must know this. This is not the sure road to peace. This is just a prefabricated excuse to cut and run out on our commitments and on our allies.

Mr. President, as usual with those who put their trust in a foe who has an unbroken record of betrayals, the Senator seeks to put the onus on the back, not of the enemy, but of the American President, whomever he may be.

Again, I quote:

> We have been in Paris for over a year and a half, and it is obvious that Hanoi finds no incentives for compromise in our present policy.

Our present policy?

Mr. President, every compromise proposal in Paris since the talks began has not been made, not by Hanoi but by Washington.

On May 14 and again on November 3 the President set forth our peace proposals. I quote:

> We have offered the complete withdrawal of all outside forces within one year.
>
> We have proposed a cease-fire under international supervision.
>
> We have offered free elections under international supervision with the communists participating in the organization and conduct of the elections as an organized political force. The Saigon Government has pledged to accept the result of the elections.

Mr. President, that is what the United States has proposed. And the President goes on to say:

> We have indicated that we are willing to discuss the proposals that have been put forth by the other side and that anything is negotiable except the right of the people of South Vietnam to determine their own future.

What else could rightly be expected from the United States?

And yet the enemy, according to the Senator, finds no incentive to compromise.

I ask the Senator, "What is unreasonable about the President's approach?" I ask him, "What kind of incentives does he seek?"

I wish he could answer these questions or get the North Vietnamese to answer, because, as of last November 3, and I know of no change since then, Hanoi has refused even to discuss our proposals. They demand our unconditional acceptance of their terms; that we withdraw all American Forces immediately and unconditionally and that we overthrow the Government of South Vietnam as we leave.

How do I know this? President Nixon told us this on November 3.

Mr. President, it is obvious that there are those who would retreat from Vietnam at any cost. There are those who seem to seek to make Vietnam a political issue.

There are those who pretend that the massacres perpetrated by Ho Cho Minh after the partition of Vietnam did not happen. There are those who pretend that the atrocities at Hue—3,000 civilians shot and clubbed to death—did not happen.

There are those who ignore the effect of an American surrender in Vietnam on the peace of the rest of the world.

Fortunately for America and for the world the President of the United States is not one of those.

Fortunately for all of us the President has chosen a road to travel that freedom-loving people everywhere can live on and that the South Vietnamese will not have to die on.

It is a different road from the low-road to surrender or appeasement.

It is, instead, the highroad to an honorable and just peace.

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 assistant legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, without waiving the right of the distinguished Senator from Colorado (Mr. ALLOTT), I ask unanimous consent that the order for the quorum call be rescinded.

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

INFLATION ATTACKS EVERYBODY

Mr. SYMINGTON. Mr. President, many people believe that this continuing inflation, that is, further depreciation of the value of the dollar, is affecting only the poor and lower middle class income brackets. That is far from true, however, and in this connection I ask unanimous consent that an article by Sylvia Porter in the Washington Star of March 5, entitled "Affluent 'Scraping By,' Too" be printed in the RECORD.

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

AFFLUENT "SCRAPING BY," TOO

(By Sylvia Porter)

A bright young executive with three children in the 12–16-year age range recently boasted that his family had adopted these money-saving measures:

Adjusted the engine on their fancy new foreign car to run on regular instead of high test gasoline.

Instructed the local druggist to cut by 20 percent the total of all prescriptions filled for the family.

Found a factory outlet store where the family can buy underwear at a saving of 20–50 percent.

Switched to trains for relatively short hops in which fares are considerably less than air fares.

Stopped home milk deliveries (at premium prices); started using cold water-plus special detergents in laundering to save on hot water; vowed to buy all ski equipment at bargain prices at season's end and all pool-purifying chemicals in bulk to save $20 a year.

ANGLES FASCINATING

Fascinating angles for saving, aren't they? And even more fascinating is the family, for the executive is a $40,000-a-year man—an income bracket occupied by less than ½ percent of U.S. households.

The plain fact is that the wealthier are feeling the pinch of climbing costs and soaring taxes at every level—federal, state and local—just as the less affluent are. True, they live on a more luxurious scale and are cutting costs on skiing, pools and high-test gas, but that doesn't make their pinch any less real to them. Here's the $40,000 budget:

Item	Monthly cost	Yearly cost
Food, incidentals	$750	$9,000
Car depreciation and upkeep	120	1,440
School tuition, transportation	456	5,472
Home mortgage; improvement loan	400	4,800
All insurance	149	1,788
Medical and dental bills	125	1,500
Social security and pension contribution	100	1,200
Property taxes	120	1,440
Federal and State income taxes	1,030	12,360
Savings and miscellaneous	83	1,000

THREE POINTS MADE

Immediately, three points out of this breakdown:

First, "school"—for three youngsters in private day school—is one of this family's biggest expenses. Reason: "The public schools in our area simply don't offer quality education." This family, like millions of others, pays increasingly steep school taxes—plus steep private tuitions. Private schooling is rapidly becoming a necessity rather than a luxury to many parents across the United States.

Second, all types of taxes, totaling $13,800 a year, amount to 35 percent of the budget. The importance of taxes in today's middle-upper income squeeze cannot be exaggerated.

Third, the budget makes no special provision for the costs of vacations (this family has simply stopped taking them), restaurant eating, gifts, clothes. And the scant amount a month for savings also seems dangerously low to me—in view of the likelihood that three children soon will be entering college.

OTHER PATHS TAKEN

In addition to finding exotic cost-cutting devices, what are upper-income families doing to ease the squeeze?

They're taking on more and more moonlighting jobs—in anything from teaching to consulting; demanding bigger and bigger raises; requesting transfers overseas where living costs are less; urging their wives to go back to work. Many, too, are simply using for day-to-day living the capital they have accumulated toward college costs or retirement.

How about simply cutting back living standards?

No, says the executive, despite his cost-cutting: "The big push instead is to find more sources of more income."

BEYOND VIETNAM: PUBLIC OPINION AND FOREIGN POLICY

Mr. SYMINGTON. Mr. President, in a brochure entitled "Beyond Vietnam: Public Opinion and Foreign Policy," a report of the National Policy Panel established by the United Nations Association of the United States of America, a committee chaired by the Honorable Arthur J. Goldberg, under the subheading "Congress, Foreign Policy, and the Public," there are some interesting comments.

After detailing some of the things that have happened in recent years, this part of said report concludes with the following statement:

The democratic process is in danger of being warped by the seeming impotence of Congress in the foreign policy area. Apparent Congressional inattentiveness to the basic direction of American foreign policy has, all too often, denied the concerned citizen an important means through which he could relate in a direct and responsible manner to foreign policy decision-making. In particular the failure to develop procedures for the examination of the important agreements between the Executive and foreign governments is contributing seriously to an increase in the frustration of citizens concerned with foreign affairs.

I ask unanimous consent that this part of that report be printed in the RECORD.

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

BEYOND VIETNAM: PUBLIC OPINION AND FOREIGN POLICY

CONGRESS, FOREIGN POLICY, AND THE PUBLIC

The last thirty years have been a period of increasing Executive ascendancy over Congress. The very nature of contemporary foreign policy—its crisis-orientation, its heavy operational content, its premium on secrecy—all work to accentuate the role of the Executive in its formulation and execution.

During the last decade Congress in most instances has failed to serve as a strong source of examination and advice on the basic philosophy and direction of U.S. foreign policy or as a *post hoc* audit on the performance of the Executive Branch in the foreign policy arena. The major aspect of recent Congressional involvement in the foreign policy process has been limited, in the main, to attempts directed at intervening in the operational aspects of foreign policy. This typically has taken the form of amendments to the foreign aid appropriation directing the President to withhold aid from certain countries or to stop aid in the event that a country expropriates without compensation property owned by Americans.

There are a few examples of Congress attempting to explore and advise on the basic direction of American foreign policy. In 1966 the Senate Foreign Relations Committee began to probe in public hearings the dimensions and implications of U.S. Asian policy. The Senate Government Operations Committee has probed the effectiveness of the national security policy machinery of the U.S. But these are largely exceptions to a general attitude of Congressional inattentiveness to the basic direction of U.S. foreign policy in the face of Executive ascendancy.

Congress particularly has failed to develop adequate procedures for examining the evolving nature of U.S. policy as expressed in agreements between the Executive Branch and foreign governments. The constitutionally sanctioned procedure of treaties once concluded being submitted to the Senate for their advice and consent largely has been bypassed by the nature and tempo of contemporary foreign relations. The recent Fulbright-Mansfield Senate Resolution regarding the manner in which our international commitments should be authorized is a late indicator that in this vital area of contemporary foreign affairs our constitutional and democratic processes for taking important decisions are in dispute and perhaps need revision. No agreed procedure has been found for subjecting to Congressional examination the numerous nontreaty agreements concluded between the Executive Branch and foreign governments.

As a result of this state of affairs a large and ill-defined proportion of U.S. foreign policy appears to have escaped the process of Congressional examination.

If agreements concluded solely by the Executive with a foreign government are later to be cited and accepted as controlling the course of U.S. foreign policy then Congress to a large extent appears to the concerned public to be irrelevant.

For the public this increasing tendency to conduct foreign policy by means of agreements concluded without the intervention of Congressional examination has meant the erection of an additional and highly effective barrier to citizen relationship to the process by which U.S. foreign policy is made. Congressional action on public policy issues raises it to a level of visibility where the opportunity for citizen concern becomes realizable. On the other hand, agreements between the Executive Branch and foreign governments, particularly if they are covert, provide little, if any, opportunity for the concerned citizen to express an informed opinion. If such agreements are to be later cited as the basis for additional U.S. action, one should not be surprised if the level of citizen frustration sharply increases.

The democratic process is in danger of being warped by the seeming impotence of Congress in the foreign policy area. Apparent Congressional inattentiveness to the basic direction of American foreign policy has, all too often, denied the concerned citizen an important means through which he could relate in a direct and responsible manner to foreign policy decision-making. In particular the failure to develop procedures for the examination of the important agreements between the Executive and foreign governments in contributing seriously to an increase in the frustration of citizens concerned with foreign affairs.

CHARLES ALLEN THOMAS AND ECOLOGY

Mr. SYMINGTON. Mr. President, in these days of pessimism about the environmental problems incident to ecology, it is refreshing to hear the words of a great expert in that field who is also one of the outstanding scientists and industrialists of our time.

Everybody in Missouri and other parts of this Nation is mighty proud of the record of Dr. Charles Allen Thomas, former head of the Monsanto Chemical Co. and recipient of the Priestly Medal, highest honor in his field.

I ask unanimous consent that an article published in the St. Louis Post Dispatch of Sunday, March 8, entitled "Technology Can Cure Social Ills, Says Monsanto's Charles Thomas" be printed in the RECORD.

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

TECHNOLOGY CAN CURE SOCIAL ILLS, SAYS MONSANTO'S CHARLES THOMAS

(By Curt Matthews)

Looking back on a 35-year career at Monsanto Co. that combined the excitement of

scientific research with the satisfactions of corporate leadership, Charles Allen Thomas has but one regret.

"As the company got bigger and the organization more complex, I missed the daily contact—the give and take—with young people around the place," says the 69-year-old Thomas, a former president and chairman of the board of directors at Monsanto.

Thomas, who emerged as a nationally prominent scientist-executive at Monsanto at a time when this "new breed" of professional manager became the motivators that oriented American business toward innovation, saw positive "catalytic effects" in his relationship with younger scientists and managers.

"My personal contacts with young people I always looked upon as two-way streets—they gave me as much or more than I was able to give them," says Thomas who is retiring this month as a member of Monsanto's board of directors, his last official post with the company he joined in 1936 as a research chemist.

YOUNG STIMULUS

"It's a stimulating experience to talk with young people today," says Thomas noting that his role as chairman of Washington University's board of directors has been an avenue of close exposure—if not always close rapport—with youthful new attitudes. "We ought to devise some way for top executives to get away from their daily routines and engage more in the give and take with people throughout their companies. The output of such experiences would be very valuable."

Thomas believes that the current disenchantment many young people express toward big business and the commercial uses of technology will soon be diminished as a result of newly developed relationships between technology and social good.

"Technology is going to rescue the social scientist," Thomas said last week the day before his participation in a science symposium named in his honor and focused on "Science, Engineering and the Quality of Life."

"The image that many young people today have of the technically oriented company is that it provides the tools of war," Thomas observed. "There is no question that modern warfare depends on technology. But so do the solutions to many of our most pressing social problems. When young people realize the potential in the relationships between technology and social good, they will be drawn back to the major companies with good technical resources."

START AT GENERAL MOTORS

Throughout a career that reached back to 1923 when he became a research chemist for General Motors Corp., Thomas has seen corporate research laboratories produce new products and technical approaches as a result of shifting needs of society.

It was during his employment at General Motors that Thomas developed the tetraethyl lead compound used in motor fuels to make engines run smoothly.

Later, after joining Monsanto, he was one of the principal scientists involved in development of processes to purify plutonium, an element essential to production of the atomic bomb in World War II.

Thomas believes that just as the chemical industry produced "knock-free" gasoline and atomic energy to meet social demands of a motoring public or a war-threatened America, the industry will find ways to provide solutions to social problems—particularly the problem of pollution.

"There is no other industry that you could name that is better positioned to deal with the problem of pollution than the chemical industry," Thomas notes. "Chemical operations are present in practically every aspect of pollution—air, water and solids."

Thomas, who has received numerous industry and academic awards throughout his career, including the highest award for achievement in American industrial chemistry in 1953 and the Priestly Medal, the highest honor given by the American Chemical Society in 1955, views the chemical industry as "the only industry capable of tapping the full spectrum of opportunity that exists today."

"I have to be bullish about the chemical industry and its role in the future of America," says Thomas. "It has always been the genius of the industry to come up with new approaches to old problems. With the possible exception of electronics, I can't think of another industry that can address itself directly to almost any area of social need and find a market."

FATHER A MINISTER

Charles Allen Thomas was born on a farm in Scott County, Kentucky, the son of a Disciples of Christ minister. An early interest in chemistry and a natural boyish curiosity produced the expected reaction and Thomas recalls that he "blew up things several times" in the laboratory he assembled to conduct "basic" research.

At the age of 16, Thomas entered Transylvania College where he received a bachelor of arts degree in 1920. He went on to Massachusetts Institute of Technology and obtained a master of science degree in chemistry.

Thomas went to work for General Motors Research Corp. as a research chemist upon graduation from MIT. After helping with the development of tetraethyl lead compound for motor fuels, he joined the Ethyl Gasoline Corp. as a research chemist.

In 1926, Thomas combined his talents with those of an associate he met at General Motors, Carroll A. Hochwalt, and formed Thomas and Hochwalt Laboratories in Dayton, Ohio.

In 1936, Thomas & Hochwalt Laboratories was acquired by Monsanto and Thomas became the central research director at Monsanto and Hochwalt, who is now chairman of the St. Louis Research Council, was made associate director.

Thomas was elected to Monsanto's board of directors in 1942, was made executive vice president of the company five years later and in May, 1951, was elected president of the diversified international operation that today employs more than 64,000 persons.

He was chairman of the board from 1960 to 1965, when he was succeeded by Edward A. O'Neal, who served as chairman of the company until 1968.

Reflecting on the changes that have taken place at Monsanto since he joined the company in the depth of the Depression, Thomas notes, "Growth has been the most obvious change. When I started out, sales were only $34,000,000 a year. In 1969 Monsanto approached the two billion dollar sales mark."

ATTITUDE CHANGED

There have been other changes in Thomas's 35 years with Monsanto:

"They used to think that money spent on research was money out the window.

"The emphasis in the early years was on production. Now it has shifted to marketing and corporate development."

Although research was considered "strictly overhead" when Thomas joined Monsanto, the company's attitude has evolved significantly in the intervening years. In 1969, Monsanto spent $101,500,000 in research and development, up significantly from the $86,300,000 outlay for R&D the previous year.

Thomas, who personally holds more than 85 United States and foreign patents, believes that despite lagging interest by investors in the chemical industry, this expenditure in research will eventually pay great dividends for the industry as a whole, Monsanto in particular and society in the long run.

"The chemical industry is in line for a great renaissance," Thomas said reflectively last week. "There are many opportunities ahead that the chemical industry is in line to meet. It will require some changes in outlook and in organization, but the rewards to the industry and to society will be exciting to witness."

PROBLEMS OF THE ENVIRONMENT

Mr. ALLOTT. Mr. President, about 2,000 years ago, in 46 B.C., Julius Caesar was infuriated by chariot congestion in the streets of Rome. As a result, Caesar banned all wheeled vehicles from the streets during daylight hours.

Caesar was a dictator, which enabled him to fight Rome's environment problems with breathtaking directness. Of course, the fact that Caesar was a dictator did intolerable damage to the quality of life in Rome, damage much more insidious than traffic congestion could ever do.

If America were a dictatorship we could make some environmental improvements just by getting the dictator interested. But we are a democratic people, and we cannot act on a broad front in this fight until there is broad-based public support for the costly and often discomforting measures of environmental improvement.

The first step on the road to winning such broad-based support is to talk candid sense to the American people. Perhaps the way to begin talking sense is to explain why even a dictator could not achieve victory in the fight against pollution.

A dictator can be an awesome policeman. But it is quite wrong to think that environment problems call for nothing more than vigorous police action.

True, there are many areas in which we need more stringent laws curtailing or forbidding destructive activities. We need more laws with sharp teeth. But such steps—though necessary—are essentially negative. They require that people stop doing wrong. Hence, it is even more important that we learn how to do things right. This is a positive task. It requires the acquisition of new knowledge and technology. As a result, it is a more demanding task than the policing task of halting wrongdoing.

This positive task will require a creative partnership between government and the private sector. The private sector has great reservoirs of talent and inventiveness. The government can help elicit this.

The task of creative government is to devise incentive mechanisms that will encourage industry to turn its inventive genius, research talents and managerial techniques toward solution of the environmental problems that are directly and indirectly related to processes and products of industry.

We must then expect the private sector of the American economy to be as creative in helping solve environment problems as it has been in producing goods and services.

By the end of 1971 we may have the world's first trillion-dollar-a-year economy. As the gross national product grows, so does the inventive capacity of American industry.

There are now 570,000 scientists and

engineers employed in research and development in America. Approximately 70 percent of them are in private industry.

Research and development expenditures by government and nongovernment sources were only $5.2 billion in 1953. In 1970 they will be $27.2 billion. This is $1 billion more than last year, and $7 billion more than in 1965. Almost half of this year's $1 billion increase will go for research.

In 1970, Federal, State and local governments will provide 57 percent of all research and development funds. But industry will account for 70 percent of all research and development performance. This is made possible by the creative partnership between government and industry, whereby the Federal Government furnishes $8.5 billion, or 44 percent of the research and development funds spent by industry.

But it is worth noting that industry today is furnishing a larger percentage of the larger total of the research and development money it uses. In 1965 only 45 percent of such money came from industry's internal funds. Today the total is 56 percent.

The lesson we should learn is twofold. First, the fight against environmental decay is not just a government fight. The private sector has a vital role to play in the acquisition of necessary new knowledge.

Second, even where exercise of the police power is vital to solution of environment problems, we must avoid the tactics of confrontation. Any tactic which simply pits villains against victims is apt to be inappropriate. Environment problems involve complex processes and conflicts that are rarely simple collisions between two entirely separate interests.

This point has been made with exceptional clarity by Max Ways, an associate editor of Fortune magazine.

Writing in the special 40th anniversary issue of Fortune—February 1970—an issue devoted entirely to environment problems, Mr. Ways says:

> Better handling of the environment is going to require lots of legal innovation to shape the integrative forums and regulatory bodies where our new-found environmental concerns may be given concrete reality. These new legal devices will extend all the way from treaties forbidding oil pollution on the high seas down to the minute concerns of local government. But the present wave of conservationist interest among lawyers and law students does not seem to be headed along that constructive path. Rather, it appears intent on multiplying two-party conflicts between "polluters" and victims.
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> When we read of some environmental atrocity—a sonic boom, a baby bitten in a rat-infested slum, a disease caused by polluted air—our sympathies instantly go out to the victims, just as our sympathies go out to those hurt in automobile accidents. This example should give us pause. The damage suit as a legal remedy in automobile accidents has clogged the courts and imposed on the public a $7-billion annual bill for liability insurance premiums. This huge cost contributes almost nothing to highway safety. For a fraction of the dollars and the legal brains drained off by damage suits we could have produced better highway codes and better regulations for car safety—and also provided compensation for the victims of a diminished number of accidents. If environmental law follows the dismal pattern of automobile tort cases, every business and perhaps every individual will be carrying insurance against pollution-damage suits. An army of pollution chasers, hot for those contingent fees, will join the present army of ambulance chasers. None of that is going to do the environment any good.
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> From the civilizational standpoint, the expansion of the law of torts was a magnificent advance over the blood-feud, the code duello, and the retaliatory horsewhip. But out of respect for this achievement of our ancestors we are not required to go on multiplying damage suits ad infinitum, while ignoring the need for new legal forms more relevant to the problems of our own time. This is not intended to suggest that environmental tort cases should have no place in future law. It is meant to express the hope that such suits will be exceptional and that the main line of legal development in respect to the environment will break (if conservationists can forgive the metaphor) new ground.

Mr. Ways' reference to conservationists raises another aspect of the problem of thinking clearly about environmental problems. There is much confusion about the word "conservation."

If by "conservation" we mean just rigid preservation of the status quo in all of nature, then conservation is impossible and intolerable. Such a use of the word "conservation" would give the practice of conservation a bad name. Fortunately, there are more reasonable definitions of the word "conservation."

Milton M. Bryan, an official in the Forest Service, clarifies the matter when he says this:

> I believe we need to be concerned about the fact that the term "conservation", which really means a wise and balanced use of resources, is often interpreted in the narrower sense of "preservation" which excludes timber cutting, wildlife harvest, managed watersheds and forage for livestock. Conservation can and should go hand-in-hand with the multiple uses that make a forest a more profitable and productive resource for all concerned.

This is an illustration of workable and prudent conservation. It accords with commonsense and the national interest.

We can illustrate what it means in practice by considering some problems relating to the national need for conservation and for development of resources in the field of forestry.

Sixty-seven years ago President Theodore Roosevelt declared:

> The success of homemakers depends in the long run upon the wisdom with which the Nation takes care of its forests.

President Roosevelt understood that taking care of our forests involves more—much more—than just preserving existing forests. The fact about our demand for timber make it clear why the success of our economy as a whole is linked to sound forestry policies.

According to administration projections, we must build 26 million new homes in this decade. This means 2.6 million homes each year, a marked increase over the less than 1.5 million we averaged during the 1960's. Whether we will make this goal is uncertain. It depends upon many things, not least of all upon monetary policies. But if we are even going to come close we are going to need lumber in vast quantities.

Thus the idea of conservation that is applicable to forestry is a dynamic idea geared to meeting an ongoing and increasing demand for timber.

This demand is already huge.

In one year Americans use enough wood to build a boardwalk 10 feet wide and long enough to wrap around the earth 30 times at the equator.

Consider the appetite of just one member of one timber-using community, the publishing industry.

It takes 4,500 tons—9 million pounds—of newsprint to publish one Sunday edition of the New York Times. To produce that newsprint, it takes approximately 6,000 cords of wood. To get that wood might require the selective cutting of forest spruce from approximately 200 acres.

Now these statistics might cause some people to think that American forests are in mortal danger because of the Times pledge to publish "All the news that's fit to print." But it would be depressing—and quite wrong—to think that we must choose between a vigorous press and flourishing forests. We should remember several things.

First, some of the wood—used in America is grown elsewhere. For example, much of our pulpwood comes from Canada.

Second, the growth and harvesting of pulp wood is legitimate forest use that in no way conflicts with a sensible conservation program. On the contrary, it is the essence of meaningful conservation, understood as the sensible use and renewal of resources.

On the question of renewal of resources, there is another confusion that sometimes attaches itself to the word "conservation." Consider the matter of reclamation.

Mankind is not to blame for all pollution.

Soil erosion results in a form of water pollution, and nature inflicts this kind of pollution on itself with no help from man. Although, I might say that sometimes it gets too much help from us. As the President has noted:

> The Missouri River was known as "Big Muddy" long before towns and industries were built on its banks.

Reclamation programs, begun during President Theodore Roosevelt's administration, combat this natural environment problem.

Reclamation programs—including policies of sound soil and water use—do more than just restore balance to nature. They bring a balance to nature that nature never had before, and thereby improve whole regions and areas.

For example, without such reclamation the prosperous sun country of the American southwest would have an abundance of sun and shortages of most other things—including water, people and prosperity. Such programs, which go beyond mere preservation, are important conservation programs.

There is yet another sense in which reclamation programs are important for our national economic well-being. We can illustrate the point with reference to mining.

Currently there are 20,000 strip mines in America using more than 150,000 acres annually. But it is not true that the only way to avoid permanent scars or some

other resulting evil is to stop all strip mining. In fact, State mine land reclamation laws, combined with Bureau of Land Management requirements, now insure that 90 percent of mining activity is covered by requirements regarding reclamation of used land. Thus our sensibly evolving mining policies recognize both the increasing national need for raw materials and the intensifying national interest in conservation of land. Here, again, we are using the word "conservation" to mean the sensible use of resources. Thus, when we speak of reclamation as part of the mining cycle, we are not saying that mined land must be restored to its original condition. Rather, we are saying that such land must be restored to usable condition—recognizing that many uses of land are compatible with a reasonable conservation program.

Twenty States have adopted mine land reclamation laws which require that reclamation be treated as part of the mining cycle.

Such a policy recognizes that land reclaimed after mining may be most suited for a purpose entirely different than what it was suited for before mining took place.

If we were not able to correct the effects of mining, there might be substantial public pressure to sharply limit mining activities. Such pressure might have some unintended victims. Consider the following case.

In the early 1960's, thanks largely to the publicity attending the 1960 Democratic Party primary in West Virginia, the Nation became aware of the poverty-stricken condition of many residents of Appalachia. Poverty was especially acute among coal miners. By the beginning of the 1970's, the coal industry was doing much better. There was still poverty in Appalachia, and not all coal miners shared in the increased prosperity. But the well-publicized plight of Appalachia residents was improved, and that was a good thing.

The trouble is that the increased demand for coal, which increased employment and wages, also increased the scale of strip mining, especially in Kentucky. But we have not yet fully mastered techniques of strip mining without disrupting the local ecology. And expensive regulations on coal mining in all its forms might make coal less competitive as an energy source. Thus, we might protect the environment at a direct and severe cost to the long-suffering coal miners.

One thing should be clear. In our complex society, relationships between things and policies are often far more complex than we realize. Because of this, we in Government especially must become more alert to the fact that there are hidden policies in many fields.

A hidden policy exists when a policy designed for one social problem has important ramifications on another social problem.

Let me give an example. When transportation policy calls for building superhighways into cities, this is also a hidden housing policy, because highway construction in these instances is going to displace some residents.

There are probably more hidden environment policies than any other kind. Just as the environment is all around us, a government can hardly turn around without creating a hidden environment policy. When New York City recently raised its subway fares 50 percent without increasing tolls on the tunnels and bridges coming into the city, it was reasonable to expect that some people might drive to work rather than take the increasingly expensive subway. More driving means more exhaust fumes and more air pollution.

Such hidden connections between seemingly unrelated policies and problems can be dangerous if we are not alert. But they can be turned to advantage by skillful planning.

This planning should take advantage of what Roger Starr and James Carlson call cross-commitment.

Mr. Starr is executive director of the Citizen's Housing and Planning Council; Mr. Carlson is an economist for F. W. Dodge Co. They explain their strategy of cross-commitment in an intriguing essay in the Public Interest—winter 1968.

Cross-commitment is the policy of designing two programs which aim at different goals, but which interact in such a way that each promotes the achievement of the other program's goal.

Mr. Starr and Mr. Carlson want to combine a clean waters program with an attack on poverty. This is how it would work in a program to eliminate combined sewer systems in major cities.

Combined sewer systems are systems that unite storm and sanitary sewers into a single system. Heavy rains often cause discharge of considerable raw sewage in water that is not processed by a treatment plant. Thus we could cut down on water pollution in and around cities if we could separate combined sewer systems into separate storm and sanitary systems.

This would be a clear environmental blessing to everyone. It would cost a great deal and Mr. Starr and Mr. Carlson argue that this cost could be a blessing in disguise. They penetrate the disguise with an argument I will explain.

It is common now to separate sanitary and storm sewers in new subdivisions. But it might cost $30 billion to separate them in older urban areas. Sample estimates are that it would cost $160 per resident in Washington, D.C.; $215 in Milwaukee; and $280 in Concord, N.H.

Mr. Starr and Mr. Carlson look upon this expense as a possible instance of crosscommitment between the wars against poverty and pollution. They speak somewhat jokingly about "the economic beauty of sewers" but the point they are making is very serious and what they say deserves quoting at length:

> Of all the major types of construction activity, the one that requires one of the highest proportions of unskilled labor is the placement of sewage lines. Labor Department studies indicate that common laborers account for over 40 percent of all on-site man-hours involved in the construction of sewage lines. And on-site wages normally account for between one-fifth and one-fourth of the dollar value of a typical sewage-line contract. Adjusting for the fact that wage rates paid to laborers would be somewhat below the average for all employees on the job, the decision to undertake only the modest $30 billion expense of complete separation of sanitary and storm sewers would result in direct wage payments of around $2.5 billion to unskilled laborers. At an assumed annual wage of $5,000, this could generate half a million man-years of employment. That's enough to provide jobs of one year's duration for three-fourths of all males in the nation who are currently unemployed for five weeks or more.
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> The point is: Aside from the tremendous benefits that such an undertaking would have in improving the nation's water resources, it could also be a formidable tool in any program bent on eradicating poverty.
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> Roughly twenty-five cents of every dollar spent on sewer lines or treatment plants goes for direct wage payments. But, more important, almost half of these wages go to unskilled or semi-skilled employees. If putting people to work and the value of the work experience is recognized as a necessary first step in acquiring job skills, then expenditures for construction in this area, coupled with an active recruitment program of the unskilled unemployed, is a very efficient means of getting a lot of people to work in a relatively short space of time.

Mr. President, I feel compelled to add that while this material is used for the sake of illustrating the idea of cross-commitment, I must say personally that the one statement that $30 billion would be a modest expense somewhat cools me off as a member of the Committee on Appropriations. But it also illustrates one thing in this entire environmental problem and that is that we are not going to solve these problems without spending a lot of money.

Mr. President, whether Mr. Starr and Mr. Carlson are correct on this particular matter is a question that could only be settled by extensive and intensive investigation. But one thing is clear.

Their idea of cross-commitment is ingenious and intelligent. It should be examined by all of us as we prepare to embark on large-scale expenditures for environment improvement.

Our resources are limited. Our taxes are high. Our needs are many. Thus, if we can kill two birds with one stone—by attacking two problems or even more than two problems with one appropriation—we should do so.

Further, as we seek ways to implement the strategy of cross-commitment we will be alert to the existence of hidden environment policies, as well as to hidden policies in poverty, transportation, and many other areas.

Actually, we are already prepared to do this. The Cabinet Committee on the Environment, created in 1969, is coordinating departmental activities affecting the environment. This group should help us to be aware of hidden environment policies.

This will encourage clear thinking about environment problems and will enable us to get maximum mileage from our resources.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will proceed now to the consideration of routine morning business.

VIETNAM REPORT

Mr. YOUNG of Ohio. Mr. President, Americans should know that from January 1961 to March 1, 1970, in North Vietnam, South Vietnam, and Laos approximately 3,200 American warplanes have been destroyed and that during this same period more than 3,500 American helicopters have been destroyed.

Most of these were shot down by enemy action in and over South Vietnam. Some were destroyed on the ground by mortar fire. In the course of the bombing of North Vietnam many of our planes were destroyed by enemy fire before President Johnson stopped bombing north of the 17th parallel.

The results of our bombing targets in North Vietnam did not justify the losses of airmen and destruction of our planes. This, particularly in view of meager damage done by our bombing. American taxpayers should know that the average cost of every airplane destroyed was $2 million and the average cost of every helicopter was $250,000.

This total destruction exceeds $7.275 billion.

Recently in Laos newsmen who eluded our CIA operatives and walked nearly 10 miles through jungle trails observed American fighting men wearing civilian clothes. Even more important, they witnessed our B–52's flying from bases in Laos at 1-minute intervals. Since 1965 our bombers in Laos have hurled a greater tonnage of bombs than were hurled on North Vietnam throughout the entire period we were bombing north of the 17th parallel. It is estimated that our gigantic B–52's have not only bombed the Ho Chi Minh Trail in Laos which extends from North Vietnam along the border of Cambodia and Laos, but we have bombed areas in Laos more than 200 miles distant from the Ho Chi Minh Trail. On these bombing missions which are said to approximate 6,000, our casualties, mostly in airmen killed and missing in combat, are more than 400. In addition approximately 300 have been wounded in Laos. In October 1965 when I was in that underdeveloped country for nearly 10 days our warplanes were disguised. In 1962 and in previous years we had guaranteed the neutrality of Laos. Regardless of that, when I was in every area of this underdeveloped country for several days in 1968 traveling by helicopter throughout the entire length and breadth of Laos I observed then that our warplanes were no longer disguised as I had observed in 1965. We had violated an agreement to maintain Laos as a neutral country in 1965, so we disguised our planes at that time. However, we were openly intervening in a civil war in that unhappy inhospitable land. Furthermore, literally hundreds of CIA operatives were all over the place, calling the shots and conducting the war that we were waging.

ATTORNEY GENERAL JOHN N. MITCHELL'S PROPOSAL OUTRAGEOUS AND UNCONSTITUTIONAL

Mr. YOUNG of Ohio. Mr. President, on reading the first page of the Washington Post of March 10, I was astonished to learn that John N. Mitchell, the Attorney General of the United States, stated that he would ask Congress to permit courts to order fingerprints, voice prints, blood tests, and other identification checks of suspects even before they are formally accused of any offense.

No doubt the Attorney General of the United States was a very skilled lawyer, but his specialty as a partner in the law firm of Nixon, Mudge, Rose, Guthrie, Alexander, and Mitchell, up until the time of his appointment as Attorney General, was passing on the merits of municipal bonds and tax-exempt bonds.

It is evident to me, as former chief prosecuting attorney of Cuyahoga County, Ohio, and as a lawyer who practiced law for more than 40 years in the courts of Ohio, the U.S. courts, and the courts of neighboring States, that Attorney General Mitchell never tried a lawsuit in court in his entire career as a lawyer. Certainly, he does not know anything about criminal law.

Evidently the Attorney General of the United States, Mr. Mitchell, would do very well to read the first 10 amendments to the Constitution of our country, adopted on the demand of those patriots who fought and won the War of Independence and who felt outraged when the first draft of the Constitution, which was drafted by 55 men in Philadelphia, was announced. The first 10 amendments were adopted upon their demand, because of the uproar from the homes of every patriot in colonial times.

In my opinion, Attorney General John N. Mitchell would be well advised to study the fourth, fifth, sixth, and eighth amendments to the Constitution of our country, and then "cool it"—"cool it" a lot. He is advocating that a policeman, without any warrant whatever, be permitted to fingerprint and extract a blood sample from a man or woman accused or suspected of having committed a misdemeanor or some criminal action. This would include anyone taken in on a dragnet operation, in which hundreds of suspects are arrested.

The Attorney General's proposal would allow a policeman to go into the home of one suspected of committing a misdemeanor—driving while intoxicated, speeding, or anything else, then later place him in a lineup, with no charge against him, and have him fingerprinted. This proposal is offensive, unthinkable, and unconstitutional.

Then, under Attorney General Mitchell's program, a suspected person, not willing to go into a lineup or who would not permit a sample of his blood to be taken, could be brought before a judge, even though no charges has been brought against him, and punished for contempt of court.

Mr. President, no doubt this gentleman, in order to have become a partner in a great Wall Street law firm, must be a very well-educated and intellectual man. He might be a good man to be Secretary of Transportation, or in some less important administrative position, but very definitely he is lacking in knowledge of trial procedures.

Mr. President, in that connection, as chief criminal prosecuting attorney of Cuyahoga County for some years, I believed at that time, and very definitely I believe now, that certain punishment, like a shadow, should follow the commission of every act of violence against the laws of our country. We must at all times adhere to the guarantees giving complete civil rights and civil liberties to all Americans. These guarantees have been written into the Bill of Rights of our Constitution. They must be respected.

The proposals made by the Attorney General deserve no consideration. When we read all his statements, we are led to wonder what sort of extremist we have as Attorney General. It is very unfortunate, Mr. President. We do not need new, oppressive, un-American laws. What we need in Washington, what we need in every city in the United States, are more and better law enforcement officers. The policemen are not entirely to blame. Salaries of police officers and other law enforcement officers throughout the Nation should be increased, so that intelligent high school graduates will seek out law enforcement as a career.

In addition to that, in Washington, D.C., and elsewhere, too many judges who are appointed and elected lack integrity and have backbones like jellyfish when it comes to imposing adequate and proper sentences on those who violate our laws.

So let us start with cleaning that up, instead of having the chief law enforcement officer of the entire Nation advocating stupid, unconstitutional practices.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Is there further morning business?

S. 3579—INTRODUCTION OF THE NEW ENGLAND STATES FUEL OIL ACT OF 1970

Mr. PROUTY. Mr. President, I introduce for appropriate reference a bill to provide sorely needed relief to the citizens of our New England States, who are unfairly forced to pay artificially high prices for home heating fuel as a result of the mandatory oil import program. The bill is entitled the "New England States Fuel Oil Act of 1970." I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD in accordance with the Senator's request.

Mr. PROUTY. Mr. President, I represent a State and a region which depend almost entirely on home heating oil—commonly called "No. 2" home heating oil—to furnish heat during our severe winter months. Over 80 percent of the 11 million people living in New England depend upon oil burners for heating. Although we comprise 6 percent of the Nation's population, we consume 21 percent of all home heating oil consumed in the Nation. We have virtually no natural gas heating and relatively little electric heating. We depend on oil for approximately three-quarters of our total heating needs. Home heating oil is hardly a luxury item in the budget of

New Englanders. It is a necessity vital to the health and well-being of the people.

An adequate supply of heating oil at a reasonable cost is, therefore, of crucial importance to the area.

Yet, Mr. President, New England residents are the captive victims of an unfair system which in recent years has resulted in critical shortages of No. 2 oil during the peak consumption winter months. And the prices which our homeowners must pay for heat are nothing short of outrageous. Retail prices for home heating oil are higher in New England than in any other region of the country. In 1968 New Englanders paid 9 percent more for No. 2 oil than the national average.

During the recent winter of 1969–70, Vermont suffered severe cold weather and snowstorms. The per capita heating oil requirements rose, but the available supply declined.

Mr. President, why are the people of New England subjected to this intolerable and discriminatory burden? We are so severely disadvantaged that the need for relief fairly cries out, for in all good conscience the Congress cannot let this hardship persist for another winter if an answer to our plight can be found.

I believe a solution is available, Mr. President, in the bill I have introduced. Very simply, I propose a law to remedy the inequity arising out of the 1959 Presidential Proclamation No. 3279, which established mandatory oil import restrictions, by permitting the importation into the six-State New England region of all home heating fuel necessary to provide an adequate supply at a reasonable cost. My bill would not alter in any other way the existing quota restrictions.

Although my proposal is only part of the answer, it goes a long way because the mandatory import restrictions are the principal cause of the short supply and high cost of home heating oil in the Northeastern States. That this is so was borne out by the President's Cabinet task force report released last month. The task force determined that the nationwide cost we bear for restricting oil imports is $5 billion. The eastern seaboard States bear the biggest share of this cost, paying $2.1 billion more than they would if controls were lifted.

But even more startling, Mr. President, is the high cost to New England. Whereas the national per capita cost of import restrictions is $24, Vermonters must pay an extra $45; in Maine the figure is $41; in New Hampshire, $39. Mr. President, I ask unanimous consent that a table showing consumer costs in 1969 of the import program in different States be printed in the RECORD to accompany my remarks.

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

(See exhibit 1.)

Mr. PROUTY. Import controls, as they affect New England, create an obviously artificial and unnatural economic structure, whereby the area with the greatest market for home heating oil pays the highest price.

Why is New England singled out for such harsh treatment, Mr. President? The answer is simply that New England must depend entirely on heating oil produced in distant areas of the country and transported thousands of miles. Because of the import restrictions, we must use domestically produced oil, which at $3.30 a barrel wellhead price exceeds the world market price of $2 by over 30 percent. The New England region has no indigenous sources of crude oil, no oil refineries and no oil pipeline.

What New England needs, Mr. President, is not promises, not study committees and not makeshift solutions, but a rational solution now—in time for suppliers to obtain increased amounts of heating oil for the coming winter, which is only 7 months away.

Mr. President, I want to make it clear that I am not going so far as to propose at this time a total abolition of all import controls. Serious national security issues are at stake which must be carefully weighed. The President's Cabinet Task Force is to be commended for its balanced and thorough review of these issues. The Task Force, which recommends the replacement of the quota system with a tariff system, recognizes the national interest in fostering a safe domestic source of petroleum, and proposes a gradual procedure toward lowering trade barriers. President Nixon has not adopted the Task Force report, choosing instead to make a further review of the present system. It is encouraging that President Nixon did act promptly with respect to some of the Task Force recommendations by establishing an Oil Policy Committee to provide policy management in the administration of the import program.

But, Mr. President, New England cannot sit through another winter awaiting possible relief. We cannot depend on emergency allocations by the Oil Import Appeals Board, which in recent years has given us some, but not nearly enough, relief.

There is no question in my mind, Mr. President, that the present quota system is the culprit. New England depends for delivery of home heating fuel on a large number of independent dealer-distributors. These dealers sell over 70 percent of all of the home heating fuel in New England. Yet, they are severely disadvantaged by the operation of the import restrictions. Although they have an abundance of deepwater terminals which could receive foreign products, they cannot import cheaper foreign oil and must depend on the domestic supply made available by the major Gulf States producers. The quota system disfavors these independents, because it freezes imports at the 1957 level and allocates them according to import history. Thus, only the major, integrated companies can import any substantial amount of heating oil, and the independents must look to the majors for their supply. The independents are thus forced to rely on their competitors for an adequate supply—hardly a situation conducive to price competition.

Moreover, the major marketers, who unlike most independents deal in numerous oil products, do not find home heating fuel as profitable as gasoline and other refined products. They therefore have no special incentive to increase their sales of No. 2 oil to New England, which is located at the far end of geographic supply lines.

Since the imposition of mandatory controls in 1959, importation of all finished petroleum products other than residual fuels has been rigidly limited to about 76,000 barrels per day nationwide, more than one-third of which goes to the Defense Department. This leaves relatively little oil for private use, all of which goes to a few major marketers.

Each year the shortages grow more acute. Between 1968 and 1969, the deficit of demand over supply doubled—from 33 million barrels to 65 million barrels. The present outlook for 1970 is no brighter.

Mr. President, I could spend hours relating the details of this hardship situation. It affects every person in my region. It affects the homeowner in the towns; it affects the farmer in the cold remote countryside. It affects distributors and retailers who have no volume efficiency and often little cash flow because customers cannot always pay their bills right away. It affects the terminal operators who must make up shortages by purchasing oil on the open market at high prices and then pass on the cost to the homeowner.

Mr. President, the situation can be remedied. There is an abundant supply of cheap heating oil in the Caribbean area and in other foreign countries. There are available ports and means of transportation. But the quota system erects a wall between the source of supply and the customers.

I propose to tear down that wall. I propose to give New England the same treatment as the rest of the country.

I do not propose special favors; I am not asking for a special "break"; I am asking only that we equalize an existing inequity.

Mr. President, I intend to press for passage of this bill at the earliest possible time. It would be intolerable if the Congress does not make this measure a priority order of business. I know that many of my colleagues support a needed change, and I believe that every Senator appreciates the problem.

In the meantime, Mr. President, I intend to work on other fronts as well to alleviate New England's plight. I have urged the administration to act on this matter, and I shall continue to press for change. I am hopeful that the newly constituted Oil Policy Committee will also move to alleviate New England's plight.

The time to act is now before we face another hard winter. The need for action is clear.

The bill (S. 3579) to authorize the importation without regard to existing quotas of fuel oil to be used for residential heating purposes in the New England States, introduced by Mr. PROUTY, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3579

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 "New England States Fuel Oil Act of 1970."

SEC. 2. The Congress finds that—

(1) the availability of fuel oil for residential heating at reasonable prices should be assured throughout the United States;

(2) fuel oil for residential heating is not available in the New England States at prices comparable to other regions of the United States;

(3) one of the major causes for the comparatively higher price for fuel oil for residential heating in New England is the limitations on imports of petroleum and petroleum products in effect under Presidential Proclamation No. 3279; and

(4) while limitations on imports of petroleum and petroleum products are necessary to the national security, measures must be taken to assure an adequate supply at reasonable prices of fuel oil for residential heating within the New England States.

SEC. 3. For purposes of this Act—

(1) The term "home heating fuel oil" means (A) No. 2 home heating oil and (B) any other refined product of crude petroleum, prescribed by regulations issued by the Secretary, which is used in significant quantities as fuel for heating single family residences.

(2) The term "New England States" means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 4. (a) Subject to the provisions of this Act, home heating fuel oil may be imported into the United States for use by ultimate consumers within the New England States without regard to any quantitative limitations or other import restrictions in effect under the authority of section 232 of the Trade Expansion Act of 1962.

(b) Home heating fuel oil may be imported under subsection (a) only—

(1) by or for the account of a person to whom a license has been issued by the Secretary under section 5, and

(2) in accordance with the terms and conditions of such license and with regulations issued by the Secretary under such section.

SEC. 5. (a) The Secretary shall issue licenses for the importation of home heating fuel oil pursuant to this Act. No license may be issued to any person unless such person established to the satisfaction of the Secretary that home heating fuel oil to be imported by him or for his account under such license will be sold for use by ultimate consumers only within the New England States.

(b) The Secretary is authorized to prescribe such terms and conditions for the issuance of licenses under subsection (a) as he determines necessary to assure that home heating fuel oil imported under such licenses will be sold for use by ultimate consumers only within the New England States.

(c) The Secretary is authorized to issue such regulations as may be necessary for purposes of this section.

SEC. 6. (a) The importation of home heating fuel oil under this Act shall not affect the allocation of imports and issuance of licenses under Presidential Proclamation No. 3279, as amended, or, except as provided in subsection (b), any action taken after the date of the enactment of this Act by the President pursuant to the authority conferred on him by section 232 of the Trade Expansion Act of 1962.

(b) No action inconsistent with the provisions of this Act may be taken by the President under section 232 of the Trade Expansion Act of 1962.

EXHIBIT 1.—ESTIMATES OF THE TOTAL AND PER CAPITA CONSUMER COSTS IN 1969 OF THE IMPORT PROGRAM IN DIFFERENT STATES

State	Total State cost (millions of dollars)	Per capita cost (dollars)
District I:		
Connecticut	88	29
Delaware	19	35
District of Columbia	17	21
Florida	153	25
Georgia	113	25
Maine	40	41
Maryland	96	25
Massachusetts	190	35
New Hampshire	27	39
New Jersey	230	32
New York	429	24
North Carolina	134	26
Pennsylvania	295	25
Rhode Island	29	32
South Carolina	63	24
Vermont	19	45
Virginia	119	26
West Virginia	36	20
District II:		
Illinois	245	22
Indiana	139	27
Iowa	83	30
Kansas	58	25
Kentucky	65	20
Michigan	209	24
Minnesota	105	29
Missouri	117	25
Nebraska	43	29
North Dakota	25	39
Ohio	227	21
Oklahoma	58	23
South Dakota	22	33
Tennessee	83	21
Wisconsin	114	27
District III:		
Alabama	67	19
Arkansas	43	22
Louisiana	72	19
Mississippi	47	20
New Mexico	27	27
Texas	256	23
District IV:		
Colorado	47	23
Idaho	27	38
Montana	22	32
Utah	27	26
Wyoming	18	57
District V:		
Alaska	9	33
Arizona	32	19
California	328	17
Hawaii	9	11
Nevada	13	27
Oregon	50	25
Washington	72	22
Total United States	4,848	24

Source: President's Cabinet Task Force Report on Oil Imports.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION TO AUTHORIZE CERTAIN CONSTRUCTION AT MILITARY INSTALLATIONS

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations and for other purposes (with an accompanying paper); to the Committee on Armed Services.

PROPOSED LEGISLATION TO INCLUDE CERTAIN OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF LABOR WITHIN PROVISIONS OF UNITED STATES CODE RELATING TO ASSAULTS AND HOMICIDES

A letter from the Secretary of Labor, transmitting a draft of proposed legislation to include certain officers and employees of the Department of Labor within the provisions of sections 111 and 1114 of title 18 of the United States Code relating to assaults and homicides (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE BOY SCOUTS OF AMERICA

A letter from the Chief Scout Executive, transmitting, pursuant to law, the 60th Annual Report of the Boy Scouts of America for the year 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

The following petitions were presented to the Senate by Mr. PASTORE (for himself and Mr. PELL), and were referred as indicated:

A resolution of the 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 goverment 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 Plantation, 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."

A resolution of the State of Rhode Island and Providence Plantations; to the Committee on the Judiciary:

"S. 204

"Resolution memorializing the Congress of the United States to adopt a substantial 'off shore limit' of not less than 100 miles

"Whereas, Our local fishing industry and the fishing industries of our neighboring coastal states are suffering financial reverses; and

"Whereas, Fleets from foreign countries are fishing close to our coastline to the detriment of this industry; now therefore be it

"Resolved, That the general assembly does memoralize the Congress of the United States to adopt a substantial 'off shore limit' of not less than 100 miles, and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the senators and representatives of Rhode Island in the Congress of the United States."

A resolution of the State of Rhode Island and Providence Plantations; to the Committee on Post Office and Civil Service:

"H. 1350

"Resolution memorializing Congress to authorize the issuance of a commemorative stamp in recognition of the 1972 bicentennial anniversary of the Burning of the Gaspee

"*Resolved,* That the members of the Congress of the United States be and they are hereby respectfully requested to authorize the issuance of a commemorative stamp in recognition of the 1972 bicentennial anniversary of the burning of the Gaspee; and be it further

"*Resolved,* That the Secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the senators and representatives from Rhode Island in the Congress of the United States."

A resolution of the State of Rhode Island and Providence Plantations; to the Committee on Public Works:

"H. 1327

"Resolution memorializing the Members of the U.S. Senate and House of Representatives from the State of Rhode Island to make every effort to see that action is taken to build a breakwater in Bristol Harbor in the town of Bristol, Rhode Island

"Whereas, Bristol, Rhode Island has suffered tremendous amounts of damage from past hurricanes, wave and tide action to its industry, business, railroad property, government property, and yachting facilities; and

"Whereas, A public hearing was held on this proposal on December 11, 1957, by the U.S. Army Corps of Engineers; and

"Whereas, Thereupon surveys and plans for this breakwater were made by the U.S. Army Corps of Engineers in 1958; now, therefore, be it

"*Resolved,* That the members of the United States senate and house of representatives from the state of Rhode Island are respectfully requested to take proper action to have such breakwater constructed as soon as possible in Bristol harbor in said town of Bristol, Rhode Island; and be it further

"*Resolved,* That the secretary of state be and hereby is authorized to transmit duly certified copies of this resolution to the Rhode Island delegation in congress."

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration:

Adolphus Nichols Spence II, of Virginia, to be Public Printer.

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. PROUTY:

S. 3579. A bill to authorize the importation without regard to existing quotas of fuel oil to be used for residential heating purposes in the New England States; to the Committee on Finance.

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

By Mr. HRUSKA:

S. 3580. A bill to include certain officers and employees of the Department of Labor within the provisions of section 1114 of title 18 of the United States Code relating to assaults and homicides; to the Committee on Labor and Public Welfare.

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

By Mr. JAVITS:

S. 3581. A bill to revise and reform the program of Federal assistance for local educational agencies in areas affected by Federal activities; to the Committee on Labor and Public Welfare.

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

By Mr. TYDINGS (for himself, Mr. SPONG, and Mr. HOLLINGS):

S. 3582. A bill to amend the Act authorizing the waiver of the navigation and vessel-inspection laws in order to require in certain cases that the Secretary of Defense agree that such waiver is necessary in the interest of national defense; to the Committee on Commerce.

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

By Mr. JAVITS (for himself and Mr. DOMINICK):

S. 3583. A bill to amend Section 504(a) of the Labor-Management Reporting and Disclosure Act of 1959 by adding to the list of offenses conviction of which bars the person convicted from holding union office; to the Committee on Labor and Public Welfare.

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

By Mr. PEARSON:

S.J. Res. 183. Joint resolution to rename the Department of Agriculture as the Department of Agriculture and Rural Development; to the Committee on Agriculture and Forestry.

(The remarks of Mr. PEARSON when he introduced the joint resolution appear later in the RECORD under the appropriate heading.)

S. 3580—INTRODUCTION OF A BILL TO EXTEND TO CERTAIN INVESTIGATORS FOR THE DEPARTMENT OF LABOR THE PROTECTION OF FEDERAL LAW ENJOYED BY OTHER FEDERAL INVESTIGATIVE EMPLOYEES

Mr. HRUSKA. Mr. President, today I introduce a bill which would extend to certain investigators for the Department of Labor the protection of Federal law which is already enjoyed by many other Federal investigative employees. I offer this bill at the request of the Department of Labor.

Such protection is currently extended by section 1114 and, through reference, by section 111, of the Criminal Code of the United States.

Section 1114 relates to homicides against particular classes of law enforcement and investigative personnel of the United States who are killed in the performance of their duties. Section 111 makes it a Federal crime to assault, resist, impede, oppose, intimidate, or interfere with any person designated in section 1114 while he is engaged in the performance of his duties. Congress has seen fit to extend this protection to Federal judges, U.S. attorneys, FBI agents, and U.S. marshals; certain personnel of the National Park Service, the Bureau of Land Management, the Federal Indian field services, and some employees of the Bureau of Animal Industry of the Department of Agriculture, among others.

This bill simply would grant the same protection to employees of the Labor Department who are assigned investigative, inspection or law-enforcement functions.

These employees would include those conducting investigations under the Fair Labor Standards Act and the Walsh-Healy Public Contracts Act, the Landrum-Griffin Act, the Longshore Safety Amendments and the Welfare and Pension Plans Disclosure Act amendments.

While it is a crime in every State to commit assault against the person, this fact has proved in many instances to be an insufficient deterrent against the commission of assaults against investigative employees of the Department of Labor. The Department of Labor believes that the knowledge that an assault on a Federal investigator would bring in the full force of Federal law, would be a much more effective deterrent.

I ask unanimous consent that the text of the bill, the letter of transmittal and an explanation of the bill furnished by the Department of Labor be printed in the RECORD following my remarks.

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

The bill (S. 3580) to include certain officers and employees of the Department of Labor within the provisions of sections 111 and 1114 of title 18 of the United States Code relating to assaults and homicides, introduced by Mr. HRUSKA, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1114 of title 18, United States Code, is hereby amended by striking out "under the Federal Food, Drug and Cosmetic Act" and inserting in lieu thereof "under the Federal Food, Drug and Cosmetic Act, or any officer or employee of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions."

The letter and explanation, presented by Mr. HRUSKA, are as follows:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. SPEAKER; DEAR MR. PRESIDENT: I am enclosing a draft bill to include certain officers and employees of the Department of Labor within the provisions of Sections 111 and 1114 of title 18 of the United States Code relating to assaults and homicides. I am also enclosing a brief statement explaining the purpose and effect of this legislation.

The draft bill was prompted by the need to provide investigatory personnel of the Department of Labor with the same protection against assault and threat of assault that is

currently afforded certain other investigatory and enforcement officers of the United States Government. I urge that early favorable consideration be given to this proposal.

The Bureau of the Budget advises that it has no objection to the submission of this proposal from the standpoint of the Administration's legislative program.

Sincerely,

GEORGE P. SHULTZ,
Secretary of Labor.

EXPLANATION OF PROPOSED BILL TO INCLUDE CERTAIN OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF LABOR WITHIN THE PROVISIONS OF SECTIONS 111 AND 1114 OF TITLE 18 OF THE UNITED STATES CODE, RELATING TO ASSAULTS AND HOMICIDES

When the performance of official duties in carrying out the provisions of Federal laws subjects an employee of the Government to the dangers of assaults or homicidal acts by others, there is sound reason for extending to these employees the protection of laws punishing such assaults or homicides as Federal offenses. Such protection has been extended to many such Federal employees by section 1114, and, through reference by section 111, of the Criminal Code of the United States.

Section 1114 relates to homicides against particular classes of law enforcement and investigative personnel of the United States. Section 111 makes it a Federal crime to assault, resist, impede, oppose, intimidate, or interfere with any person designated in section 1114 while he is engaged in the performance of his duties. Among others to whom these safeguards have been extended are Federal judges; certain personnel of the National Park Service, the Bureau of Land Management, and the Federal Indian field services; and some employees of the Bureau of Animal Industry of the Department of Agriculture.

The purpose of the proposed bill is to provide these same protections for officers or employees of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions. Experience has clearly demonstrated the need for extending these protections to Labor Department personnel, such as investigators conducting investigations under the Fair Labor Standards Act and the Walsh-Healey Public Contracts Act, the Labor-Management Reporting and Disclosure Act, the Longshore Safety Amendments, and the Welfare and Pension Plans Disclosure Act Amendments. The broad investigative and law enforcement functions conferred on this Department by these laws make it imperative that the protections of the Federal Criminal Code be extended to the large group of investigators who are now and in the future will be engaged in the performance of these new functions.

The bill would amend section 1114 of title 18 of the United States Code so as to include the Department's personnel assigned to perform investigative, inspection or law enforcement duties. They would thereby receive the protection afforded by section 111 as well.

Assault against the person is a crime in all States. However, the possibility of prosecution for such crime under State law, in many instances, has not provided to be a sufficient deterrent to prevent interference by physical force with Federal employees performing investigative and enforcement duties for the Department of Labor. Persons contemplating interference with a Department investigator, it is believed, will tend to be deterred from such action by an awareness that a violation of a Federal criminal statute will be involved.

In the light of the material increase in the Department's investigative and enforcement functions, the duty of the Federal Government to provide personnel performing these functions with the same protection available to persons engaged in similar activities under other laws of the United States is strongly evident.

S. 3581—INTRODUCTION OF THE IMPACT AID REFORM ACT OF 1970

Mr. JAVITS. Mr. President, I introduce for appropriate reference the Impact Aid Reform Act of 1970, the proposal presented to the Congress by the President as part of his recent message on reforms in Federal programs. This bill provides for reforms in the school impact aid program—Public Law 874—and follows recommendations made in the recently-issued Battelle Report on School Assistance in Federally Affected Areas.

As President Nixon pointed out in his February 26 message to the Congress:

While saving money for the nation's taxpayers, the new plan would direct Federal funds to the school districts in greatest need—considering both their income level and the Federal impact upon their schools.

Reform of this program—which would make it fair once again to all the American people—would save $392 million in fiscal year 1971 appropriations.

I believe that the Congress should have an opportunity to consider long-overdue reforms to the impact aid program, which was first enacted in 1950. All should agree however the reforms are received, that now that the extensive study authorized by the Congress has been completed the time has finally come to commence action on updating this education aid program which already is stretching beyond $1 billion annually in entitlements. The fact that the reforms suggested are necessarily for the most part complex and technical in nature should not deter us from this task.

I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD as part of my remarks.

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

The bill (S. 3581) to revise and reform the program of Federal assistance for local educational agencies in areas affected by Federal activities, introduced by Mr. JAVITS, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The section-by-section analysis, presented by Mr. JAVITS, is as follows:

IMPACT AID REFORM ACT OF 1970—SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 of the bill provides that it may be cited as the "Impact Aid Reform Act of 1970."

Section 2

Title I of Public Law 81-874 presently contains the following seven sections:

Section 1.—Declaration of Policy.

Section 2.—Federal Acquisition of Real Property.

Section 3.—Children Residing on, or Whose Parents are Employed on, Federal Property.

Section 4.—Sudden and Substantial Increases in Attendance.

Section 5.—Method of Making Payments.

Section 6.—Children for Whom Local Agencies are Unable to Provide Education.

Section 7.—Assistance for Current School Expenditures in Cases of Certain Disasters.

Section 2 of the bill would strike out sections 1, 2, 3, and 4 of the present title and substitute in their place the provisions more fully described below. Section 2 would also renumber the present sections 5, 6, and 7 as sections 15, 21, and 31, respectively. (These sections are amended in subsequent provisions of the bill.) The following paragraphs describe the provisions of the revised title I as proposed by section 2:

Section 1. *Citation.*—This section would permit the revised title to be cited as the "Federal Impact Aid Act."

Section 2. *Declaration of Policy:* Section 2 of the revised title would declare it the policy of the United States to provide financial assistance to those local educational agencies upon which the United States has placed financial burdens. This declaration is made in recognition of the responsibility of the United States for the impact which Federal activities have upon certain local educational agencies. The language of the new section is similar to that found in section 1 of the present title. However, the new section would eliminate the discussion, contained in the present section, of the nature of the burden imposed by the Federal Government. The present section indicates that Federal responsibility is confined to local agencies situated in the areas in which the impact generating activities are carried out. This reference is omitted in the new section since the impact may extend beyond the immediate geographic areas in which the Federal activities are conducted.

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

The revised title would contain a part A consisting of the following sections:

Section 11. *Determination of Adjusted Number of Federal Impact Pupils:* Section 11 of the revised title provides for the determination of the adjusted number of Federal impact pupils of a local educational agency for a fiscal year. This number is used in the revised title in measuring the burden of Federal activities upon the agency, and, more particularly, in determining whether the agency is eligible for assistance and, if so, the form and amount of that assistance. The adjusted number of Federal impact pupils of a local educational agency for a fiscal year would be determined by adding the following components:

(1) all pupils in average daily attendance during such year at the schools of the agency and residing with a parent on Federal property;

(2) 40 percent of the pupils in average daily attendance during such year at such schools and not residing on Federal property, but either (A) residing with a parent employed on Federal property located in whole or in part in the county or counties in which the school district of the agency is located, or (B) having a parent on duty in the uniformed services; and

(3) 20 percent of the pupils in average daily attendance during such year at such school and not residing on Federal property but residing with a parent employed on Federal property located wholly outside the county or counties in which the school district of the agency is located.

Pupils could not be counted in more than one category.

Section 12. *Assistance to Local Educational Agencies with Greater than Average Concentrations of Federal Impact Pupils:* Subsection (a) of section 12 of the revised title provides that a local education agency is eligible for assistance under that section for any fiscal year in which the adjusted number of

its Federal impact pupils exceeds, by more than five, the lesser of the following two numbers:

(A) 1,000 or

(B) a number computed by multiplying by three percent the number of all the pupils in average daily attendance at the schools of such agency for such fiscal year minus its adjusted number of Federal impact pupils for that year. (In effect, the number is equal to three per cent of the agency's adjusted number of *non-Federal* impact pupils i.e., its total average daily attendance minus its adjusted number of Federal impact pupils.)

Subsection (b) of section 12 provides for the computation of the amount to which an eligible agency is entitled for a fiscal year. Under this subsection there must first be determined the excess of the agency's adjusted number of Federal impact pupils over the lesser of the two numbers described in (A) and (B) above. This excess is then multiplied by the payment rate determined under subsections (c) and (d), whichever is applicable. The amount to which an agency is entitled is determined by this computation after the deduction of certain resources of the agency described in subsection (e). In effect, under subsection (b), an agency is required to absorb costs relative to an adjusted number of Federal impact pupils equal to 1,000 or 3 per cent of its adjusted number of *non-Federal* impact pupils, whichever is the lesser.

Subsection (c) of section 12 provides for determining the payment rate to be used in computing entitlements under subsection (b), except in cases where the payment rate is to be determined under subsection (d) (dealing with payment rates for outlying territories and certain States). Under subsection (c) the payment rate for a local educational agency for a fiscal year is an amount equal to 60 per centum of the average per pupil expenditure in the United States which amount must be multiplied by the agency's "effort factor" if that factor is more than 1.00.

For the purpose of this subsection, the effort factor is to be computed by first dividing the average per pupil expenditure in the applicable State by the per capita personal income in the State, by then dividing the average per pupil expenditure in the United States by the per capita personal income in the United States, and by finally dividing the quotient obtained under the first division by the quotient obtained under the second.

The average per pupil expenditure in a State and in the United States is defined in paragraph (3) of the subsection as the aggregate current expenditures, during the fiscal year preceding the fiscal year for which the computation is made, as estimated by the Commissioner, of all local educational agencies in the State, or in the United States, respectively, plus any direct current expenditures by the State and States, respectively, for the operation of such agencies divided by the aggregate number of pupils in average daily attendance during such preceding fiscal year. The definition is similar to that contained in section 3(d) of the existing statute, except that it would require the use of data from the preceding fiscal year rather than, as at present, the *second* preceding fiscal year.

Subsection (d) provides for determination by the Commissioner of the payment rate for local educational agencies in Puerto Rico, Wake Island, Guam, American Samoa, and the Virgin Islands, or in any State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency.

Subsection (e) would direct the Commissioner to deduct from the amount to which a local agency was determined to be entitled under subsection (b), (1) the amounts which the agency derived, directly, or indirectly, for the particular fiscal year from taxes, payments in lieu of taxes shared revenues, or other payments, with respect to Federal property (or any improvements or property thereon, any interests therein, or any activity) thereon which is the basis of a determination of an adjusted number of Federal impact pupils for that year and (2) the value of transportation, custodial, or maintenance services furnished to the agency by the United States during that fiscal year. The deductions described would not include special purpose payments made directly or indirectly to the local educational agency by the Federal government, such as under Titles I and III, of the Elementary and Secondary Education Act or the Johnson-O'Malley Act.

Section 13. *Assistance to Local Educational Agencies with Very High Concentrations of Federal Impact Pupils:* Subsection (a) of section 13 provides that a local educational agency is eligible for assistance under that section for a fiscal year if its adjusted number of Federal impact pupils (computed on the basis of average daily membership in lieu of average daily attendance) for that year exceeds 50 per cent of the average daily membership of all its pupils for that year. An agency eligible for assistance under section 13 is not eligible under section 12.

Subsection (b) of section 13 provides that the Commissioner may pay to a local educational agency eligible under section 13 for a fiscal year an amount equal to (1) the current expenditures that the Commissioners determines to be necessary to provide a reasonable standard of free public education for such year in the school district of such agency less (2) the amount determined to be available for that purpose from local, State, and other Federal sources, for that year including the amount which would be so available if the agency were to levy taxes on its taxable property at the average tax rate of the State on equalized assessed valuation. The amount necessary to provide a reasonable standard of free public education in any agency is to be determined after consultation with the such agency and with the applicable State educational agency and consideration of standards in comparable school systems of the State or of other school systems in that State or another State whose schools the pupils in the school district of the particular agency have attended or may attend. The subsection also provides that a local agency may not receive assistance thereunder unless the eligibility of such agency for State aid with respect to the education of children residing on Federal property and the amount of such aid is determined on a basis as favorable as that used with respect to the free public education of children in the State.

Subsection (c) of section 13 provides that the level of current expenditures determined under subsection (b) shall not be less than 85 per cent of, nor exceed by 25 per cent, the average per pupil the expenditure in the preceding fiscal year (1) in the particular State or (2) in the 50 States of the Union and the District of Columbia, whichever is greater.

Section 14. *Sudden and Substantial Increases and Decreases in Attendance:* Subsection (a) of section 14 of the revised title would apply to a local educational agency if the Commissioner determined, after consultation with the affected State and local educational agency, that an increase in the adjusted number of Federal impact pupils has increased by 10 per cent or more the average daily attendance of all pupils of that agency as compared with such attendance during the preceding fiscal year. Such an agency would be eligible for assistance under the section if the Commissioner determined that the agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance but is unable to meet the increased educational costs involved. Such an agency would be eligible to receive from the Commissioner for the applicable fiscal year additional assistance based on the number of pupils in average daily attendance determined to be the increase for such year (adjusted in accordance with section 11 with respect to Federal impact pupils). This number would be multiplied by the current expenditure per pupil necessary to provide free public education for such additional pupils less the amount per pupil which the Commissioner determined to be available for that purpose from State, local, and Federal sources.

Pursuant to subsection (b) of section 14, if the number of federally connected children to be provided free public education by a local educational agency has been substantially reduced because of a decrease in or cessation of Federal activities or an expected increase has not materialized because of a failure of such activities to occur, and the agency has made preparations, reasonable in the light of available information, to provide free public education for such federally connected children, then the amount for which that local educational agency is otherwise eligible shall be increased to an amount for which, in the judgment of the Commissioner, the agency would have been eligible but for such decrease in or cessation of Federal activities or the failure of such activities to occur less such reduction in current expenditures which the agency has effected, or reasonably should have effected, under the circumstances.

Section 3

Section 3 of the bill would make amendments to renumbered section 15 (presently section 5) of title I of Public Law 81–874. It would eliminate the present section 5(d)(2) which precludes impact aid payments under Public Law 874 to local agencies in States which take into account such payments in determining the eligibility for, or the amount of, State aid with respect to free public education. It would also eliminate the present section 5(c) relating to adjustments where necessitated by appropriations, which is treated in a separate section of the revised title.

Subsection (c) of section 15 of the revised title, as amended by paragraph (4) of section 3 of the bill, would permit eligibility requirements under part A of the revised title to be determined on the basis of estimates but permit underestimates to be later corrected.

Subsection (e) of section 15 of the revised title, as added by paragraph (6) of section 3 of the bill, would prohibit payments to a local educational agency if that agency or the State in which it is situated prohibits the expenditure of State or local tax revenues for the free public education of federally connected children (such as children living on Federal property) or refuses to allocate such revenues on an equitable basis for such education. The operation of this provision could be waived for up to 3 years if the State is determined to be taking reasonable steps to come into compliance. In such a case the penalty provisions of the present section 6(f) of PL. 81–874 would be applied during the 3-year period.

Subsection (a) of the present section 5 (pertaining to applications), subsection (b) (pertaining to payments), and subsection (d)(1) (pertaining to adjustments in case of overall reductions in State expenditures) are retained as subsections of section 15 of the revised title, with appropriate changes in cross-references as set forth in paragraphs (2), (3), and (5) of section 3. Paragraph (7) of the section amends the section heading to read: "Method of, and Limitations on, Payment."

Section 4

Section 4 of the bill would add to part A of the revised title I of Public Law 81–874 a new section 16 and a new section 17, described below.

Section 16. *Waiver of Eligibility and Ab-*

sorption Requirements in Special Cases: Section 16 of the revised title would permit the Commissioner, in order to facilitate a reorganization, consolidation, or merger of local educational agencies, offering a prospect of reduced payments under part A of the revised title, to waive for a period of up to 7 years the eligibility and absorption requirements with respect to the adjusted number of Federal impact pupils contained in sections 12(a) and 12(b) of the revised title.

Subsection (b) of section 16 would authorize the Commissioner to waive such requirements in order to avoid inequities defeating the purpose of the part.

Section 17. *Adjustments Where Necessitated by Appropriations:* The new section 17 makes provision for adjustments in the event appropriations are insufficient to pay amounts which the Commissioner determines will be payable under part A and B of the revised title. Priority would be given first to amounts payable under the new Part B (sections 21 and 22), relating to children for whom local agencies are unable to provide education and commitments for assistance with respect to certain transfers; second, to amounts payable under section 13, relating to assistance to local educational agencies with high concentrations of Federal impact pupils; and third, to section 12 entitlements with respect to Federal impact pupils residing with a parent on Federal property. Any remaining funds would be applied to all other entitlements on a pro rata basis.

Section 5

Section 5 of the bill would amend the present section 6 (to be redesignated as section 21) of Public Law 874 by eliminating the requirement (known as the Quantico Amendment) of a joint determination with the Secretary of a military department concerned that a local educational agency is able to provide suitable free public education for children residing on a military installation before terminating the arrangements made by the Commissioner for the education of such children.

Section 5 would also repeal the penalty provisions of subsection (f), subject to the provisions of new section 15(e) (as added by 3 of the bill) in cases which the Commissioner waives for a three year period the requirements of paragraph (1) of that subsection.

Paragraph (4) of section 5 of the bill would insert in section 21 a new subsection (f) under which the Commissioner would be given up to July 1, 1974 to terminate arrangements under Section 22 for the education of federally connected children in the Continental United States and Hawaii, except with respect to such children for whom no local agency is able or willing, as determined by the Commissioner, to provide suitable free public education. On that date his authority to make such arrangements in those areas would expire, except with respect to children educated under the Section for whom no local agency has undertaken to provide suitable free public education.

Section 22 of the revised title authorizes the Commissioner to pay, for a period of up to 7 years, to a local educational agency, which undertakes to provide education for federally connected children who otherwise would be covered under Section 21, an amount per pupil not in excess of the estimated cost of providing such education under arrangements by the Commissioner (pursuant to present section 6 of Public Law 874). Such payments would be paid out of the appropriation available for the year for which such payments are made.

Section 5(a)(5) of the bill designates sections 21 and 22 as "Part B" of the revised title.

Section 6

Section 6 of the bill would add at the end of the revised title a new section 41 authorizing the appropriation of such sums as may be necessary for the fiscal year ending June 30, 1971 and for each succeeding fiscal year in order to carry out the title.

Section 7

Section 7 of the bill would amend the statutory definitions in title III of Public Law 81-874 in the following respects:

Paragraph (1) of the section would limit the term "Federal property" to property situated in a State, thus excluding property in foreign countries.

Paragraph (2) would exclude from the definition of "Federal property" two categories found in present law: property which the United States has sold or transferred and which was Federal property prior to such sale or transfer (present sec. 303(1)(B)) and flight training schools owned by a State or its political subdivision (present sec. 303 (1)(C)).

Paragraph (3) would amend the definition of Federal property to exclude property of a character not taxed under State law if owned or leased by other than the United States.

Paragraph (4) would add to the definition section a definition of "Pupil". The term would be defined as a child for whom a local educational agency provided free public education during the applicable fiscal year.

Paragraph (5) would amend the definition of "free public education" so as to exclude from that term education provided beyond the twelfth grade.

Paragraph (6) would make an appropriate change in cross-references in the definition of "average daily attendance."

Section 8

Subsection (a) of section 8 of the bill would make the amendments made by the bills effective with respect to entitlements for local educational agencies for fiscal years beginning after June 30, 1970.

Subsection (b) of section 8 provides that if a local agency establishes to the satisfaction of the Commissioner (A) that payments to such agency made under part A of the revised title I of Public Law 874 for fiscal year 1971 will be less than the payments which would have been made for such year under sections 2, 3, and 4 of such title as in effect prior to the enactment of the Impact Aid Reform Act of 1970 and (B) that such difference exceeds two per cent of the total current expenditures of such agency for elementary and secondary education from all sources during fiscal year 1970, then payments under the revised title will be increased by such excess.

S. 3582—INTRODUCTION OF A BILL TO AMEND THE ACT AUTHORIZING THE WAIVER OF THE NAVIGATION AND VESSEL-INSPECTION LAWS

Mr. TYDINGS. Mr. President, the strange story of the *Sansinena* continues. The *Sansinena* is the 66,000-ton foreign flag tanker which on March 2, for no apparent reason and without explanation, received an unprecedented waiver from the Secretary of the Treasury permitting the ship to ply in the lucrative, domestic coastal trade.

Under the law only U.S.-built and U.S.-registered vessels can serve between American ports. Exception to this requirement is permitted by waiver if it is found to be in the "interest of national defense." By transferring this tanker from the foreign trade market where it is, relatively speaking, a small ship to the domestic trade, where it would be the sixth largest tanker in the U.S. flag fleet, the value of the ship is increased some $5 million.

Thus by a stroke of the pen, a multimillion dollar windfall was created.

Beneficiaries of this unusual transaction are either the owner of the vessel, the Barracuda Tanker Corp. of Bermuda, or the company to which the ship is time chartered, the Union Oil Co. of California.

That the granting of the waiver was not explained is outrageous. That the waiver tends to destroy the integrity of the Jones Act, the 1920 legislation that codified our traditional sabotage laws and whose weakening will devastate our shipbuilding industry is intolerable. That the waiver runs counter to the administration's rhetoric of revitalizing our merchant marine is curious.

Yesterday the Secretary announced that the waiver was "suspended." This sudden about face raises more questions than it answered. In any case, it should have been rescinded, not suspended. I again urge Senate review of the entire situation.

The authority for granting a waiver is found in an act of December 27, 1950. This can be located as a historical note preceding 46 U.S.C. 1. The provision reads:

> 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 manner 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.

The Secretary of the Treasury was thus well within the law. What is questioned is not the legality of his action, just the wisdom.

As now written the provision allows the head of an agency or department "responsible for the administration of the navigation and vessel-inspection laws" to determine what is in the "interest of national defense" and issue the waiver by himself without either consulting the Secretary of Defense as to what constitutes the "interest of national defense" or holding a hearing to provide the opportunity for interested parties to express their views. The official can thus act unilaterally, running roughshod over those who might oppose the waiver and without even a by-your-leave of the Secretary of Defense, who, after all, is responsible for the Nation's security, and thus should know what constitutes the "interest of national defense."

I do not think this is a proper procedure. I do think we should prevent the possibility of another *Sansinena* incident occurring.

Given the scope of maritime affairs, a reasonable man will accept the need for

officials other than the Secretary of Defense to issue the waiver, although we must remember to distinguish "national defense" from "national interest."

Yet a reasonable man will quickly see the need for a written determination by the Secretary of Defense that the "interest of national defense" is involved The Secretary of the Treasury, or the Secretary of Commerce should not be defining what a national defense interest is. This is properly the responsibility for the Secretary of Defense.

A reasonable man will also see the need for the opportunity to present opposing or supporting views when the granting of a waiver is under consideration by an official other than the Secretary of Defense. We live in a democracy where the presentation of contrary or similar views to officials is a basis of government. Such an opportunity must be provided for here since the consequences of issuing a waiver are significant. To those who dispute this need or consequences, I point to the *Sansinena*.

I am, therefore, introducing a bill designed to insure that when a waiver to the Jones Act is under consideration by an official other than the Secretary of Defense, a public hearing must be held and a "written determination" by the Secretary of Defense that such waiver is in the interest of national defense must be obtained.

This language should prevent another *Sansinena* incident from occurring.

I ask unanimous consent that the bill be printed in the RECORD.

I also ask unanimous consent that an article from the New York Times be printed in the RECORD.

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

The bill (S. 3582) to amend the act authorizing the waiver of the navigation and vessel-inspection laws in order to require in certain cases that the Secretary of Defense agree that such waiver is necessary in the interest of national defense, introduced by Mr. TYDINGS (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to authorize the waiver of the navigation and vessel-inspection laws," approved December 27, 1950 (64 Stat. 1120) is amended in the second sentence by inserting "(1) after public hearings" after "whenever" and by inserting before the period at the end thereof a comma and the following: "and (2) the Secretary of Defense agrees in a written statement that such action is necessary in the interest of national defense."

The article, presented by Mr. TYDINGS, is as follows:

WASHINGTON: ON THE ART OF BACKING INTO THE FUTURE

(By James Reston)

WASHINGTON, March 10.—Watching the Nixon Administration in action these days is a little like watching a good defensive football team. Mr. Nixon isn't very exciting, but he keeps the opposition off balance and he has mastered the art of the tactical retreat.

Two actions in recent days illustrate the point. When Secretary of the Treasury Kennedy was charged with approving a ruling that would have meant a million-dollar bonanza for a shipping company formerly headed by a White House aide, the President didn't wait more than a few hours before seeing that the ruling was suspended.

He waited longer before acting to spike the criticism that he was fighting a concealed war in Laos, but he did come out with two statements giving the precise number of men fighting there and defining the extent and the limits of their military activities.

NIXON'S TRADEMARK

These protective moves to correct wrong decisions or dangerous situations don't always satisfy his critics—as they have not in either of the above cases—but they limit the damage and keep the infection (or the truth, according to your view) from spreading.

This, in fact, is almost becoming the trademark of this Administration. Occasionally, it will grab the ball and throw the long bomb, as in its imaginative forward move on the welfare front, but usually it is on the defensive, backing into the future, watching its flanks and staving off disaster.

Mr. Nixon is not like Lyndon Johnson, who tended to get stubborn when he was challenged, and gave up nothing until he had to give up everything, including the White House. Mr. Nixon avoids sharp confrontations when he is vulnerable and retreats to more tenable ground, where he proclaims he has just made a spectacular advance.

This is what he did, under pressure, when he began pulling out of Vietnam, cutting the defense budget, limiting the antiballistic missile program, reducing U.S. commitments overseas, cutting the liberal majority on the Supreme Court, and lowering his voice.

NIBBLE AND SLIDE

It is a policy of nibble and slide. He is a master at identifying and exploiting the popular grievances and conservative tendencies of the day, and he is edging the country to the right, but he seldom lurches or leaps enough to startle the people.

Most everything is a little less war, a little slower inflation, a little less employment, a little less integration, all presented with elaborate sincerity, as a great deal of progress.

For admirers of the political art, who are numerous in the capital of the United States, this is gamesmanship of a very high order. His timing and his moves are so professional that he not only gets credit for generosity and compromise, but almost for inventing the idea of peace in Vietnam, friendship with the Russians, and clean water, clean air and clear living at home.

THE TWO MONSTERS

If it works, Mr. Nixon will be recognized as one of the most skillful politicians of the age. He is engaged in two extremely important and delicate operations: to cut America's losses in Vietnam and its commitments elsewhere in the world without stumbling into another era of isolation; and to fight the inflation at home without stumbling into another economic depression.

To control these two crucial movements abroad and at home, with an opposition Congress, a divided Republican party, a militant minority of students and blacks on the left, and a disgruntled minority of radicals on the right will take all the skill he has and can muster.

PUT IN UNITAS

What he has done so far is to avoid the worst of the booby traps by adept footwork. His defensive tactics have kept him on his feet, which is quite an achievement, but the main things are not that he has cut back a little in Vietnam, and slowed down the rate of inflation a little at home, and disclosed some of the facts in Laos, and rescued President Pompidou at the Waldorf, but that he is still trapped in Vietnam and Laos, caught with both rising inflation and unemployment, and facing a mounting crisis with the spread of Soviet power in the Middle East.

Everybody is saying that Mr. Nixon is doing better than they expected, which proves the success of past failures; but tactical retreats have their limitations. At some point he is going to have to take the ball and act like Johnny Unitas.

SENATE JOINT RESOLUTION 183—INTRODUCTION OF A JOINT RESOLUTION TO RENAME THE DEPARTMENT OF AGRICULTURE AS THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

Mr. PEARSON. Mr. President, I introduce a joint resolution to change the name of the Department of Agriculture to the Department of Agriculture and Rural Development. Agriculture and agriculturally related programs constitute the bulk of the Department's activities, and this will continue to be the case. However, an increasingly significant part of the Department's activities may be more properly described as rural development programs. These programs have grown in number and importance in recent years.

In the last few years the Farmers Home Administration has been making more and more housing loans to residents in cities of under 5,500 population. And in the current fiscal year the Farmers Home Administration authority for housing was nearly doubled. During the last 4 years the Farmers Home Administration has been authorized to make grants and direct and insured loans to rural towns and cities for the development of water and waste disposal systems.

The Rural Electric Administration not only serves farmers but also a number of small rural towns and is increasingly involved in rural community development efforts.

The Farmer Cooperative Service has a community development division which has considerable potential for solid achievement.

The Federal Extension Service has now been charged with new responsibilities in assisting small towns and cities to plan development projects.

The newly created resource conservation and development project within the Soil Conservation Service, has considerable potential for stimulating community development efforts. Likewise, the rural area development program with the Forest Service is involved in community development efforts.

These and other programs are of such significance that the title of the Department of Agriculture is no longer really appropriate. In other words, given the functions now performed, the title of Department of Agriculture and Rural Development already is much more proper.

But, Mr. President, I would also sug-

gest that without in any way reducing attention to agricultural matters, the Department should be expanding its rural development overall roll.

Certainly, if we are to achieve a more reasonable rural-urban balance a number of old programs will have to be strengthened and a number of new programs will have to be created. And surely a good number of these would properly fit within the overall jurisdictional responsibility of a Department of Agriculture and Rural Development.

The President's Rural Affairs Task Force has recommended expanded responsibility for the Department in the area of rural development. I intend to suggest several program changes at a later date.

Thus, given the activities of the Department of Agriculture at the present, and, particularly in view of the expanded functions it is likely to be charged with in the future, I believe that it is most appropriate that the Department's name be changed as I have proposed here today.

This change in title would not only serve to better describe the functions of this great Department but it would also, I think, in an intangible way, help to focus attention on what I consider to be one of the greatest challenges this Nation is facing today; namely, the expansion and improvement of economic, social, and cultural opportunities in rural America. Several departments will be involved in this great effort but surely the Department of Agriculture will play a significant role.

Having emphasized the great importance of the Department's rural development function I want to stress my firm belief that the attention to agricultural matters should in no way be diminished. Indeed, in discussing the policy objectives of rural development I always point to the need for renewed efforts to strengthen the family farm system. The family farm is not only a desired social institution, it is also the economic base on which so many of our rural towns rest. Thus a healthy family farm agriculture is an integral part of the rural development movement.

Thus in recommending a change in name we simply recognize the expanded functions of the Department. I do not propose a shifting of attention from agricultural matters. Indeed, I would vigorously oppose such a move.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

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

The joint resolution (S.J. Res. 183) to rename the Department of Agriculture as the Department of Agriculture and Rural Development, introduced by Mr. PEARSON, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S.J. RES. 183

Whereas the Department of Agriculture is and should continue to be primarily concerned with farmers and ranchers, with providing the American people with abundant supplies of food and fiber, and with agricultural matters generally; and

Whereas in recent years the scope of the Department of Agriculture's functions have necessarily been broadened to include rural development functions which in the traditional sense may not be considered agricultural; and

Whereas the functions of the Department of Agriculture and the scope of the programs administered by it are no longer limited strictly to agriculture; and

Whereas the present name of the Department of Agriculture is not totally descriptive of the department's functions, activities, and programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of Agriculture is hereby renamed the Department of Agriculture and Rural Development.

SEC. 2. All laws, orders, regulations, and other matters relating to the Department of Agriculture or the Secretary of Agriculture shall, on and after the date of enactment of this joint resolution, be deemed to relate to the Department of Agriculture and Rural Development and to the Secretary of Agriculture and Rural Development, respectively; and by any law, order, regulation, or other matter which makes reference to any other officer or employee of the Department of Agriculture shall, on and after the date of enactment of this joint resolution, be deemed to refer to such officer or employee as an officer or employee of the Department or Agriculture and Rural Development.

ADDITIONAL COSPONSORS OF BILLS

S. 3388

Mr. GRIFFIN. Mr. President, at the request of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the names of the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. PROUTY), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Alaska (Mr. GRAVEL), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. DOLE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Illinois (Mr. PERCY), be added as cosponsors of S. 3388, to establish an Environmental Quality Administration.

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

S. 3417

Mr. McGEE. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Montana (Mr. MANSFIELD), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. DOLE), the Senators from Utah (Mr. Moss and Mr. BENNETT), the Senator from South Carolina (Mr. THURMOND), the Senator from Arizona (Mr. FANNIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Pennsylvania (Mr. SCHWEIKER) be added as cosponsors of S. 3417, to amend the Gun Control Act of 1968, to permit the interstate transportation and shipment of firearms used for sporting purposes and in target competitions.

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

S. 3505

Mr. McGOVERN. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Idaho (Mr. CHURCH), the Senator from Utah (Mr. Moss), and my name be added as cosponsors of S. 3505, to amend the Land and Water Conservation Act.

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

S. 3522

Mr. JAVITS. Mr. President, I ask unanimous consent that, at its next printing, the names of my colleague from New York, Mr. GOODELL, and the Senator from Oregon (Mr. HATFIELD) be added as cosponsors of S. 3522, the Motor Vehicle Disposal Act.

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

S. 3528

Mr. McINTYRE. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Alabama (Mr. SPARKMAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Michigan (Mr. HART), the Senator from Ohio (Mr. YOUNG), the Senator from Texas (Mr. YARBOROUGH), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. PERCY) be added as cosponsors of S. 3528, to amend the Small Business Act to encourage the development and utilization of new and improved methods of waste disposal and pollution control; to assist small business concerns to effect conversions required to meet Federal or State pollution control standards; and for other purposes.

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

S. 3541

Mr. HRUSKA. Mr. President, I ask unanimous consent that, at the next printing, the names of the senior Senator from South Carolina (Mr. THURMOND), the senior Senator from Texas (Mr. YARBOROUGH), and the junior Senator from Rhode Island (Mr. PELL) be added as cosponsors of S. 3541, the amendments to the Omnibus Crime and Safe Streets Act of 1968.

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

S. 3546

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Michigan (Mr. HART) be added as a cosponsor of S. 3546, to amend the Clean Air Act.

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

S. 3560

Mr. COOK. Mr. President, I ask unanimous consent that, at the next printing, the name of the distinguished Senator from Arizona (Mr. FANNIN) 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 PRESIDING OFFICER (Mr. SCHWEICKER). Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 147

Mr. ALLEN. Mr. President, I ask unanimous consent that, at the next printing, my name be added as a cosponsor of Senate Journal 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 PRESIDING OFFICER (Mr. MONTOYA). Without objection, it is so ordered.

SENATE RESOLUTION 368—RESOLUTION SUBMITTED TO EXPRESS THE SENSE OF THE SENATE ON ARMED FORCES IN LAOS

Mr. FULBRIGHT submitted a resolution (S. Res. 368) to express the sense of the Senate on Armed Forces in Laos, which was referred to the Committee on Foreign Relations.

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

SENATE CONCURRENT RESOLUTION 57—CONCURRENT RESOLUTION SUBMITTED REQUESTING THE CHIEF JUSTICE OF THE UNITED STATES TO MAKE AN ANNUAL APPEARANCE BEFORE A JOINT SESSION OF CONGRESS

Mr. BAYH. Mr. President, the work of the Federal courts in this country has been outstanding. For nearly 200 years, our Federal judiciary has demonstrated extraordinary vigor and strength in protecting society as a whole and the basic rights of individuals.

But there is now increasing concern about the needs of our Federal judiciary—concern about the unprecedented increase in civil and criminal litigation and other serious and wide-ranging problems. It is obvious that the courts require greater public scrutiny as well as more effective planning for their needs by the other branches of our Government.

In the belief that Congress can meet its constitutional obligation as a coordinate branch of the Government more fully by clearly determining the needs of the Federal judiciary, Senator KENNEDY and I are submitting the following resolution: That Congress respectfully request the Chief Justice of the United States to appear annually before a joint session of the Congress to report on the state of the Federal judiciary. Congressman ALLARD LOWENSTEIN, of New York, has already introduced a similar resolution in the House.

Such a "state of the judiciary" message, we believe, would enable both Congress and the public to become fully informed, from year to year, about the work and the progress of the Federal courts of our Nation. Such a plan would contribute materially to a better understanding among the three great branches of our Government.

It is time that the problems of our judicial system be presented, both to Congress and to the country, at the highest level. Not only does the work of the judiciary need explaining to the country as never before, but a new and frightening set of figures on the growth of litigation in the Federal courts bears witness to the need for long-range planning and congressional action.

The caseload in the Federal courts has reached an alltime high. Continuing a trend begun 10 years ago, new filings in the courts of appeals increased again in fiscal 1969—12.4 percent over the year before. Both the number of appeals docketed and the number pending have more than doubled in just 7 years. Until fiscal 1969, new filings in the Federal district courts had remained fairly constant for a number of years. Then last year, the combined civil and criminal cases newly docketed rose 8.4 percent over the year before.

Overall, both the courts of appeals and the district courts faced an across-the-board increase in judicial business in fiscal 1969 of approximately 10 percent. Pending caseloads increased 19 percent in the courts of appeals and 7 percent in the district courts.

Myriad problems stem from these heavy caseloads. There are too few judges, too few courtrooms, too few supporting personnel. It takes too long to prepare transcripts and records. Delays in criminal cases directly affect the fight against crime as well as the fair administration of justice, and delays in civil cases make the cost and inconvenience of litigation virtually prohibitive in many instances. Problems of bail, probation, judicial disability, the protracted case, and a hundred other subjects plague our courts. It would take an entire issue of the CONGRESSIONAL RECORD merely to list the litany of horrors inherent in the litigation and appeal of cases today.

I do not mean to imply that progress has not been achieved or that substantial changes are not taking place. On the contrary, new innovations are constantly being made, and dedicated men all over the country are striving for new and better answers. My colleague, Senator TYDINGS, of Maryland, has done an outstanding job in this area in his Subcommittee on Improvements in Judicial Machinery. The Chief Justices and the Judicial Conference of the United States have given much of their valuable time to the question of judicial problems and judicial improvements.

But the point that needs to be made is that neither the problems nor the answers are being brought into focus for the country and the Congress, and action is seldom galvanized even in the face of emergencies.

An annual address to the Congress by the Chief Justice might well allow the country its first realistic look at the state of its judiciary, pinpoint current and long-range problems, suggest solutions as well as areas for study, and motivate the Congress to effective action. An address by the Chief Justice would tend to focus everyone's attention on the priority items.

His address could range over as broad a field as the courts encompass. The entire problem of criminal sentencing, for example, would seem ripe for review. Programs for referees in bankruptcy and probation officers might be proposed. The issue of multidistrict cases still has not been finally resolved. Even a partial list of the table of contents of a recent Senate report indicates the extremely serious and wide-ranging nature of its recommendations, all of which might be commented upon by the Chief Justice: U.S. commissioner system; Federal jury selection legislation; appellate review of sentences; omnibus judgeship bill; National Law Foundation; administrative reforms in the Federal courts; preventive detention; and judicial disability, retirement, and tenure. These matters affect the entire country. They should properly be the concern of all of us.

The present system of presenting such matters to Congress is both unbecoming and unproductive. Suggested changes usually emanate from a committee of the Judicial Conference. They then follow a long and tortuous route through the offices of the Vice President, the Speaker of the House of Representatives, various Senate and House committees, and culminate in time-consuming congressional hearings that seldom attract the public attention they deserve.

And all too often, our judges are overly timid in their pleas for help and base their request to Congress on past problems rather than projections.

A well-constructed, well-supported, forceful, and public presentation to the Congress would enable the Chief Justice to draw attention not only to the needs and problems of the immediate future, but of the years ahead, the decade beyond. Such an address would be a dignified approach from the head of one coordinate branch of Government to the branch responsible for both legislation and appropriations. It would force the judges to face the failings of their system and to evolve new ideas for dealing with them. And it would provide an opportunity to demonstrate the extraordinary vigor and strength of our Federal courts, of the absolute necessity for an independent judiciary, and of the all-important role of the judicial branch in protecting society and human rights.

The PRESIDING OFFICER. The concurrent resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 57), which reads as follows, was referred to the Committee on the Judiciary:

S. CON. RES. 57

Whereas, the Congress finds that there is increasing concern about the needs of the federal judiciary; and

Whereas, the extraordinary increase in civil and criminal litigation in federal courts requires a comprehensive examination; and

Whereas, serious and wide-ranging problems of the federal judiciary bear witness to the need for public scrutiny and immediate and long-range planning by coordinate branches of government; and

Whereas, the Congress can meet its constitutional obligation as a coordinate branch

of the Government more fully and increase public confidence by clearly determining the current and future needs of the federal judiciary; now therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the Congress respectfully requests the Chief Justice of the United States to appear annually before a joint session of the Congress to report on the state of the federal judiciary.

Mr. KENNEDY. Mr. President, I am pleased to join the Senator from Indiana (Mr. BAYH) in submitting Senate Concurrent Resolution 57 requesting the Chief Justice of the United States to address a joint session of Congress on the state of the judiciary. A companion resolution is being offered today in the House of Representatives by Representative ALLARD LOWENSTEIN, of New York, and I am hopeful that both the Senate and the House will act on the concurrent resolution at the earliest opporunity.

As Members of Congress are well aware, these are critical times for our courts, particularly the Supreme Court. As long ago as 1913, Justice Oliver Wendell Holmes described the Supreme Court in the following words:

We are very quiet there, but it is the quiet of a storm center.

Today, as never before, the winds of controversy are swirling around our courts—not only the Supreme Court, but all our courts, Federal, State, and local. For a year, the most exalted seat on the bench of the Supreme Court—the Holmes seat, the seat filled by Joseph Story and Oliver Wendell Holmes, by Benjamin Cardozo and Felix Frankfurter—has lain vacant. In recent months it has lain vacant because men in high places are conspiring to fill it with a man so unqualified to wear the mantle of those legal giants that the nomination has provoked an unprecedented outcry of protest from lawyers and law schools throughout the Nation.

Indeed, in many respects, the controversy over the nomination of Judge Carswell to the Supreme Court is a symbol of the general malaise that exists throughout our judicial system. The public decisions of judges are challenged on their merits. The private ethics of judges are scrutinized for impropriety or worse. Our courtrooms are in an uproar as judges, counsel, and defendants vie for headlines in a cauldron of mutual distrust and disrespect.

One place we can begin in our effort to restore the sense of national respect for our courts is by making a coherent attempt to understand the problems they face. And there is no one better qualified by position to establish an appropriate perspective than the Chief Justice of the United States. It is for this reason that Represenative LOWENSTEIN, Senator BAYH, and I have introduced a resolution inviting the Chief Justice to make an annual address to the Congress on the state of the judiciary.

To be sure, the idea for such an address is not entirely new. To my knowledge, it was first raised by the present Secretary of State, William P. Rogers, in 1953. At the time, Mr. Rogers was the Deputy Attorney General of the United States, and he later served with distinction under President Eisenhower as Attorney General. More recently, the same suggestion was eloquently presented by E. Barrett Prettyman, Jr., a distinguished private attorney in Washington. Only rarely, however, has the idea been widely discussed, and never has it been acted on by Congress.

An address by the Chief Justice to Congress on the state of the judiciary would be a fitting companion to the President's annual state of the Union address to Congress. Just as the President surveys the broad problems facing the Nation and proposes new approaches to meet them, so the Chief Justice would survey the problems of the judiciary and offer his guidance to Congress on their possible solution.

Too often in recent years, Congress has sought legislative solutions to judicial problems without adequate understanding of the complexity of the judicial branch of our Government, or the intricate relationships between its various parts. Too often, sensible and workable solutions to the problems of the courts have been prepared and neglected, because of the failure of commissions to survive and pursue their recommendations, or because of the lack of interest in their substance.

By lending the prestige and wisdom and continuity of the high office of the Chief Justice to the task, I believe that we can make a far better start toward achieving the understanding we need if we are to find satisfactory answers to the difficult problems of judicial administration and court reform, We in Congress must become far better informed of the needs and aspirations of our sister branch of Government. We know the general areas of the judiciary where many of the problems exist, but we are only dimly aware of the nature and extent of these problems:

Court calendars are clogged, and caseloads are at an alltime high. More than 110,000 cases were filed in 1969 alone in the Federal district courts, an average of better than 1,000 cases per court. More than 10,000 appeals were taken to the Federal courts of appeals, or, again, an average of 1,000 cases per court. Too often, however, the cry of "backlog" becomes the excuse for inaction, instead of the spur to reform. We know the problem is serious, and we simply must find better ways to handle it.

We know that justice delayed is justice denied, but still we fail to solve the difficult problem of granting every defendant his constitutional right to a speedy trial. At the end of 1969, 18,000 criminal cases were pending in the Federal courts. Over 6,000 of these cases—or one-third—had been waiting more than 6 months for trial. Over 2,500 had been waiting more than a year.

Hundreds of other problems infect the quality of justice in our courts. Many of the great domestic legal issues of the day—issues like bail and pretrial detention, confessions, and wiretapping—intimately involve the proper working of our judicial system. Every judge faces the dismal prospect of too many cases and too few personnel. Every judge knows the inadequacies of the sentencing and correction system, where too often the emphasis is on punishment instead of rehabilitation, on prison instead of probation or parole.

Nowhere, however, are these and other problems of our courts brought into focus with the sort of clarity that could be achieved in a formal presentation by the Chief Justice to Congress on the state of the Judiciary. Only he can turn the spotlight of public opinion on the problem.

By contrast, essentially the only effective redress that exists today for judges in attacking their problems is through the arduous route of recommendations by the Judicial Conference and the Administrative Office of the United States Courts. Often, the procedures are such that urgent and imaginative proposals are stalled for years in the complex machinery by which they must be approved.

I have no fear that an address by the Chief Justice to Congress will breach the wall of separation of powers between the legislative and judicial branches in our constitutional system of government. Article III of the Constitution confers on Congress the power to "ordain and establish" the lower Federal courts, and each year the appropriations committees of the Senate and the House consider and recommend legislation to fund all the Federal courts. Frequently, Federal judges—and even Justices of the Supreme Court—testify before congressional committees on appropriation bills or on substantive legislative proposals.

Every year, we in Congress are obliged to make our own determination of the priorities and problems of the judicial process, without the effective guidance of those who know the problems best. I believe that we can and will be aided by the thoughtful assistance of the Chief Justice in a formal address to Congress. I am hopeful, therefore, that Congress will act promptly on the concurrent resolution I have submitted.

VOTING RIGHTS ACT AMENDMENTS OF 1969—AMENDMENT

AMENDMENT NO. 551

Mr. MILLER submitted an amendment, intended to be proposed by him to the amendment (No. 545) proposed by Mr. MANSFIELD (for himself and other Senators) to the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 552

Mr. ALLEN proposed an amendment to the amendment (No. 545) proposed by Mr. MANSFIELD (for himself and other Senators) to House bill 4249, supra, which was ordered to be printed.

(The remarks of Mr. ALLEN when he proposed the amendment appear later in the RECORD under the appropriate heading.)

NOTICE OF HEARING ON BILLS RELATING TO FUNDS AWARDED TO CERTAIN INDIANS OF ALASKA

Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs will hold a hearing on Tuesday, March 17, on S. 2628 and S. 2650, providing for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the court of claims against the United States. The hearing will begin at 10 a.m. in room 3110, New Senate Office Building.

Time permitting, the subcommittee will also consider on that day the following measures: S. 885, to authorize the preparation of a roll of persons whose lineal ancestors were members of the Confederated Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, merged under the treaty of May 30, 1854 (10 Stat. 1082), and to provide for the disposition of funds appropriated to pay a judgment in Indian Claims Commission Document No. 314, amended, and for other purposes; S. 887, to further extend the period of restrictions on lands of the Quapaw Indians, Oklahoma, and for other purposes; S. 3116, to authorize each of the Five Civilized Tribes of Oklahoma to select their principal officer, and for other purposes; S. 759, to declare that the United States holds in trust for the Washoe Tribe of Indians certain lands in Alpine County, Calif.; and S. 3291, to amend the act of August 9, 1955, to authorize longer term leases of Indian lands on the Yavapai-Prescott Community Reservation in Arizona.

Those who wish to testify on these proposals are requested to contact Mr. James Gamble, of the committee staff, in order that a witness list may be prepared.

NOTICE OF HEARING ON CERTAIN NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, March 18, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

William E. Miller, of Tennessee, to be U.S. circuit judge, sixth circuit, vice Clifford O'Sullivan, retired.

Joseph F. Weis, Jr., of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Joseph P. Willson, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE OF HEARING ON H.R. 15980, RELATING TO THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, as chairman of the Fiscal Affairs Subcommittee of the Committee on the District of Columbia, I wish to give notice that a hearing on H.R. 15980, a bill to make certain revisions in the retirement benefits of District of Columbia public school teachers and other educational employees, will be held Tuesday, March 17, 1970. The hearings will begin at 12 noon in room 6226 of the New Senate Office Building.

Persons wishing to testify on this legislation should notify Mrs. Edith Moore in room 6218, New Senate Office Building, at 225–4161.

ADDITIONAL STATEMENTS OF SENATORS

WHITE HOUSE MEETING ON INDIAN OPPORTUNITY

Mr. GOLDWATER. Mr. President, an important event took place recently which I believe deserves our close attention. I am referring to the fact that the first full meeting of the National Council on Indian Opportunity was held on the 26th of January.

The setting for this significant occasion was the White House, and, almost all of the Federal and Indian members of the Council were present, including Vice President AGNEW, who is chairman of the group.

As a little background, I should like to remind Senators that the Indian Council was created on paper almost 2 years ago to this week. However, due to technical limitations of a budgetary and staffing nature, the Council was unable to begin actual operations until this year.

Consequently, the January meeting in fact marks the true moment when the Council has embarked on its assigned duties.

The National Council on Indian Opportunity was established with four principle aims in mind. It is supposed to encourage full use of all Federal programs which can be administered for the benefit of Indian Americans. It is intended to promote and oversee interagency coordination of the various Federal Indian programs. It is directed to appraise the effectiveness and success of these programs. And it is meant to develop and suggest ways of improving the Government's Indian programs.

Now, this is truly an impressive set of duties for any group to handle. And it is going to take a good supply of dedication, hard work, cooperation, and intelligent leadership to make it succeed.

One prime requisite to having the Council meet its goals, of course, is going to be the excellence of its actual membership. For this reason I would like to identify the current members of the Council. Once their names are known, I am sure Senators will agree that, on this basis, the Council is off to a flying start.

First, I would like to name the six Indian members of the Council. These persons all have been chosen by the President and will serve 2-year terms.

These members are Mrs. La Donna Harris, who is a member of the Comanche Tribe of Oklahoma and the wife of the Senator from Oklahoma (Mr. HARRIS); Mr. Roger Jourdain, who is chairman of the Red Lake Chippewa Tribal Council of Minnesota; Mr. Raymond Nakai, the distinguished chairman of the Navajo Tribal Council, which is the governing body of the Navajo Tribe of Arizona, New Mexico, and Utah; Mr. Cato Valandra, who is a member, and former chairman, of the Rosebud Sioux Tribe of South Dakota; Mr. Wendell Chino, who is chairman of the Mescalaro Apache Tribe and a former president of the National Congress of American Indians; and Mr. William Hensley, an Eskimo member of the Alaska Legislature.

Mr. President, I have first identified the Indian leaders who sit on the Council because it is obvious that Indian membership on the body is crucial to the whole essence and purpose of the Council.

It stands as an elemental truth that an organization which is supposed to be devoted to the supervision and formulation of our national Indian policies and programs should have a significant Indian representation on it. Clearly, the Indian Americans themselves should be consulted and informed before major steps are taken which will affect Indian lives.

Also, if the Council is going to prove capable of living up to its promise, it must have among its membership the Government officials who hold the reins of authority over Indian programs. These members should be able to make commitments and put into operation the actions which will implement these commitments.

This is why the remaining members of the Council are all Cabinet-level officers. Indeed, as I have mentioned, the chairman of the Council is the Vice President of the United States.

To be specific, these Cabinet heads are the Secretaries of Agriculture; Commerce; Interior; Labor; Health, Education, and Welfare; and Housing and Urban Development; and the Director of the Office of Economic Opportunity.

Mr. President, getting back to the January meeting, I want to note that the Indian members of the Council presented a very fine statement, together with recommendations, to the Vice President and the six Cabinet members. The Indian statement is a comprehensive, challenging, and very helpful document.

It sweeps across many vital areas of concern to the Indian members and lays out specific goals for positive Federal action which "will create Indian confidence in the sincerity and capability of the Federal Government."

These recommended actions cover administration, education, health, welfare, urban matters, economic development, legal services, agriculture, housing, and the Blue Lake religious sanctuary issue.

Mr. President, I wish to express my special pleasure at seeing that one of the educational goals proposed by the Indian members is the expansion of the Bilingual Education Act so that it will reach Indian and Eskimo children.

A bill that I introduced early last year would do just that, and I should like to note that the Senate recently passed my proposal as an amendment to the educa-

tion authorization bill. The matter is now in joint conference between the two Houses.

My proposed legislation received excellent bipartisan endorsement in the Senate, and I believe that its enactment would be an important step forward by increasing Indian participation in, and establishment of, Indian-administered and Indian-controlled school programs.

The House-Senate conferees are meeting this week, and I hope that there will be swift approval of this significant, new concept.

Mr. President, I want to report that Vice President AGNEW was very much impressed with this report and that he instructed the other Federal members of the Council to report back to him within a short period. He asked to receive recommendations as to those goals which can be implemented immediately, those goals which should be implemented as soon as practical, and, if any, those which simply are not possible of being carried out.

It is my understanding that the Vice President intends to reconvene the Council shortly after receiving these reports from the other Cabinet members. He has announced that he will allow for full consultation between the Indian and Federal members of the Council when this meeting occurs.

Mr. President, I have been extremely pleased to see the Vice President and other Cabinet officials take such a keen interest in the problems of the American Indian, and I look forward with great interest to the actions and positive recommendations that I am confident will be forthcoming from the administration in this field.

Mr. President, the Vice President feels that the statement of the Indian members of Council is a major document, because it sets forth the definition of, and recommendations on, Indian problems by Indian citizens themselves. He has also indicated his belief that the statement should be available for reading by a nationwide audience. I agree, and in order that this piece may receive the wide distribution it deserves, I ask unanimous consent that it be printed in the RECORD.

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

STATEMENT OF THE INDIAN MEMBERS OF THE NATIONAL COUNCIL ON INDIAN OPPORTUNITY TO THE CHAIRMAN AND FEDERAL MEMBERS, JANUARY 26, 1970

In 1970, when men have landed on the moon, many American Indians still do not have adequate roads to the nearest market.

In 1970, when almost every American baby can look forward to a life expectancy of 70 years, the Indian infant mortality rate is three times higher than the national average after the first month of life.

In 1970, when personal income in America is at an unprecedented level, unemployment among American Indians runs as high as 60%.

These are reasons why the National Council on Indian Opportunity—the first agency of the Federal Government where Indian leaders set as equals with members of the President's Cabinet in overseeing Federal Indian programs and in recommending Federal Indian policy—is of the most vital importance to Indians all across the Nation. Because the essential requirement of any Indian policy must be active and prior Indian consultation and input before major decisions are taken which affect Indian lives, Indian membership on the Council is not only of symbolic importance, but is insurance that such consultation will be sought.

We wonder if the Vice President and the Cabinet Officers fully appreciate the fact of their physical presence here today—the meaning that it has for Indian people? We realize that every group in America would like to have you arrayed before them, commanding your attention.

For the Indian People across the nation to know that at this moment the Vice President and Cabinet Officers are sitting in a working session with Indian leaders is to alleviate some of the cynicism and despair rife among them.

Thus, the Council and the visibility of its Federal members is of great symbolic importance to the Indian people. However, symbolism is not enough. We must be able to report that we have come away from this meeting with commitments on the part of the Federal members that Indian people and their problems will be considered even out of proportion to their numbers or political impact. Otherwise the distrust, the suspicion on the part of the Indians, which has dogged the Federal Government and has defeated its meager attempts to help the Indian people, will continue.

The National Council has a concern with the well being of all Indians everywhere—whether they live on the Reservation or off; in cities or rural areas; on Federal Indian Reservations or on those established by particular states.

Indian tribes have had a very long relationship with the Federal Government. However, in the last decade and a half, longstanding latent suspicion and fear brought about by broken promises, humiliation, and defeat have sharpened into an almost psychological dread of the termination of Federal responsibility. This fear permeates every negotiation, every meeting, every encounter with Indian tribes. Whether this fear can be overcome is debatable, but Federal agencies—especially those Departments represented on its Council—must understand it and be aware of its strangling implications.

The long Federal-Indian relationship was until recent years almost exclusively between the Tribes and the Bureau of Indian Affairs,. The provision of services by the Bureau in the past has at times been seriously deficient and its attitude paternalistic, leading to a long series of criticisms of the BIA. More than 150 years of dependency on the Federal Government is not easy to overcome. A paradox—fear of termination on one hand, and on the other the realization that federal services are grossly inadequate. This must be understood before any real progress can be made This also makes it imperative that other Departments and Agencies of the Federal Government take a more active role in Indian Affairs. In this way progress can be made in breaking Indian dependency on the Bureau of Indian Affairs. Progress can be made in building Indian confidence in themselves and in their ability to deal with a wider range of society—hopefully—help to overcome the termination psychology.

The Indian problem has been studied and restudied, stated and restated. There is little need for more study. In 1970, the Indian people are entitled to some action, some programs, and some results. To that end we are setting forth a series of specific goals. These goals can and must be met. Such positive federal action will create Indian confidence in the sincerity and capability of the Federal Government.

RECOMMENDATIONS

Administration

Special Assistant to the Secretary

In order to insure parity of opportunity for Indians in all Federal programs, we recommend that a position in the immediate office of each Departmental Secretary be established—which hopefully can be filled by an Indian. He will deal with policy and planning for Indian programs at the central, regional, and local levels; assure Indian input into legislative proposals, policy formulation, and program planning; and report accomplishments on a quarterly basis to the National Council on Indian Opportunity.

Indian Desks

We recommend that departments establish Indian desks at the program level.

Assistant Secretary for Indian Affairs

We recommend, that the Bureau of Indian Affairs have its own Assistant Secretary of the Interior, or that the Commissioner of Indian Affairs be given Assistant Secretary status.

Budget

Because no one person knows or is in a position to know what the various federal departments are planning for Indian expenditures, we have advised the Executive Director of the National Council to assign a staff member to acquaint himself with the Indian component in the budget proposals of the several departments and to follow the budget planning process through all decision-making levels in the Bureau of the Budget up to, but not including, the final director's review.

National Council Field Offices

To insure that the coordinative, evaluative and innovative responsibilities given to the National Council by the President are carried out; to maximize delivery of programs at the lowest local level; and to receive recommendations regarding policy and programs from local tribes, Indian organizations and individuals, we submit that Council field offices composed of a Director, Assistant Director, and Administrative Assistant are essential and must be established in each of the ten Human Resource Regions.

Demonstration Projects

In order to show that the Government is sincere in its commitments, and to assure greater opportunities available to Indians, we suggest that a demonstration project representing all services available to Indians in each department, be established in order that Indians may observe them and utilize them in their own communities.

BIA In-Service Training

We recommend that the Bureau of Indian Affairs effect as quickly as possible comprehensive in-service training programs to (1) expose all of its employees to the cultural heritages and the value systems of the Indian people they serve and (2) to increase and guarantee the upward mobility of its Indian employees.

Evaluation of BIA Staffing

We recommend that the administrative structure of the BIA be analyzed to determine areas of over-staffing and duplication—with a view toward elimination of "dead wood".

Indian Service on Federal Committees

We recommend that there be equal opportunity for Indians to serve on all appropriate Federal boards, councils, commissions, etc., (e.g., Equal Employment Opportunity, the President's Council on Youth Opportunity, the Civil Rights Commission, etc.)

Indian Youth

The Indian members of the Council recognize the value of having the input of young

Indians at policy making levels and in the operation of programs. We recommend that each department give specific attention to the establishment of a federal intern program for young Indians at the local, regional and national levels.

Education

It is an appalling fact that between 50 and 60% of all Indian children drop out of school. In some areas the figure is as high as 75%. This stands in sharp contrast to the national average of 23%. The suicide rate among all young Indians is over three times the national average. Estimates place it at five to seven times the national average for boarding school students.

A full generation of Indian adults have been severely damaged by an unresponsive and destructive educational system. At a time when economic survival in society requires increasing comprehension of both general knowledge and technical skills, Indians are lost at the lowest level of achievement of any group within our society. We must not lose this generation of Indian children as well. There is a desperate need for both a massive infusion of funds and complete restructuring of basic educational concepts. Therefore, the Indian members of this Council strongly recommend the following major policy initiatives:

1. That a comprehensive Indian education act be submitted to Congress to meet the special education needs of Indians in both Federal and public schools in an effective and coordinated manner. This act will pull together all Indian education programs including set-aside programs. Provision would be made for Indian input, contracting authority with tribes and communities, submission of plans, accountability and evaluation procedures in the hope of correcting the glaring inadequacies and misdirections that exist in present programs such as the Johnson-O'Malley Act. The Indian members of this Council wish to express our strong support for the HEW appropriation bill. In particular, we want to make it known that a number of public schools with large percentages of Indian students will be forced to close if this bill is vetoed and the impacted aid funds are thereby imperiled.

2. That the Civil Rights Enforcement Office of HEW investigate discrimination against Indians in schools receiving federal funds.

3. That a permanent Indian education subcommittee be established in each house of the Congress.

4. That funding for Indian education be substantially increased. Funds at present are not adequate for even basic rudimentary requirements such as reasonable teacher-student and dormitory counselor-student ratios. It is a fact today that the average student-counselor ratio in BIA boarding schools is one to 60 during the day and one to 150 at night. Innovative program planning and implementation cannot be successfully carried out without the support of basic operational facilities and staff.

5. That the present reorganization of the BIA assign to the assistant commissioner for education the responsibilities of a superintendent of federal schools, having direct line control over the operation of the schools, including budgets, personnel systems and supporting services.

6. That the Bilingual Education Act receive sufficient funding so that an expanded program would be available for Indian and Eskimo children, including those at schools operated for Indians by non-profit institutions, and that the BIA undertake an expanded bilingual program of its own. This program can and should include the hiring of a greatly increased number of Indian teacher aides.

7. That courses in Indian languages, history and culture be established in all Indian schools including those slated for transfer to state control, and that a revision of textbooks be undertaken to make them relevant to an Indian child's experience and to eliminate derogatory references to his heritage.

8. That phasing out of BIA boarding schools become a policy goal. At present approximately 40,000 Indian children attend BIA boarding schools; 9,000 of these children are nine years of age or under. Additional students are housed in BIA bordertown dormitories while they attend off-reservation public schools. These children are often sent several hundred miles from home (in case of Alaskan children, thousands of miles) due to the lack of facilities in their area. The schools which they attend are often emotionally disturbing and culturally destructive to some children and their families are educationally deficient as well. In order to eliminate boarding schools, roads must be constructed in rural areas; without sufficient road appropriations there cannot be realistic access to schools for these children on a daily attendance basis. A plan must be developed for the construction of a vast network of community schools and the present allocation of money for construction at existing boarding schools must be reallocated to the construction of community based schools.

9. That tribal control of schools with the continuation of federal funding be implemented upon the request of Indian communities. In conjunction with this, a report should be submitted by the BIA on the progress that has been made in the establishment of local Indian school boards and the powers which have been granted to these boards. The time has come for an end to the solely advisory role that has been played by the majority of these boards. The OEO–BIA joint experiment at the Rough Rock School on the Navajo reservation has shown that Indian control is both a feasible and desirable means of operation. Community located and controlled schools could also serve as adult education centers and would help to acquaint Indian parents with the importance of their involvement in the education of their children in a setting with which they can identify.

10. That training programs in Indian cultures and value systems be provided to teachers, administrators and dormitory counselors—be they Anglo or Indian. There is no excuse for a quiet shy Indian child being labeled and treated as dumb and unresponsive by an uncomprehending teacher.

11. That the need for a far greater number of Indian teachers must be recognized. At present, there are far too few Indians graduating from college to meet this need. Increased availability of scholarships to Indian students would enable a greater number to attend institutions of higher education. We support the establishment of a national scholarship clearinghouse for Indian students which would include the contracting of the BIA scholarship program. In order to obtain the highest quality teachers we recommend the elimination of the Civil Service Regulation that protects by tenure incompetent and prejudiced teachers from dismissal.

12. That Federal funds be provided for the establishment of tribal community colleges.

13. Recognizing the first five years of life as being of great importance in proper child development, that we request the expansion of HEADSTART and kindergarten programs for Indian schools rather than reduction. We also stress the necessity for a continuous process of Indian input into their organization and operation.

14. That modern educational communication techniques be utilized to enhance the educational opportunities for all Indian people.

Health

It is a recognized fact that despite considerable improvement the health status of the American Indian is far below that of the general population of the United States. Indian infant mortality after the first month of life is three times the national average. This means, in plain language, that children are dying needlessly. The average life span of Indian is 44 years, one third short of the national average of 64 years; in Alaska it is only 36 years. In light of the dire need for all health facilities and health needs, it is criminal to impose a personnel and budget freeze on Indian health programs. Even without a freeze, Indian hospitals are woefully understaffed and under supplied, even to the extent of lacking basic equipment and medicine. We deplore the budget decisions that have caused this state of inadequacy.

There are a number of specific actions that can be taken now to improve Indian health services:

1. An Indian health aide program has been established. A review should be undertaken of its recruitment, training and assignment policies.

2. The Division of Indian Health and the regular U.S. Public Health Service should establish communication for ascertaining their respective areas of responsibility. There is no excuse for the plight of a sick individual, who also happens to be Indian, to be denied access to health facilities due to jurisdictional conflicts.

3. The establishment of Indian advisory boards at hospitals should be continued and expanded. However, to be meaningful, these boards must be given actual authority in the administrative areas of patient care.

4. The establishment of a program to bring Indian health services into communities rather than simply at the central office location, e.g., traveling clinics.

5. Lastly, the Council goes on record in support of a national health insurance system.

Welfare

President Nixon's proposal for a Family Assistance Program is a major step toward restoring dignity to the individuals involved. We support the concept of this program and urge its enactment and adequate funding. We also request Indian input into its planning and delivery, for without a mutual exchange this new, innovative program will not satisfy the unique needs of the Indian people.

We specifically recommend today the following:

1. That an immediate investigation be undertaken of the system whereby many welfare recipients are exploited by trading post and grocery store owners. These trading post and grocery stores are the mailing addresses for large numbers of Indian welfare recipients in the surrounding areas. By isolated location, over-charging and credit, and the custom of dependency, the traders and store owners have complete control over the disbursement of the welfare checks;

2. That training programs in the culture and value systems of the Indian populations be required for social workers serving Indian people;

3. That Indian tribes be given the option of contracting with the Federal government for the administration of their own welfare programs.

Urban

A National Council on Indian Opportunity study conducted in 1968–69 has found that one-half of the Indian population in the United States is located in urban years. Yet none of the programs of the Federal government are aimed with any meaningful impact on the special problems which Indians in these urban environments face.

A majority of the urban Indians have arrived at their present location through the Federal government's relocation program. This program is seriously deficient in funds and in professional direction for economic, social and psychological adjustment to an

environment that is almost totally strange, impersonal and alien. Aside from budgetary consideration, this raises the fundamental question of whether relocation is a proper policy or goal. In the study group's hearings, those Indians who testified expressed deep hostility for the program, its administrators, and its fallacious inducements. After serious analysis based on the hearings, the Indian Council members have concluded that viable economic development on or near present Indian communities is a goal much preferable to the artificial movement of individuals or families.

Immediate action must be taken to reevaluate the entire justification of this relocation policy. In addition, the needed services for these people presently situated in these urban societies must be created and it is therefore recommended that the following actions be taken:

1. The Departments of Commerce, HEW, HUD, and OEO must educate themselves to the location of urban Indian concentrations with the purpose of bringing their present services directly and effectively into these areas. In addition, they must develop new programs and initiatives to answer the special needs of Indians in an urban environment.

2. Reinforcement of existing urban Indian centers and active support for the development of new centers located in neighborhood Indian areas which would serve the two-fold purpose of community centers and programmatic referral agencies.

3. Establishment of legal aid offices in Indian ghetto areas.

Economic development

Indian people in general have been deprived of the opportunity of obtaining business acumen and have not participated in the benefits of the American free enterprise system. This fact has led to the present economic plight of the first Americans and has been an embarrassment to principles upon which this country was founded. But in recent years, because of a cooperative effort involving government agencies and of the private groups industrial development on Indian reservations is starting to become a reality. This development is greatly desired by most tribes to improve the economics of the communities and to provide jobs for the individuals of those communities.

However, where large industries have located in Indian communities, the inadequacies of the reservations to accommodate the sudden concentration of employee populations have created serious problems. In most of these new industrial communities there are inadequate schools, too few houses, insufficient hospital and medical capability and generally inadequate community facilities for the population. While Indians desire and deserve job opportunities near their homes, most of the industries thus far attracted to reservations have chiefly employed women. This leaves the male head of the family still unemployed and disrupts the family. Attention of those federal agencies concerned with industrial development should be directed to this problem and they should maximize employment for Indian men.

Most of the industries which locate in Indian country are subsidized by the government because they are to provide jobs for Indians. The government should make employment of a high percentage of Indians a condition of the federal subsidy to ensure increased Indian employment. High on the list of impediments to industrialization on Indian reservations is the lack of hard surfaced roads. Roads will have to be developed to handle the traffic of the work force and to provide a way to market goods produced and to procure necessary supplies.

A curious ruling of the Federal Aviation Agency is that Indian tribes are not public bodies. The legislation authorizing federal assistance in construction of airports limits that assistance to public bodies thereby excluding Indian tribes who wish to construct airports.

Finally, we wish to go on record supporting proposed legislation which would provide tax incentives to industry locating on Indian reservations. An exemption of industry from federal taxation for a period of years would provide much needed inducement to industry to come to Indian reservations. With regard to helping individual Indians into business for themselves, programs providing the necessary capital through loans at low interest rates and continuing technical assistance are essential to success.

Work must be done to create a climate and receptivity among Indian individuals to go into business and there must be a sustained vehicle to accomplish this if Indians are to overcome their lack of experience in business management. To complement this effort there is a need for developing a greater number of business opportunities. A program of sustained management and technical assistance as well as adequate financing is needed. A talent search is needed to locate and identify the potential Indian entrepreneur.

Therefore we recommend:

1. That there be developed a program of a 100% secured loan program for five years for Indians.

2. That there be attempts with the American Bankers Association with Federal program linkage to develop training to familiarize bankers with special and unique needs of the Indian communities and to involve selected Indians in banking training programs.

3. That a consumer education program be developed and implemented for all Indians.

4. That an Indian program to establish Indian credit unions and to implement credit union management training for Indians be organized and funded.

Legal

Independent Indian Legal Agency

Government lawyers in the Interior and Justice Departments handling Indian legal rights are caught in a conflict because they also represent government agencies in litigation affecting Indian rights. In many cases government lawyers have failed to pursue untested legal claims of the tribes that would yield substantial water rights.

Because of this conflict, we recommend the establishment of an agency independent from both the Interior and Justice Departments to represent the tribes in all legal services required in connection with all Indian rights to lands, water, and natural resources.

JURISDICTION

Another of the problems impeding development of Indian tribes is the confusion and dispute over who has jurisdiction over most Indian reservation areas. The question whether the states can levy taxes on individuals and businesses on reservations is raging in the courts at the present time. It appears that the question is being resolved in favor of the states. This flies in the face of history and legal precedent and may result in "termination" by judicial decision, rather than federal legislation as Indian tribes have long feared.

Indian tribes nearly unanimously wish to retain exclusive jurisdiction, vis a vis the states, over their own affairs. They believe this is necessary at present so that they may develop their communities to the point where they can participate on a parity with the other communities of the nation.

One aspect of jurisdiction which seems most unjust to the Indian tribes is the absence of tribal jurisdiction over non-Indians who commit offenses within reservation boundaries. This results in situations where a State's Attorney General's Office can rule that the "State has no jurisdiction or interest in highways on a reservation and any jurisdiction problems concerning the prosecution of non-Indian violations by tribal courts would be a problem between the tribe and the violator himself." On the other hand the Commissioner of Indian Affairs has told the tribes that the Solicitor's Office in the Interior Department has ruled that the nature of tribal jurisdiction precludes the exercise of tribal police jurisdiction over non-Indians. The result, of course, is that no one has jurisdiction and the non-Indian violator goes unpunished.

Because of the same jurisdiction problem, which conceivably could be solved by a change in Interior Department regulations, the anomaly exists that a non-Indian can sue an Indian in a tribal court and obtain an enforceable judgment, but the Indian cannot sue a non-Indian in a tribal court because tribal courts do not have jurisdiction over non-Indian defendants.

It is unlikely that any Indian tribe would wish to assume jurisdiction over non-Indian defendants in serious criminal cases today. However, they could and should have jurisdiction over non-Indian defendants at the present time to enforce parking regulations in Indian villages against non-Indians, or to enforce tribal regulations against pictures taken by non-Indians.

We believe that this jurisdiction problem can be solved by the lawyers in the Solicitor's Office of the Interior Department and we ask that they re-examine the problem with a view to its solution.

Alaska Native Land Rights

The enactment by Congress, in its current session, of legislation for the equitable settlement of the land rights of the Natives of Alaska—the Eskimos, Indians and Aleuts—is of highest priority. Justice requires that the settlement embrace the proposals set forth by the Alaska Federation of Natives which contemplates:

1. That fee simple title be confirmed in the Alaska Natives to a fair part of their ancestral lands.

2. That just compensation for the lands taken from the Natives include not only cash but also a continuing royalty share in the revenues derived from the resources of such lands.

We urge that the several departments of the government, and in particular the Secretaries of Interior and Agriculture, and the Bureau of the Budget, reassess their position and give their full support to the proposal of the Alaska Federation of Natives.

Agriculture

Indian members of the National Council on Indian Opportunity strongly urge the Farmers Home Administration to reemphasize its efforts to make economic opportunity and low-income housing loans available to Indians in rural areas. This effort can be aided a great deal by employing Indians as field workers in areas with high Indian concentration.

FHA should work closely with the Bureau of Indian Affairs to find a way to adjust its security requirements to the unique Indian situation. This will ensure that more loans will be made to Indians residing on trust land.

We commend the Extension Service for providing 60 professional extension workers in 17 states and 90 Indian aides on reservations and in Indian communities to explain and demonstrate nutrition programs and better use of resources to attain a better quality of living. (Expanded assistance to urban Indians should be emphasized in the future). Plans should proceed for conducting seminars and short courses for Indians on household management, budgeting and credit, and improved methods of breeding, feeding, and marketing of livestock.

The Farmer Cooperative Service assistance

to Alaskan Native cooperatives and Indian cooperatives in Oklahoma has been very useful. We request that this service actively seek out opportunities for the use of cooperatives among Indian farmers and provide the technical assistance to keep the cooperatives afloat.

The Soil Conservation Service can provide an important service for Indians because land is their most valuable remaining resource. Wherever the Soil Conservation Service can cooperate with the Interior Department in preserving Indian land from erosion and flood it should actively offer to do so. Interior Department resources for soil and water conservation do not appear to be adequate to meet the total Indian need.

The Agricultural Stabilization and Conservation Service also provides an important service in encouraging soil and water conservation practices. This technical assistance should be made available to all Indian farmers. The federal payments for wool produced and marketed by Indians, especially in Arizona and New Mexico, is a beneficial program and efforts should be made to assure that all Indians eligible for these payments are made aware of the program.

The Donation Feed Program in Agriculture had no authority to purchase hay for starving Papago cattle in 1968, and as a result the tribal herd was devastated. If the weakened cattle had been able to consume Departmentally owned feed grain they would have been saved. The Department should not allow such a disaster to be repeated.

The Department of Agriculture has several other programs which can assist Indian progress. Without going into detail, the Consumer and Marketing Service, the Economic Research Service, Agricultural Research Service, Rural Electrification Administration, Food and Nutrition Service, and the Forest Service are useful to Indians, but special efforts should be made to improve the availability of services to Indians.

HOUSING

Housing among American Indians and Eskimos is deplorable. It is worse than that found in Appalachia or any slum. That this situation should exist in America in 1970, when many Americans are becoming two-home owner families, is a cruel paradox. Immediate action must be given by Federal departments to relieve this blight.

Even though some small breakthrough has been made in Indian housing, the need remaining is tremendous. There needs to be a review of financing to provide increased Indian participation in all housing programs. During the past year a tri-agency agreement involving the Department of Interior, HEW, and HUD was effected to provide for coordination of expanded housing and expanded Indian water and sanitation facilities programs. This represents an effort to seek a better way of dealing with difficult problems by a joint effort. However, these efforts need to be reviewed to increase production and emphasis and to maintain action.

We recommend, in order to put the Indian housing problem into clearer focus, that regional conferences be held with a cross-section of Indian representatives and appropriate Federal regional administrators, to determine what can practically and effectively be done with support of tribes and Indian organizations. These conferences should touch on the following needs:

Greater flexibility in determining types of housing programs appropriate to a situation.

A review of the effectiveness and status of housing authorities.

In cooperation with lending agencies, an analysis of the default rate and the causes for it.

We also point out that a solution to the Indian housing problem will help to solve corollary problems—family instability, health and sanitation problems, poor school attendance or even dropouts, juvenile delinquency, and others.

Blue Lake

For more than 60 years the Taos Pueblo Indians have been seeking—by peaceful and legal means—the return of their religious sanctuary—Blue Lake. Because the problem is unique and because it has persisted over so many decades, we feel that the Taos struggle merits the special attention of the Council.

In 1965 the Indian Claims Commission ruled that the Blue Lake area and an additional 130,000 acres were seized illegally. However, the Taos Indians are seeking the return of only the area containing the ancient shrine and holy places of their religion.

Once again, a bill introduced in Congress which would right this injustice has passed the House of Representatives and is pending in the Senate. We recommend that the full Council support this legislation and hope that Council members, individually will support the Taos Pueblo at every opportunity.

SOCIETY AND THE LAW NEGLECT VICTIMS OF CRIME

Mr. YARBOROUGH. Mr. President, for over 5 years I have proposed legislation in the Senate to right a terrible wrong we have allowed to exist in our system of criminal justice—the total neglect of innocent victims of crime.

We have enacted laws dealing with the criminal who inflicts injuries upon another, and we have enacted some very important legislation to assist the law-enforcement officers in their duties in preventing crime and in apprehending criminals. But we still neglect that person who usually suffers the most from an occurrence of violent crime—the innocent victim himself. This is an injustice we should not allow to exist in those jurisdictions where the Government exercises general police power and the special maritime and territorial jurisdiction of the United States.

On Monday evening, March 9, 1970, I had the privilege of addressing the Business and Professional Women's Club of the District of Columbia and discussing my bill which would provide compensation for personal injury or death suffered by innocent victims of crime here in our Nation's Capital, S. 2936. Due to the leadership of the Senator from Maryland (Mr. TYDINGS) hearings have been held and completed in the District of Columbia Committee on S. 2936.

Mr. President, in view of the urgent need for action on this subject, I ask unanimous consent that my remarks to the Business and Professional Women's Club of the District of Columbia be printed in the RECORD.

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

S. 2936: THE DISTRICT OF COLUMBIA CRIMINAL INJURIES COMPENSATION ACT

(Remarks of Senator RALPH W. YARBOROUGH at the meeting of the Business and Professional Women's Club of the District of Columbia, Baker Hall, Y.W.C.A., Mar. 9, 1970)

It is a great pleasure to meet with you ladies this evening. Your invitation to discuss my bill on innocent victims of crime was most welcome.

The fundamental purpose of any government is to protect the people from injury, and this is the first measure by which a government is judged. Order and security are fundamental to any society, but in this nation we have also established justice as a basic goal. We seek to protect the individual, not only from foreign or domestic enemies, but from unjust treatment by the state itself. We have worked to protect the rights of each of our citizens, while providing for the protection of society as a whole.

In most respects, we have been successful. We can be proud of the institutions which administer justice in America. While imperfect, they represent the best system of justice ever achieved in man's history. But one aspect of our system is ironically "unjust"—we do nothing for victims of crime. We spend great sums to insure the accused a fair trial, and if convicted, even more to care for and to rehabilitate him, but we ignore the victim. The victim could sue the criminal, but this remedy is a useless one in most criminal cases. The aggressor either has no money, expends it in his defense, or may be sent to prison where he can earn nothing with which to repay.

This irony has disturbed me ever since I served as a District Judge in Texas over 30 years ago, and I have long thought that something must be done to correct this injustice. However, I must give credit where due. The person who brought recent public attention to this problem was a woman. The late Margery Fry of England was interested in penal reform. While the idea of victim compensation comes from some of our most ancient societies, she took the idea and revived active concern with the problem. In 1957 she wrote her views in the *London Observer*, on the responsibility of the State to compensate victims of crime. Her article was widely discussed, and governments acted.

The first jurisdiction to institute a system of victim compensation was New Zealand, in 1963. Great Britain instituted a plan in 1964.

In 1965 I introduced a bill in the Senate, S. 2155 of the 89th Congress, to create a Federal Violent Crimes Compensation Commission to consider claims and to provide up to $25,000 compensation for individuals injured by criminal violence. This was the first bill ever introduced in Congress to meet this problem. There was then no law in any American state providing for such compensation.

In the 90th Congress, in January of 1967, I introduced the "Criminal Injuries Compensation Act of 1967," S. 646, a refined version of my original bill.

In this Congress I have introduced two bills on the subject. The first, introduced in January of 1969, is S. 9, which would apply to all areas in which the federal government exercises general police power—the District of Columbia and the special maritime and territorial jurisdiction of the United States. Later, on September 19, 1969, I introduced S. 2936, which would apply only to the District of Columbia. While I think this law should have the broadest possible application, the situation in the District seemed to me to be critical. In effect, S. 2936, the District of Columbia Bill, is carved out of the larger jurisdiction of S. 9.

Senator Joseph D. Tydings of Maryland, as chairman of the District of Columbia Committee, has shown great interest in this bill. While unable to obtain hearings before the Judiciary Committee on my more general bill, Senator Tydings and his committee took swift action on the District of Columbia bill and held hearings on December 17, 1969. These hearings have been printed and I hope for favorable committee action on the bill within the next few weeks. The committee is aware that the situation is critical here in Washington.

We read in the papers every day the awful

toll of violence in this city. The tremendous increases in crime rate in Washington are terrifying. Just this past year, in 1969, we had one of the greatest increases in the rate of crime of any major American city in history: In 1969 there were 163 murders, an increase of 50 percent over 1968; there were 186 rapes on our streets, a 30 percent increase; there were an astounding 12,423 robberies, a 44 percent increase over the year before.

There are many areas in the nation's capital city where one American citizen alone on the streets at night is in as great danger as a single American alone in a Viet Cong infested area of South Vietnam.

National interest in these plans to compensate victims of crime is growing. Several states have already acted. California instituted a plan in 1965 as a part of their welfare system. New York State enacted a compensation plan in 1966, then Hawaii and Massachusetts established theirs in 1967. Maryland approved a compensation plan in 1968.

The arguments for a program of compensation are compelling. In pioneer days, each man strapped on a six-gun and provided his own protection for himself and his family. As we have moved forward to a more civilized state in this society, we now oblige our citizens to go forth unarmed, and to rely upon the State for protection from criminal acts.

Society has assumed this responsibility of protecting the people. When it fails to fulfill that duty, it is only fair that the State should absorb at least some of the cost of the injury resulting from its failure of protection.

My bill would create a three-man commission, empowered to hear applications from victims of crime. These three men would be full-time, experienced, and well-qualified.

A victim who suffers loss as a result of personal injury would submit a claim, or in the case of death, his dependents would apply. There are 14 categories of crime which are compensable, such as homicide, assault, and rape.

My proposal does not compensate for property loss. Compensation would be paid for (1) expenses actually and reasonably incurred, such as hospital and medical expenses; (2) loss of earning power; (3) pecuniary loss to the dependents of a deceased victim; (4) pain and suffering of the victim, and (5) any other pecuniary loss resulting from the personal injury or death of the victim.

My plan is not dependent upon conviction of the aggressor. The commission would determine whether the injury was caused by a criminal act and make an award even though the aggressor was not apprehended, or was insane, drunk or a juvenile.

An important provision of the bill directs the commission to consider whether the person making the claim contributed to his own injury or death, and the commission may refuse to make an award, or reduce the amount of the award, to take the victim's conduct into account. Thus, the injured participant in a barroom brawl would not be compensated. However, the good Samaritan, injured when he goes to the aid of another, or helps the police, would be compensated.

The bill contains a limitation on awards of $25,000. In the case of death or permanent disability, the actual loss will be much greater than this. This limit is much too low, but its inclusion is a political necessity.

Many criminal injuries arise out of domestic strife, and another limitation is included in the bill to prevent unjust enrichment. No award is to be made to the spouse of the offender. If a man kills his wife, no award could be made to him but the innocent children might obtain an award for their loss, as long as no part of it goes to the husband.

These are some of the major provisions of my bill. We should have had this program over five years ago, when I first introduced the bill in Congress. It is my hope that it will be enacted very soon, as it is desperately needed.

Let me emphasize the basis for this legislation, and why the State should assume its responsibility to the innocent victim of crime. An act of violence occurs, and a person is injured. In this case there is generally a three person or three force involvement; the criminal, the law enforcement officer, and the innocent victim of crime. Of these three, the innocent victim usually suffers the most in terms of actual physical injury. The Congress has passed many laws in recent years dealing with crimes, criminals, law enforcement, and law officers, but Congress has not spoken a word about the one who suffers the cruelest loss, the one most unprepared and unprotected person—the innocent victim of crime. It is past time for the Congress to act.

Congress has dealt with the two other points of this three-way involvement, but the one person most likely to suffer the greatest harm is ignored by the law—the innocent victim of crime is subjected to total neglect by the law and by society. It is an almost uncivilized society which fails to protect, or at least to compensate, the innocent victims of its own uncivilized conduct.

In closing, I would like to pay tribute to the late Margery Fry of England. She studied this problem for years, she revived this idea and gave it new life. She convinced citizens and governments all over the world that it is a sound and just plan. Her actions provide an excellent example of what one concerned, thoughtful woman was able to do to help us deal with this aspect of the problem of crime in our society.

THE WAR IN VIETNAM—AND LESSONS OF HISTORY

Mr. HANSEN. Mr. President, the lessons of history are often difficult, and not pleasant to accept. Yet when we fail to learn from the mistakes of the past, we threaten ourselves with disaster and possible destruction.

The historical parallels between the current U.S. position in Vietnam and the positions of Rome and Carthage before the military defeats which led to the fall of those civilizations is traced in a perceptive article written by Ernest Cuneo and published in Human Events.

I commend this article, and the relevant, if frightening, truths it contains, to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

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

CHECKING THE HISTORY BOOKS: VIETNAM PULLOUT AND THE FALL OF CARTHAGE

(By Ernest Cuneo)

The early British saw the first Danish longboats as they coasted offshore, scouting the river mouths for their subsequent invasions, then watched them as they faded into the North Sea mists.

"After the manner of the British," Sir Winston Churchill wryly noted, "they concluded that the danger had passed by reason of the fact that it had not yet arrived." The Danes returned, conquered, and remained to merge with the Britons.

Both Rome and Carthage learned that lesson the hard way. When Hamilcar Barka marched on Rome through Sicily, the Romans managed to contain him on that island.

Hamilcar's sons, Hasdrubal and Hannibal, swore to continue the war, however, by attacking Rome through Spain. The Romans could easily have kept Hannibal in Africa with a Roman fleet in the Straits of Gibraltar, but Hannibal came over the Alps on elephants to ravage Italy.

But Hannibal got no support from Carthage. Perhaps some Carthagenian senators told prosperous Carthagenians that there was no need for them to spend their treasure or for their sons to die in a ruinous foreign war in far-off Italy.

Perhaps some Carthagenian senators vied with each other in claiming credit for the cutting off of home support to Hannibal.

If alive today, however, these Carthagenian senators might not so avidly contest credit for the policy, for the war was brought to Carthage. To this day the site is barren, sown to salt by the Romans after slaughtering the population. Rome's treaties were worthless; she merely bided her time for the fatal strike.

Hitler's treaties were worthless. Time and time again, he suddenly attacked countries with whom he had non-aggression pacts, including Russia itself.

Russia's treaties were worth no more. Czechoslovakia had one. China had one; it was a prelude to a Red takeover. Scores of Russian agreements have been broken, the latest in the Middle East within the last few weeks.

We had a treaty on Laos. Not one condition of it was kept for even a few hours. On the contrary, under its cover, the Ho Chi Minh Trail was opened. Red supplies were poured in. They brought no peace to Laos, but a new war to Viet Nam.

Averell Harriman negotiated that treaty, so, perhaps, the Ho Chi Minh Trail should be called the "Harriman Highway." Now Mr. Harriman urges a treaty for South Viet Nam, even as Laos itself is falling under heavy attack.

The direction of battle by a far-off parliamentary body is fraught with disaster. The Continental Congress nearly lost the Revolutionary War by retaining control of some troops, until the disastrous battles of Long Island and New York clearly indicated that the judgment of Gen. Washington, on the scene, was better.

Notwithstanding this, the present Senate has forced military decisions for a battlefield 7,000 miles away. Its political pressure was brought to bear to end the bombing of the enemy's line of supply.

This is a fearful responsibility for civilians to assume in the face of flat declaration by the Joint Chiefs of Staff that such action would compound American casualties.

And at the Senate's insistence the enemy has been informed that American resistance will be diminished by massive withdrawal of troops, together with a timetable of departure. This virtually furnishes an armed enemy in the field with the vital intelligence necessary to ascertain when the remaining American forces can be overwhelmed.

On the motion of a young lady magazine writer from New York, the Democratic Policy Committee set a deadline of 18 months for total departure. Neither her military qualifications nor that of the policy committee were set forth. To circumscribe the Joint Chiefs of Staff in weapons, in space and in time is a momentous decision. It is, indeed, a responsibility which few commanders-in-chief would accept.

It will be recalled that during the Wonsan Reservoir retreat, the Marines carried out their wounded. But it is not widely known that, in what Gen. Mark Clark calls one of the more remarkable examples of human devotion, the Marines asked permission to counterattack against overwhelming numbers solely to recover their dead. They did not abandon them—their lifeless bodies were brought out.

This raises the interesting question of

whether the Senate proposes to abandon the living Americans who are the prisoners of war of an enemy which inflicts torture as a policy.

From a historical standpoint, this is an unusual hour in American history. Nowhere, until this time, have senators vied for the credit of depriving American soldiers of weapons and air cover, of granting sanctuary to an enemy's line of supply, of leaving allies on the field of battle and of urging a treaty for a country when the "treaty" which the United States negotiated resulted in the destruction of its neighbor.

Perhaps some Carthagenian senators so urged, but if they did, their name was lost to history with the destruction of their country; the dust of Africa blows impartially over both the shame and the glory that once was Carthage.

THE END OF MAN

Mr. FULBRIGHT. Mr. President, today I read a startling statement by the noted actor, Mr. Eddie Albert, entitled "End of Man," Mr. Albert has described himself as a former conservationist who has become a survivalist. His assessment of the havoc man has wrought on his environment is an awesome and terrible indictment, and if some would call him an alarmist, I rather expect he might plead guilty. If the facts he cites regarding the pollution of our environment are valid—and I have no reason to challenge them—we should all be alarmists.

I ask unanimous consent that Mr. Albert's article be printed in the RECORD. I commend it to Senators, although I must confess it is not suitable for light, bedtime reading.

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

THE END OF MAN

(By Eddie Albert)

Dr. Richard Felger, Senior Curator of the Los Angeles Museum of Natural History, and Professor Barry Commoner, Washington University, St. Louis, estimate that man has about 40 years left to live on this earth. Dr. P. C. Orloffs of Canada gives us only 15 years to live. A gloomy conclusion. Is it valid?

Let's Look around. A short news report.

Sign on Los Angeles schoolroom bulletin board. Warning!! Do not exercise strenuously or breathe too deeply during heavy smog conditions. APCD.

Announcement from National Cancer Institute: "DDT is a cancer causing agent."

Egypt: The Aswan Dam has slowed down the Nile. Six hundred miles down river sandbars have stopped building up on the delta. The Mediterranean is flooding the delta, and one million fertile acres have disappeared under salt water.

Below the dam, snails carry the blood kukes of schistosomicosis and thousands of men, women and children are going to die of this painful, cruel disease.

The Nile no longer carries its nutrient-rich sediments out to sea and the fish are disappearing. The fishing families are moving into the slums of Cairo and Alexandria. That source of food is disappearing. Also oxygen from loss of greenery, and water.

In Tokyo, traffic policemen take an oxygen break ever half hour.

Holland's agriculture needs water from the Rhine to flush the salt out of reclaimed areas. The Rhine has become Europe's filthiest, most contaminated river. Holland is now trapped between invasion from the salt sea, and the dirty, polluted Rhine. Less food.

Minamata Japan—100 people dead of poisoned clams.

South Pacific—Australia, Guam, Saipan, Panape, Truk, Palau, Hawaii—their coral is being killed by starfish which are proliferating in a puzzling ecological explosion. Dr. Bruce Halstead told me—that when the coral is dead, a weed will grow which will contaminate the fish, eliminating the fish as a food source. Natives who eat the fish then die of cigarua disease.

Over 15,000,000 fish died last year from water pollution.

The Missouri River is to become the Colon of America. The Mississippi carries signs, "Don't eat your lunch near the water."

Germany—the Rhine along with hundreds of other rivers, has been straightened out. This lowered the water table from 10 to 25 feet. 35,000 acres of productive Hungarian farmland have dried up and been taken out of production; 200,000 acres in Alsace. Same thing in the Sahara—water table lowered, 1,000,000 date palm dead and 120,000 natives face disaster.

The Apollo 10 astronauts easily picked out Los Angeles from hundreds of miles out. They could see the blotch of ugly, cancer-colored smog, 4,000,000 cars vomiting cancer-causing gases, 16 million tires vaporizing deadly asbestos particles, and the new, polychlorinated hydro-carbons onto the pavement—into the atmosphere and into the sea. New York, Chicago, Philadelphia, Denver, Washington, Boston, St. Louis, Mexico City and Tokyo. 100 cities, 100,000 towns, all making their permanent contributions to the atmosphere.

An important doctor from the American Medical Association said, "Unless the combustion engine goes in 5 years—we will."

How does smog affect man? Chronic bronchitis is seven times higher than it was ten years ago. Lung cancer is twice as prevalent in the cities as it is in the rural areas. Bronchial asthma and emphysema are up eight times in the last ten years and skyrocketing. One day's breathing of New York smog is equivalent to smoking 5 packages of cigarettes. It is anticipated that before many years have passed, ten thousand people will die daily of pollution. Doctors are advising 10,000 patients a year to leave California.

Zoology Professor Kenneth E. F. Watt said in a prepared statement, "It is now clear that air pollution concentrations are rising in California at such a rate that mass mortality incidents can be expected in specific areas, such as Long Beach, by the 1975–76 winter.

"The proportion of the population which will die in these incidents will at first equal, then exceed, that of the 1952 London smog disaster." (Nearly 4,000 Londoners died from the effects of smog during the Christmas season of that year).

During the 1966 Thanksgiving weekend in New York it has been estimated that 168 deaths were caused by smog.

Smog damages crops to the tune of ½ billion annually. In New Jersey alone 36 crops have been seriously damaged. Spinach, lettuce, beets, etc. Food gone and oxygen gone. Dr. O. C. Taylor, "If the pollutants in the air are unchecked it won't be many years before agriculture in certain parts of America ceases to exist." Less food.

Up in the Lake Arrowhead area about 10% of the Ponderosa pines, 1,300,000 trees, have died as a result of smog. It is estimated that 10% of our farm produce is being damaged by smog which means less oxygen, less food, and less water.

"One of the most tragic ironies of our age could be in the making, if certain tests at University of California, Los Angeles, prove correct. Scientists claim that the present anti-smog device placed on our cars may be increasing, not reducing air pollution." Engineer, Air Resources, Channel 7, 7/30/69.

The final contribution of the combustion engine to us, seems to be death by disease and starvation.

The gentle dust of DDT blows off the farms, ranches, plantations, into the sea for the plankton and the fish to absorb, which are then eaten by the birds. Last spring, with Dr. Risebrough and members and scientists of the Western Vertebrate Foundation, I went to the pelican rookeries on the island of Anacapa to observe the nesting of the pelicans and the 10,000 baby chicks that ordinarily are born in the spring in that rookery. We discovered that all the eggs had collapsed, and the embryos killed, because DDT ingested by the mother bird upset her calcium metabolic processes, causing her to lay thin-shelled eggs which could not support her weight. Three or four days after laying, they collapsed. Instead of 10,000 baby chicks only two were hatched there this year. The same was true of rookeries of the pelicans on the Mexican islands.

We also found the first thin-shelled cormorant eggs. Now they have become quite common. Recently I was told that the first seagull eggs, thin-shelled, had collapsed. The pelican, the osprey, the cormorant, the petrel, the seagull, the American Bald Eagle and the peregrine falcon, eggs all collapsing. No new generation is being born.

Now—who is going to discover the first coliapsed hen's egg.

On the island of San Miguel about 50 of the seals aborted their young this year for the first time.

The San Francisco crabs are gone forever, the crab larvae full of DDT.

The herring are disappearing fast in Canada, which means the end of salmon. The Penasco shrimp disappeared this year.

The WHO began an anti-malarial campaign in Borneo. Thatched huts were sprayed with DDT. Cockroaches picked up DDT which became heavily concentrated in the lizards who lived off the roaches. The lizards were eaten up by the cats, who died. Villages were then overrun by rats, carrying fleas and parasites which spread silvatic plague. They had to drop cats in by plane to save the people. The DDT also killed the predators of caterpillars that lived in the thatched roofs, so the caterpillars multiplied and ate the roofs.

Scientists from the National Cancer Institute state, "DDT is a cancer-causing agent."

Hungarian scientists examined 1,000 mice for five generations. Leukemia appeared in 12.4% of the DDT mice, but only 2.5% of the non-DDT mice. Tumors appeared in 28.7% of the DDT mice, but only 3.8% of the non-DDT mice, and most of the malignancies were in the later generations, the children indicating genetic damage.

According to the University of Miami School of Medicine, people dying of cancer contained more than twice as much DDT in their fat, 20–35 ppm, as victims of accidental death, 9.7 ppm.

Dr. Donald Chant, Chairman of the University of Toronto Zoology Department, states, "Absolutely undebatable evidence that DDT causes cancer."

Jerome Gordon, president of a research firm in New York, added more fuel to the fire while testifying before the Senate Sub-Committee on Migratory Labor. He attacked parathion, methyl parathion, tepp and melathion, calling them "first cousins chemically to a German nerve gas used in biological warfare."

"Fifty million pounds are being spread unchecked on America's farms and gardens," said Gordon. "The result is that uncounted thousands of the nation's migrant farm workers, farmers and suburban homeowners have been fatally overcome or seriously disabled."

He said more than 100-thousand cases of pesticide poisonings and several hundred fatalities occur each year.

Dr. Samuel Simmons of the FDA states that 150 to 200 persons are killed annually by pesticides, and 100 times that many are injured.

DDT attacks the central nervous system,

upsets the body chemistry, distorts cells, accelerates gene mutation, and affects calcium absorption by the bones.

DDT, being a poison, lodges in the liver. Being nonsoluble in water a frenzy of enzymatic action takes place to get rid of it. The enzymes are not discriminating, however, and attack other things, such as steroid sex hormones, estrogen, etc. What do you suppose our daily dose of DDT in small amounts is doing to us?

In Peru, the economy consists of cotton agriculture, some tobacco, guano fertilizer from the cormorant birds on 36 offshore islands, and the fish-meal industry from anchovies. The cotton growers, feeling that, if a little DDT was good, more was better, were finally up to 50 applications of DDT a year on their cotton acreage. The pink bole worm and other insects of course became resistant and came back in stronger waves until 50 applications yearly were applied. This, of course, pushed the cost of cotton out of sight. The DDT killed the soil bacteria and ruined the soil. The cotton went to hell. The DDT run-off into the rivers contaminated the fish, which killed the cormorants that manufactured the guano, reducing their numbers from twenty million down to six million, and the guano harvest from 170 million tons down to 35 million. The anchovies which feed off the plankton, that required the droppings from the guano birds for their nutrients, began to disappear, so the fish meal industry is being wrecked, and the guano birds which feed on the anchovies are starving to death, therefore, less nutrients for the plankton, less food for, etc., etc. Guano is the only fertilizer which seems to work in the harsh mountain soil. Half of Peru depends on this food production for survival. The result has been expropriation of American interests and a stepped-up hostility toward our American trawlers cruising in the open sea nearby. Their fishing boundary has now been pushed out to 200 miles. All of this has greatly harmed American-Peruvian relations and now becomes a political problem.

This brings up another folly of ours which contributes to disease and death from protein deficiency. Peru normally provides a catch of fish greater than all Europe's, and this catch would provide sufficient protein for the whole of South America.

We grind it up into fish-meal which we feed to our pigs and chickens, losing 70% of the protein.

I have mentioned plankton. These microscopic plants serve two purposes. First, plankton, microscopic sea-animals, are the base of the whole fish food chain from anchovies to whales. Without plankton there would be no fish, whatsoever. Secondly, plankton provides 70% of the earth's oxygen. 70%. Take 70% of the oxygen out of this room and you and I are soon gasping. Well, eleven parts per billion of DDT, that's at the ratio of about an ounce to a thousand railroad carloads, 11 ppm of DDT in water are sufficient to kill off the plankton. No oxygen. No fish. Already, this is happening in the estuarial areas close to land, but a couple of weeks ago, an FDA man told me they had picked up their first load of contaminated deep-water fish. DDT is now in the deep, blue sea. Another food source is in danger. It doesn't take much.

The Rhine disaster, which killed all the fish in the Rhine recently, was caused by one sack of insecticide falling off a dock into the water.

Should DDT be banned? Of course, but it may be too late. All of the above is the result of only ⅓ of the DDT that has already been spread on the land. ⅔ still hangs in the air, 1 billion pounds, and will be settling on us, slowly, for the next couple of years. One billion pounds left up there. Twice as much coming down like a ghastly dew on the sea, on the land, on us, for the next few years.

The Department of Agriculture says, "We control the spreading of DDT." How? Ninety percent of it blows into the air, all over the world. Polar bears in the Arctic, penguins in the Antarctic, eel pouts, 1,500 feet deep in McMurdo Sound at the South Pole are loaded with DDT. There isn't a cubic inch on earth free of DDT.

The prophet Isaiah graphically foretold of our day:

"The earth is drooping, withering . . . and the sky wanes with the earth, for earth has been polluted by the dwellers on its face . . . Therefore a curse is crushing the earth, alighting on its guilty folk; mortals are dying off, till few are left." (Isaiah 24: 4–6)

Mercury poisoning. The run off of mercury into the sea from industrial wastes is contaminating the North Sea, according to Dr. Bruce Halstead, to the degree that in three years the fish from the North Sea will be too poisonous to be edible. Mercury is used in the U.S. in the manufacture of plastics, paint and paper pulp, and as a fungicide for wheat seeds.

Dr. Halstead described cases of brain damage in the northern countries, kidney damage and damage to the central nervous system. The phrase, "Mad as a hatter," originally came from mercury poisoning from hat makers who used mercury in conditioning felt for hats. It affected their brains, damaging the cortical cells, hence the phrase, "Mad as a hatter."

In the little town of Minamata, in Japan, almost one hundred people have died as a result of eating clams contaminated by the mercury in water wastes from a nearby plastics factory.

Mercury poisoning is passed on from the wheat seed into the bread made from the wheat flour, into the mother and congenitally into the child, who dies at the age of two or three in convulsions with brain damage.

Animals, cats for example who eat the fish, contaminated clams, etc., die in convulsions.

Recently, in Lake Boone in Tennessee, millions of fish died as a result of mercury poisoning from barrels that had been used in the manufacture of paper pulp and then turned into floats for docks. Traces of mercury leached out of the barrels two and three years later, killing the fish.

Let's go for a short survey of inland water.

Rock Creek in Washington, D.C. once famous, is now a dump. The zoo uses it for a sewer. A health hazard.

Ohio River, zero oxygen. Septic. By the time the great river passes Cincinnati and is taken up for home use, every drop of it has been through at least 5 toilets.

Oil sludge foam was dumped into the Allegheny River in Pennsylvania recently. A 12-mile-long slug of pollution formed, and it held together all the way to the Mississippi. More than a million fish were killed.

Willamette River, Oregon—dying. Seven pulp mills, five of which use the sulphite pulping process produce 70% of the pollution, thousands of gallons of dark, chemical poison, daily. About cleaning up the river, the pulp mills pretty well control state politics on pollution.

Merrimack River. Reduced to sewage. Dying. Belching gaseous bubbles.

The Potomac is a sewer for every town it passes. It is drying up, and its ancient, historic bones are now desecrating the scene. Its mudflats are now showing, covered with garbage, old tires, junk, human sewage. During cherry blossom time it is the best-dressed cesspool in America.

The Army Corps of Engineers suggests putting up a large dam (here they come again) at Seneca, building up a huge head of water, and then releasing it suddenly to flush out the river, exactly as you would flush the john. One day flood waters, next day mudflats.

Why don't they suggest sewage equipment and complete removal of pollution? Why always a big dam?

The Engineer Corps is especially good at dams. Thirty years ago the slogan was, "dams, more dams for hydroelectric power," and they built dams, good dams. The dams held back the water and wiped out millions of acres of scenery, living room and productive land. The water slowed down, the lakes behind the dams silted up, and are now useless.

Here is a short rollcall of the silted-up dams. In Texas alone: Lake Austin, Lake Kemp, Lake Corpus Christi, Lake Dallas, Lake Bridgeport, Lake Waco, Eagle Lake, Possum Kingdom Res., and Lake Bernwood. Too thick to drink, too thin to plow. Two thousand silt-filled dams in America stand useless while upstream banks erode and destroy homes and arable acreage.

Lake Erie, 10,000 square miles, is biologically dead. Zero oxygen. Beaches are unsafe, algae coats the bodies of swimmers, and piles up in foul smelling reefs at the shoreline. Flies everywhere. Fishing, once a major industry, has dwindled to a small fleet of boats. The lake has aged a million years in the last fifty.

The "gook" doesn't break up or aerate, it settles to the bottom where it will lie forever. There is no flushing action. Fresh water from Lake Huron merely slithers across the top.

Dr. Paul Sears of Yale: "The lake has been used for dumps and industrial wastes." This dubious economy has been at the expense of a multi-million dollar fishing industry, potable, natural water, and facilities for recreation.

One ton of crud per minute flows into the lake carrying slaughterhouse wastes, oil sludge, chemical junk, human sewage.

The Cuyahoga River which flows into Lake Erie is so loaded with oil wastes that it has been declared a fire hazard. A river—a fire hazard? As a matter of fact it did catch fire. Burned two bridges. $50,000.00.

A fisherman who used to cruise across the lake in his boat watching the great schools of fish on his radar screen, swimming about, said that you can cruise all day now, go for miles, and nothing moves on the radar screen. It's all dead there. Silent. It's eerie. Lake Erie.

Secretary Udall says, "To fly over Erie and look down into the cloudy mess of pollution is like reading the fly leaf of a book on the end of civilization." Next Lake Michigan.

There is some talk of paving over Lake Erie with cement, as a dump for old cars.

Congressman Blatnik of Minnesota, author of the water pollution bill, points out that on the banks of the Mississippi, down below St. Louis, there are signs warning picnickers not to eat their lunch on or near the banks of the river. The spray from the river contains typhoid, colitis, hepatitis, diarrhea, anthrax, salmonella, tuberculosis and polio. In simple language it is an open, running sewer. This water is so toxic that if you place a fish in a container of river water the fish will die in 60 seconds. If you dilute the river water 100 times with clear water, the fish will die in 24-hours. The plain truth of the matter is that we all drink a chlorinated soup of dead bacteria that in some cases has passed through eight or ten people. It can only get worse.

Exodus: "And all the waters that were in the river turned to blood! And the fish that were in the rivers died; and the river stank."

The great, wide Missouri River is about to become a full-time sewer. The board phrases it beautifully. I quote:

Missouri: "Use of the Missouri River for removal of and ultimate disposal of the sewered wastes of cities and industries has economic value far greater than does the

use of the river as a source of municipal and industrial water supply. Without exception cities and industries along the Mississippi River could obtain adequate supplies of water of good quality from sub-surface sources. (Sure they can). Likewise other means can be found for transportation, for fish, and wildlife propagation, livestock watering, and recreation."

Here is another good example of ignorance and indifference in our public leaders. Instead of cleaning up the pollution they shove it on down the river—chemicals, industrial crud, chicken guts, slaughterhouse waste, human sewage, on down the river, down to Memphis, on to Vicksburg, presents for Natchez, Baton Rouge, a bouquet for New Orleans. The wide Missouri, the new colon of America, evacuating it all into the Gulf of Mexico. Thank you consultant engineers of St. Louis. Thank you for poisoning the drinking water, destroying the land and livestock, for killing the beautiful river, and thank you for the disease and death of the children.

With all this pollution, the Administration has only used 214 million of a one billion dollar appropriation. This attitude, this behavior, is criminal, and it permeates local and national government. There is no need for it. The means to clean up this kind of pollution are known. This lethargic ignorance simply means death to America, to the world, and to our civilization. This is the way the world ends, not with a bang, but a whimper.

Speaking of arrogance—the Union Oil Public Relations Department told quite a few fibs about the amount of oil spilled at Santa Barbara, and the extent of the damage to beaches and wildlife. Our government went right along with them. Our Governor says not a word, Secretary Hickel talks of another 50 wells, Union continues to pump, and the oil, as of this minute, continues to smear and smell up the beaches, kill the wildlife on which we depend, and ruin the real estate. Union oil claims there is no danger.

Where do we go for unbiased, authoritative evaluation? Our research scientists at our universities? Let me quote the Chief Deputy Attorney General of California:

"The University experts all seem to be working on grants from the oil industry. There is an atmosphere of fear. The experts are afraid that if they assist us in our case on behalf of the people of California, they will lose their oil industry grants."

Los Angeles Regional Water Quality Control Board has the problem of harbor pollution by Union Oil. One of the Board's voting members is an employee of Union Oil.

A recent study at the University of Pittsburgh suggests that downwind from our atomic testing infant mortalities rise about 50%, and that since the Alamogordo blast in 1945 we have killed about 475,000 children in their first year of life. This, the result of 20 megatons. We continue the testing.

Currently, the Atomic Energy Commission is examining the feasibility of blasting out a new Panama Canal. 250 megatons. Fallout clouds 40,000 feet high. Evacuating tens of thousands of people for over two years. To where? To what end? What happens when the Pacific, 18 feet higher than the Atlantic, rushes across the Isthmus bearing millions of tons of water with a different salinity, a different temperature, a different population of sea organisms, thousands of species dying in the new environment, the climate being altered, agriculture suffering, the lives of nations being transformed . . . for what?

Schweitzer once said, "Man has lost the capacity to foresee and forestall. He will end by destroying the earth."

After the plankton the remaining 30% of our oxygen supply comes from our forests, our greenery. We have destroyed 93% of our forests, and we're losing one million acres of greenery each year. 1,300,000 Ponderosa pines up at Lake Arrowhead have been killed by smog.

We are paving over two acres each minute.

Each Sunday edition of the New York Times consumes 150 acres of timber. Multiply that by 100 cities and 10,000 towns. Seven days in the week. There go the trees, oxygen, and water.

One car driven down one block consumes the oxygen one hundred people need to survive for one month.

The U.S. destroyed 340 million acres through urban spread, highways, erosion, dustbowls. With each acre gone we lose oxygen, food, water. In the major cities, in many areas, the production of carbon dioxide already exceeds that of oxygen. The moment is not far off when the oxygen content in our atmosphere will fall below the minimum required to support life.

It took several million years for the world to reach a population of two billion. 1930 was the year. The second two billion will only take 45 years. That year will be 1975. Half the food for each of us, half the water, half the oxygen. Twice the garbage, twice the emissions, the noise, the filth. This only in the next five years. Look ahead thirty years to your grandchildren.

There are on earth 3½ billion people, and about 3½ billion acres of productive land, one acre for each person for his year's supply of food.

Already today at one acre per person 60% of the world dies from starvation, 10 to 20 million a year, 10,000 children daily.

Thirty years from now there will be only ⅓ of an acre per person.

We will not be the first civilization to die. Much of China and India have gone back to sand as a result of man's greed. Syria and Turkey, by land misuse, have created poverty-stricken wastes. Very little topsoil is left in Greece. 2,000 years ago they cut down all the timber to build warships. The Sahara, once a land of rivers and grasslands—now a sea of sand.

In the past when man abused his environment he had a choice. He didn't have to die. He could migrate. Today there is no place to which we can migrate. We have only one choice left. Control our population, conserve our plant and animal life, or die.

The ancient controls of famine, disease and war are not standing by awaiting our decision. They are already moving in. America is not immune.

Six years from today we shall export our last grain of wheat. We will have no more wheat surplus. We will not have enough for ourselves.

Dr. Paul Ehrlich: "The battle to feed all of humanity is over. In the 1970's the world will undergo famines. Hundreds of millions of people are going to starve to death in spite of any crash program embarked upon now."

Adlai Stevenson: "We travel together, passengers on a little spaceship, dependable on its vulnerable reserves of air and soil; all committed for our safety to its security and peace; preserved from annihilation only by the care, the work, and the love we give our fragile craft."

Let me repeat our opening words. Drs. Felger and Commoner estimate that we have about 40 years left for us on this earth. Dr. Orloffs gives us only 15 years.

Good mother nature, spurned and ignored by man, the polluter, is turning on us like a mad bitch.

Our priority today is survival. Survival. It is not Viet Nam, nor the moon. It is not Mars, nor the SST, nor racism, nor communism.

It may not even be a life of quality any more. Just survival.

WHAT CAN WE DO?

Informing yourself about survival problems is another step you can take, and an important one. The following list serves merely as a sampler of the many timely books and articles to be found on library and bookstore shelves. Each book listed here will lead to another . . . and each suggests specific forms of survival action in which you can take part:

"The Silent Spring," by Rachel Carson, Houghton Mifflin Company, Boston, 1962.

"Science and Survival," by Barry Commoner, the Viking Press, Inc., New York, 1967.

"A Different Kind of Country," by Raymond F. Dasmann, the Macmillan Company, New York, 1968.

"So Human an Animal," by Rene Dubos, Charles Scribner's Sons, New York, 1968.

"Red Data Book," International Union for Conservation of Nature and Natural Resources, Survival Service Commission, Morges, Switzerland, 1969.

"Design With Nature," by Ian L. McHarg, the Natural History Press, New York, 1969.

"Famine—1975: America's Decision, Who Will Survive," by William and Paul Paddock, Little, Brown and Company, Boston, 1968.

"The Quiet Crisis," by Stewart Udall, Holt Rinehart & Winston, Inc., New York, 1963.

"Environment and Cultural Behavior," by Andrew P. Vayda, ed., the Natural History Press, New York, 1969.

HELP THE HANDICAPPED

Mr. LONG. Mr. President, I invite attention to an editorial entitled "Help Handicapped Help Self, State," published in the New Orleans Times Picayune of March 9, 1970, which indicates that a State can save money by helping to rehabilitate the handicapped.

It is my hope that one of these days we will think in terms of the economics suggested here. When people are put to work who otherwise would be idle, their earnings reduce what would otherwise be needed to provide for them, and in that regard it reflects a savings. It seems to me if that type of economics were related to our welfare program, we could justify putting many people to work who are on the dole.

Also, if that type of approach were used with regard to providing loans and guarantees to create new businesses and new enterprise, we could have the entire Nation prosperous, instead of having pockets of poverty and pockets of unemployment in an otherwise prosperous land.

I ask unanimous consent that the editorial be printed in the RECORD.

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

HELP HANDICAPPED HELP SELF, STATE

Education Supt. William J. Dodd makes a convincing case for increased spending for his Vocational Rehabilitation Division—citing figures to show that the net effect of preparing and placing 3,256 Louisianians in jobs last year "will amount to a total annual savings of $2,542,000."

Estimating these citizens' annual earnings grew by $8 million, with resultant additional income taxes of $700,000 and sales taxes of $260,000 returned to government, Mr. Dodd said, "This is a sound business investment without attempting to consider the return in human happiness which cannot be measured in dollars and cents."

The division provided various services to 23,000 handicapped citizens last year, but the claim is that another 87,000 could be aided if funds were available.

For every dollar the Legislature provides the federal-state program, Uncle Sam covers it with about three.

The rehabilitation effort cannot be judged other than highly meritorious, but Mr. Dodd might explain why the program's $7,086,000 budget in 1967–68 showed a surplus of $397,000. This resulted, it seems, in a cut in the budget the following year to just under $7 million, and for this fiscal year the Legislature approved a budget of $8.16 million.

What gives, superintendent? Can we gear up to serve all potential beneficiaries if funds are provided?

THE PRESIDENT'S RURAL AFFAIRS COUNCIL

Mr. CURTIS. Mr. President, I have in my hand a very important document which has just come from the printer. It is a copy of the published report of the President's Task Force on Rural Development.

The task force was headed by Mrs. Haven Smith, of Chappell, Nebr. The report is very appropriately entitled "A New Life for the Country." I recommend that every Member of Congress who is interested in a better life for all Americans obtain a copy of this report and read it. I believe it contains solutions for millions of Americans who live in our overcrowded urban and suburban areas as well as the people who reside in rural America.

Secretary of Agriculture Clifford Hardin, who also is from Nebraska, is dedicated to the task of improving the lot of rural America. He embraces and espouses the concept that we must provide a better life for the people who now live in the congested metropolitan areas by making rural America more attractive economically to them. First and foremost, he is dedicated to increasing farm income.

"A New Life for the Country" is important because it is the blueprint not only for us but also for people at the State and local levels to follow in the years ahead.

It contains 13 chapters covering everything from the structure for implementing improvements to the types of improvements that are needed in such areas as education, jobs, and welfare.

It proposes a combination of government and private-enterprise approaches.

It provides the basis for moving forward with an effective rural development effort.

This effort should initially be concerned with the interests of farmers, ranchers, and persons living in rural-oriented communities up to 50,000 population.

It should have as its broad, long-range goal the dispersal of people from the large, overcrowded urban centers by providing them with a way of life far superior to what they have now.

In a single word, the lure of rural America is livability. We have more livability in rural America than anywhere else in the world.

Rural America has the talent and the resources. There are two economic needs—increasing farm income and providing more job-producing enterprises to supplement the income of rural areas.

The key to carrying the "New Life for the Country" plan forward is the Rural Affairs Council which was established by President Nixon at Cabinet level within the White House last year.

I proposed the establishment of the Council to the President after Dr. Everett Peterson, a University of Nebraska agricultural economist, suggested it to me.

The President's Rural Affairs Council is in a position to help provide the national leadership. State and local efforts now must be mobilized to implement the recommendations.

If properly and effectively implemented, Mr. President, I believe that these recommendations will provide not only a new life for the country but also a new life for millions of Americans now living in our problem-fraught urban and suburban areas.

FREEDOMS FOUNDATION AWARD TO S. SGT. WILLIAM H. GUNN, JR., U.S. AIR FORCE

Mr. TALMADGE. Mr. President, the Freedoms Foundation at Valley Forge has conducted an essay competition among members of the U.S. Armed Forces on "My Hopes for America's Future." I am pleased to note that one of the top 13 award-winning letters came from S. Sgt. William H. Gunn, Jr., U.S. Air Force, of Columbus, Ga. For his letter, Sergeant Gunn received $100 and a George Washington Honor Medal Award.

Sergeant Gunn's essay is an outstanding expression of patriotism and love of country, qualities which are very much in need in our Nation today. His thoughts reflect the kind of strength and spirit, and American self-reliance, that has made ours the greatest, most prosperous, and most free Nation on earth.

Sergeant Gunn is at present assigned to HQ 410th Bombardment, SAC, K. I. Sawyer Air Force Base, Mich. I take this opportunity to compliment him for the service he is rendering his country and for his very fine essay.

I bring Sergeant Gunn's letter to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

MY HOPES FOR AMERICA'S FUTURE

In a time of international warfare—in a time of internal strife—in a time of ever-increasing uncertainty—what are my hopes for America's future? Where do I stand, and what will I do in this era in American history where America needs me and every other loyal citizen most of all?

My hopes for America's future encompasses all human vistas imaginable. A democratic society such as ours did not become the gateway to freedom merely by a quirk of nature, but through unrelenting toil and bloodshed by our forefathers—who had only a dream and determination coupled with hope—to guide them. I am greatly inspired by their accomplishments. I intend to walk in the path that they have painstakingly cleared for me—hoping that I, too, may set an example for my children to follow. In the tumultuous years to come, I will keep faith in my country and do my part in her defense.

Internal strife has caused the downfall of many great civilizations. America is of no exception to this historical fact. However, America is akin to the many great civilizations of antiquity only in prosperity: they were at their height when they crumbled. Retrospectively, these old civilizations were not cognizant that they were heading on a cataclysmic path to self-destruction. America is aware of both her domestic, and international problems, and the majority of Americans are taking effective measures to curtail these two imposters.

While stationed in a foreign country I had an experience that is perhaps repeated many times with other servicemen throughout overseas bases. In this particular country, I was approached by one of the townspeople at a local carnival. Being willing to accept kindness, I was most receptive to his introduction of himself. A warm and informal conversation ensued and we talked about various issues that were not of a controversial nature. After the man assumed that he had acquired a great deal of my confidence he suddenly said: "You seem to be a rational young man why is it that you, a black man, chose to wear the uniform, and to pledge allegiance to the flag of a country that suppresses and exploits your people? Young man, I find your predicament quite ironic." Immediately sensing that he was obviously anti-American, and perhaps trying to take advantage of the much publicized accounts, and more than the less, distorted and extrinsic views of the racial dilemma in America, I countered by saying: "It is not ironic that I respect and honor America; because only in America could my race have been able to make the progress that it has made in the last decade or so, considering the fact that we were slaves only a little over a hundred years ago. I have a large stake in America's future, and I am just as much a part of her rich heritage as the descendants of George Washington, Thomas Jefferson, Abraham Lincoln, John Kennedy and Dwight Eisenhower. Because of the kind of government that exists in America, my wife, four children and I, can look forward to a very prosperous future if we take advantage of the many doors that are now being opened to us. It is true that America is not perfect—neither is any other country. In order to progress, there must be imperfections—otherwise, why not leave things as they are? Because America has provided me with hope, I will not let her down." Needless to say, my uninvited guest vanished as quickly as he had appeared.

What I am doing today, to help my country has a marked effect upon how my children will accept their responsibilities as adult citizens in the years to come, because it is in the home that children get their first lessons in democracy. My family is proud that I perform an important role in keeping America secure, and my hopes for a better America are their hopes, too.

Today, we are involved in the Vietnam war. Not only do we Americans have hope for ourselves, but we have hope for the entire world; including our adversaries. Aiding the Vietnamese people in their time of need, deterring the spread of communism has set a fine example of courage, loyalty and "plain ol' American redbloodedness." We owe a great deal of reverence to the many servicemen who have given their lives in Vietnam, because these martyrs gave of themselves so courageously, yet, humbly, to help preserve the flame of liberty glowing with everlasting brilliance. You see—these martyrs had the greatest hopes of all. As an American serviceman, I am prepared to make that divine sacrifice, too—to give my all to help maintain a free America.

America is truly an affluent society. For some of the people, the future looks prosperous. But, there's a large segment of our population that is still living in darkness and despair. Somehow, America with all her glory and achievement, hasn't succeeded in ending poverty and ignorance among all of her citizens. It takes more than legislation and the enactment of laws to change the

bitterness, depression, and frustration that plague the hearts and souls of men, and eat at the very substance that makes a man—a man. There is bitter turmoil in the densely populated ghettos throughout this country. I think the largest responsibility lies within the ghettos. The people themselves must show a more realistic trend toward self-improvement, and become more oblivious to the agonized shouts of rebellion expounded by self-styled radicals of the far left. Leaders are needed whose main credo is: lead and not arouse.

Because of America's vast technological breakthrough in space research, she is the first nation to conquer the exploration of the moon. The recent moon landing was surely a phenomenal achievement; and of course, this feat could not have been possible without the indefatigable efforts of a lot of dedicated people—people with whom I, indirectly, share a great deal in common. My role in the space program, as a member of the Air Force may not have the same preeminence as the members of NASA; but, even if I don't have a ringside seat in the arena of space research and exploration; by accomplishing my military duties and responsibilities in a professional manner, I, too, have played an essential role in the overall mission.

I live in a country that has achieved affluency and technological advancement that is second-to-none. If America can invent the uninventable—if America can conquer the unconquerable—if America can explore the unexplorable; then, surely, she can make "My Hopes for America's Future," become a reality: Love and respect for the home, community, school, church, country, and foremost—love of God and all of His inhabitants of the universe.

SENATOR JACKSON RECEIVES AWARD FROM VETERANS OF FOREIGN WARS

Mr. McGEE. Mr. President, the distinguished Senator from the State of Washington (Mr. JACKSON) last night received the seventh annual Congressional Award of the Veterans of Foreign Wars of the United States. The award was bestowed by President Nixon at a dinner culminating the VFW's 22d annual midwinter conference for national officers and department commanders. I was in the audience, Mr. President, and heard the excellent remarks by Senator JACKSON on this occasion. He made great sense when he said that:

> Contrary to a prevalent notion, the issue of our priorities is not an either/or proposition. The choice before us is not a simple one of whether to devote our resources and energies either to national security or to domestic needs.

Senator JACKSON said:

> Clearly, we can and must do both.

And he was optimistic, as I am, about our capabilities, pointing out that the common saying about the United States being a "young" country is matched by the fact that it also is the longest-lived republic in the world. As the Senator observed:

> This says something about the American people.

Mr. President, I ask unanimous consent that Senator JACKSON's response on acceptance of the VFW Congressional Award last evening be printed in the RECORD.

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

RESPONSE BY SENATOR HENRY M. JACKSON

Mr. President, Commander Gallagher, my colleagues in the Congress, Ladies and Gentlemen: Few events could give me as great satisfaction as this VFW Congressional Award. I thank you very sincerely. I am keenly aware of the honor thus done me by the Veterans of Foreign Wars of the United States—who have done so much for our country in peace and in war.

Mr. President, I am especially grateful for the honor you have done the Congress and me by your presence here tonight. It is indeed a singular privilege to receive this recognition at the hands of the Commander-in-Chief.

My thanks to all of you for your generous thought of me, and for your heartwarming courtesies here tonight.

Mr. President, I can't help observing: isn't it fortunate for both of us that the presentation you so kindly made to me this evening does not have to be confirmed by the Senate?

In responding to this Award, I am reminded of the young preacher who went to the Bishop for final words of advice before taking up his first pulpit.

The old Bishop said: Before you start your sermons say this prayer:

"Lord may I say some worthwhile stuff;
And Lord please nudge me when I've said enough."

We Senators don't get the nudge very often!

I must confess that my enjoyment this evening is heightened by knowing that your Award is accompanied by a $1000 scholarship to assist a worthy graduate student in the study of Political Science or Government. I take pride in designating as the institution to administer your scholarship the Graduate School of Public Affairs of the University of Washington, Seattle.

The Veterans of Foreign Wars is to be heartily commended for its imaginative sponsorship of this scholarship. My high praise goes to you for thus emphasizing the importance of the serious study of public issues. The need for this is quite apparent.

The present is one of those recurring periods in our history when illusions are in fashion. Once again many of our fellow countrymen are confusing their desires with the realities of the world in which we live. As Josh Billings has said: "It isn't ignorance that causes so much trouble; it's what people know that isn't so."

Careful study of the realities, of course, is not a guarantee of wisdom—but it helps. Our survival in freedom and our chance to leave to our children a better America in a better world depend on enough of us thinking clearly about our problems—and going beyond popular conceptions that lack a factual foundation.

Our country is currently experiencing a veritable torrent of talk about national priorities. This is, of course, a response to the dilemma which confronts public officials and citizens alike: namely, that there is much too much we need to do and too little resources, skills and imagination to accomplish it.

I for one welcome this concern with priorities. Institutions, like people, stagnate. Arteries harden. Basic aims are forgotten and a sense of purpose lost. This is true of any institution, including governments. The periodic examination of goals and missions, of roles and functions, is highly desirable—especially when what is at stake is our survival as a free people.

> Contrary to a prevalent notion, the issue of our priorities is not an either/or proposition. The choice before us is not a simple one of whether to devote our resources and energies *either* to national security *or* to domestic needs.

Indeed, even the term "domestic" when applied to our priorities can be misleading: for nothing could be more "domestic" than the survival of our people or the freedom of this nation to choose its way of life free from outside interference.

There is something ludicrous about the notion that one kind of survival is more important than another. We must not only promote a just and healthy society, but safeguard national security as well. We cannot simply decide that one threat to our survival as a free people should command our resources while another goes unanswered.

Maintaining national security, promoting the general welfare and assuring justice and individual liberty are not distinct or divergent lines of national policy. They are not even parallel lines. They are, rather, joined in the mutually supporting sides of a traditional yet progressive triangle.

Much of the discussion of our priorities is carried on with a seriously distorted notion of our real investment in national defense. We need, therefore, to take a hard look at the actual defense budget and its relation to other public expenditures by municipalities, state governments and the federal government. Such an examination gives us a more accurate view of our relative investment in defense.

The fact is that the 1971 defense budget request amounts to some $72 billion, the greater part of which is spent on payroll, personnel support and operating costs. Of this amount, about 10% is for the support of our strategic deterrent posture—$7.9 billion. In the strategic area there has actually been a decline in our expenditures; and this has occurred in the face of extraordinary Soviet investment in the same area. These figures should be compared to the approximately $230 billion in public funds (federal, state and local) devoted to non-defense programs. If one sees the defense budget in this light a $72 billion expenditure takes on a new perspective.

We must, of course, scrutinize the defense budget more carefully than ever before; we must work to assure that funds for defense actually provide defense. But care in these matters cuts both ways. It is simply not enough to portray the defense budget as a great horn of plenty out of which a flourishing domestic program can lavishly flow. It is not enough to choose arbitrarily a figure for defense and then hope that the calculated risk it implies is a prudent one. We must make hard choices, or we shall be denied the easy ones.

In every program—defense, social, economic, and environmental—serious deliberation is essential. The issue is not so much whether a dollar is spent for defense or non-defense programs, but whether it is spent well—whether it contributes to the achievement of our multiple national objectives. Public investments which are vital to our national security and welfare must not be shirked simply because the claims on our resources are many and of great magnitude.

I believe that we can develop innovative and positive social and environmental policies while meeting our security requirements. The pressure on our resources that arises from a powerfully armed Soviet Union must not serve as an excuse for a failure to carry through other important national programs.

Of course money is required, and in larger amounts than ever before. But dollars for defense without wise diplomacy will not keep the nation safe and dollars alone will not save our domestic environment. Judgment and imagination, innovation and planning are required as well.

The new concern for the quality of our environment illustrates the challenge we face in making decisions as to our priorities and in using limited funds wisely. It is true that there are certain programs like air and water pollution control that will inevitably require large federal expenditures. But we have only begun to explore the many creative things we can do to enhance the quality of our environment through new guidelines for acceptable industrial practices, new standards

for products which have the potential for damaging the environment, new institutions to assess the impact of technological developments, and new initiatives in such critical areas as population control.

Also, we may choose to give up some of the goods and services which have somehow become part of our way of life. We will have to consider whether we in fact need some of the products which waste our resources and degrade our environment without corresponding benefits to our well-being. It was Thoreau who wrote that: "Most of the luxuries, and many of the so-called comforts of life are . . . positive hindrances to the elevation of mankind."

In concluding let me add just this:

A common saying about the United States is that it is a "young" country. But the United States is also the longest-lived republic in the world.

This says something about the American people.

American democracy has succeeded because enough Americans have been reasonable enough, steady enough, and spirited enough to rise to the challenges in each succeeding generation.

The main question before us is still the one asked by Winston Churchill: Will the American people stay the course?

I am a Democrat. But I am proud that over the years I have supported my President—whether he was a Democrat or a Republican—in critical decisions, popular or unpopular, to provide for the security of our country and to protect and promote the future of individual liberty.

This is a time for all of us to demonstrate our will to stay the course and to give the President the kind of support that can steady his hand in this very unsteady world.

AUTO REPAIR PROGRAM

Mr. TYDINGS. Mr. President, last month the Senator from Michigan (Mr. HART) presented a 5-point program to overcome the problems involved with the auto repair industry. Senator HART has done a brilliant job of legislative investigation in this area of widespread abuse, and now he has offered a carefully considered and effectively drawn program to remedy this longstanding problem. This is another major step in our battle to protect the consumer. As usual, Senator HART is in the midst of the combat.

As our approach to consumer problems turns from words to action, we must have good legislation, built upon a foundation of understanding of what is wrong and a mastery of the means to set it right. Senator HART has done just this, and I hope that Senators will carefully consider this program to end the deplorable state of auto repairs.

I ask unanimous consent that the speech given by Senator HART be printed in the RECORD.

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

THE CONSUMER AND HIS CAR

(Remarks of Senator PHILIP A. HART, Democrat, of Michigan, to Society of Plastics Engineers, Rackham Building, Detroit, Mich., January 19, 1970)

It has come to my attention that the Senate investigation of repair costs is not going to get the auto industry's nomination as "Most Valuable Governmental Contribution of 1969."

But neither will the senior Senator from Michigan declare it "Most Pleasant Experience of 1969."

But, as we draw near the end I am happy for the chance to discuss with you some of the conclusions that seem to make sense—and to ask your help to make another such inquiry unlikely.

As you may know, the auto repair investigation is part of a trio. All are aimed at greasing the free enterprise system so it will deliver a lower-cost transportation system for the consumer.

The other two parts zero in on auto insurance and petroleum.

(As you see, when we think "consumer transportation" we think "auto." On that, score one for the industry that put together a product, production system and sales team that turned a plaything into a necessity in a relatively few years.)

The trio of studies was undertaken because of concern that the total cost of owning a car—both in dollars and frustration—was keeping some consumers out of the market. For others, the hardships were unacceptable.

The problems in the auto insurance area are simple—although I don't expect the solutions to be.

We are trying to give the consumer better odds for getting insurance coverage at a reasonable price—and for keeping it. The problems we uncovered have been extensively reported. So I'm sure you are familiar with those denied insurance because of occupation, marital status, housekeeping or some such arbitrary criteria. Perhaps you have had experience closer to home with policies that were canceled—or not renewed—for no apparent reason. And, unfortunately, any group this size contains those who have been socked with premiums up in the stratosphere for reasons other than a bad driving record.

In a few days all the statements for these hearings will be filed, the exhibit material catalogued and the record closed. Then will come a period of sorting out. In a couple of months, I hope to have ready legislative proposals to make this aspect of owning a car more pleasant.

In the petroleum hearings, we sought to nail down the true cost of government protection programs—such as the import quota—and to determine if they buy the protection promised.

So far we know the cost is high—and the protection is low.

The import quota has cost American consumers $40 to $50 billion in higher prices since it started in 1959. Yet it has been a failure in protecting the national security by assuring a large safe domestic supply of oil. Instead of enlarging our reserves by stimulating exploration and discovery at home, almost coincidental with the imposition of the quota, such indications of domestic activity as new oil found, number of wells started and the number of years' supply began to turn downward.

More meaningful to consumers is the fact that if the quota were eliminated gas at the pump could be five cents a gallon cheaper.

After another set of hearings, we will be ready to make recommendations for a more prudent way to protect our national security—while cutting consumer costs.

Which brings us back to auto repairs—and some tentative conclusions.

While many nuts and bolts need to be adjusted on these ideas, I think it is appropriate to let you take a look now at the broad-brush picture of what we are designing. At this stage you can contribute constructive criticism—which seems far better than having a finished government program later pronounced from on high.

There are two ways to look at the consumer and his car. One is to focus on all the commuters wending their way back and forth on the Ford Expressway daily and decide cars that run prove we have a satisfactory system.

The other is to look at the mail the subcommittee has received the past year or so. The latest figure is about 6,000 complaint letters. Commenting on this, Bob Irvin, auto editor of The Detroit News, noted that television networks estimate one letter equals the views of 1,000 persons. Applying that formula, the 6,000 letters could reflect six million unhappy car owners.

Focusing on the 58 million who didn't write is a poor way of guaranteeing the six million will disappear. More likely that approach would encourage the six to become seven, then eight, then nine or perhaps more millions of discontented.

The result of that isn't good for the industry. And when things aren't good for the industry they aren't good for employment—or Michigan or the nation.

So if we want to ease the problems that have grown up all along the line—from drawing board to service station bay—what do we do?

In problem solving, of course, the first step is to define the problem. This is what the subcommittee has been working on for 18 months.

Consumers put their overall complaint concisely: When the darn thing doesn't work right why can't someone simply tell me what is wrong and fix it—the first time?

Studies showed that this complaint was well-founded. The figure for unsatisfactory repair jobs ranged from 36 to 99 percent. But it was clear that the consumer who got his car fixed right the first try may be just plain lucky.

A second major concern of the consumer was the total cost he encountered in keeping his car operating. Too familiar was the situation where the car was hard to start so the shop replaced the battery. That didn't do it so they replaced the points and plugs. Then the wiring harness. And finally the distributor rotor for only $1.50—and magically it worked. Many times consumers suspected that if the rotor had been changed in the first place they could have saved $100 or so.

Other cost complaints zeroed in on the fact that the body of the car needed extensive cosmetic surgery every time bumpers kissed in a parking lot.

Solutions to these consumer complaints seems to require three things:

1. Cars designed to need less repairs—especially crash parts. Seventy-five percent of all collision claims are for $200 or under. Yet, in a recent study when cars were run into a wall at five miles an hour—easily parking lot speed—damage ranged from $134 to $305 and averaged out to $200.

2. Cars and systems which make it easier to make more accurate diagnosis of a car's ills. This should raise the batting average for satisfactory repairs.

3. Ways to cut total repair costs.

At this moment I see a four-front attack on these consumer problems.

The fronts are standards, inspection, licensing and training.

Standards: These would be minimum performance standards for both new and used vehicles. They would be established by the Department of Transportation under the Motor Vehicle Safety Act. Standards for new cars would be federally set and federally administered. Standards for used cars would be federally set and administered by both federal and state governments.

Included in the standards, I think, must necessarily be means to more easily use the present—and developing—diagnostic equipment to check on performance. Wouldn't it be great if the consumer could save costs because say the steering mechanism could be checked out by attaching the equipment to one point instead of maybe seven or eight? We know that Pontiac already has designed the Grand Prix so that its electrical system can be checked with one connection at the end of the assembly line. And methods are on the market—but not on all cars—for warning if the brake system is falling below

a safe level of performance. One way is a red light that flashes on the dashboard.

Obviously if we are to cut consumer costs by keeping cars out of accidents, not to mention saving lives, the method of checking safety must be simple or inexpensive enough to assure cars on the road are sufficiently safe.

While cars are being designed to be more diagnosed for safety factors, I would hope the industry could smooth the way for checking other aspects of the car's performance.

This leads into point two:

INSPECTION

There are two types of inspection that seem necessary. We need to provide a system of inspection stations with up-to-date diagnostic equipment that can be used for periodic check-ups. This is the best way to assure safety—for the passengers and fellow travelers sharing the road. Also these diagnostic centers could be utilized by consumers who wish to know in advance of going to the shop what shape their car is in.

The inspection stations, I think, should be privately owned. Ideally they should not be tied in with any repair shop. I recognize that in the rural areas of our country that would not always be possible. However, where possible this seems like the best way to get the credibility necessary for any diagnosis made.

A network of diagnostic centers also would increase the likelihood of a consumer getting an accurate diagnosis on his car. Equipping such a center now, I'm told, runs about $200,000—or about the average investment an auto dealer makes in his entire plant. It would be unrealistic to expect every gas station or alley garage or dealer to have this equipment. Yet the possibility of having the car checked out completely for a few dollars—could save the consumer many needless repairs. A conservative estimate is that today consumers are wasting $8 to $10 billion paying for work not needed—or even not done. If the car-owner discovers after diagnosis that the bill might run high he has two choices—opt for replacing the car or shop around for the best price on the needed repairs. It's tough to shop around now once a garage has your car in pieces all over the floor.

Also needed, I think, is post-crash inspection.

Under this system, any car that suffers damage to safety-related equipment in a crash would be labeled. That car could then not go back on the road until it has passed a safety inspection. There has been much conversation about accidents caused by drivers, bad roads or bad weather. But no statistics are available for those caused by badly repaired cars. Yet if 36 to 99 percent of repairs are incorrectly done now it is reasonable to suspect some of this work ends up in a heap further down the road.

LICENSING

The night before we opened our hearings—based on staff investigation—I said here in Detroit that licensing of mechanics seemed a good way to make sure repairs were being done by someone who should be able to do them right. It has been made clear since that licensing of all mechanics may cause more problems than it would solve—such as raising the overall repair bill by prohibiting the use of trainees and apprentices for simpler repair work. So—my quality control having proved imperfect on that idea—I am recalling it.

Therefore, I am now thinking along the lines of licensing of shops, with at least one master mechanic in each. The remaining mechanics could be certified as competent by the automotive industry.

The shops would be required to have equipment capable of doing the work which would be attempted. This requirement, of course, would be less for a service station doing minor jobs than for a dealer offering full-line service.

The master mechanic would be responsible for overseeing—and/or reviewing each job turned out and ascertaining that the work was competently done.

TRAINING

Today we are at least 70,000 mechanics short. And while the vehicle population continues to explode the rate of increase in skilled mechanics is not keeping pace.

Obviously we need a massive training program. And I am happy to report that discussions are underway now between the industry and various governmental departments which could help organize this.

We will have a report on the progress during our final set of hearings in March.

But even a massive training program may not turn up the number of mechanics necessary. That makes other parts of this plan more essential. For given a network of diagnostic centers which can pinpoint the problems scientifically we will be able to use lesser-skilled persons to do some of the repair work.

This might have social benefits far beyond getting consumers' cars repaired more quickly—and better. For it could help cut into the unemployment rate for many of our high school dropouts.

In brief, that is the way thoughts are now running for solutions to the auto repair complaints.

This program isn't expected to deliver utopia. Nor can it be put to work overnight. However, if we get moving in the next few months, I would expect significant progress in three years. The full plan may be implemented by 1975. And I think all four parts are essential. The absence of even one would weaken all.

The best part of these four points is that I think most of them could be accomplished without new federal laws.

But there is a fifth part which is necessary if consumer complaints are to ebb. This one deals with the design of the car—design that will directly affect the frequency of repairs and their costs. This is one where the industry itself, I'm sure, can take the necessary steps and avoid the possibility of the government regulating design with "repair standards".

There is no doubt in my mind that the consumer today is deeply concerned over the fragility of his car. Having laid out anywhere from $2,000 to perhaps $9,000 for a beautiful machine he is a little sick to see it a few weeks later looking as if it has been in a bar-room brawl with all the parking-lot nicks and creases. Worse, of course, is the discovery that the cosmetic touches on the front or rear end will cost him $300 or $400 to replace when he nudges the car ahead in the traffic jam.

News that some 1971 models will have bumpers that will absorb up to five miles per hour of impact without body damage is a big step in the right direction. Insurance experts told us a bumper which absorbed 12 miles per hour would cut repair bills by 25 percent. That's one-billion dollars worth.

It seems to me that this group is especially equipped to help deliver the consumer a car which will stand up to normal wear and tear.

Plastics could have a great role in providing the beauty that consumers value in their cars without putting too high a price tag on its upkeep.

Clearly in mind is a picture I saw some time ago of a plastic-bodied car that had been crashed headlong into a tree. As we all know, if we did that with our own family buggy the body repair bill alone would total several hundred dollars—not to mention the cost of repairing the machinery under the hood. Yet this plastic job suffered only a six or eight inch separation where the right and left body components were glued together. The repair was simple: clear out the debris and re-glue the two pieces. The cost, I presume, would be equally easy to bear.

Maybe plastic bodies do not make sense at this time. I don't know. But I know you do—or you can dream up something that will make sense.

One thing is certain: the consumer and his car isn't today exactly the greatest love affair of the century. Yet he must rely on it in order to conduct his life.

Let's build escape machines—but let's remember that the one thing the consumer wants most to escape from are the frustrations of maintenance.

I know steps will be taken to make the consumer and his car a more pleasant relationship. If the right things are to be done we need the benefit of your expert advice.

FULL EDUCATIONAL BENEFITS FOR OUR VETERANS: WASHINGTON POST ARTICLE BY RICHARD HARWOOD POINTS OUT DEFICIENCIES

Mr. YARBOROUGH. Mr. President, today's issue of the Washington Post contains a penetrating and timely article entitled "Deficient GI Bill of Rights Adds to Viet Veterans' Woes," written by Richard Harwood. The article dramatizes the many problems and inequities that confront the returning Vietnam veteran. Many of these veterans, who were drafted into service, are from the segments of our society which has long been denied many of the advantages of a full and educated life. The only hope that many of these young men have to obtain a meaningful career is through the educational and training benefits provided under the cold war GI bill. As Mr. Harwood so accurately points out, the allowances paid to veterans under the present law are far too low to meet the inflationary costs of public and nonpublic education.

In 1959, the Senate by a vote of 57 to 31 passed a cold war GI bill to provide educational opportunity to veterans of the cold war. This bill was held up by the House Veterans' Committee, and never passed the House.

Time after time in the ensuing years, the Senate passed cold war GI bills, but the House Veterans' Committee held them up until 1966, when the House Veterans' Committee finally agreed to a reduced, watered-down version of the cold war GI bill.

In 1967, the Senate adopted amendments to the cold war GI bill in an attempt to bring the benefits up to the level of the benefits of the Korean GI bill. Again it was watered down in a compromise with the House, and the watered-down version passed.

Again in 1968, the Senate adopted amendments to the cold war GI bill in order to bring the educational opportunities of the veterans of the cold war up to the level of benefits paid to the veterans of the Korean war. Again it was watered down in conference with the House, and the watered-down version passed.

But each year we improved the cold war; each year ended with a better law than the previous year saw.

In 1969, the Senate passed a GI bill which is now in conference with the House.

During all of these years of effort by the U.S. Senate to pass a cold war GI bill, the great stumbling block in opposition to reasonable educational opportunities for cold war veterans have been the executive departments of the U.S. Government. In blocking the Senate-passed bills for reasonable educational opportunities for the cold war and Vietnam veterans, the House Veteran's Committee was doing this in the behest and request of the Defense Department, the Bureau of the Budget, and the Veterans' Administration,

All three executive departments have opposed every one of these cold war and Vietnam veterans GI bills.

I know, because I have been the Senate author of each of these bills. That department that drafts these young men and sends them into battle has vigorously opposed providing any educational opportunities to these young men after they return to civilian life.

At present, the Senate and the House are working toward reaching an agreement on an increase in these allowances. In October of last year—1969—the Senate passed its version of the GI bill rate increase by a vote of 77 to 0. Under this version of the bill, the allowance rates would be increased by 46 percent, and with this increase, the cold war GI bill benefits would be brought into line with those paid under the Korean conflict bill. The House-passed version of this bill provides for only a 27-percent increase in these important rates. I am hopeful that an agreement can soon be reached on an allowance rate which will be realistic in the light of today's cost of living and cost of education and which will encourage our returning servicemen to use their benefits.

Mr. President, because of the urgency of this matter, I ask unanimous consent that Mr. Harwood's article be printed in the RECORD.

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

DEFICIENT GI BILL OF RIGHTS ADDS TO VIET VETERANS' WOES

The military draft has been a scandal since the beginning of the Vietnam war. It has been structured and administered to exempt from the fighting and, most particularly, from the dying, the sons of affluent America.

The principal burden of this war has thus been borne by the poor and by boys of the lower middle class who have lacked either the money, the wit or the desire to avoid military service. For those who survive the experience—as more than 99 per cent do—the system offers certain rewards and opportunities that are now the subject of desultory consideration within the Congress and within the Nixon administration.

It centers on the Vietnam "GI Bill," which was passed in 1966 as a pale copy of the World War II and Korean War models and which was designed, in theory, to permit the disadvantaged grunts who always do most of the dying in wartime to achieve a measure of upward social mobility and the better life than is presumed to go with it. Under the World War II bill, nearly 8 million veterans used government subsidies and scholarships to finish high school, go to college or get technical training. They emerged in subsequent years as the most successful elements of the new and broadened American middleclass.

Theoretically, the same opportunities are available today to the one million or so men who are being discharged each year from the military services. In practice, however, things are not working out all that well.

For one thing, the level of benefits for the Vietnam veteran has been relatively low. The 1966 version of the GI Bill offered a single veteran $900 a year for four years to buy whatever education and subsistence he could get for the price. That was $90 a year less than Korean veterans received in 1952 and was far below the World War II allowance which covered all tuition charges—whatever they might be—and provided living allowances of $75 a month.

In 1967, Congress raised the annual educational subsidy to $1,170 and is now arguing over whether it ought to be raised again to either $1,500 or $1,170. Whatever figure is settled upon won't buy admission to any of the first-rank private schools in the country, unless the ex-soldier has independent means. Tuition alone at the Ivy League schools is between $2,500 and $3,000 a year, not counting books and living costs.

The Government's reasoning is that the public universities, with their lower tuition charges, are as good as the private schools and that not everyone has to go to Harvard. Whatever figure is settled upon—$1,200, $1,500 or $1,700—will still leave the ex-grunts living below the government-defined poverty line while they try to buy an education.

An even more serious problem is the uneven distribution of these benefits. Those who most need education and training get the least of it.

The estimates are that in an average year, the Pentagon is sending back to civilian life 44,000 men with a college education, 147,000 with one to three years of college, 630,000 high school graduates, and 174,000 men with less than a high school education.

On the basis of the experience thus far, nearly 60 per cent of the most-educated returnees and only 8 per cent of the least educated take advantage of the Vietnam GI bill.

By the most optimistic estimates, fewer than half of the Vietnam veterans are expected to ever apply for educational benefits. And these lost opportunities are going to be translated one day, John Steinberg of the Senate Labor Committee has said, in "a glut on the unemployment rolls, the welfare rolls, and the crime rolls."

What is needed, in the opinion of people concerned with this prospect, is a spectacular effort, led by the President, to encourage and help the veterans of Vietnam find the opportunities they never had before they were asked to take on the burden of that dirty war. Alan Boyd, who was then Secretary of Transportation, urged President Johnson to tackle the problem in early 1968. Nothing ever happened. President Nixon also has been urged to tackle the job. His response many months ago was to appoint a commission with a reporting deadline of last Oct. 15. Nothing has ever been heard from that commission.

Meanwhile, thousands of returning veterans are going back each month to the lives of failure they have always known.

ABE ROSENFIELD, A WASHINGTON ASSET

Mr. PROXMIRE. Mr. President, this city is fortunate to have a distinguished citizen in Abe Rosenfield, who is giving it his considerable talent as a member of the District of Columbia School Board. Mr. Rosenfield is a fine example of the rare good citizen who is willing to devote countless hours, day after day and week after week, to make a better Capital City. And, of course, he does this with modest compensation. He accepts, as do all District of Columbia public officials, a very considerable share of abuse and criticism.

He gives the city a special conviction that the discipline and team play, the determination to excel that is required in highly competitive athletics, should be an important part of a successful educational program.

Mr. Rosenfield was a fine athlete and coach in the Washington area before he became a successful businessman. An eloquent tribute to him, written by Lewis F. Atchison, was published in the Washington Star last night. I ask unanimous consent that the article be printed in the RECORD.

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

ROSENFIELD RETAINS INTEREST IN SPORTS

(By Lewis F. Atchison)

Thirty-five years haven't dimmed Abe Rosenfield's enthusiasm for sports. Postseason basketball tournaments, as we know them, were just a dream in his era. Ned Irish hadn't thought of an invitational affair to drum up business for Madison Square Garden. The season ended with conference title playoffs.

Abe played for Catholic U., and the Cardinals were independent. So when he and Bernie Lieb, Hermie Schmarr, Eddie White and Babe Gearty played the last game of the season they turned to spring football, baseball or track. At CU, as at most schools, a fellow played at least two sports if he was on a scholarship, and helped out in a third if needed. Sometimes, when the going gets rough on the District's Board of Education, Abe remembers that era of the great depression and his problems become more bearable.

"Sports were good to me," he said, "and I'm grateful to CU, Dutch Bergman and the people who helped me. Washington has been good to me, and it's one reason I'm glad to serve on the school board. I'd like to make a contribution and I think everybody should become involved in making the city a better place to live."

WANTS EXPANDED ATHLETIC PROGRAM

Rosenfield, still as trim and straight as a West Pointer but with gray-flecked hair, was sorry to see the government turn thumbs down on funds for a summer recreation program for a sports arena. He wants an expanded, city-wide amateur athletic program and an all-purpose auditorium.

"Kids who participate in sports are too tired to be on the streets nights breaking windows and getting into trouble," he reasoned. "Sports would help solve many of our problems. On the field you don't ask a man's color or his background. You only ask can he hit, field and run? Can he block and tackle? Can he hand off or make a shot?"

Abe made news in the late 1940s as the Jewish coach of a Catholic team featuring a Negro star. The boy's name was Harold Freeman and he's now an M.D. in New York City.

Rosenfield can't understand why the government is willing to spend money for monuments and buildings, such as the Kennedy Center for Performing Arts, but not for an all-purpose auditorium which would house major sports events, conventions and trade shows. He believes it would attract visitors from all over the world and give the city's sagging economy a badly needed boost.

In education, Rosenfield compares teaching with coaching.

"I owe a debt to people like Dutch Bergman, who coached me at CU," he said, "and to Al Sundberg, my high school basketball coach, and Frances Ek, who taught mathematics. My two daughters still call Bergman 'Uncle Dutch,' and I keep in touch with Sundberg and Miss Ek. Teachers must motivate and inspire pupils just as coaches motivate and inspire athletes.

"Students must have the same desire, the same determination as athletes," he went on. "Not every play scores a touchdown, because somebody makes a mistake. But through repetition and hard work athletes perfect themselves and make winning teams. It has got to be the same in the classroom.

HAS NO TROUBLE WINNING JOB

An all-city high school fullback at St. Paul, Minn., Abe was shifted to end at CU, and sometimes played guard. Backs like Tommy Whalen, one of CU's all-time great runners, John (Jan) Jankowski and Bus Sheary made the shift advisable.

An all-state basketball player in high school, Abe had no trouble winning a starting berth on Fod Cotton's Cardinals. It was a good-sized group for those days, all standing over six feet. Abe was 6–2 and weighed 188. Lieb, a 6-foot-4 center, was a phenom who could cut and weave. Men of his height didn't do much more than stand under the basket and grab rebounds or dunk the ball.

"We won about 80 percent of our games," Abe remembers. "We beat Duke, Navy and N.C. State."

Rosenfield was born in Argentina, but the family moved to St. Paul when he was 10 and the father became a food broker. On his last visit Abe received the key to the city from the mayor. He also is a Kentucky Colonel.

Abe feels that his career illustrates the opportunities available to any youngster willing to get off his duff and try.

MRS. ROBERT BLACKWELL, MAYOR OF BENNETTSVILLE, S.C.

Mr. HOLLINGS. Mr. President, on Wednesday, March 11, the Christian Science Monitor published an article about Mrs. Robert Blackwell, the mayor of Bennettsville, S.C. This outstanding and dedicated lady has, since becoming mayor, made many outstanding contributions to that fine city. The article should be an inspiration to all women who consider seeking public office. I commend it to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

MEET MRS. BLACKWELL, MAYOR OF BENNETTSVILLE

(By Eva G. Key)

BENNETTSVILLE, S.C.—Now serving a second term as Mayor of Bennettsville, "Just-Call-Me-Jessie" Blackwell is attracting wide attention for her accomplishments. She gave up a better paying teaching position in the public schools to serve her community as Mayor and she says she has not regretted it. In private life she is Mrs. Robert Blackwell, wife of a local businessman.

When Mrs. Blackwell decided to run for mayor the first time, Bennettsville, a town of 6,000 in Marlboro County, was badly in need of better housing, sanitary facilities, better streets, recreation facilities, more sidewalks, and new industries.

Before moving into her new office, she surveyed her town's needs, and like a woman cleaning house, she went to work. Placing primary emphasis on sanitation and beautification, she soon persuaded the town council to pass new garbage and junk ordinances. The new garbage ordinance requires the separation of all garbage and junk and establishes a uniform garbage can with lid for use by all citizens. This prevents scattering of refuse.

In some ways the entire town "was just sort of a junkyard," she relates, until the new junk ordinance went into effect. The ordinance provides for the removal of all old, junked cars and other litter from city streets; it also requires the removal of junk cars or other junked equipment from all private property.

And under her administration, Bennettsville has become the first city in South Carolina to have all standard signal lights. This has made for safer driving for all citizens.

The Mayor feels that her town has been free from riots, school unrest, and crime in the streets because of excellent law enforcement, good race relations, and the fact that Bennettsville residents take pride in their town and have respect for the law. She is proud of the cooperation which she receives from the city police department, club leaders, and all Marlboro County officials. She has a strong biracial committee.

She believes that the women of the United States can do much to influence law and order. "The lives of their loved ones are at stake," she says, "and as the mother of two sons I have always believed that we should take an interest in government and stay well informed on city, state, and national politics."

Since starting her second term, Mayor Blackwell has employed a community planner who also helps with a fine arts program and recreation for young people. Three new industries have been brought in and more are in the planning stage.

GILMAN NEWS FOR GUN CONTROL

Mr. TYDINGS. Mr. President, I would like to bring the attention of the Senate to a very thoughtful and perceptive article about gun control in the Gilman News, a student newspaper published by the Gilman School, in Baltimore. This article, written by Warren Marcus, a Gilman student, shows extraordinarily acute insight into the political problems surrounding this emotional issue. I hope that Senators will see that the young people in the Nation understand this issue quite clearly and that they ask for reasonable action. Someday, perhaps, we will respond. I ask unanimous consent that the article be printed in the RECORD.

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

GUN CONTROL: A FORGOTTEN ISSUE?

(By Warren Marcus)

Pollution, Vietnam, over-population, the draft, hunger, poverty. . . .

These are all obvious problems of today's American society. Movements have been organized to deal with and bring attention to these dangers to our lives. Yet there still exists another matter of great concern to all of us, and it is an issue at this point which is as good as dead. It is a problem which could be eliminated to a great extent and is really totally unnecessary. I speak of the great number of guns in our society.

Gun control has been a very fashionable issue at times, as pollution is today. After the murder of John Kennedy in Dallas, seven years ago a great cry arose from the public for stricter measures. After months of hassling and entanglement in Congressional red tape, the issue virtually dropped from sight. In the spring of 1968, two great leaders were gunned down mercilessly. Again gun control was the talk of the day. Here a concerted effort by the NRA resulted in an avalanche of letters to Congress from thousands of redneck members of the organization. Effective arm-twisting by the professional lobbyists of the NRA soon watered down the bill which was eventually passed.

One of the bumper stickers I have seen around town is "If guns were outlawed, only outlaws would have guns." This, therefore, is the rationale for housewives learning how to fire pistols, for a gun of some sort is to be found in most homes today. The truth of the matter is that if guns were outlawed, criminals would have a much more difficult time obtaining firearms. Most important is the fact that the police will always have weapons. And if only the police and the underworld have guns, the police can do a better job of law enforcement because they will not have to waste time investigating the thousands of gun accidents which occur in the home.

How many times have you read about a child being killed because either he or his friend was playing with daddy's rifle? How many times have you read about a psychotic holding his family hostage with a deadly arsenal of machineguns and automatic rifles, and the eventual outcome being at least one death? How about a Charles Whitman climbing atop a tower in Texas and ruthlessly destroying 32 bystanders?

Another defense of the NRA is that the Second Amendment guarantees to each citizen the right to bear arms. The courts have ruled this actually permits the states to arm themselves, not the people individually. The Supreme Court has ruled that state and federal governments may regulate and restrict gun distribution.

Some people feel that we must have guns to protect ourselves. In Detroit, more people were killed in gun accidents in 1967 than by burglars in the past four-and-one-half years. The statistics on death by gunfire are just unbelievable. Again, in Detroit, in four years gun homicides tripled while the total population went down! An inspector for the Detroit police said, "these days Detroiters are killing mostly their friends, neighbors, and relatives." He says these crimes are virtually unpoliceable. Most occur after an argument of some kind.

Unfortunately there is a terrible climate of violence in this country. Children can watch a war every night on the evening news. In a week of television over 1000 acts of violence occur. The pages of the papers recount crimes every day. The crime rate still goes up. Minorities such as the Panthers and the Minutemen feel they must arm themselves, and they do so easily. For Christmas, children get toy soldiers, automatic tanks, and Johnny Seven rifles with which they can destroy someone in seven exciting ways. And strangely enough, lately people have been decrying this emphasis on violence. TV is trying to cut down the uproar. Yet what could be a better way to lessen the tension than to put guns out of reach?

It is high time some strict, tough gun control legislation was passed. It is really distasteful when a fine Congressman like Joe Tydings must risk his reputation and career to stand up on the issue for stricter laws. If people want to hunt, let them rent rifles from state-run armories. If people want protection, let only the police have weapons. If they think their right to bear arms has been infringed upon, let them read the court's interpretation of the Constitution.

Even if there were no war, if the skies and water were clean, we would still manage to wipe ourselves out.

THE NATURE CONSERVANCY: LAND FOR POSTERITY

Mr. YARBOROUGH. Mr. President, in the Wednesday, March 11, 1970, issue of

the Wall Street Journal, an excellent article describes the activities of the Nature Conservancy, a unique private organization devoted to the worthy purpose of preserving lands having outstanding scientific or esthetic values. This private, nonprofit organization is made up of dedicated and concerned citizens who work to preserve our heritage of wild nature.

The Nature Conservancy is incorporated in the District of Columbia for nonprofit educational and scientific purposes. It began its work in 1917 as a national committee of the Ecological Society of America. It became an independent group in 1946 and adopted its present name in 1950.

The Nature Conservancy works closely, not only with many scientific and conservation groups, but also with the Federal Government and State governments in aiding in preserving outstanding natural wonders of our Nation.

The Nature Conservancy has, in its history, been involved in the preservation of some 140,000 acres of strategically and ecologically significant land in 41 States. This group was instrumental in the preservation of Ezell's cave, the subterranean home and last known habitat of the Texas blind salamander, *Typhlomolge rathbuni,* in Hays County, Tex.

This private conservation organization is often able to move more swiftly than the Government in order to preserve areas of great scientific and esthetic value, and to keep them safe from despoliation until the wheels of Government grind their slow course toward action.

The Nature Conservancy is to be commended for its past accomplishments in preserving the natural heritage of this Nation, and I want to encourage their efforts and wish them every success in the future.

Mr. President, in view of the outstanding conservation work being accomplished by the Nature Conservancy, I ask unanimous consent that this article, "Land for Posterity," written by my fellow Texan, Mr. Dennis Farney, which appears on page 1, volume 175 of the March 11, 1970, edition of the Wall Street Journal, be printed in the RECORD.

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

LAND FOR POSTERITY: A CONSERVATION GROUP PRESERVES CHOICE SITES BY AGGRESSIVE TACTICS—NATURE CONSERVANCY USES LOAN PROGRAMS TO SAVE FORESTS, ISLANDS, MARSHES—BARGAINING FOR A LUSH VALLEY

(By Dennis Farney)

MASON NECK, VA.—The Potomac River ice creaks and groans beneath the January sky. Cardinals flit across the beige and white of the snowy cattail marsh, and crows caw from nearby woods of beech and oak. A great blue heron lifts away on three-foot wings.

Mason Neck on a clear, cold morning is placid, unhurried now. But only five years ago this 10,000-acre peninsula of suburban Washington. Real estate speculators controlled the land; there were plans for asphalt streets through the woods, subdivsons near the restored mansion of a Colonial planter.

It didn't happen. And the main reason was the quiet work of an increasingly effective conservationist, the Nature Conservancy.

Three years ago, the Conservancy moved in and began buying up more than 3,000 acres here for about $5.6 million, checkerboarding its holdings to block development of most of the peninsula. It was another successful application of one technique that helps make the Conservancy unique among national conservation groups—unique in what it does as well as what it doesn't do.

MOUNTAINS, PRAIRIES AND MARSHES

The Conservancy isn't the best known national conservation organization. It rarely makes headlines with dramatic protests or last-ditch lawsuits. It doesn't sponsor wilderness outings and it doesn't publish beautiful books.

It just preserves land, the kind of land that can't be replaced: Virgin woods in New Jersey, islands off the Atlantic Coast, ancient California redwoods, prairies, marshes and mountains. The Conservancy is the only national conservation group that puts its total resources into land preservation. So far, it has preserved about 150,000 acres in 41 states and the Virgin Islands—most of this since it really got rolling in the early 1960s.

The Conservancy traces its lineage to a 1917 committee formed to acquire natural acres for scientific research. Today, however, the Conservancy is interested in outstanding examples of the American environment for other purposes as well. It buys such land itself or lends money to private groups that wish to do so; tax-exempt and nonprofit, it accepts bequests and donations of land or cash. It has helped preserve everything from a 10,500-acre island off Georgia (now a Federal wildlife refuge) to Ezell's Cave, the subterranean home of *Typhlomolge Rathbuni,* the Texas blind salamander.

BEATING THE BULLDOZERS

Both public and private efforts to preserve natural areas threatened by development often founder for the same reason: A lack of ready cash. By the time a government agency can secure its appropriation or a citizens group can launch a fund-raising drive, the bulldozers have come and gone. The Conservancy is trying to fill this gap with three programs:

—From a revolving fund of more than $1.1 million, it makes quick loans to private groups, including its own chapters, organized for the purpose of acquiring specific areas. The groups may take up to three years to repay; the loans are interest-free for three months, then bear interest at an annual rate of 6½%.

—A separate endowment fund of about $800,000 guarantees bank loans to such groups when the revolving fund is being used to capacity.

—Under its newest program, which utilizes a $6 million line of credit guaranteed by the Ford Foundation, the Conservancy moves in fast to acquire tracts being sought (for parks or wildlife refuges, for example) by Federal, state or local government agencies. It resells the land to the agencies when their appropriations come through.

Requests for help are keeping all three funds busy. A loan to a citizens group, for example, recently helped preserve Clausland Mountain, a wooded rampart on the Hudson River near New York City. The $237,500 loan clinched offers of more than $1.1 million in additional money from other sources. Area artists have raised some of the money for repayment with an "Art for the Mountain" benefit.

BROAD SUPPORT

The program using the Ford-guaranteed credit line has acquired more than 11,000 acres since early 1969, sometimes nailing down tracts that slower-moving government agencies might have lost. A good example is the 3,215 acres of Michigan forest recently acquired for the U.S. Forest Service. The Federal agency turned to the Conservancy because the tract was being marketed by a concern that needed to sell quickly, and it might have taken the Forest Service as long as 18 months to secure the necessary appropriation.

Such successes are winning the Conservancy support from figures as diverse as Laurance Rockefeller, Charles A. Lindbergh, Arthur Godfrey ("Boy, they do a job") and Marshall Field. Says a top Federal conservationist: "They haven't tried to branch out and get involved in all aspects of the environment. They've stuck to land preservation—and they're doing it damned well."

Conservancy officials praise the efforts of such better-known organizations as the Sierra Club, which attempts to rouse public opinion and sometimes hauls developers and polluters into court. But the Conservancy generally avoids such fights. "The measure of our success is not how well we propagandize for or against a given issue," says Thomas W. Richards, president, "It's in those acres, and in the quality of those acres."

So it's no accident that Conservancy headquarters in downtown Washington rather resembles a high-powered real estate agency. It's the kind of place where Mr. Richards may interrupt an enthusiastic description of a contemplated project (enclosing both banks of a portion of the Potomac in a "green sheath," for example), to answer the telephone and bargain for an island, a marsh or a forest. The atmosphere seems a little like that cartoon above the desk of Edward R. Kingman, vice president and treasurer. The cartoon depicts an exasperated executive who bellows: "Whattya mean we don't have any capital. . . . The acquisition's already been approved."

The cartoon notwithstanding, the Conservancy is at home in the world of finance. Mr. Kingman has been a bank vice president, a financial consultant and a real estate broker; Mr. Richards has nine years of experience as an IBM department manager. Other staff members include ex-real estate agents, a NASA administrative assistant and an industrial engineer—all recruited for their management skills.

"Conservation problems today are no longer solved by a guy hiking around in the woods," says Alexander B. Adams, an ex-FBI agent who helped lead the Conservancy through most of the 1960s. "They're solved by guys sitting behind desks, thinking." Agrees Mr. Richards: "To win a land conservation battle today, you've got to use the same skills private industry uses."

Last year, its biggest yet, the Conservancy helped preserve nearly 40,000 acres through 101 projects and donations. The year also marked ceremonial completion of a major phase of the Conservancy's most spectacular project to date: The addition of about 10,000 acres to Hawaii's Haleakala National Park.

Before the project, Haleakala Park occupied about 14,000 acres atop a long-extinct volcano. Soon the park will contain about 2,000 acres and extend from the mountaintop to the sea, an enlargement that one conservationist calls a "dream come true." It all began with a 1967 challenge from Laurance Rockefeller. He would donate a $585,000 piece of shorefront to the park—if the Conservancy could acquire the eight-mile-long Kipahulu Valley between the shore and the mountaintop.

Often veiled in fog or drenched in torrential rainfall, the valley is a lush remnant of Hawaii as it used to be. More than 100 waterfalls roar in a rain forest abundant with wildlife, including a bird species presumed extinct for 80 years. The upper valley is a wilderness scarcely penetrated by modern man. Not surprisingly, the Conservancy took the challenge and went to work.

HARD BARGAINING

As negotiator, the Conservancy dispatched Huey Johnson, its western regional director. In two weeks of hectic bargaining, Mr. John-

son reached agreements with the valley's three private landowners, then persuaded the state of Hawaii to donate about 3,000 additional acres it held.

The private owners eventually sold nearly 7,000 acres for $620,000, donating additional acreage valued at $300,000 as a tax deductible contribution. A mail solicitation, three cocktail parties and a luncheon raised the $620,000, with about $375,000 coming from a gathering in New York's Pan Am building. Mr. Lindbergh addressed that gathering, and Mr. Godfrey did a persuasive job, too. He describes catching a departing donor in the elevator and emerging at the end of the ride with a pledge of $100,000.

In January 1969, the Conservancy donated more than 7,000 acres to the National Park Service under an agreement that will preserve the upper valley as wilderness for scientific research and open the remainder of the valley to the public. (The state is in the process of conveying its 3,000 acres to the Park Service.) Then the Conservancy launched the project's second phase: A campaign to raise about $750,000 to purchase several hundred additional shorefront acres highly vulnerable to development. If this phase succeeds, Gov. John Burns has indicated, he'll work for the donation of additional state land. Says Mr. Richards: "We want to do this thing once and for all, and do it right."

The scope and expertise of the Kipahulu project was a far cry from the Conservancy of 1960. That year the organization preserved only about 4,000 acres, had an operating deficit and only about $100,000 in its revolving loan fund, and was mired in an ill-planned project that threatened to bankrupt it. Adds Mr. Adams, then president: "We were like practically every other conservation group—trying to do everything at once, and not doing anything as well as we might."

Spurred by Mr. Adams, the Conservancy reorganized. It beefed up its staff with the help of Ford Foundation grants, formed the endowment fund and secured the Ford-guaranteed line of credit. And after what Mr. Adams calls "a long battle within the organization," it phased out activities unrelated to land acquisition.

This meant leaving public protests to other conservation groups, a decision that still has its critics. One, for example, asserts that "too much concern about what major contributors might think" sometimes inhibits Conservancy activities and was a major factor in the policy change.

This critic is particularly disturbed because in the early 1960s the Conservancy dropped an active role in opposing a controversial pumped storage hydroelectric plant proposed by Consolidated Edison for New York's Storm King Mountain. He maintains: "Many Conservancy backers are stockholders of Con Ed or are interested in other forms of economic development along the Hudson and might have been offended."

Mr. Adams disagrees. "I know of no instance where our policy has been affected by a donor, and I can say that absolutely flatly," he declares. He calls the protest against the Storm King plant "the kind of project that could be much better handled by other groups" and notes that another group did take over after the Conservancy dropped out. The intent, he says, was to "disengage from things other organizations were already doing and concentrate on buying land."

There's no doubt that Conservancy fortunes soared after the reorganization. In 1969, it either bought or received as gifts land valued at nearly $20 million, up from about $750,000 in 1960; by 1975, it expects this amount to rise to $50 million. During 1969 it transferred ownership of $7.2 million worth of land to various Federal, State and local institutions, including universities.

Increasingly, the Conservancy is going into large-scale projects that will protect complex life chains in broad areas. A top priority for the 1970s will be the acquisition of coastal marshes and wetlands to protect spawning grounds for marine life and refuges for migratory birds. Separate projects, already well under way, aim to establish "coastal reserves" of islands off Georgia, Virginia, Maine and Florida. Other priorities: The acquisition of virgin prairie, water-filed "potholes" (needed by migrating ducks and geese) in the upper Midwest, and desert springs and streams.

NEEDED: $31 MILLION

This year the Conservancy will spend $7.5 to $10 million for land acquisition—a record but about $31 million short of what it would like to spend, says Mr. Richards. He estimates he would need at least $15 million more, for example, to buy up "some of the most critical inholdings" (private land) within national parks and other public areas; $10 million more to fully execute a new project to protect threatened wetlands around San Francisco Bay; $3 million more for Gulf Coast Florida islands and wetlands; and $3.5 million for Atlantic barrier islands and salt marshes.

Meanwhile, additional requests keep coming in. Illinois is asking help in buying a $7.8 million piece of open space in Chicago, for example. And Sen. Ralph Yarborough (D., Tex.) has asked for help in preserving something of East Texas' Big Thicket, a beautiful forest of pines and hardwoods.

Private donations and fund-raising drives by Conservancy chapters and project committees brought in nearly $5.5 million in cash and securities last year. Donors also contributed about $12.5 million worth of land, including a 74-acre ridge in Connecticut and 361 acres of forest (valued at $1 million) in Florida.

"We're willing to go to almost any lengths for a donor," says John F. Jaeger, the staff attorney who processes most of the gifts and bequests of land. Some donors retain the right to live on the donated property for their lifetimes, for example. Others donate only a portion of the value of their land and sell the remainder to the Conservancy, or assign ownership to the Conservancy over a 20-year period.

The Conservancy is looking for help from another area: Business. Last year, in what Mr. Richards called a "breakthrough for conservation," the Conservancy accepted a gift of two groves of California redwoods (worth about $6 million) from Georgia Pacific Corp., a concern that drew bitter attacks from some other conservation groups during the fight to establish the new Redwoods National Park. The gift, now a California state park, convinces Mr. Richards that business and the Conservancy can work together with mutual benefits.

"I'm anxious to work with other businesses, particularly the extractive industries," he says. "It's conceivable, for example, that a lumber company could assess its massive holdings and find some areas that aren't beneficial to it but which would be great from our standpoint. We could take management problems off their hands and enhance their public image in the process."

It's an irony of Mr. Richards' work that he seldom escapes his office to visit the landscapes he's helped preserve. (His most satisfying acquisition to date is a Georgia island he has yet to visit.) But he's an enthusiastic outdoorsman, as a winter hike here on Mason Neck well indicates.

A jaunty beret on his head and field glasses swinging from his neck, Mr. Richards strolls across the iced-over marsh and into the woods, checking tracks in the snow and training the glasses on birds that wing by. "Boy, isn't that great!" he exclaims, focusing in on a flying woodpecker—red and white and black against the sky. Still watching, he quips: "Look at that body!"

He studies a distant treeline, the last known nesting area of the bald eagle on this stretch of the Potomac. (The marsh and nesting area, part of the acreage acquired by the Conservancy, will soon be a Federal wildlife sanctuary; other tracts on the peninsula will become state and regional parks.) Then it's on to Gunston Hall, the restored mansion of George Mason, a close friend of Thomas Jefferson. Residential subdivisions had been planned near Gunston Hall before the Conservatory intervened.

Later, in the formal garden behind the red-brick mansion, Mr. Richards stops to savor the view: The 200-year-old hedge of English boxwood, the giant oaks, the uncluttered woods beyond.

"This will give you an idea why the Conservancy is here at Mason Neck," he says. "We're not just saving a bald eagle sanctuary. By God, this is part of this country's heritage, and it shouldn't be messed up."

INTERESTING ARTICLES AND EDITORIALS PUBLISHED IN CALIFORNIA NEWSPAPERS

Mr. MURPHY. Mr. President, within the past few days several interesting articles and editorials have appeared in California newspapers. I invite them the attention of Senators.

I ask unanimous consent that two editorials from the Los Angeles Times and the San Diego Union supporting the need for our ABM system be printed in the RECORD. I believe that both editorials succinctly state the need, although in different ways.

On another matter, I ask that an editorial by William Randolph Hearst in the Hearst newspaper entitled "Disorder in the Court" be printed in the RECORD. The editorial gives a most lucid appraisal of the "Chicago 7" trial.

An interesting article entitled "Nixon Frustrates the Leftists," by the distinguished Senator from Arizona (Mr. GOLDWATER) appeared in the Sunday, March 8, Los Angeles Times. I ask that it be printed in the RECORD along with another also appearing on Sunday, titled "Reds Broke Treaty Vows—That's Why Laos," by Joseph Alsop.

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

[From the Los Angeles (Calif.) Times, Feb. 27, 1970]

ABM CASE LOOKS PERSUASIVE

Congress has the right and the obligation to inquire closely into the need for going ahead with a second increment of the Safeguard antiballistic missile system. As of now, however, the Nixon Administration has made a persuasive case.

According to the overall blueprint submitted to Congress a year ago, the total Safeguard system—when and if completed—will include ABM complexes at 12 sites around the country. Last year, congressional approval was sought only for the first two.

What the Administration seeks now is money to go forward with construction of a third ABM complex and with site surveys (but no actual construction) of five more.

The battle lines are drawn, and it is clear that we face a repetition of last year's bitter, highly emotional ABM debate. There is room for honest disagreement on the issue. But one thing should be clear:

Notwithstanding objections by the critics to the contrary, President Nixon's current ABM proposal is consistent both with the

effort to hold down military spending, and with American hopes for an agreement with the Soviet Union to end the missile race.

Mr. Nixon has already engineered a sharp change in the nation's priorities toward more emphasis on domestic problems.

Since he took office 13 months ago, spending for defense, space and foreign aid has gone substantially down, while the share of the budget devoted to housing, welfare, job training and other "human" concerns is up.

So far, defense spending cuts are being achieved mostly through reductions in military manpower, de-escalation in Vietnam, and closing of military installations. The Administration hopes to be able to slice spending for strategic weapons systems, too—but this depends upon Russian cooperation on mutual arms limitation.

Great hopes are being placed on the so-called SALT negotiations, or strategic arms limitation talks, which get under way in April. Meanwhile, however, the continuing Soviet missile buildup has to be viewed as a menacing and discouraging development.

In every year since 1965, Soviet missile construction and deployment has exceeded U.S. intelligence estimates. The buildup has been especially marked in the past year.

By the end of 1970, the United States will still lead in submarine-fired, Polaris-type missiles and in long-range bombers. But the Soviet Union will be substantially ahead in land-based ICBMs.

Defense Secretary Melvin Laird is not worried as long as this situation of relative parity exists. But by 1975 our aging bombers will be on the way to the scrap heap. And if the Soviets continue at the present rate, they will by that time enjoy superiority in Polaris-type missiles as well as ICBMs.

That big a tilt in the nuclear balance of power cannot be tolerated.

This country could react by deploying more offensive missiles to offset the Soviet buildup. But this would be costly, and might complicate the chances of success in the SALT talks.

By moving ahead with ABM protection of our Minuteman missiles, however, we can buy another year of time in which to persuade the Soviets to join us in stopping the arms race.

[From the San Diego (Calif.) Union, Feb. 26, 1970]

NEED FOR ABM SYSTEM UNCHANGED

Several peaks emerge from the valleys as the nation embarks upon another debate about President Nixon's decision to begin construction of the second phase of our Anti-Ballistic Missile defense.

One is that no principle really has changed since the United States of America began discussion of an anti-missile system a decade and a half ago.

Another is that President Nixon could have built the missiles with far less verbal confrontation, but that he chose to add a major dimension to his formula for pursuit of peace—the dimension of public support.

The fact is, our need for an Anti-Ballistic Missile defense is even greater today than when the Soviet Union attained an intercontinental strategic missile capability in 1958.

Today the Soviet Union has more land-based strategic missiles than the United States. It is continuing to test multiple warheads on missiles, is building eight Polaris-type submarines a year and now even boasts that its own anti-ballistic missile system is in place and ready.

Russia does not worry one whit that it might offend our sensibilities by its continuing developments.

Similarly, Communist China, which exploded its first thermonuclear device in 1967, is continuing to divert its relatively meager national fortune to intercontinental weapons. It is estimated that Peking will have 15 to 40 missiles capable of reaching the United States by the middle of this decade.

These were some of the facts that led to congressional authorization of the Sentinel ABM system in 1967. President Nixon could have used the same authority to continue the ABM program, but last year he wisely chose to propose the improved and modernized Safeguard system instead.

This strategy allows the President to show the Communist aggressors that we are indeed sincere about our determination to meet our own and world defense commitments.

It allows the President to show the world that the true threat to peace resides with the aggressive nature of the Communists. The ABM is, after all, completely defensive in nature.

Construction of the second phase of the Safeguard system will strengthen the position of the United States when the Strategic Arms Limitation Talks resume April 16 in Vienna. With the system in being, we would be dealing from strength. Without it we would be telling the Soviet Union that "you had better stop doing what you are doing or else we will stop doing what we are not going to do."

Apart from all its other values, the President's ABM decision also gives Americans a chance to reflect on whether survival is not, after all, our first national priority.

There are two ways in which we can seek that survival. We can take a Utopian gamble that if we appease the Communists they will respond with equal generosity. Or we can prepare for the minimum eventuality.

As we think about the options, we also can remember that nothing we have done to weaken ourselves has ever brought a peaceful response from the Communists. They respond to strength, not concessions.

DISORDER IN THE COURT

(By William Randolph Hearst, Jr.)

NEW YORK.—When the social history of our troubled times is written in perspective, the conspiracy trial of the Chicago Seven is likely to be noteworthy for an unexpected reason—the stunning series of contempt sentences imposed on the defendants and their two attorneys.

These technically peripheral sentences handed down by Federal Judge Julius Hoffman were far more important than the trial itself, or the verdict of the jury. They defined a major limit of tolerance by our democratic and all too permissive society.

For years, the militant radical movements in our midst have been united in one common goal—to assail the law and order of the so-called establishment in every way possible. In the jargon of the New Left, this is known as the "politics of confrontation."

It has taken many forms. Young people annoy their elders with crazy clothes and hair-dos. College students riot on campuses. Mob challenges are deliberately made to police. Churches are occupied. Terror bombs are exploded. Our enemies are praised and our leaders assailed.

When the Chicago conspiracy trial began almost five months ago, it is unlikely that the defendants had any prearranged plan for extending their violent confrontation politics into the actual courtroom. In the recent past, contempt for the judicial process had most often been expressed by picket lines outside the courthouse.

In this case, largely because of widespread publicity and a kind of inverted hero hippie worship, the defendants and their counsel quickly began trying to make a mockery of the court itself.

What resulted, and continued for some 20 tumultuous weeks, was a direct challenge to the rule of law in its own temple. The politics of confrontation was extended to the very machinery of justice.

It was a daring advance by the New Left in its search for ever more ways to attack and undermine the system which, ironically, guarantees them the freedom to do just that.

The guarantee, obviously, is good only up to a point, or series of points, if the system is to protect itself. Many of those points, unfortunately have yet to be clearly defined.

The socially important service performed by Judge Hoffman, and the single most important event of the Chicago conspiracy trial, was clearly redefining the sacrosanct nature of our courts.

By his stern series of contempt sentences, he has served notice to radicals and militants everywhere in the country that civil liberty under no circumstances can excuse bringing anarchy into a hall of justice.

Despite their cries of outrage and protest demonstrations—or perhaps because of them—it is obvious that the extremists have gotten the message.

Far from getting the medal he deserves for his clampdown, Judge Hoffman now faces a quite possible scaling down of his contempt sentences by a higher court. Many people who hold no brief for the Chicago Seven and their attorneys, in fact, think the jail terms of from 2½ months up to four years were too severe.

Should the sentences eventually—on appeal—be cut back, or even thrown out, it will be on a legal technicality—as yet untested—which may or may not limit the extent of contempt of court punishment.

Meanwhile there is no valid reason for any layman to think the sentences were too harsh. If anything, they were not severe enough.

Judge Hoffman did not simply order a man to jail for four years on a general finding of contempt. What he did was to keep score of particularly outrageous acts during the trial, impose penalties for each in his mind, then add up and announce the total at the end.

And the acts were indeed outrageous. To find even a pale equivalent in prolonged and deliberate courtroom disorder, one has to go all the way back to 1949 when Judge Harold Medina endured almost a year of taunts and insults at the trial of 10 Communist leaders.

What Judge Hoffman endured was much worse. Day after day his court was deliberately disrupted by the most flagrant defiance imaginable—by defendants and their lawyers alike. On one occasion the defendants even showed up in judicial robes to mock the bench.

Even worse than that, Judge Hoffman was attacked personally time and again in obscene gutter language. Some of the printable epithets hurled at him called him an idiot, an Adolf Hitler, a liar and a "schtunk."

It is a tribute to Judge Hoffman's forbearance that he refrained from tossing the whole lot into the jug months ago. Instead he merely informed his tormentors at each outburst that their actions were improper and subject to punishment.

Probably this was the best way to bring the trial to its conclusion. Still, there is a lot to be said for the British system of powdered-wig justice.

It is almost impossible to imagine a defendant in a British court standing up to shout obscenities at a judge—the ultimate embodiment of orderly process. Bailiffs would carry such a defendant to the rock pile so fast he would think he was flying.

Come to think of it, some of those Chicago Seven defendants frequently acted during the trial as though they were flying themselves on something or other.

Even if the contempt sentences meted out by Judge Hoffman are softened or canceled, the higher courts can in no way question his

basic right—or downright obligation—to have inflicted punishment.

Either we are going to have a country where the law prevails, or we are not going to have any kind of organized country at all.

Thus if the actions of open defiance in Chicago are found by a higher court to be unpunishable because of a legal technicality, then the law must quickly be amended to correct the loophole.

Our whole system of jurisprudence otherwise will be opened again to the kind of mockery which Judge Hoffman has done his best to end once and for all.

It never should have started in the first place—and it would not if the would-be revolutionaries had a lick of common sense.

The only reason the radicals get away with all they do is because the ultra-liberal laws of this country too often permit their excesses.

They literally would use the very laws which protect them to destroy their own privileges.

It may sound nutty to us but it is doctrine to them.

NIXON FRUSTRATES THE LEFTISTS

(By Senator BARRY GOLDWATER)

In the crazy world of political semantics, President Nixon has been charged, tried and convicted of the brand-new "crime" of preemption.

Liberal newsmen and politicians are finding it fashionable to refer to the President as the Great Pre-Emptor.

Thus do the American liberals express their unhappiness over a President who shows the proper concern for domestic problems that afflict this nation.

You might think to hear them talk that only liberals and left-wing Democrats had any right to concern themselves with questions of health, education, welfare, urban renewal and pollution. It is almost as though the leftists feel that their utilization of domestic problems for political, vote-getting purposes was such an exclusive right that no Republican should ever dare to tackle these problems in the interests of improving the human condition.

The liberals were particularly upset at the President's strong leadership in the matter of environmental welfare. They charged him with pre-empting ground that they had previously staked out; air pollution, water pollution which are rapidly making life more difficult and more uncomfortable on our planet.

The mere fact that the liberals did not stand up and cheer when the President assumed the necessary leadership to come to grips with this grave problem shows that their concern is largely motivated by politics. To an American official seriously worried over what is happening to our environment, the President's assumption of leadership should have been cause for encouragement. Certainly such an official could find a better use for his time than running around accusing Mr. Nixon of pre-empting a "Democratic" issue.

A lot of the anger arises from the fact that President Nixon is not performing the way the liberals, the left-wing Democrats and many of the so-called intellectuals in our society confidently predicted. These critics expected the President to either take no action on domestic welfare problems or to move in a direction which would cause him to fall on his face politically.

The skill and determination which Mr. Nixon has brought to such outstanding problems as crime in the streets, the war in Vietnam, inflation, pollution and the ghettos can only be marked down as a tremendous political surprise.

None of his most outspoken opponents expected his popularity to be running at 64% approval one year after he took office. Indeed, many anti-Nixon liberals confidently believed that by this time in the Administration the President would be listed as one of the least popular of all chief executives ever to serve in the White House.

About the best the liberals can do after charging the President with pre-empting their issues and polarizing American opinion in behalf of his policies is to complain that he is not proposing enough money for domestic programs.

For example, former HEW Secretary John Gardner, who today heads the Urban Coalition Action Council, warns that dire consequences will follow unless additional billions are pumped into such programs as housing, health, education and job training.

Like many other liberals, he is perfectly willing to stand by and let the Democratic National Committee accuse President Nixon of not coming to grips with the problem of inflation. Gardner and all the rest of them know the connection between excessive federal spending and constantly rising prices in the supermarket. But they never let this interfere with their grandiose ideas for promoting their own pet welfare projects at the taxpayers' expense.

REDS BROKE TREATY VOWS—THAT'S WHY LAOS

(By Joseph Alsop)

Where is Gov. Averell Harriman, one wonders? And why has he not been speaking up about the currently dangerous problem in Laos?

With great patience and astuteness, and under instruction from President Kennedy, Gov. Harriman negotiated the Geneva Accord on Laos in 1962. By Harriman's urging, the leading neutralist and Laotian patriot, Prince Souvanna Phouma, was therefore installed in the prime ministership, which he still holds.

The key features of the Harriman-negotiated accord further seemed to guarantee a free rein to Prince Souvanna in his own country. Both the United States and North Vietnam undertook to withdraw all their troops from Laos.

Hanoi further promised, most solemnly, to cease using Laos as a transit route for men bound for the war in South Vietnam. To make the outlook still more hopeful, the Soviet Union guaranteed that the North Vietnamese would keep these promises.

As soon as the accord was signed, the United States immediately withdrew every last one of the considerable number of its soldiers and officers who had been serving in Laos in advisory and supporting roles. Hanoi, meanwhile, had a far larger number of troops in Laos—no less than 6,000 at that time, and therefore quite enough to cause a decisive tilt in the military balance in such a tiny country. But of these 6,000 North Vietnamese troops, exactly 40 were withdrawn!

Hanoi's flagrant disregard for the accord that Harriman negotiated did not end there, either. The promise to cease using the so-called Ho Chi Minh Trail to South Vietnam was also broken before the ink on the treaty was dry. In this century's ugly history of such episodes, there has been no cruder, more open, more shameless instance of treaty violation.

Before long, the Soviet guarantees given to Harriman and embodied in the treaty in apparent good faith had also proved to be utterly worthless. In these circumstances, the neutralist Prince Souvanna Phouma had nowhere to turn except to the United States.

Prince Souvanna therefore asked for U.S. aid, though not for a return of any Americans in uniform. Granting the prince's request was urgently advised by Harriman's personal choice for the U.S. Embassy in Laos, the able William Sullivan, now in charge of the Vietnamese problem in the State Department.

Ambassador Sullivan's request was warmly approved by President Kennedy; and U.S. aid therefore began to be provided in the form of supplies, of additional money and of civilian volunteers capable of helping the Laotians in various ways. And as the North Vietnamese violations of Harriman's treaty continuously grew more massive, more outrageous and more dangerous to Laos, U.S. aid had to be increased.

This is the long and short of the U.S. role in Laos, which is now being "exposed" by certain senators and certain reporters. You could have no better illustration of the curious double standard invariably employed by people like Sen. J. William Fulbright.

One wonders why he and his friends are not rather more busy exposing the North Vietnamese violations of the Harriman-negotiated treaty. These violations, after all, are the sole cause of the U.S. role in Laos. But of these violations, nothing has been said by the expose experts.

Aside from these ironies, moreover, this is now an acutely dangerous situation. In the recurrent offensives in each year's dry season in Laos, Hanoi has never before employed more than elements of two North Vietnamese regiments.

This year, in sharp contrast, major elements of two North Vietnamese divisions, the 312th and the 316th, are being used in Laos, without counting the tens of thousands of North Vietnamese troops along the Ho Chi Minh Trail in eastern Laos. The North Vietnamese are also using tanks and heavy artillery for the first time. These are the reasons they are now two months ahead of past schedules in reaching the most advanced positions they have ever occupied.

The betting is at least even that Hanoi's men will continue to use their superior power to go forward. The aim, obviously, is to reap a cheap victory in Laos, to compensate for the setbacks being caused by the Vietnamization program in South Vietnam.

But North Vietnamese occupation of most or all of Laos will be too gross and damaging an act to be treated cheaply. Thailand cannot tolerate North Vietnamese control of the other bank of the Mekong. President Nixon will also have to think about withdrawing some or all of President Johnson's enormous, quite unrequited concessions to Hanoi. So the prevailing double standard had better be abandoned with some haste.

THE GENOCIDE CONVENTION: POLITICAL-EMOTIONAL BARRIERS TO RATIFICATION

Mr. PROXMIRE. Mr. President, among the more prominent fears expressed by the American Bar Association is that the Genocide Convention, if ratified by the United States, could be used as a club to harass or incarcerate Americans in foreign territories. For example, it has been suggested that the convention would permit North Vietnam to try American prisoners on charges of genocide. But the fact is that the North Vietnamese are right now physically capable of doing anything they might wish with their American captives. American ratification of the Genocide Convention will not place our POW's in any further jeopardy than they are right now.

Nor can the atrocities against a civilian population of which some American soldiers now stand accused; for example, in Mylai, be considered genocide. To establish genocide, a policy of systematic extermination would have to be proven beyond a reasonable doubt. We certainly do not have a policy of systematic extermination of Vietnamese or of any other group. Moreover, at this very mo-

ment, those Americans accused of the alleged murders are being charged and tried—for murder—by Americans under American law. Ratification of the Genocide Convention would not alter this.

The Genocide Convention does not empower any international tribunal to try American citizens on charges of genocide. Under the convention, the role of the International Court of Justice is limited to questions of interpretation only. Additional protection for American citizens on foreign soil is afforded by extradition treaties; American troops are protected by our Status of Forces agreements. Of course, even now an American abroad who happens to be within the grasp and jurisdiction of a foreign tribunal can be tried for any crime from reckless driving, to robbery, to murder.

Another emotional-political objection to the Genocide Convention is the fear that the Black Panthers or some other religious, racial, or ethnic group might seize upon the convention as a means of accusing American officials of genocide. The Panthers are already charging that genocide is being committed against them; they do not need to wait for ratification of the convention. And even if the convention were in effect in America, very little would be changed. Any American citizen or public official charged with murder of an individual or a group can now be arraigned, charged, and tried for the alleged crime in a local State court. Ratification of the Genocide Convention—assuming enabling legislation is passed which follows the general convention guidelines—would not create a new cause of action; it would merely move the jurisdiction for the trial from the State to the Federal courts.

In a sense, does not our failure to ratify the Genocide Convention serve only to give unfounded credence to the charges that we are committing genocide in Vietnam and at home? From the viewpoint of international politics and prestige can we afford not to ratify the Genocide Convention? I submit we cannot.

GOVERNOR REAGAN STATES: "ISRAEL MUST LIVE"

Mr. MURPHY. Mr. President, the B'nai B'rith Messenger of Los Angeles, for February 27, contains an exchange of correspondence between California Gov. Ronald Reagan and Joseph Cummins, editor-publisher of the Messenger, in which the Governor restates his position of full support for Israel. In his letter to Mr. Cummins, the Governor states that "Israel must live." I think the article and the correspondence underscore my position as well as the Governor's, and I salute him for his stand on the Middle East situation. I concur with Governor Reagan.

I ask unanimous consent that the article and both letters be printed in the RECORD.

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

REAGAN SAYS "ISRAEL MUST LIVE"—GOVERNOR RESTATES POSITION OF FULL SUPPORT FOR ISRAEL

We are happy to report here that Gov. Ronald Reagan restates his full support of Israel by the United States, as has been his position these past several years.

As stated in our letter to the Governor, we hope to marshal all of Israel's friends in her defense—Now—when Israel sorely needs that support.

Gov. Reagan restated his grand position "that Israel, indeed, 'must live'" and that "They (the Israelis) deserve better from us. They must be provided the weapons to match the Soviet arms now aimed at their nation's heart." Further, the Governor incorporates by reference his singular pronouncements of May 5, 1968 at the Shrine Auditorium, showing that he has not wavered in his pro-Israel position.

We present these important instruments.

OUR LETTER TO THE GOVERNOR

JANUARY 26, 1970.

GOV. RONALD REAGAN,
State Capitol,
Sacramento, Calif.

DEAR GOVERNOR REAGAN: As a Jew who has spent a lifetime in the service of his people, in Jewish journalism, I am deeply concerned; concerned about the bold and adventurous successes of bolshevik Russia in the field of international relations and the subjugation of smaller countries.

Concerned I am as never before regarding the fate of Israel, because President Nixon made certain unequivocal pronouncements before his election to the Presidency, which are at complete variance with the more recent statement of Secretary of State Rogers vis-a-vis the Middle East.

Thus, the purpose of this letter is to marshal the friends of Israel that they may now stand up and be counted in her favor. In view of the foregoing, may I now ask you to express your opinion—

1) Do you agree that the United States should, in her own interest, support Israel to the fullest extent, viz.—with planes and guns, ammunition and materiel, and adequate economic aid to enable her to stand up before the Russian bear and his Arab stooges, as a bastion of freedom and a bulwark of democracy in that area?

2) And in the light of Secretary Rogers' recent statement declaring a policy of "even-handedness," what are your views?

3) Should America continue its established policy as a friend of Israel, or abandon that tried and true policy by abandonment ala Rogers?

Believe me when I say to you that I am not alone in awaiting words of encouragement. The Jewish community of California and the Jewish community of America await heartening words from you and an exposition of your opinions on these momentous questions of these trying times.

My warm personal regards go out to you and all of yours.

Sincerely,

JOSEPH J. CUMMINS,
Editor-Publisher.

THE GOVERNOR'S ANSWER

FEBRUARY 17, 1970.

MR. JOSEPH JONAH CUMMINS,
Editor and Publisher,
B'nai B'rith Messenger,
Los Angeles, Calif.

DEAR MR. CUMMINS: Thank you for your letter asking for my comments on the current situation in the Middle East and America's position in support of Israel.

I'm sure you know that I have spoken out often on this subject. I have expressed my concern for the future of Israel and her sovereignty as a nation.

At a "Salute to Israel" observance in the Shrine Auditorium in May, 1968, I made a statement about the Middle East situation. It was my position then, as it is now, that Israel, indeed, "must live."

Because the sentiments I expressed in 1968 still apply, I am enclosing a transcript of that address for possible publication in the Messenger. The comments also answers the basic questions you raised in your letter.

Sincerely,

RONALD REAGAN,
Governor.

SALUTE TO ISRAEL, SHRINE AUDITORIUM, LOS ANGELES, MAY 5, 1968

We are gathered together to observe the Twentieth Anniversary of a young and tiny nation, if measured in years and square miles.

It has been a little less than a year since we faced each other in the Hollywood Bowl. We were brought together then by a concern for the fate of that nation as it underwent its "trial by fire." But, even as we met, I think all Americans acknowledged with great gratitude that that little nation, in the bloody days, had reminded us of something that is so much a part of our own heritage, and yet had been so far back in our minds of late, that it is well we should be reminded.

We should always remember, if we are to survive as a nation ourselves and fulfill God's purpose in the world, that man is not animal. He is a creature of the spirit, and there are things for which men must be willing to die.

In the year since we met, those who were then in full retreat have been re-armed by an enemy who would impose on the world his own belief that man is but a freak of nature, without a soul and born only for the ant heap. It is the way of that enemy to arm others and let others do the fighting as it relentlessly pursues its goal of world domination.

The Middle East is essential for that plan, and all the world has a stake in the Middle East. Indeed, the freedom of the world is at stake in the Middle East.

But who defends that freedom? Only that one tiny nation, born of a hunger for freedom and inspired by two decades of the taste of freedom. Those who made the desert flower have been forced to lay aside the tools of peace, and they have stood manning the ramparts "en garde" for these many months since last we met. They deserve better from us. They must be provided the weapons to match the Soviet arms now aimed at their nation's heart. . . .

While we do this and while there is still time, there is much more we can do. We as a nation can assert the leadership the world is crying for. It should be our national purpose to bring the nations of the Middle East to the conference table and there to settle permanently the problems of refugees and the problems of boundaries.

And for Israel, a guarantee of their borders, as well as the sovereignty of their nation.

Israel met its challenge. It is time for us to meet ours. And let that pledge be our birthday gift to those who have reminded all of us that the price of freedom is very high, but not so costly as the loss of it.

CANADA TO CONVERT TO THE METRIC SYSTEM

Mr. PELL. Mr. President, this past January the Honorable Jean-Luc Pepin, Minister of Industry, Trade, and Commerce, announced in the Canadian House of Commons plans to move toward conversion to the metric system. With this step, the United States remains the only major industrial country in the world which has not taken steps to convert to the metric system; 110 countries are now using the metric system. Australia, New Zealand, and Canada are now moving toward the conversion of their national system of measures to the metric system. Here, in the United States, we cannot afford sufficient funds for a study

of the possibility of converting to the metric system.

In order that the Senate may be made aware of the reasons for Canada's step toward metric conversion, I ask unanimous consent that the statement by the Honorable Jean-Luc Pepin to the Canadian House of Commons be printed in the RECORD along with the English translation of the Canadian Government's "White Paper on Metric Conversion."

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

STATEMENT ACCOMPANYING WHITE PAPER ON PROPOSAL FOR METRIC CONVERSION IN CANADA, JANUARY 16, 1970

Mr. Speaker, I would like to make a statement concerning a White Paper entitled "Proposal for Metric Conversion in Canada." In this paper the Government sets out its proposed general policy for conversion to the metric system of measurement from the traditional inch-pound system. To quote from the White Paper: "The Government believes that adoption of the metric system is ultimately inevitable—and desirable—for Canada. We also consider it appropriate for the Government to assume a leading role in the planning for and in the implementation of this change."

This matter is of direct concern to all Canadians, to our industry and to all levels of government.

Today in Canada, although the metric system and units such as metres and grams are being used in many important sectors, it is the inch-pound system which predominates. In the world at large, however, the great majority of countries have already adopted the metric system or are now in the process of converting to it.

The White Paper addresses itself to the importance of timing in connection with metric conversion in Canada and to the complexities involved. For example, in a modern industrial country such as ours, there will be costs associated with a move to the metric system. These costs will be offset by benefits which are expected to accrue from metrication. They will also be reduced to the extent that the change takes place over a reasonable period of time in relation to the real needs in the various sectors of activity in Canada. We must be aware of the possibility of incurring even greater costs if we do not start to plan now for the ultimate adoption of the metric system.

Metric units today form the accepted basis for international measurement and standardization. A country employing the metric system is, therefore, in a favorable position in an increasing interdepartment world economy. The countries of the European Common Market are long established users of the metric system. Both Britain and Japan, two of Canada's leading trading partners, have already embarked on a changeover. The United States, our principal customer, is now conducting an extensive study of this subject.

As a matter of fact, just four countries—Canada, United States, Australia and New Zealand—are still using the inch-pound system at this time. Canada's ability to maintain and expand its vital export trade with countries in the metric sphere will directly benefit from the move we have decided to make.

Changing to the metric system will have important benefits for the Canadian consumer. These benefits will derive principally from the inherent simplicity of the system and its convenience in general use. The ease in converting from one metric unit to another—from kilograms to grams, for example—will simplify the arithmetic in making value comparisons of competitive consumer products.

For these reasons and many other, which are indicated in the White Paper, as I have remarked earlier, Mr. Speaker, the Government believes that adoption of the metric system is ultimately inevitable—and desirable—for Canada. However, no legislative action is contemplated which would make mandatory a general use of metric in place of inch-pound units.

The White Paper outlines what is the start of a long process on the road to metrication. It proposes certain organizational arrangements to plan for and encourage conversion. For example, the Government intends to appoint a preparatory commission which will act at the Federal level to coordinate the study and planning. A mandate will also be given to the proposed Standards Council of Canada—a bill on this subject is now before the House—so that it may fill a similar role in the more limited area of its responsibilities, that is, the industrial sector and physical standards. Planning and preparation will be encouraged so as to obtain the maximum benefits at the minimum cost to the consumer, to industry and to government at all levels.

Our intention is to study and consult extensively and so to determine what is the best process for this transition. It will be necessary, for example, to decide on the timing of changes appropriate to each individual sector of the economy. In issuing this White Paper the Government is inviting comments from all interested parties. We hope to obtain the widest possible involvement and co-operation of the community as a whole. Participation of other levels of government, of industry, and of the public at large in this effort will be welcomed and will be of the greatest importance in the attainment of the ultimate objectives for Canada in this area of measurement and standards.

Mr. Speaker, I wish now to table, in both official languages, under, Standing Order 41(2), copies of a White Paper entitled "Proposal for Metric Conversion in Canada."

WHITE PAPER ON METRIC CONVERSION IN CANADA

1. INTRODUCTION

1.1. In this White Paper the Government of Canada sets out a proposed general policy concerning metric conversion in Canada—a matter of concern to all Canadian individuals and organizations and all levels of government.

1.2. At this time, both metric and inch-pound measures are legal in Canada. Although the metric system is accepted and used in many important sectors, it is the inch-pound system which predominates.

1.3. In the world at large, however, a great majority of nations have already adopted, or are now converting to the metric system. To make such a change in a modern industrial national entails cost and inconvenience. However, many have concluded that the benefits offered by the metric system more than justify conversion.

1.4. These benefits derive principally from the inherent simplicity of the system, and its convenience in general use, in education and in commerce and industry, especially as a basis for standards. Metric units are the basis for international standardization and, hence, favourably affect the using nation's position in an interdependent world economy.

1.5. The Government believes that adoption of the metric system of measurement is ultimately inevitable—and desirable—for Canada. It would view with concern North America remaining as an inch-pound island in an otherwise metric world—a position which would be in conflict with Canadian industrial and trade interests and commercial policy objectives. The Government believes that the goal is clear; the problems lie in determining how to reach this goal so as to ensure the benefits with a minimum of cost.

1.6. It is appropriate that the federal government should assume a leading role in the planning and in the process of change. The Government accordingly accepts eventual conversion as a definite objective of Canadian policy, and proposes means of study and consultation whereby the pace and the methods of change may be determined in the national interest. No legislative action is contemplated which would make mandatory a general use of metric in place of inch-pound units, although some legislation may prove desirable to foster familiarity with metric units.

1.7. It is intended that the Government will appoint a Preparatory Commission which would act on behalf of government as a coordinator in the study and planning of conversion. Also, it is proposed that a suitable mandate be given to the projected Standards Council of Canada, so that it may fill a similar role in the area of its responsibilities.

2. THE MEANING OF METRIC CONVERSION

2.1. Processes of measurement enter nearly every area of human activity. Every culture within written history has employed units of some kind in order to measure at least length, weight and time. For the most part, these units have been arbitrary in their relations to one another; the exception is the metric system of measurement which, since it was first adopted in France in the 18th century, has steadily gained acceptance as a coherent and internationally uniform system of measurement. The metric system has many virtues, the most obvious of which is its decimal nature; to convert from a smaller to a larger unit of measure or vice versa it is necessary only to divide or multiply by 10, 100, 1000 and so on, as compared (for example) with 12, 3, and 1760 as conversion factors for units of length in the inch-pound system. Its advantages have led to steadily increasing adoption of the system internationally, with the result that metric measures have precisely the same significance in every country—unlike, for example, the gallon which has two values even within North America. A less obvious but equally important advantage lies in the fact that all measures are rationally related; as a result the metric system is already used universally in scientific work. The modern integrated metric system includes units of measurement of electricity, temperature and luminosity and, in its basic form, is referred to as the "Système International" or "SI".

2.2. In contrast, the inch-pound system, although still widely employed, is losing rather than gaining adherents, as exemplified by the recent British decision to convert to the metric system. Such a conversion, in any industrially advanced nation, is a complex and costly process: the conversion is undertaken in the expectation that the costs will be more than offset by the benefits. These will derive from the simplicity in use of the more rational system of units and from the improved ability to communicate both commercially and in other ways with the growing metric community.

2.3. Conversion is costly and complex because measurement systems profoundly affect the development of manufacturing standards and specifications. Although primarily based on physical properties or characteristics of products, standards also tend to reflect the convenience of users; a simple example is the preference for round numbers as dimensions—as in the standard four-by-eight foot size of plywood sheets. Thus application of one or another measurement system has led to important differences between the metric

and nonmetric worlds in the development of engineering standards of design and performance characteristics. These differences have become embodied in physical forms and, over time, extensive investments have been accumulated in fixed assets and technological experience. In addition, a measurement system becomes embedded in legislation, regulations and jurisprudence. To convert to other standards means that much has to be scrapped and rebuilt.

2.4. It is possible to adopt the metric measurement system (as distinct from metric standards) and, by simply calculating equivalents, express in metric terms engineering standards originally evolved under the inch-pound system. In some industrial fields the use of measurement units foreign to the standards employed would disregard convenience and efficiency in design. In other industrial fields there already has been or can be developed a side-by-side usage of both metric and non-metric systems for definition of standards and for designing.

2.5. The influence of measurement systems on relations between nations or groups of nations is probably greatest in the sphere of industry and associated trade and commerce. Whether a product is accepted in a foreign market may depend on whether standards are met, both by the product itself and by its replaceable component parts. Differences in standards constitute more than a passive barrier to trade. For example, industrial countries, in their trade with the developing world, may promote their own national standards as a means of developing a larger share of those markets.

2.6. Whenever conversion to the metric system is contemplated, each industry sector must weigh the benefits of an internationally uniform and coherent system of measurement against the costs of changing from the existing system. The balancing of costs and benefits will influence the pace of the conversion process.

2.7. Experience abroad has shown that it is not essential that conversion should proceed equally and evenly in all sectors. The use of dual systems or the application of conversion equivalents permits adaptation to the new system without discarding physical assets before they become obsolete. It is therefore important to distinguish between the measurement system and related engineering standards. To do so permits each sector of industry to assess the problems of conversion and consider practical solutions, including timing, without the inhibitions which compulsory immediate changes in physical standards would involve. Metric conversion may be conceived as a variety of programmes extending over periods of years as determined by the needs and problems in different sectors of the economy.

3. CANADIAN GOVERNMENT POLICY

3.1. Study of the subject of metric conversion, including events abroad and the views of a number of industry, consumer and other associations in Canada, has led to acceptance by the Government of the following broad principles:

(i) The eventual adoption in Canadian usage of a single coherent measurement system based on metric units should be acknowledged as inevitable and in the national interest.

(ii) This single system should come to be used for all measurement purposes required under legislation, and generally be accepted for all measurement purposes.

(iii) Planning and preparation in the public and private sectors should be encouraged in such a manner as to achieve the maximum benefits at minimum cost to the public, to industry, and to government at all levels.

3.2. Information about the metric system should be disseminated to the general public, and introduction of the system should be fostered where it will have the maximum educational impact with relatively low costs.

3.3. The intent is to study and consult so as to determine the processes of transition and decide on the timing of changes which are most appropriate to each individual sector of the Canadian economy. Wide variations from sector to sector are inevitable. This will be evident from the following discussion of considerations which support acceptance of these principles.

4. BACKGROUND AND IMPLICATIONS OF POLICY

4.1. The situation in the world

4.1.1. In the world generally there has long been a trend toward conversion and the number of nations which has adopted the metric system as a national standard has steadily increased. Some 110 countries are now classified as metric-using countries. The important consideration is the trend noticeable among the industrially advanced countries. Of these only the United States, Canada, Australia, and New Zealand have not yet embarked upon conversion of their national system of measurement to some form of metric system. Australia and New Zealand are considering such a change.

4.1.2. The British decision to convert to the metric system, related in part to that country's decision to seek entry to the European Common Market, will be effected over a planned transition period which extends to 1975 and, in some respects, possibly even longer.

4.1.3. The process of conversion in Japan has been under way for some years and appears to be approaching completion.

4.1.4. Thus, most states have adopted metric measurement and most of the world's population now live in areas using some form of metric system. Because, however, the inch-pound system is dominant in the United States and was so previously in Britain, the proportion of goods and services produced under this system is higher than population figures might suggest. In fact, the industrial capability and technological leadership of the United States leads to dominance of inch-pound design and specifications in many fields.

4.1.5. The situation in the United States is in many respects similar to that in Canada. There has been a parallel increase in attention to the subject of metric conversion within professional and industrial associations. The pattern of metric usage in science and the extent of its application in industry and commerce appear generally the same in both countries. Because the United States is more self-sufficient and depends to a lesser degree than Canada on export trade, the increasing predominance of the metric system in world markets may give less cause for concern in that country. The greater scale of investment in inch-pound standards increases the sensitivity to costs of conversion. Nevertheless the subject is being actively considered.

4.1.6. In response to rising public interest, the United States Congress in 1968 authorized the Secretary of Commerce to conduct an extensive study of all aspects of possible increase in use of the metric system in the United States. Planning for a national metric survey is in its final stages. This survey is to be carried out by the National Bureau of Standards Metric Study Team under the guidance of a broadly representative Metric Advisory Panel. The study will examine costs and benefits, advantages and disadvantages of extension of metric usage in the United States. A preliminary report is looked for by the autumn of 1970. A number of special groups, private companies, trade and professional associations, including the American National Standards Institute, have set up specialist committees (some with Canadian participation) to study metric conversion problems. These committees will no doubt contribute to hearings planned as a part of the national metric survey.

4.1.7. Because of the close ties between the United States and Canada in science, technology, industry and commerce, each country has a special interest in the course likely to be followed by the other in respect of metric conversion.

4.2. The situation in Canada

4.2.1. The marked trend to the metric system outside North America, and the increasing importance to Canada of export markets, especially for manufactured goods, make it urgently necessary to consider the matter of conversion. The question is a complex one because the United States, which is Canada's main export market, has not made a decision to convert.

4.2.2. It is nevertheless clear that in the long term North America as a whole would have to find the most compelling reasons to remain aloof *indefinitely* as the sole surviving users of the inch-pound system. If the inevitability of eventual change is accepted, then the need to *begin* the process of change as soon as possible is obvious. To delay the decision to put the process in motion would increase the eventual cost of change. Accumulated investments around the older system increase with time, and opportunities for conversion are missed as obsolete assets are replaced.

4.2.3. Although both the customary inch-pound and metric units are legally acceptable for commercial purposes in Canada, in practice inch-pound units predominate, especially at the consumer level, where there is general familiarity only with inch-pound units for length, area, volume, weight and capacity.

4.2.4. In recent years the question of metric conversion for Canada has become increasingly a subject of public discussion and of representations to government. Considerable press coverage has been devoted to the subject. Representative national organizations have put their views on metric matters before the Government and suggested courses of action ranging from initiation of studies to immediate adoption. Among those expressing support for conversion are the Consumers Association of Canada, the Canadian Home and School and Parent-Teacher Federation, the Agricultural Institute of Canada and the Canadian Chamber of Commerce.

4.2.5. An examination of the Canadian situation is summarized below. For main sectors of Canadian society, the current practice, the views expressed, and the expected problems and benefits of conversion are described.

4.3. Implications for the consumer

4.3.1. One basic weakness of the inch-pound system and its related measures is that many adults forget the conversion factors, if they ever learned them, and this may create some confusion in the transactions of everyday living. Many people find it difficult to grasp immediately the relations between yards, rods, furlongs, acres and sections. Problems are often encountered in formulating liquid mixtures used for household or recreational purposes. This situation is further complicated by the difference between the United States and Imperial pint, quart and gallon. The ease of conversion in the metric system would benefit consumers by simplifying the arithmetic of value comparisons. Calculations in terms of grams and kilograms or millilitres and litres would be easier than those involving avoirdupois ounces and liquid ounces. Once again, the difference between the United States and the Imperial ounce, although small, is a legal and technical nuisance. Economies in the processing and distribution of consumer goods may be attainable if suitable metric standards are adopted in the packaging field. It would be simpler to attain a more rational distribution of container sizes if the historical precedents of the inch-pound system were absent.

4.3.2. In the process of changing consumer measurement practices, adult education and

information programmes would be necessary, and some moderate costs would be involved. The direct financial cost of metric conversion to the individual and the public in general would be negligible. Costs for changes in measuring devices used in distributive trades dealing with consumer goods would not appear to be onerous for any one establishment—given sufficient notice of the required conversion.

4.3.3. There would, inevitably, be a disturbance of customary and familiar practices as the community adapted to the new measurement system.

4.4. Implications for education and science

4.4.1. Two general aspects may be distinguished when considering the subject of education as related to converting to the metric system:

(1) matters affecting usage by the general public and

(2) matters relating to formal teaching in schools and similar institutions.

An information programme directed to the general public would be particularly important in the early stages of conversion. Matters relating to formal education are the responsibility of the provinces.

4.4.2. Canadian primary education provides some teaching on both inch-pound and metric measurement systems. The inherent simplicity of the metric system speeds the process of instruction, and so frees time for other matters. At present, the educational system is cluttered with illogical and complex weights and measures. Young children are required to learn by rote a system of metrology which is picturesque but inconvenient. The learning of a large number of conversion factors is burdensome and absorbs time which could be used more profitably in other ways. The interrelations of measures of length and capacity in the inch-pound system result from historical or accidental developments but do not have any rational foundation. The simplicity of the metric system would be a boon to pupils and teachers and its adoption would lead to greater efficiency in the educational system. The sole use of the metric system would not only facilitate the teaching of mathematics, but would have an impact on other fields such as geography, biology and psychology as well as domestic science. In 1968, the Canadian Teachers' Federation passed a resolution "That the C.T.F. encourage conversion to the Metric System". Most provincial Departments of Education have reported a trend toward more metric teaching.

4.4.3. As a preparation for metric conversion, there would be an immediate need for greater emphasis on teaching the metric system and a consequent need for revision of textbooks. This is already an urgent matter for the benefit of the next generation because of the years which elapse between the introduction of new textbooks and the graduation of the student who has used them.

4.4.4. Canadian universities indicate that in the field of pure science the metric system is used almost exclusively while, in contrast, work in mechanical engineering is largely in inch-pound units. An important influence on the universities and individuals is the insistence, by many professional associations, on use of the metric system in their technical publications. In scientific work outside educational establishments there is also consistent use of metric units. Views in support of conversion have been formulated by such groups as the Canadian Pharmaceutical Association, The Canadian Council of Professional Engineers, the Chemical Institute of Canada and the Engineering Institute of Canada.

4.4.5. The metric system is already used extensively in the academic and scientific fields. Any costs of conversion should not be an undue burden.

4.5. Implications for industry

4.5.1. It is in the sectors of industry and trade that both the costs and benefits of conversion may be most substantial. Conversely, the eventual costs of not converting may be equally large in terms of market opportunities foregone. Although industry and trade are indivisible, this section concentrates on questions mainly concerning the producer, while the following section on trade emphasizes questions involving the market for Canadian goods and services.

4.5.2. In Canadian industry, including primary and secondary producers and the service and distributive industries, current attitudes embrace the extremes of total acceptance of the metric system and resistance to change from inch-pound units. Flowing from the practice in scientific research, there is increasing use of metric language to express dimensions and performance characteristics, most noticeably in areas of more rapidly evolving technology such as the electronic and pharmaceutical industries. Where export to widely dispersed foreign markets is important, as in certain forest industries, the urge is strong to seek maximum international standarization. This is apparent also in the construction industry. In other sectors of industry economic considerations tend to oppose conversion. This is particularly true of industries mainly engaged in the field of mechanical engineering.

4.5.3. In North America, the mechanical engineering industries as a group have great investments in physical plant, production technology and design. Very costly manufacturing equipment and machinery are employed in these industries. In sectors such as the transportation industry, established interest in existing standards is far-reaching in its influence. In sectors such as the petroleum industry, inch-pound based technology so dominates the world industry that North American standards could survive almost indefinitely in international usage. For the aircraft industry the world's largest market is now non-metric and the logistics of maintenance and service may for a considerable time influence the pace of change. It is clear that costs of conversion would be large in a number of industry sectors; it is equally clear that where conversion takes place the magnitude of costs would depend on the rate of conversion and could be minimized by phasing to coincide with cycles of tool, design and equipment obsolescence.

4.5.4. The view is held in certain sectors of industry that Canada should not attempt conversion independently of the United States. The Canadian automobile industry, with its close ties with the United States involving common designs, production, and marketing programmes, is cited as an illustration. Nevertheless Canada now provides a small though significant market for metric models, in part supplied by domestic assembly. It appears generally the practice of the larger international automobile companies to design in the measurement system of the different countries in which they manufacture. Metric or non-metric design may be translated and adapted as occasion demands. The same companies in their international operations are conscious of the great practical advantages of common standard stock sizes of metal materials, common standard fasteners and common designs for production and maintenance spares. In the somewhat similar farm machinery industry, parts for world-wide use are now designed in both metric and non-metric systems, with increasing preference for the use of metric system. In the final analysis, the mechanical engineering industries have as much to gain as any. In all such circumstances, a voluntary approach to metrication of industrial standards appears to be the necessary and wise course, with wide areas left for discretion to be exercised by management.

4.5.5. Canadian industry as a whole has not attempted any searching analysis of the advantages and disadvantages of Canadian metric conversion, but the Canadian Standards Association has surveyed industry opinion on the subject through its technical committees. The major advantages were seen to lie in simplification of calculations and measurement, and in international standardization. Some thought conversion would facilitate Canadian trade. Many expected a major problem in the re-education of technical, skilled and semi-skilled personnel. Other technical adjustment was not regarded as difficult. Some predicted a need to maintain duplicate production capabilities for a period. Producers of heavy equipment estimated the cost of conversion to new metric-based standards as substantial and onerous. This was not seen to be so much the case in light industries. Certain basic material industries foresaw the need for a period of dual-standard production. Estimates of the time required for changeover ranged from five to twenty years.

4.5.6. Metric usage in medical practice and administrative procedures will be a reality throughout Canada's hospitals within a very short period. This in turn has some industrial implications. The Canadian Hospital Association, at its own expense, has developed a handbook for conversion. It has been reported that use of metric systems has already been introduced in several major hospitals.

4.5.7. The annual meeting of the Canadian Construction Association held in January 1969, endorsed the following policy recommendation of its National Council: "The Association recommends that the Federal Government, through the proposed Standards Council of Canada, carry out a study of the implications of the conversion to the Metric System of Measurement in Canada. This study should include, in collaboration with the construction industry and allied professions, a proposed schedule and related requirements for the conversion to the Metric System in construction operations in Canada. Legislation should be enacted providing for the mandatory use of the Metric System of measurement in this country. This system of measurement is now in mandatory legal use in countries containing almost 90% of the world's population. Countries currently in the process of converting include the United Kingdom, Ireland and the Republic of South Africa."

4.5.8. Conversion costs connected with distribution would not appear burdensome on individual establishments, provided there is phased conversion. There would be benefits which, ultimately, would flow from the simplicity of the metric system.

4.5.9. It can be seen that across Canadian industry as a whole there is a very wide variation in current practice, in expressed attitudes, and in the expected benefits, costs and problems of conversion. In many sectors, coordination in planning the processes of change would materially affect the costs likely to be incurred. Wide flexibility in timing would appear to be necessary. In some sectors, change would likely be closely related to the progress in the United States towards conversion, reflecting the complex interlocking of industrial technology in North America. It is clearly not possible, however, to reach conclusions about industry without taking trade into consideration, since expanded markets are the basis for Canadian industrial growth.

4.6. Implication for trade

4.6.1. Important benefits of conversion are to be found in ability to maintain and expand Canadian trade with nations in the

metric sphere. Because of the vital importance of foreign trade to Canada, especially the need for growth in exports of manufactured goods, there must be serious concern about damage to Canada's competitiveness in world markets as a result of the pace of changeover to the metric system in the world at large. Conversion in Britain (and other Commonwealth countries) and in Japan is affecting two of Canada's three main foreign customers. The countries of the European Common Market, of course, are long established users of the metric system.

4.6.2. There is no precise means of assessing the effects on trade of differences in the measurement practice of Canada and foreign buyers. In primary commodities, Canadian exporters have long been familiar with use of metric measurement, though conversion of units during commercial negotiations may be a handicap and a source of error. In the case of exports by secondary industries, however, the problem is with the differences in standards and therefore in the products themselves. Although it is difficult to quantify the extent of this influence, it is the practical judgement of many of those concerned with Canadian trade in established metric regions that the unfamiliar standards significantly hinder Canada's penetration of the market. Continued difference in measurement practices would lead to potentially wider disparity between standards systems.

4.6.3. For these reasons, if Canada were to continue indefinitely as part of an isolated inch-pound area, the full development of trade potential would become impossible. Such development must aim at the optimum ability to serve all markets, including the metric regions.

4.6.4. This was recognized by the Canadian Chamber of Commerce which, referring to the widespread use of the metric system and its effect on Canada's competitive position in world trade, formally recommended in 1968 "that the Government of Canada actively pursue a program to adopt the Metric Standard of Measurement as an integrated North American Plan."

4.6.5. At present, it is the United States market which absorbs a major and increasing share of Canada's exports of manufactured goods. Some major sectors of Canadian industry are closely involved, corporately and in respect of technology, with the United States. This linking of industry in the two countries extends to markets both in North America and beyond. In these cases, it may prove wise to allow the timing and process of conversion to be closely related to the development of United States practice.

4.6.6. A third area of potential trade, one likely to be of increasing importance, is that of the developing countries where the metric system has been widely adopted. The consequent emerging differences in standards may reduce the acceptability of inch-pound based engineering and reduce the ability of Canadian capital equipment exporters to follow up on the penetration of these markets made by Canadian consulting engineers.

4.6.7. During the process of conversion, standards authorities would play a most active and important role. Few trading countries would seem to have more to gain than Canada from advancing international standardization—an ideal counter to restrictive or protectionist use of national standards. Hitherto, Canadian activity in international standards work has been mostly in the field of basic standards and in sectors of special interest to primary commodity trades. There would need to be increased participation in international standards development if the long-run trade advantages of conversion are to be secured.

4.6.8. To sum up, since a trading nation must take account of the measurement and standards system of the buyer, the overwhelming world trend to the metric system is a powerful argument for Canadian conversion. It would improve Canada's ability to penetrate these world markets with manufactured goods. However, the need to service the United States market and associated inch-pound markets must affect the rate of any such conversion in certain industrial sectors. There will be wide variations from sector to sector. Costs in certain areas may be kept to a minimum by management of the rate of transition to suit Canadian industrial practices and also developments in the United States. With these provisions, it is expected that the benefits of conversion will far outweigh costs.

4.7. Implications for Government

4.7.1. The federal government has statutory responsibilities which would be affected by metric conversion. The most relevant of these flow from the Weights and Measures Act and the maintenance of primary standards. There would be important implications also for work under the Statistics Act. Departments and agencies such as those engaged in the geodetic survey and meteorological work would also face the necessity of planning for the transition.

4.7.2. The purpose of the Weights and Measures Act is to assure accurate measurement in all commercial transactions, and to provide controls for the manufacture, sale, and use of equipment used for such purposes. Inch-pound units or metric equivalents are now legally permitted. Metric standards are available in the general weights and measures field, and no current problems exist in meeting the needs of those industries which employ metric units. In the event of conversion, it would be possible to provide inspection standards fairly quickly. Gas measurement under the Gas Inspection Act operates largely on the inch-pound system; conversion of equipment here would not be as extensive as in the general weights and measures field. In the field of electrical measurement under the Electricity Inspection Act conversion would involve little, since units and instrumentation are already established in the metric system.

4.7.3. Insofar as the primary standards of Canada are concerned, the task of establishing them on an international and metric basis has been accomplished during the last twenty years. Although these primary standards do not directly affect many people, they are an essential first step in the process of general conversion.

4.7.4. As users federal agencies generally reported, in response to a survey, a preference for the metric system. A change to this system would be welcome and, in some cases, would pose no problem. The consensus appeared to favour gradual change in response to industry needs or international commitments. As in the private sector, it should be possible to keep costs down by phasing the changeover, for example in relation to obsolescence and normal replacement practice.

4.7.5. A major part of the work in the earlier stages of conversion would arise in the fields of specifications, statistics and records. Provision for comparability of old and new data would be essential.

4.7.6. Metric conversion would involve changes in areas where provincial governments have responsibilities. The subject of education is one of great importance. Changes in provincial highway traffic legislation would arise from change in measurement practice, and would require interprovincial coordination. In areas such as fire prevention and public safety a matter of standards enforcement arises. Certain provincial agencies, including provincial electric power commissions, are directly concerned in standards enforcement, and would have a strong interest and an important role in setting the pace of conversion to metric-based standards.

4.7.7. Provincial and municipal governments are concerned with standards in civil engineering generally, in construction practice and in public services and utilities. All these standards would be affected by conversion, at least in respect of units of measurement employed, and perhaps more radically if eventually they are replaced by different metric-based standards. The extent and the processes of transition would need to take into account the amount of existing private investment and the pace of industrial adjustment.

4.7.8. As in the case of industry and trade, it is a complex matter to assess the costs which would be incurred by federal, provincial and municipal governments in the process of conversion. Such costs would be minimized by adequate phasing. The benefits would be a due share of the general benefits of conversion, as these come to be realized by the industries and the individuals in each province or municipality.

4.8. Summary

4.8.1. The advantages already seen by others in metric conversion exist also for North America generally and for Canada in particular.

4.8.2. Within the nation, the metric system promises the benefits of ease and convenience in education, and in general commerce, where its inherent simplicity is attractive. Industry will benefit from improved trading abilities and opportunities in world markets. Special regard, however, must be paid to the decisions of the United States and to maintaining the ability to serve remaining inch-pound markets. Conversion entails costs, especially in some industries, but an examination of main sectors of Canadian society confirms the desirability of eventual conversion. Correct choice of the pace of conversion allows costs to be minimized. For this reason a process which may be varied to suit individual sectors is envisaged.

4.8.3. The Government has therefore concluded that the eventual adoption of the metric system should be an objective of Canadian policy. It remains to determine how best to reach this goal with a minimum of cost and inconvenience. It is believed that the determination of the methods and pace of conversion can best be accomplished in consultation and cooperation with all sectors of the Canadian economy. By these means it is hoped that the nation may reach a consensus on the most effective means of reaching this goal.

5. PROPOSED ACTIONS

5.1. The Government accepts its responsibility to provide leadership in planning for the processes of change. Conscious of the need for a transitional period, the Government will propose arrangements for the division of responsibilities in the public and private sectors for studies, planning, consultation and ultimate organization of a coordinated approach to conversion. This would involve development of programmes capable of flexible adjustment to the evolving situation in Canada and abroad. In this process, the views and proposals of all concerned would be considered. The Government would also begin the process of change within its own Departments.

5.2. It will be an important element of the process of conversion to ensure public understanding of the desirability of the objectives, of the nature of the changes intended, of the complexity and timing of the process of change.

5.3. The implementation of change would be rapid in some areas and long drawn out in others. Many organizations would necessarily be engaged in the process. To carry out its own responsibilities, the Government proposes to appoint a Preparatory Commission. To provide necessary organization in the private sector, including provision for expression of special sector interests, it is

proposed that a suitable mandate be given to the Standards Council of Canada, the establishment of which is at present the subject of a Bill before Parliament.

5.4. Liaison with the provincial governments would be initiated and maintained by the Government and the proposed Commission as appropriate.

5.5. The Government therefore proposes the following principal actions in order to initiate the process of metric conversion in Canada:

(i) A full-time Preparatory Commission will be appointed to advise upon and coordinate overall planning of the conversion process.

(ii) The projected Standards Council of Canada will be given responsibility to develop and coordinate planning and preparation for conversion in industry, including change to metric standards.

5.6. The Government believes that the question of metric conversion is one on which it is no longer possible to suspend judgement. Given a clear direction in which to go, many sectors of the nation will have few problems in conversion, provided the transitional process is wisely phased. It is considered that industrial managers throughout the country will wish to plan ahead, to ensure that they do not find themselves faced later with necessity for abrupt and costly changes. The economic well being of Canada depends crucially on education, industrial development and world trade. Metric conversion can benefit them all.

DEATH OF DR. W. ROY CHURCHILL, HOLLYWOOD, CALIF.

Mr. MURPHY. Mr. President, I have recently learned of the passing of Dr. W. Roy Churchill, a prominent optometrist and longtime resident of California, whose continuous interest in serving others has been recognized and saluted throughout the Nation. Dr. Churchill volunteered much of his time and energies to training and guiding young opticians and aiding wounded servicemen, some 2,500 of whom he fitted with artificial eyes. In his work in education, optometry, films, and government he made numerous friends, and I am sure they join me today in mourning his loss.

Dr. Churchill, who died in his sleep on Friday, February 6, 1970, at his home in Hollywood, Calif., was the husband of Mildred Gibson Churchill, columnist, and the father of Reba and Bonnie Churchill, internationally syndicated newspaper columnists who coauthor "Youth Parade."

A distant relative of Sir Winston Churchill, he was an inventor and held patents on spectacle mountings and nonbreakable eyeglass cases.

Dr. Churchill was born in Golconda, Ill., and attended the University of Chicago, where he was also one of the youngest teachers in the State. He held the 174th optometry license issued in Illinois.

A resident of Hollywood for the past 36 years, he was president of the Re-Bon Publishing Co., which services educational material to newspaper, television, and radio media; this was in association with his two daughters and his wife.

Dr. Churchill's activities and interest in helping others have been praised by many and documented through special television reports across the United States. Though he will be sadly missed, his memory will live on in his accomplishments.

I ask unanimous consent that an article relating to Dr. Churchill be printed in the RECORD.

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

DR. W. ROY CHURCHILL

Friends in the optical, education, film and government fields today learned of the passing of Dr. W. Roy Churchill, prominent optometrist, who fit over 2,500 wounded servicemen with artificial eyes.

Dr. Churchill, who died in his sleep Friday, February 6 at his Hollywood, California home, was the husband of Mildred Gibson Churchill, columnist, and father of Reba and Bonne Churchill, internationally syndicated newspaper columnists and co-authors of the column, "Youth Parade."

Dr. Churchill, a distant relative of Sir Winston Churchill, was an inventor and held patents on spectacle mountings and nonbreakable eye glass cases.

Born in Golconda, Illinois, Dr. Churchill attended the University of Chicago, where he was one of the youngest teachers in the state. He held the 174th Optometry License issued in Illinois.

A resident of Hollywood for the past 36 years, he was president of the Re-Bon Publishing Co., which services educational material to newspaper, television and radio media; this was in association with his two daughters and wife.

In addition to this activity, he devoted much of his time and energies to training and guiding young opticians. His continuous interest in serving others has been recognized and saluted via special television reports across the United States and by the Los Angeles Board of Supervisors who adjourned in his memory.

A BRIEF FOR PREVENTIVE DETENTION

Mr. TYDINGS. Mr. President, I invite the attention of the Senate to an article entitled "A Brief for Preventive Detention," published in part 1 of the New York Times magazine of Sunday, March 1, 1970, at page 28.

The author of the article, Ronald L. Goldfarb, is a distinguished attorney in the National Capital. He is likewise a recognized expert in the field of bail procedures. Mr. Goldfarb was formerly a special attorney with the Department of Justice and a staff consultant with the National Conference on Bail and Criminal Justice. He has authored an important work in this area—"Ransom: A Critique of the American Bail System"—and contributed valuable testimony at the time of the Senate's consideration of the Bail Reform Act of 1966.

The CONGRESSIONAL RECORD of late has been filled with reports of perilously mounting crime. Countless widows and orphans, the poor and the black of our metropolitan centers—these are most often the victims of this pernicious crime crisis. I dare say that not one Senator would deny the need for a swift and sure response.

Mr. Goldfarb recommends, as part of the response, legislation authorizing pretrial detention in lieu of bail for certain dangerous defendants. As I have made known in the past, I agree that such legislation is a vital part of the needed response to today's crisis.

Pretrial detention continues to be one of the controversial issues which Congress has yet to face. Moreover, the time draws near when the issue of pretrial detention will be squarely before us as a body. The Department of Justice and Senator GOODELL have proposed bills of nationwide applicability on the subject. The Committee on the District of Columbia of the House of Representatives has just this week approved pretrial legislation for the city of Washington.

For myself, I introduced a pretrial detention bill of nationwide applicability in January, 1969. On the basis of the experience gained and comments received in connection with this earlier legislation, I was able to redraft my proposal and introduce a further pretrial detention bill for the courts in the District of Columbia.

I am pleased to report that Mr. Goldfarb in his article discusses in depth several of the legislative proposals now pending, as well as the general problem of protecting the the public against pretrial recidivism. I ask unanimous consent that this enlightening article, with the informed and balanced viewpoint it conveys, be printed in the RECORD.

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

A BRIEF FOR PREVENTIVE DETENTION

(By Ronald L. Goldfarb)

A 19-year-old drug addict with a long criminal record—his initials are P.D.—robs a savings and loan association in Washington, D.C., with the aid of two companions. As they leave, there is a gun battle with police and a bystander is wounded but not killed. Several blocks away, the getaway car crashes into a bus and the three men are captured. Arrested on assault and armed robbery charges, P.D. posts a $5,000 bond and is released while awaiting trial. Eleven days after that a local liquor store is held up, a janitor recognizes P.D. and he is rearrested at a friend's home. At his presentment a few days later, bail is set at $10,000; again P.D. is able to get a bond and goes free.

Before he comes to trial on any of the charges, he attempts to rob a neighborhood gas station at gunpoint, but an off-duty policeman who happens to be present subdues him after a struggle. This time, bail is set at $25,000. But P.D.'s lawyer pleads that his client cannot afford it and therefore will be incarcerated just because of his poverty. He also argues that P.D. has good ties in the community—for example, he is employed locally and has lived there all his life—and that he has never failed to show up in court when ordered in the past. Moreover, members of P.D.'s family and a clergyman appear to say that they will assure his presence in the future. Bail is reduced to $15,000, which P.D. can afford, and he is released.

Less than a month later, two men stick up a bank; when an alarm goes off, they panic and shoot into the crowd of customers, killing one person and wounding two others. Photographs taken by the bank's concealed camera identify P.D. as one of the robbers and he is arrested once again. Now, since he is charged with a capital offense, P.D. is denied bail and, during a court appearance, an angry judge tells him: "It is a disgrace that my colleagues on this court have had their hands tied and were unable to lock you up before this. Untold and unnecessary ravage

has been wreaked upon this community as a result of our impotence."

Exaggerated as it may sound, this kind of case has happened countless times in just about every American city. It illustrates a problem which has been occurring in American courts with increasing frequency and which has provoked a passionate debate about criminal law reform that is likely to be resolved in Congress this year. The problem is the commission of repeated crimes (increasingly involving violence) by men already charged with other crimes and free on bail awaiting trial. The issue is whether to solve the problem by adopting some scheme of preventive detention, a loose and provocative term used to describe procedures under which defendants deemed dangerous could be incarcerated during the time between their arrest and trial.

In July, 1965, I was asked to testify before a Senate subcommittee which was holding hearings on bail reform. On the morning of my appearance, a subcommittee lawyer cornered me outside the hearing room to ask if I would discuss preventive detention when I testified, along with the other points I wished to make about the money bail system. No one else was willing to go on record regarding this touchy subject. Today, the subject is no longer taboo. Not only has the Nixon Administration submitted a bill to authorize consideration of danger to the community in setting conditions of pretrial release or as a basis for denying release, but so have Senators Charles Goodell, Joseph Tydings, Robert Byrd and Roman Hruska, and Representative William McCulloch, each joined by other colleagues. Chances are that one of these bills will be passed in 1970.

The subject is an explosive one and there has been considerable critical reaction. But the line-ups of opponents and proponents is full of surprises. For example, along with the Nixon Administration, the major advocates in the Senate of preventive detention are Maryland's Tydings—a young, liberal, Kennedy-esque legislator who has been a brave advocate of progressive legislation—and the present darling of the doves, New York's Goodell. Leading the opposition with the American Civil Liberties Union is Senator Sam Ervin Jr. of North Carolina, a conservative who is one of the Senate's leading spokesmen on constitutional matters. (Such straight-shooters as New York County District Attorney Frank Hogan have also come out against the procedure.)

No doubt, one reason for widespread, instinctive reactions against preventive detention is that it sounds like something it is not meant to be. Other countries that practice an inquisitorial form of criminal investigation condone a police practice of arrest for investigation (called in some places preventive detention) which is anathema to the sense and spirit of our accusatorial criminal justice system. Senator Ervin made this haunting comparison when he described recent proposals as reminiscent of "devices in other countries that have been tools of political repression" and a "facile police state tactic."

The preventive detention legislation that recently has been proposed in this country would vest the power to detain not in the police but in the courts, and, at that, would subject it to limitations and protections which make it different in kind from the foreign practices. A better label could probably be found which might more correctly reflect the content of the proposals and avoid emotional comparisons.

A problem which most perplexes the critics of preventive detention is that it would allow people's liberty to be taken away precipitously on the basis of predicted behavior. The inexact and unscientific nature of all prediction, they argue, militates against using such an inquisitorial technique. Furthermore, it is feared that cautious judges will over-predict danger to play it safe—and innocent men will inevitably go to jail without trials.

Suppose you are a judge confronted with this situation: A man is before you charged with committing a violent crime; he pleads not guilty and asks to be released until his trial. Your investigative report convinces you that he has ties in the community and will appear for trial. However, there is persuasive evidence indicating that if he is released, he would be likely to commit another violent crime. Thus the community would be in danger. You know that the traditional law of pretrial criminal procedure has been clear: The only proper purpose for denying a defendant his freedom before trial is to deter flight, not potential criminality. You are aware that the time between arrest and trial is critical to a defendant. With court delays of sometimes a year or more, a defendant obviously wants to be free to live with his family, earn a living and prepare his defense.

What do you do? Do you allow the defendant to go free because your judicial hands are tied by law? Or do you stretch your legal powers and restrain him because, by your own lights, you think he endangers public safety? Why should a judge not take into consideration a defendant's danger to the community in deciding what to do with him? It seems a natural and commonsensical step.

Former Supreme Court Justice Robert Jackson explained why not in a venerable dissent: "The practice of admission to bail, as it has evolved in Anglo-American law, is not a device for keeping persons in jail upon mere accusation until it is found convenient to give them a trial. On the contrary, the spirit of the procedure is to enable them to stay out of jail until a trial has found them guilty." And in another case two decades ago, Justice Jackson wrote: "Imprisonment to protect society from predicted but unconsummated offenses is so unprecedented in this country and so fraught with danger of excesses and injustice that I am loath to resort to it. . . ."

Yet, as a practical matter, judges often keep certain defendants whom they consider dangerous in jail. They do so by setting bail at such a high figure that the defendant cannot possibly pay it, or by denying him bail altogether. In both instances, the judge exceeds his lawful authority. Nevertheless, according to Prof. Abraham Goldstein of Yale Law School, this technique for pre-trial detention "has been so widespread that fewer persons are released on bail in most of our states, where there is nominally an absolute right to bail, than in England, where there is no such right."

Recent developments have highlighted the need for reform. Studies done in the early sixties demonstrated that money bail, as it has been administered in American courts:

Inherently discriminates against poor people and prejudices their subsequent trials and sentencing;

Allows judges to manipulate bail to punish, to proselytize, and for other ulterior purposes;

Sloughs off responsibility for pre-trial justice to bondsmen, who accumulate undue power and have a corrupting influence on justice officials;

Is less effective than simpler, fairer techniques for insuring against flight.

As a result of these disclosures, a Federal law—the Bail Reform Act of 1966—*required* Federal judges to release defendants before trial except in capital cases; henceforth, they could establish conditions for pre-trial release, but they could not deny it. While the Act only applied in Federal Courts, its supporters hoped that, if it worked, it would be a prototype for the states to adopt.

The act applied justice more evenly, but did not do anything about dangerous defendants and left the old, covert methods for dealing with the problem uncertain. By failing to authorize judges to consider potential danger to the community as a reason for denying pre-trial release, many observers feel that the Bail Reform Act focused on the problem with a hand over one eye. The blind spot, moreover, was nowhere more evident than in the Government's own back yard.

Because Washington, D.C., is governed by Federal law, because 40 per cent of all Federal offenses occur there, and because its crime rate receives nationwide attention, the new act had a particularly alarming impact in the District. Washington's able Chief of Police, Jerry V. Wilson, relates this telling episode of modern urban history:

Shortly before the beginning of 1969, armed robberies in the District had become a critical problem; they were occurring at a rate of about 700 a month. Only 11 days after his Inauguration, President Nixon promised in a message on crime that he would recommend legislation to permit preventive detention of hard-core recidivists. Shortly after that announcement, the number of armed robberies in the capital suddenly dropped off to around 300 a month. This steep slack lasted for several months.

Then, in April, the United States Court of Appeals for the District of Columbia noticed an upsurge in the number of appeals from high bail by defendants who had been imprisoned before trial because they could not raise the money; four times the usual number had been filed within a few months. Ruling in one of these appeals—*U.S.* v. *James E. Leathers*—the appellate court recognized the disquiet of trial judges who feel that the Bail Reform Act gives them no way to protect the public safety. Nevertheless, the court ruled that they must follow the letter of the law and assure pre-trial release.

Thereafter, armed robberies in the capital rose as precipitously as they had dropped four months earlier, reaching an all-time high in September of over 800 a month.

"What this suggests to me," says Donald Santarelli, an Associate Deputy Attorney General, "is that the trial judges, who had been critical of the Bail Reform Act, followed the President's endorsement of preventive detention and took a tougher stance on releasing defendants before trial in serious violent crimes." Santarelli, who framed the Administration's preventive detention bill, continues: "This resulted in many more detentions before trial of violent offenders through the setting of high money bonds—a practical evasion of the Bail Reform Act. It was followed by a significant reduction in armed robbery offenses during the following four months. But the Leathers decision in April resulted in the sharp rise because release of this type offender was ordered."

Judge Charles W. Halleck of the District's General Sessions Court agrees with this interpretation. According to Halleck, "a few judges effectively cut armed robbery rates about 40 per cent in a few months simply by denying pre-trial release to this predictable category of offenders."

Judge Tim Murphy of the General Sessions bench describes what happened this way:

"Before the Leathers case, there was a concentrated effort by the judges to 'sock it to 'em,' which we rationalized on our interpretation of the law and our reading of the recidivism problem. Leathers caught us between the eyes and took away our arguments, so we began to do our best to obey the law as it was laid out for us. We could no longer deny bail on the pretext of fear of flight. Nor could we justify high bonds by the section of the new law that allowed us to take into account the nature of the offense in determining pre-trial release." (This provision meant only that the judges could force men to report to the authorities each day, give up their driver's licenses until they appear for trial, or satisfy other, similar "conditions.")

Judge Murphy is not alone in believing that, despite the Bail Reform Act, Federal judges in other parts of the United States (as well as state court judges all over) continue to detain defendants through the subterfuge of setting high bail or simply denying it outright, on the ground of risk of flight or danger. Most judges feel they must. Says Judge Murphy: "There are widows and orphans in this city who plague my conscience because I try to follow my oath of office and adhere to the Bail Reform Act strictly, even when releasing certain defendants violates my common sense, reason and experience."

Statistics on the dimensions of the problem are inconclusive. They are interpreted in different ways by friends and foes of preventive detention.

In 1966, a Presidential commission studying crime in the District of Columbia found that out of 2,776 defendants who were released on bail before their trial, 207 of them were later charged with committing another crime while they were free; of these, 124 were accused of violent crimes. The District of Columbia Police Department conducted a study of robbery holdups, the category of offense which is central to the present dispute. Between July 1, 1966, and June 30, 1967, the department found, 130 individuals were released on bond after being indicted on this charge. Of this group, 45 defendants—short of 35 per cent—were reindicted for at lease one additional felony while free on bond.

In testimony before the House Judiciary Committee last October, Attorney General John Mitchell referred to a study by the United States Attorney's office in D.C. showing that of 557 persons indicted in the District for robbery in 1968, 345 were released prior to trial and 242 of these—or 70 per cent—later re-arrested.

Those who oppose preventive detention point out that these figures relate to unproven charges, and not convictions. They claim, moreover, that the percentages are low and the problem therefore minimal. The pro's point out that the statistics include only reported crime, estimated to be about 50 per cent of the true picture, and cases in which police believe they have enough evidence to bring someone to trial (in the armed robbery category, this is a mere 14 per cent). Whatever the percentages, says Senator Tydings, "it is no consolation to the dead, the robbed, wounded, maimed or terrorized citizens against whom these crimes have been committed that this experience is part of what some people would call a 'statistically insignificant number of crimes.' "

Of the bills now before Congress that provide for some form of preventive detention, the most likely to survive are the Administration bill, the Tydings bill and the Goodell bill. Here is how all three would work: In prescribed cases, the prosecutor coud request the court to detain a dangerous defendant until the trial. He would have to demonstrate that the case meets the criteria spelled out in the law. Prior to any detention there must be a hearing immediately or within a few days, a record, a high standard of proof (clear and convincing), the right to appeal and to have counsel—all of which are more than defendants get under the present unofficial system. Each bill prefers conditional release when it is appropriate, and they all allow—not require—detention only in limited categories of cases. The two Senators' bills pertain only to felonies and repeaters, while the Administration bill covers some misdemeanors and first offenders. Only Senator Goodell's bill is limited to crimes involving actual force and not mere threats.

The Tydings bill would apply to the District of Columbia only, while the Goodell and Administration bills would reform the 1966 Bail Reform Act and affect all Federal jurisdictions. The Tydings and Administration bills cover more crimes and leave preventive detention in the hands of the appropriate "judicial official"; the Goodell bill would empower only a three-judge district court to order detention (a cumbersome, expensive procedure that would be impossible in many areas). Each bill requires a speedy trial (within 60 days under the Administration bill, 30 days under the Tydings and Goodell bills) for people preventively detained.

Senator Goodell argues that any preventive detention bill should be tied to court and correctional reform. He criticizes the Administration bill as "sloppily drawn and unconstitutional." He attempted to meet one key problem by including a provision requiring civil commitment of those detained—meaning they would be confined in some place other than an ordinary jail or prison. This element is important, since one of the most perplexing questions about any preventive detention scheme is how to rationalize throwing men into inadequate correctional institutions with hardened convicts before their guilt or innocence is determined. The civil commitment required by the Goodell bill would be similar to the procedures for confining a drug addict, a chronic alcoholic or the mentally ill in an institution.

The Tydings bill implies such a provision; the Administration bill suggests it, but does not require it. None of the bills provides financial compensation for those detained and then acquitted; the Administration bill gives credit on sentencing for time in jail before trial.

The logic of the foes of such legislation is sometimes hysterical. One civil liberties spokesman said during a recent conference on preventive detention that he would prefer the present money bail system's dishonesty and higher rates of detention to "this pernicious doctrine."

The standard argument made by opponents is that preventive detention would not be necessary at all if the time between arrest and trial could be shortened. The courts can only move so quickly, however; there will always be some period of time before trial—and many a defendant needs such a delay to prepare his defense. The preventive detention legislation proposed so far, moreover, requires the prosecution to go to trial within a specified time period, which is in all the proposals far shorter than normal delays.

Simply to say that speedy trials generally are the answer ignores the frustrating reality that trial delay is one of the most elusive and critical contemporary problems in the administration of justice. While reform of the whole trial system will take a very long time, a preventive detention statute inextricably tied to a speedy trial requirement is itself a way of accelerating trials in one of the most pressing categories of cases.

Opponents also argue that better alternatives exist. They say that it would be preferable to bring bail-jumping, contempt or other separate charges against defendants who commit crimes while free on bail or to punish them by adding to their sentences if they are convicted of the original offenses. But would more punishment be as humane as preventive measures aimed at cutting crime rates? Street-wise criminals take advantage of trial delays and other vagaries of the criminal justice system, and prosecutors often drop charges or recommend concurrent sentences for repeated crimes in return for guilty pleas. Once indicted for a robbery, many offenders feel that they have nothing to lose by committing other "free" ones.

Others contend that preventive detention is an anti-Negro measure, that it is part of a scheme to permit summary jailing of militant blacks for political reasons. Yet, it is the poor and black community in urban ghettos who are the most common victims of crime and who would be prime beneficiaries of preventive detention. Senator Tydings points out: "A Negro woman is three times more likely to be raped, a Negro man five times more likely to be burgled and three and one-half times more likely to be robbed than a white person."

William Raspberry, a Negro who is a reporter for The Washington Post and an urban expert, says that while he personally does not like the idea of preventive detention, he has little doubt that the black people residing in Washington (but not their leaders) would be in favor of locking up known criminals who victimize them. "Their reactions to this problem are not philosophical, they are practical," says Raspberry. "The poor people in the central cities react to this problem like 'the silent majority.' They are basically conservative, single-minded and prepared to make assumptions about guilt."

Black people in Washington, according to Raspberry, are as "alarmed and disgusted as whites at the increased frequency, audacity and viciousness of local crime." This impression was corroborated by six District grand juries which have already written to the Justice Department complaining about "the imbalanced pre-trial procedures which are concerned only with release and not at all with protection of the community." In Washington the majority of grand jurors are Negroes; on two of the grand juries that made this complaint, 36 out of 46 members were Negroes.

Advocates of preventive detention feel strongly that it would jail fewer people before trial—and also "the right ones"—than the unofficial, backdoor system now widely used. One experienced official calculated from recent surveys that 40 per cent of all felons indicted in the United States District Court for Washington, D.C., in 1965 (before the Bail Reform Act) were detained prior to trial; in 1967, the first full year after the new act, 26 per cent of the same class of defendants were detained, and in 1968 the figure rose to 34 per cent. In contrast, a Justice Department survey of cases brought by the United States Attorney in the D.C. General Sessions Court during a recent two-week period (including misdemeanors and most felonies) discovered that pre-trial detention would have been possible in only 10 per cent of the cases under the Administration's proposed preventive detention law. (Since some serious felonies were not included in these figures and since misdemeanors, which are for the most part excluded from the Administration's bill, compose roughly half the cases in General Sessions Court, a figure a little over 20 per cent would probably be a better projection.)

Those who favor some sort of legislation deny that permitting a judge to imprison a man on the basis of a prediction of future behavior is an egregious procedure.

However chancy it may be, they argue, humans engage in predictions in all of their affairs; if society fretted about the imperfect quality of its speculation, it would not dare to make progress. The criminal justice system especially is dependent on human estimates, such as are frequent in deciding guilt or innocence, sentencing, probation and parole. Indeed, under the present system, the judge may jail a defendant whom he fears may flee—and this, too, involves a prediction. Experienced trial judges argue that anyone familiar with the arraignment process can make very educated and generally correct judgments about the kind of defendants whom the authorities would want to retain. One judge recently stated the case this way:

"When a man with a long criminal record admits he has a $50-a-day narcotic habit and no job, and I have seen him arrested and released previously, and he comes before my court on a burglary or a robbery charge on Christmas Eve and is released, and then comes before me on New Year's Eve for another burglary, I can make a damn good prediction that if I do not lock him up, he is

going to go out and commit another burglary or robbery pretty damn soon."

Whether prediction is possible or not, critics argue that preventive detention would be unconstitutional. They say that (1) it would deprive a man of his presumption of innocence; (2) it would deny due process of law by subjecting people to imprisonment without indictment and jury trial, and (3) it would violate the Eighth Amendment's guarantee against excessive bail.

There are readier answers to the first and the last objections than to the second.

The presumption of innocence—a sacred American value not mentioned in the Constitution—puts the burden on the prosecution to prove its case at trial; it is not an absolute demand that the judicial system always must act contrary to the strongest dictates of commonsense in exigent circumstances.

Whether there should be an absolute right to bail is doubtful. Actually, preventive detention is traceable to ancient Anglo-American legal history: In his "Commentaries," Blackstone referred to detaining men "not of good fame" as an example of preventive justice. One legal historian—Prof. Caleb Foote of the University of California, Berkeley—recently has stated that there are English antecedents that support the theory of an absolute right to bail. But this country has never proceeded as if that were so. In the United States, bail always has been a qualified right withheld by law in capital cases (where recidivism is relatively low), commonly refused during appeals of criminal cases and, in fact, denied unlawfully in many other cases through manipulation of the money bail system.

The most challenging argument against pre-trial detention is the one that says incarcerating a man without the traditional criminal trial protections of the Constitution is dangerous and threatens cherished guarantees. Indeed, any such practice must be limited to a bare minimum of cases, to situations where there is the strongest demonstrable need, surrounded by the most careful procedural protections and administered under extraordinary conditions. With such restrictions, the procedure will be very demanding. Without them, preventive detention would no doubt be deemed unconstitutional.

In my opinion, a pre-trial procedure would pass constitutional muster only if it were limited to cases involving repeated, violent offenses, if it required compelling proof of potential danger and could be imposed only as a last resort, if there were tight time limitations on confinement before trial, if special facilities were planned for these defendants to minimize the harm and inconvenience to them, if time in jail before trial were subtracted from any subsequent sentence and was compensated for when followed by acquittal.

Let us see how this proposed procedure would have worked in the case of P.D., whose escapades I described at the outset of this article. After the initial holdup of the savings and loan association, P.D. could not have been detained—thus demonstrating to opponents of such a measure that it will not result in confinement of masses of first offenders.

But pre-trial detention would have been likely after the liquor store heist that followed P.D.'s first arrest. Taking away P.D.'s freedom at this point would thus have averted the gas station holdup, and probably the bank robbery and felony murder that eventually led to his detention before trial anyway. In addition, P.D. would no doubt come to trial far sooner than if he were not confined under this kind of statute.

With the features that I have suggested, pre-trial release would properly be liberalized in the great majority of cases, while society would be afforded a method of self-protection. The procedure need not lead to what some fear would be the frightening extreme of imprisoning all allegedly dangerous people summarily. Quite the contrary. If allowed only in specific cases, and no others, the result would seem to lead to less pre-trial detention.

Such a statute, moreover, would not permit Gestapo-like arrests or the jailing of political dissenters, as so many people fear. One result of it would be to eliminate the very possibility of defendants being confined solely because of the personal predilections and unsubstantiated fears of judges and other officials. If a judge could not make a case for detention under the strict terms of the statute, he would have to release the defendant under the appropriate conditions of the Bail Reform Act.

The critical point remains that we already have an expansive and abusive, though informal, practice of preventive detention. The issue which needs to be faced is not whether, but how best to do it.

In his New Yorker series on the Justice Department in the sixties, Richard Harris described the strange political alignments in the preventive detention battle: "In the scrimmage over the issue," he said about the positions taken by liberals and conservatives, "the participants' jerseys became so muddied that it was difficult for spectators to tell who was on which team." But labels are less important than realities; and the symbolism of this battle is important for future treatment of the over-all crime problem. Many responsible people with good liberal credentials feel that in the very proper search for equal justice during the sixties, the concern over crime and law enforcement has been wrongly belittled as the paranoia of the far right. In Senator Tyding's words: "Liberals have to be realistic and credible in coming forward with programs to check crime and violence in this nation. We cannot vacate law enforcement to extremist groups. Such a difficult problem needs the best minds and not tricky clichés. Preventive detention can be one such commonsensical, partial solution to the crime problem if it can be handled in a cautious and a constitutional way."

FREDERICK B. LACEY, U.S. ATTORNEY FOR THE DISTRICT OF NEW JERSEY

Mr. CASE. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution of the Jersey State Bar Association and an editorial from the New Jersey Law Journal, Thursday, February 26, 1970, in support of the Honorable Frederick B. Lacey, U.S. attorney for New Jersey.

The resolution and the editorial are representative of the respect in which members of the bar in New Jersey hold Mr. Lacey. I am glad to say also that support for his efforts to eliminate organized crime has been expressed to me in many letters from individual citizens of the State.

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

RESOLUTION OF NEW JERSEY STATE BAR ASSOCIATION

Whereas, certain stories have recently appeared in the news media reporting that an individual or individuals outside of the State of New Jersey have called for the resignation or removal of the Honorable Frederick B. Lacey as United States Attorney for the District of New Jersey; and

Whereas, we are completely satisfied that the request and reasons therefor are utterly without merit; Now therefore be it

Resolved, that the Board of Trustees of the New Jersey State Bar Association express their complete, unequivocal, and unreserved confidence in the ability and integrity of the Honorable Frederick B. Lacey, and our enthusiastic support for the manner in which he has performed the duties of his office. Be it further

Resolved, That copies of this resolution be sent to President Richard M. Nixon, the New Jersey congressional delegation, and the United States Department of Justice.

[From the New Jersey Law Journal, Feb. 26, 1970]

AN UNJUST ACCUSATION

Any charge that U.S. Attorney Frederick B. Lacey is or was a communist ordinarily would not, could not, be taken seriously. It would not deserve to be dignified by the slightest attention. The bench and bar of New Jersey and important segments of the business community who have best known him as a member of the bar for the past 25 years are aware of his qualifications of exceptional competence as an advocate in the private sector and as a courageous defender of the public interest as a public official. This he evidenced when he served a few years ago as an assistant United States Attorney and more recently as the United States Attorney for the district of New Jersey. A graduate of Rutgers University with Phi Beta Kappa honors and of Cornell Law School, he served for over four years during World War II in the U.S. Navy, completing his service with the rank of lieutenant commander. He has served and is serving the cause of patriotism in its finest sense.

But when such an utterly baseless charge is made by a Louisiana congressman, John Rarick (D), and is perpetuated by insertion in the Congressional Record, then Fred Lacey's outraged indignation is understandable, particularly under the circumstances where as a father he is charged with responsibility for activities and beliefs of a 25-year old son in Louisiana. Sons of fathers in high places throughout the land are bringing embarrassment to their parents for one reason or another. It so happens that in the Lacey instance the social conditions and deprivation of civil rights in the congressman's state apparently were the factors that caused the son to react against the poverty and injustice he saw there.

It also appears that the criticism of Lacey by Louisiana Congressman John Rarick (D) was also based upon the release of DeCarlo tapes of wire-tapped conversations. Responsibility for their release rests, of course, upon Federal Judge Robert Shaw who authorized it. The coincidence of Congressman Rarick's charges inserted in the Congressional Record with their republication and distribution by an extreme right wing hate organization in New Jersey may well be indicative of a malevolence dangerous more to cause of law enforcement generally in this country than to Mr. Lacey and his family. For there can be no doubt that but for Mr. Lacey's fearless, two-fisted attack on organized crime (and if he were still engaged only in his successful and lucrative private practice), there would have been no irresponsible charges in the Congressional Record and no distribution of them by hate organizations.

Fred Lacey needs no defense by us or his friends. It is nevertheless important that the charges be refuted in the Congressional Record and that there be official condemnation of the tactics used by Mr. Lacey's foes. This is important to assure all dedicated law enforcement officials as well as good men who may be sought out to give up lucrative private careers to serve pro bono publico that they may count on the support of their superiors when they are foully attacked for doing an exemplary job.

We urge that there be a thorough investigation by an appropriate congressional com-

mittee of Congressman Rarick's charges and conduct in inserting them in the Congressional Record, his relationship to their republication and distribution in New Jersey, the ulterior motives behind them and their ultimate sponsorship.

We also suggest that the New Jersey State Bar Association as well as the Essex County Bar Association investigate any local aspect of their publication and distribution within the state and particularly in Essex County.

SAFEGUARD, PHASE II

Mr. CASE. Mr. President, with the announcement from the White House and executive departments that the administration intends to move to phase II of the Safeguard anti-ballistic-missile system, the Senate is again called upon to make decisions vital to our national security and to our national welfare.

One of the rationales put forward in favor of moving to Safeguard, phase II, is that it is necessary for a credible Asian policy. We are told among other things that the mainland Chinese nuclear threat to the United States is of a different character than that of the Soviet Union, that our own nuclear strength will not deter the Chinese as it has the Soviets.

This seems to me an untenable proposition. It assumes that the Chinese Government is neither sane nor rational. I was fascinated to find, therefore, that my view as to the irrationality of this rationale was shared by such a distinguished authority on our Asian policy as William P. Bundy, the former Assistant Secretary of State for East Asian and Pacific Affairs.

Mr. Bundy, in an article published in the Washington Post on February 22, asked:

Above all, are the Chinese, in fact, irrational in matters nuclear?

And Mr. Bundy answers for us:

Those who know China well are almost unanimous in believing that they are not.

As we approach again this momentous debate, I believe his analysis is worth all our reading. I ask unanimous consent that the portion of his article devoted to the ABM issue be printed in the RECORD.

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

FUSE SPUTTERS ON ABM TIME BOMB IN 1971 DEFENSE BUDGET

(By William P. Bundy)

Traditionally, a new American administration must serve a full year in office before its defense budget reflects basic changes in policy. In 1954, President Eisenhower moved to "massive retaliation," and in 1962 President Kennedy took major steps to build up conventional forces. Now, against a background of months of careful thinking, President Nixon has unveiled his 1971 defense budget. What does it do and what does it not do—and what time bombs capable of exploding into acute controversy with the Democratic majority in Congress does it contain?

In overall size, the $70 billion-plus allocated to defense is the smallest percentage of our gross national product in 20 years—just 7.2 per cent. Estimated spending is cut by more than $5 billion, and the request for new authority appears to indicate a clear downturn. Thus there is a crumb of hope for those at home who look for higher priority for domestic needs and, doubtless by the same token, a concealed ripple of concern abroad among nations that rely on American military power and support.

On closer examination, neither of these reactions may prove valid. For where the defense budget actually comes out next summer will hang on whether one or both of two time bombs go off.

BUSILY BURNING FUSE

On one of these—the plan to expand anti-ballistic missiles to a "light area defense"—the fuse is already burning busily. Although this plan calls for only small initial costs in the present budget, Democratic Sen. Mike Mansfield is already leading a major attack, claiming that the ultimate cost would be as high as $50 billion. This seems far fetched, but careful research organizations do estimate $15 billion.

Moreover, President Nixon has apparently returned, at least in part, to the "Chinese argument," used by former Defense Secretary Robert McNamara to justify an ABM program in 1967, but largely put to one side when the program was cut back last year. Now the President argues that a credible foreign policy in Asia requires the ability to stop the Chinese from thinking in the '70's that they could inflict any significant damage on the U.S. in the awful contingency of a nuclear "crunch" in Asia.

Even if the expanded ABM system can be made infallible against the relatively small-scale Chinese attacks possible in this period—a big assumption from all I can learn—this line of argument seems no more appealing now than it did, frankly, in 1967.

If a future Peking government is irrational enough to need this degree of dissuasion, why is it not irrational enough to press its nuclear program at forced draft and, inevitably, soon thereafter reach the point where it has the capability to get a few bombs to the U.S. despite any area or other defense? Above all, are the Chinese, in fact, irrational in matters nuclear? Those who know China well are almost unanimous in believing that they are not.

RUMORS FROM WASHINGTON

Finally, the confidence of Japan and Asia does not appear to require the extra step proposed by Mr. Nixon. This need can surely be met by keeping up our present posture of massive superiority and quiet firmness.

I hope that the rumors from Washington that the Chinese argument will be dropped are right. If it is, the administration will still make a "Soviet case" for expansion in terms of the major comparable Soviet ABM effort and the Vienna SALT meetings starting in April. In these terms, the present plan for ABM defense of missile sites may make sense. Expanded "area defense" seems much more doubtful.

All in all, this item must surely lead to a major renewed debate. The President seems on difficult ground and likely to win, if at all, only because Congress is exhausted from last year's fight.

THE FACILITIES FOR MODERN JUSTICE

Mr. McINTYRE. Mr. President, a great deal has been said in the last few years about the necessity to improve the American judicial system. Experts have pointed to the fact that we need more judges and court personnel if we are to aid our severely overburdened court system.

There is another area of this same problem which has not received as much publicity. This area relates to the physical facilities available to the judicial process.

John W. King, the distinguished former Governor of New Hampshire and now a justice on the superior court of New Hampshire, has recognized this problem of the need for better court facilities and has spoken out in stating the problem and offering some suggestions for its solution.

In a speech given on February 23, 1970, to the American Judicature Society in Atlanta, Ga., Justice King stated that the judiciary cannot be truly improved until the physical environment in many courts is brought up to date.

I believe that Senators will find much in interest and importance in this speech, and I hope they will study it.

I ask unanimous consent that the speech by Justice King be printed in the RECORD.

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

A STANDARD FOR MODERN JUSTICE

(By John W. King, Justice, Superior Court, State of New Hampshire)

It is indeed a personal pleasure and a gratifying honor for me to have the opportunity this morning to share some thoughts with this distinguished society that long has been dedicated to the preservation, and advancement, of the American judicial system.

Like all facets of our society, that system in these turbulent years is being sorely tested in the crucible of change.

I need not underscore to the members of this Society, the absolute necessity for our judicial system to withstand the stresses placed upon it by the winds of change. You are more than sensitive to the fact, that without a viable judicial system, democracy, as we know it, cannot long survive.

I am confident that our system will prove equal to the challenge, and that in the long course of history we will be a stronger democracy for it.

In some areas our judicial system has been in the vanguard of social change—as a matter of fact, it has itself generated a substantial portion of it.

But, in other areas, our system is woefully, and even dangerously, behind the times, and I believe the American Judicature Society can, and should, do something about it.

I am referring specifically to the abysmal deterioration of the physical plant of our judicial system that cries out for modernization.

You and I come face to face with the problem every day.

Who of us has not visited a courthouse where there is either an inadequate library or no library?

Who of us has not visited courthouses where the personal client-lawyer relationship is mocked by intimate disclosures in public hallways because private counsel rooms are either unavailable or non-existent?

Who of us has not visited courthouses where important records are inadequately indexed, almost inaccessible, or improperly protected?

Who of us has not visited a courthouse that does not measure up to the minimum requirements of cleanliness and good repair?

And how often are brand new courthouses being constructed that are lacking in aesthetics and design and proper planning, and look more like warehouses than temples of justice?

I have personal knowledge of a beautiful new courthouse that is completely lacking in parking facilities for the judiciary, court personnel, jurors, and the public, while a new high school, not too far away, has a superb parking lot for students.

Admittedly these are mundane matters

that should possibly be outside the concern of this distinguished organization. But a viable judicial system is more than great legal minds and reasoned opinion. It is also a physical plant of bricks and mortar and equipment and people that encompasses our system and does have a tangible effect on its impression, its efficiency and its public acceptance.

A few months back, Jack Isaacs, legislative consultant of the New York State Judicial Conference, was quoted in the New York Times as saying that courtroom buildings in that city, with the exception of the Borough of Brooklyn, were a "disgrace." He said that the earliest dates at which new buildings will be available will be 1972 for Queens County, 1974 for New York City, and 1974 or 1976 for Bronx County.

"Until then," Mr. Isaacs said, "the judges must use cubbyholes as chambers, work without secretarial help, have psychological reports held up for weeks for lack of stenographic help to type them, and see children locked up for no reason—solely because no other shelter is available for them." And just eleven days ago a New York Supreme Court Judge complained to the Mayor of New York City that the Bronx County Courthouse was in a "filthy and shameful condition." Having once practiced law in New York City, I can, in a small way, attest to the validity of such complaints.

That is New York City. But surely New York City is not unique. Similar problems exist throughout the country.

One of the reasons that the judiciary does not receive the respect it is entitled to is that on many levels its solemn and important decisions are made from dirty and antiquated and rundown courtrooms and buildings that necessarily evoke public surprise and ridicule and disdain. Who of us would respect a medical and hospital staff working under similar conditions? And where would you find citizens who would not vote politicians and School Board members out of office who had failed to provide their children with modern classrooms, qualified staffing, adequate parking, convenient athletic facilities, and all the other ancillary requirements of a modern primary or secondary school? If the judges and lawyers of this country want a better public image and self respect, they must, among other things, improve the visible appearance and efficiency of their courthouses and facilities. Sound judicial reasoning is indispensable; but sound judicial reasoning is not enough to create and sustain public pride.

What is the answer to the problem?

In my considered judgment, the answer lies in the establishment of a national accreditation system of Courthouse Organization and facilities.

Such an accreditation system, in my opinion, would be the key for both stimulating and continuing the upgrading of the physical plant of our courts.

Such a system could be the "open sesame" to the expenditure of state and local and private funds in improving our judicial facilities and manpower needs to meet the minimum demands of a modern society.

The "accreditation" concept is neither new nor original. It abounds in the modern society.

The Executive Committee of the American Law Schools, whose purpose is the improvement of the legal profession through legal education, has the power to suspend member schools, if they do not meet certain standards. It is a proven accreditation procedure.

There is the National Commission on Accrediting, which is an independent educational agency, supported by the colleges and universities of the United States, to improve the effectiveness of accreditation in higher education. There are over 1400 colleges and universities as institutional members.

Recently, I was surprised to learn that a New Hampshire hospital was accredited again by the American Association of Blood Banks for another three years. The purpose of this program is to elevate the standards of practice within the transfusion service, to assist blood banks in determining whether procedures used meet the established standards, and to assure patients of increased safety in human blood transfusion.

The Joint Commission of the Accreditation of Hospitals, which was formed in 1952, early this year denied accreditation to the St. Louis City Hospital, and the Boston City Hospital, creating a furor in both cities.

Regardless of the individual merits of either case, it is widely acknowledged that the Hospital Accreditation Commission has been a tremendous force in the upgrading of hospital facilities throughout the country.

A similar commission in the field of courtroom facilities would, I am sure, achieve similar results in the judicial system.

At one time, I proposed, without success, such an accreditation system to be jointly operated by the States of New Hampshire, Vermont and Maine.

Previously, I made similar recommendations to national authorities without success.

Today, I would go further and state that a national accreditation program for state and local courts and courthouses would not only be in the public interest but is urgently needed.

I recommend the creation of such a program jointly sponsored by the American Judicature Society and the American Bar Association.

The purpose of the program would be to encourage high standards of courtroom organization, to conduct programs of research and education, to publish the results and outline basic principles and to set forth realistic goals for a practical accreditation of courthouse facilities.

Under a National Board of Accreditation of Courthouses could be Regional Accreditation Committees. The purpose of the Regional Committees would be to encourage voluntary participation in the accreditation programs, to interpret actual goals by specific recommendations and to recognize compliance with minimum judicial standards by issuing certificates of accreditation either annually or periodically.

The actual mechanics of an accreditation system can easily be worked out—if the value of such a program can first be recognized.

As Governor of New Hampshire, I had several experiences which brought home to me the powerful moral and social and political force that an accreditation program can exert on our State University system, our State Mental Health Institutions, and similar divisions of our State government.

Frequently I have witnessed instances, and I am sure you have too, where the threat of the loss of accreditation exerted a great influence in raising funds that were previously considered as completely unobtainable.

Even though Accreditation Boards have no legal authority and are voluntary independent organizations, they do have a great moral influence because in themselves they generate the forces of civic pride. The "quaint" courthouse built in 1890 loses some of its alleged rustic glamour when, because of a decision of a Regional Accreditation Committee, it becomes a non-accredited courthouse.

The problem of upgrading our judicial physical plant has not been completely neglected, and I recognize that important studies directed toward reform are already underway.

For example, the Committee on Courtroom Design and Court Facilities of the Section of Judicial Administration of the American Bar Association is working jointly with a Committee of the American Institute of Architects and the University of Michigan Law School and the School of Architecture on a project financed by the Ford Foundation to develop the speediest and the most efficient possible use of courthouse and courtroom space.

At the same time, the General Services Administration of the Federal Government and the Administrative Office of the United States Courts are conducting their own studies of architectural and structural revisions.

These are helpful, and are steps in the right direction, as is the court facilities check list printed in the November, 1968 issue of the American Judicature Society.

However, these programs concern only part of the whole area which urgently needs to be embraced by the umbrella of a meaningful accreditation program.

If law schools have to have a specific number and kind of law books to be accredited, should not our courthouses be required to have the reports of our Supreme and Federal Courts and other basic legal sources?

If high schools are required to have sufficient parking areas, should not our courthouses be required to have the same for court personnel, litigants and their counsel, jurors and the public.

If our states demand that our local schools maintain sufficient and adequate staffs, should not similar standards be required for judges and probation officers and interpreters and court personnel?

Who should initiate the machinery necessary to meet such obvious needs?

In my opinion, the answer is not in the judiciary.

I would recommend that it be in the Bar Associations and in the public.

If it is not a public oriented mechanism, it will never develop to its true potential. To designate such a function solely to lawyer controlled organizations will only result in hurting the courts, damaging the objectives, and making a bad situation worse.

Some of my judicial colleagues and friends feel that I should not, as it were, "rock the boat."

When I assure them that accreditation does not mean that I propose imposing the Missouri System of appointing judges on New York State or the State of New Hampshire or directly seek to influence the selection of judges, they say "Well, let well enough alone."

Yet, if we of the bench and bar do not choose to sponsor an accreditation program to upgrade the physical facilities of our judiciary system, then let us, at least, have the honesty to abdicate such sponsorship and direction and control to our State Legislatures and to our county and local officials.

In essence, for us to do nothing, to propose nothing, and to support nothing means to maintain the "status quo" . . .

And, to my mind, if we of the bench and bar have learned anything at all from the turbulent and churning years of the decade just completed, it is that in these times the "status quo" is a luxury that our judicial system, and indeed our whole fabric of government can ill afford.

DEATH OF A GREAT ILLUSION

Mr. LONG. Mr. President, I invite attention to an editorial entitled "Death of Great Illusion," published in the New Orleans Times-Picayune of March 9, 1970, which, significantly, was reprinted from the Chicago Tribune. This is a southern paper picking up an editorial that appeared in the Chicago Tribune.

The editorial points out that the illusion that integration—and compulsory

integration at that—would solve our social problems has proved to be exactly that, and that we must now realize that freedom of choice is really the only answer to our school integration problem.

I ask unanimous consent that the editorial be printed in the RECORD.

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

DEATH OF GREAT ILLUSION

Sixteen years after the Warren Supreme Court's decision that compulsory racial segregation in the public schools is unconstitutional, it has been recognized, suddenly and almost by national consensus, that compulsory integration is an impossible dream.

Not only the Southern conservatives but Northern liberals and Negro civil rights leaders now oppose busing or other means of compulsion to effect integration, for the simple reason that it will not work.

Recognition of integration's failure has come with such a shattering impact upon the proponents of integration for integration's sake because they were wrong, not only in assuming that it was feasible but also in their insistence that education in all-Negro schools is necessarily inferior.

We agree with the National Observer that it is a gross insult to the Negro race to say, as many white liberals do, that it is necessary for black children to attend school with whites in order to get a good education.

So far the Supreme Court and most of the lower courts have failed to take note of the obvious fact that integration in cities with large Negro populations is a physical impossibility.

We believe the "freedom of choice" principle is the answer to this problem. Any pupil would have the right to attend any school of his choice, but not necessarily to be bused there. Some Southern states accepted this principle, but the lower courts rejected it as a subterfuge to evade integration and the Supreme Court refused to review their decisions.

Freedom of choice is the essence of the unitary school principle. The Supreme Court has held that racial discrimination is unconstitutional, but it has not held that integration is compulsory. When it recognizes that compulsory integration is impossible, as it must, perhaps we can expect greater efforts to improve the quality of education in all the public schools.

REPRESENTATIVE RAILSBACK TESTIFIES ON NEED FOR INCREASED FARMERS HOME ADMINISTRATION FUNDING

Mr. PERCY. Mr. President, this morning, Representative TOM RAILSBACK testified before the Subcommittee on Agriculture of the Senate Appropriations Committee on the need for increased Farmers Home Administration funding.

Representative RAILSBACK discussed particularly the need for increased funding for rural water and waste disposal loans and grants and for increased financing to enable young people to go into farming and for operating loans.

The budget recommendation for fiscal 1971 for rural water and waste disposal loans and grants is $24 million. This contrasts to $46 million actually appropriated last year. But Illinois alone needs $5.3 billion over the next 10 years and $350 million in the next 2 years to meet the deadline of 1972 water quality standards provided under the Water Quality Act of 1965. Representative RAILSBACK makes the urgent point that this program is vastly underfunded.

Mr. RAILSBACK also points up the need for more money to enable younger people to get started in farming and to give operating loans to help farmers over hard spells. But four out of five applications for younger farmers are rejected and one-half of operating loans are rejected for lack of funds. Also sufficient funds are not available to the Farmers Home Administration for rural housing loans.

Mr. President, Representative RAILSBACK's testimony is of great importance in pointing out the needs in our rural communities and how scarce the resources are to meet those needs. Because of its great value, I ask unanimous consent that his testimony before the Senate Appropriations Committee be printed in the RECORD.

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

STATEMENT OF HON. TOM RAILSBACK

Mr. Chairman and distinguished Members of the Subcommittee. I want to thank you for affording me the privilege and pleasure of appearing before you this morning. I have asked for the opportunity to present my recommendations to you concerning funding for the Farmers Home Administration of the United States Department of Agriculture. Specifically, I wish to discuss the programs for rural water and waste disposal loans and grants under the provisions of the Consolidated Farmers Home Administration Act of 1961 as amended by the Congress in 1965 by Public Law 89-240, and other FHA loan programs for financing assistance in improving the quality of life and environment in rural areas and smaller towns.

The Congress this past year demonstrated great leadership in doubling and tripling the requested appropriations on rural water and waste disposal. I would hazard a guess that you, as members of this Subcommittee, received very few if any citizen complaints over your fine treatment of the FHA rural water and waste disposal programs in the 1970 USDA appropriations. You will recall that your recommended appropriation, which was eventually signed into law, was a total of $46 million. This figure was $6 million over the amount which had been passed by the House and an increase of $18 million over the 1969 appropriation and the budget estimate for 1970. In your report, the Committee stated (S. Rept. 91-277, page 38) "The increased funds will enable the agency to accelerate the program and to meet more fully the backlog of requests for grants authorized under the program."

Last year the FHA Administrator, James V. Smith, testified, and I quote:

"Our rural communities are going through considerable change, as our urban areas. There is a great need for water and sewer loans in our communities under 5,500 population which we consider a rural community, to which we can make a loan. . . . We find a great need to accelerate this program and the demand is very, very strong. We have, as just mentioned in the testimony, projected a large number of loans and grant requests, and if we are to build rural America, it is quite evident that there will be a great need to bring industry back into our smaller communities."

As a further part of the hearing record for 1970 appropriations, the FHA submitted the following figures, based upon applications received, and other data indicating need:

Actual need for fiscal year 1970

Loans for water and sewer systems	$320,000,000
Construction grants for water and sewer systems	100,000,000
Grants for comprehensive water and sewer area plans	15,000,000

Mr. Chairman, I am sure that you were as shocked as I to learn that the budget for fiscal 1971 requests a paltry $24 million for these programs. This is a shocking disregard for a program which I know from first-hand knowledge is absolutely imperative to the viability of the rural areas and smaller towns. Mr. Chairman, the smaller towns almost by definition are simply without adequate funds or resources to engage in any meaningful self-help in planning and constructing water and waste disposal systems. With a little more disregard and inattention, we will turn these areas into "ghost towns" or "forgotten villages." I believe that this short-sighted budget reduction of nearly 45 percent cannot be allowed to stand and I sincerely urge this Subcommittee to once again take the initiative and demonstrate leadership by mandating adequate spending for these essential programs.

It was Congress that introduced the concept of water quality standards to be adopted by the States and complied with by the end of 1972. The Water Quality Act of 1965 (Public Law 89-234) gave the States two years to adopt water quality standards and prepare implementation plans to insure the maintenance of those quality standards. In his Message on Environmental Quality, President Nixon said: ". . . we have failed to keep our promises to ourselves." I would respectfully submit that the maintenance of adequate quality standards is an unfulfillable promise and an unattainable dream unless it is brought within the realm of reality through financial assistance to those rural areas and smaller towns that are involved.

The House Committee on Appropriations in its report on fiscal 1970 funds for USDA stated:

"The need to develop central water supplies and waste disposal systems in rural areas far exceeds the grant and loan resources available to the Farmers Home Administration. A priority system has been established to facilitate meeting the most urgent needs with funds currently available. This increase will significantly assist in meeting such needs." (H. Rpt. 91-265)

That report went on to state:

"A recent survey indicates that as of March 1, 1968, about 1,500 rural counties will require Farmers Home Administration grant assistance to finance the preparation of comprehensive water and sewer plans."

Having just returned from visiting localities in my District, I am reinforced in my strong belief that we would be making a serious mistake in Congress if we permitted our rural areas and smaller cities to be slighted. We may not have our own "Department of Housing and *Rural* Development," but we still have our Department of Agriculture and we have appropriations subcommittees which are aware of and sympathetic to the needs of rural areas.

Earlier this year I wrote to the Secretary of Agriculture, Clifford M. Hardin, expressing my sincere conviction that the FHA loan and grant programs, particularly the rural water and sewer programs, should receive increased funding. In his reply Secretary Hardin stated:

"We recognize the great need for the development of essential water and waste disposal facilities in rural communities as being an essential part of our nationwide pollution abatement effort for overall improved environmental quality. We believe that loans and grants from FHA should continue to provide a most significant source of funds

to supplement local resources for the development of community facilities in rural areas."

I confess that I find it difficult to reconcile the Secretary's comments with the budget document for fiscal 1971.

Mr. Chairman and Members of the Subcommittee, I urge you to close ranks and carry on the battle for better funding of these programs. In the absence of the needed leadership by Congress I fear that the rural areas will suffer inattention while the huge cities continue to grow and drain the life from our rural communities.

President Nixon stated: "Clean air, clean water, open spaces—these should once again be the birthright of every American. If we act now—they can be." Gentlemen, my message to you this morning is that if, as the President says, it is "now or never" in the fight against pollution, then it is "Now" for more adequate funding of FHA loan and grant programs for rural water and waste disposal systems.

Mr. Chairman, to give this Subcommittee an idea of the problem as it exists in my own State of Illinois, I have just obtained statistical projections of dollar need for the next ten years. These figures were completed only three days ago. The data was prepared under the supervision of Clarence W. Klassen, Chief Sanitary Engineer for the State of Illinois. According to this data, Illinois will need $1,241,782,000 to provide an adequate water supply to its population by 1980. The ten-year needs for waste treatment amount to $2,300,000,000. And the ten-year needs for sewers is $1,800,000,000. This is a total of $5.3 billion over ten years. Mr. Chairman, even more astounding is the projected actual need of 675 Illinois Municipalities to have $350 million in the next two years to meet the deadline of 1972 water quality standards provided under the Water Quality Act of 1965. I submit for the Subcommittee's review a data sheet which I have prepared containing Mr. Klassen's figures. I might add that previous estimates made by Mr. Klassen have proven conservative and I would expect that these figures would also be on the conservative side.

State of Illinois: Total dollar projected needs for period 1970 to 1980

A. Water supply:

1. Source	$186,301,000
2. Treatment	474,326,000
3. Distribution	355,007,000
4. Miscellaneous	226,148,000
Total	1,241,782,000

NOTES.—Miscellaneous included mechanical pumps and other equipment. Water supply needs projected are for public systems serving ten or more housing or building units and are based upon a 10% per year increase in construction costs (equipment, labor etc.).

B. Waste treatment: To enlarge and construct new treatment facilities to serve increased population and to serve property not now served or connected. Total, $2,300,000,000.

C. Sewers: Not including the proposed shore plan for the Chicago Sanitary District, needs for sewers to collect waste are: Total, $1,800,000,000.

Total dollar projected needs to meet 1972 water quality stds. for 675 municipalities in Illinois, $350,000,000 to upgrade plants.

Localities total dollar projected needs—1970 to 1980

Water supply needs for Rock Island County:

1. Source	$2,432,000
2. Treatment	6,188,000
3. Distribution	4,636,000
4. Miscellaneous	2,945,000
Total	16,201,000

Water supply needs for the city of Peoria:

1. Source	$4,802,000
2. Treatment	12,153,000
3. Distribution	9,107,000
4. Miscellaneous	5,799,000
Total	31,861,000

Mr. Chairman, these figures are for only one State, they have been meticulously drawn and prepared, and they are freshly available and are a stark demonstration of the magnitude of the problem. Last year the appropriation was $46 million. This year the budget request is only $24 million. Mr. Chairman, the entire Federal funding of $24 million would hardly be sufficient for even this one State, let alone the entire nation. The need has been graphically pictured—rural areas desperately need Federal assistance and the budget request is a terrible disappointment. It makes me wonder whether our rural areas are being placed at the bottom of our priorities. I certainly hope that you Gentlemen on this Subcommittee will live up to your past performance and set the appropriations at a realistic level, despite the budget request.

I think it pertinent to examine the status and results of these FHA programs under the inadequate funding under which FHA has been forced to operate. Since 1966, the FHA has found it necessary to reject a total of 4,511 loan applications for rural water and sewer projects. These totaled $682 million dollars. In addition, the FHA had to reject 2,397 grant applications for rural water and sewer projects totaling a value of $283 million. And as of December 31, 1969, the FHA had on hand a total of 2,007 loan applications with a value of $476 million and a total of 710 grant applications with a value of $56 million. Mr. Chairman, these statistics reveal just how impossible the task of FHA is when they are expected to operate on such a reduced level of funding.

I personally would like to see the funds doubled and tripled for these essential FHA loan and grant programs for rural water and sewer projects.

Now, Mr. Chairman, I would like to turn my attention to the other FHA loan programs and to request your favorable treatment of funding for these programs. Virtually every one of the FHA loan programs is vital to American agriculture. These programs are not accidentally in existence—they were enacted by Congress in response to a need—and I submit they are still needed.

Mr. Chairman, the average age of the farmer is increasing. We are finding it difficult to get young people to go into farming. They are migrating to the cities, much to the dismay of their farmer fathers. It is too expensive to get started in the business of farming. One of the purposes of the legislation originally enacted by Congress was to make it possible for young people to go into farming. Now, the farmer is caught in the "credit crunch." Farm income is up, but farm costs are up as much or more.

In the past decade, there was a 28 percent decline in the number of farms. With one-third of the nation's population, rural America has nearly half of its poor—according to Clarence D. Palmby, Assistant Secretary of Agriculture. Of the 65 million total rural population, less than 10 million are actively engaged in farming. The migration to the cities has been counter-productive and now the President's Task Force on Rural Development is engaged in mapping a return to rural development.

The FHA loan programs are an investment. They are loans and not gifts. They bring a return far greater over the long range than the mere total of dollars involved.

The farm ownership loans at 5% interest over a 40-year period on up to $60,000 make it possible for young farmers to make the awesome initial investment in farming land. Without such help, it would be nearly impossible for a young farmer to get a start without already being rich beyond the family farm level. In 1969 there were 34,388 applications for farm ownership loans. Of this total, 293 direct loans and 13,409 insured loans were granted at values of $4,999,000 and $272,121,000 respectively. The budget for 1971 estimates that there will be 50,000 applications, out of which only 300 direct loans and 10,335 insured loans will be granted. This is a very sad situation, wherein only one of five applications has any hope of being funded. Mr. Chairman, I wonder what happens to the other four out of five?

Mr. Chairman, in the area of operating loans, it is estimated that in fiscal 1971 there will be 100,000 applications, out of which only about one-half can be approved, and these will amount to $275,000,000. As the Subcommittee knows, these loans permit the purchase of livestock, farm equipment, feed, seed, fertilizer, etc., as well as financing for land and water development, use and conservation, and for refinancing farm debt. These loans are made to family farm operators and are limited to $35,000 with a flexible interest rate (currently about 6.5%) for periods up to seven years. These are secured loans using crop and chattel liens and in some cases, real estate mortgages. But they are necessary loans. Mr. Chairman, I wonder what happens to those 49,000 family farmers who are unable to get their loan approved because of FHA funding problems?

Mr. Chairman, the rural housing loan program is estimated to receive 200,000 applications in fiscal 1971. Of this total only 157,000 can be expected to be approved because of funding limitations. As the Subcommittee knows, this program finances housing for low-to-moderate and for very low income applicants; for farm labor; and for farmers. Although the 1971 totals will be significantly greater than those for 1970, I can't help but urge that we should be batting 1,000, not just 750. In early January 1969 I was advised by FHA that it would require $30 billion "to replace the existing substandard rural homes with decent housing." At that time it was reported to me that there were 3 million dilapidated and substandard homes in rural America.

Mr. Chairman, these FHA loan programs are essential. These programs are designed to help, by definition, those who are family farmers and who are under terrific financial pressures. The loans are secured and the interest rates are subsidized; however, even this businesslike differentiation from the hand-out programs and the minimum income programs is welcomed by our rural population. They are a proud people. They would much prefer to engage in self-help and they do to the extent possible. When Governmental assistance becomes necessary they are pleased that it is by loan and not by gift. And yet, following a flood, drought, or similar occurrence, often the only alternatives to deserting the land is the FHA emergency loan program. Rural housing loans to communities of less than 5,500 population have been the "lifesaver" for many low-income farm workers and families. Operating loans have helped the family farms to remain in competition with corporate farming. Conservation loans, watershed loans, economic opportunity loans, rural renewal loans, flood prevention loans, and all of the other loan programs are simply essential to the rural communities. Without such loan programs as the FHA provides the rural areas, the family farmer might be a thing of the past. Mr. Chairman, I urge that this Subcommittee improve upon the budget document by providing for increased funding for these programs.

NATIONAL PRIORITIES

Mr. KENNEDY. Mr. President, in Massachusetts, and throughout the Nation, citizens are demanding that this country reorder its national priorities. The residents of Stockbridge, Mass., voiced their demand in a time-honored forum—the annual town meeting. I think their action is so significant that I ask unanimous consent that it be printed in the RECORD.

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

TOWN OF STOCKBRIDGE,
February 26, 1970.

EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SIR: The following article was voted for at our Annual Town Meeting held February 17, 1970:

Voted that the town of Stockbridge condemn the extraordinary high level of military spending and that it register with the Federal Government the wish to reduce this level very sharply and return the money saved to the individual communities to be spent for education, welfare, conservation, and the fight against pollution.

Vote: Unanimous.

A true copy, Attest:

LILIAN C. RATHBUN, *Town Clerk.*

EDUCATION OF HANDICAPPED CHILDREN

Mr. PELL. Mr. President, the passage of the 1970 Health, Education, and Welfare appropriations bill has caused a great deal of concern in education quarters as to the future of many of the ongoing programs.

To my mind, one of the most successful groups of programs and ones which I do not believe we are funding anywhere near an adequate level are those concerning the education of handicapped children.

I have been presented with a copy of a telegram sent to the President of the United States and Secretary of Health, Education, and Welfare, Robert H. Finch, by Mr. John Melcher, president of the council for exceptional children, where he not only speaks about the cutbacks in the programs of aid to education of handicapped children but speaks very telling about a cutback in the rubella—German measles—prevention program. I can see no greater example of shortsighted economy than a cutback in a program which would seek to prevent illness and, indeed prevent the birth of handicapped children because of a mother's contracting of this illness.

Mr. President, I ask unanimous consent that the text of Mr. Melcher's telegram be printed in the RECORD.

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

TEXT OF TELEGRAM SENT TO THE PRESIDENT AND SECRETARY OF HEW FINCH

On behalf of six million handicapped children and their families we strongly urge partial restoration of 1970 funds for education programs for handicapped children.

The March 3 HEW Plan to the Senate Appropriations Committee would reduce these programs below your original budget request and well below your February 2 administrative alternative.

If the HEW recommended expenditure for the education of the handicapped, only $85 million, becomes fact, it will be a shattering blow to these children. The crippling effects will be felt primarily in three areas—early childhood education, research, and personnel training. Mr. President, we find it difficult to reconcile this reduction in view of your interest in the handicapped and your recognition, expressed in your March 3 educational reform message, of the importance of federal involvement in these same three areas.

We are not suggesting that handicapped children be excused from the tightening of the federal budget. The HEW Plan of February 26 reducing these programs to $92 million appears reasonable; however, the present reduction must be considered inequitable in terms of other education expenditures. For handicapped children it is not a question of a supplemental education, but rather whether educational opportunity will be available at all.

Mr. President, at a time when a preventable rubella epidemic threatens the nation, we are also greatly concerned about the proposed HEW reduction in funds for rubella vaccine for children. The last epidemic produced 30,000 severely handicapped children. Our nation cannot allow this to happen again.

We appreciate your concern for handicapped children and we hope that you will restore these funds. Can't we afford to help these children and their parents?

Sincerely yours,

JOHN MELCHER,
President, The Council for Exceptional Children.

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. Without objection, the Senate will proceed to its consideration.

AMENDMENT NO. 545

Mr. MANSFIELD. Mr. President, what is the number of the pending amendment?

The ACTING PRESIDENT pro tempore. No. 545.

Mr. MANSFIELD. I ask unanimous consent that the names of the distinguished Senator from North Dakota (Mr. BURDICK) and the distinguished Senator from Massachusetts (Mr. BROOKE) be added as cosponsors of the pending amendment.

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

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, briefly, with no time to be taken out of either side, so that Senators will be aware that the unfinished business has been laid before the Senate.

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

The bill 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. The question is on agreeing to the amendment (No. 545) offered by the Senator from Montana and other Senators to the Scott-Hart substitute amendment. All time is under control; who yields time?

Mr. COOK. Mr. President, I have an amendment to the amendment of the Senator from Montana.

The ACTING PRESIDENT pro tempore. Under Senate precedent, no such amendments may be offered until controlled time on the pending amendment has expired.

Mr. COOK. I withhold offering the amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MANSFIELD. Mr. President, again I suggest the absence of a quorum, and I urge attachés on both sides to request Senators to come over.

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

The bill 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.

Mr. MANSFIELD. Mr. President, I yield 3 minutes to the Senator from Alabama (Mr. SPARKMAN).

Mr. SPARKMAN. Mr. President, I have another meeting that I feel compelled to attend, but before leaving, I do wish to say just a few words with reference to the pending amendment.

I have long advocated lowering the voting age. I have felt, however, that in keeping with the Constitution, it should be a matter for the States to decide. I have felt that the proper way for Congress to proceed would be to propose a constitutional amendment; and in the event a constitutional amendment were proposed and were before us, I would vote for it.

I feel very strongly that the Constitution provides that the proper method, if it is to be done by Federal action, should be through a constitutional amendment, or that, as actually intended by the framers of the Constitution, it be left up to the individual States to decide who, within their borders, should be given the right to vote, and at what age.

Mr. RANDOLPH. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. I yield.

Mr. RANDOLPH. Does the Senator feel that the vote for the 18-, 19-, and 20-year-olds should be given as we gave the vote to women in this country?

Mr. SPARKMAN. That is right.

Mr. RANDOLPH. Through Congress referring the matter to the States?

Mr. SPARKMAN. Through a proposed constitutional amendment.

Mr. RANDOLPH. I have such an amendment now pending, on which we

have had adequate hearings in the Judiciary Subcommittee.

Mr. SPARKMAN. I am in favor of that, but I feel compelled to vote against the pending amendment, because it does not follow that route.

Mr. President, that is my entire speech. I thank the majority leader for yielding me this time.

The ACTING PRESIDENT pro tempore. The Chair inquires of the majority leader as to who is controlling the time in opposition to the amendment.

Mr. MANSFIELD. Mr. President, it is my belief that the time would be under the control of the sponsor of the amendment and, I presume, the minority leader or whomever he might designate. If that has not been made clear, I ask unanimous consent at this time that that be the procedure followed.

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

Mr. MANSFIELD. Now, Mr. President, again hoping to get some additional Senators over, I suggest the absence of a quorum.

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

Mr. RANDOLPH. Mr. President, may I inquire of the distinguished majority leader——

The ACTING PRESIDENT pro tempore. A quorum call has been ordered.

Mr. MANSFIELD. I withdraw that, Mr. President.

Mr. RANDOLPH. I feel that the continued desire of the majority leader to have Senators on the floor is a very valid one. This is a most important issue. I shall not press it, but I would suggest that we have a live quorum.

Mr. MANSFIELD. Mr. President, the Senator has suggested that before, and I thought I gave him the reason why not. We are operating under limited time, and we will not be able to keep all our Members here. Some have just come back; and I would suggest we go along and not use up too much time on that basis, though I do hope more Senators will come over, because this may be the most important amendment we will consider in connection with this measure.

Mr. RANDOLPH. I agree with the Senator.

Mr. MANSFIELD. The Senator from West Virginia, as the initiator of a resolution under the constitutional amendment route, ought to be aware of that above all others.

Mr. RANDOLPH. I am very much aware of it.

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

The ACTING PRESIDENT pro tempore. On whose time?

Mr. MANSFIELD. With no time to be taken out of either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COOK. 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.

Mr. COOK. Mr. President, I ask for 2 minutes.

I shall support the Mansfield amendment to the Scott-Hart amendment which would lower the voting age to 18 in all elections, by statute.

I cannot do otherwise, having endorsed the principle that this purpose may be accomplished by act of Congress as well as by constitutional amendment, and urging this alternative as a more expeditious route to a desirable goal.

However, I am quite concerned about the fate of the Scott-Hart proposal in the House, if encumbered by a provision lowering the voting age. I expressed this concern in a letter I sent to many Senators on March 4, 1970, urging their support for my bill, S. 3560, which would treat the matter by statute, but separately and on its own merits. I ask unanimous consent that this letter be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., March 4, 1970.

The Honorable U.S. SENATE,
Washington, D.C.

DEAR SENATOR: The possibility has been raised, within the past week, that the Senate might proceed with the issue of 18 year old voting by an amendment to the pending Voting Rights bill.

Let me make it quite clear that after reviewing the relevant cases which seem to bear upon the constitutionality of such a move, I do believe that Congress may, within the purview of the Constitution, lower the voting age to 18 in all elections by statute.

However, the passage of the Scott-Hart Voting Rights proposal, uninhibited by any further controversial provisions, would seem to be of utmost and immediate priority. To proceed with lowering the voting age by statute has not had the benefit of enough explanation at this stage to enable us to pass this provision without engaging in yet another controversy and possibly harming the prospects of passage of both the 18 year old voting provision and the Scott-Hart proposal.

No one in this body has a greater interest in lowering the voting age to 18 than have I. My state has an unblemished record of 14 years experience with 18 year old voter participation in all elections. However, I urge all Senators who favor lowering the voting age to refuse to encumber the Scott-Hart proposal with such a provision at this time. As an alternative, I urge you to support a bill which I will be offering shortly, which will treat this measure separately and on its own merits.

To resolve any doubts Senators may have about the constitutionality of the statutory approach to this issue. I refer you to *Carrington* v. *Rash*, 380 U.S. 89, *South Carolina* v. *Katzenbach*, 383 U.S. 301, *Katzenbach* v. *Morgan*, 384 U.S. 641, an excellent memorandum by Senator Kennedy circulated this past week, and the testimony of Professor Archibald Cox before the Constitutional Rights subcommittee on February 24, 1970. After doing so, if you conclude, as I have, that an attempt to lower the voting age by the statutory method is constitutional, a more expeditious alternative to the lengthy constitutional amendment route and more properly pursued at a more appropriate time, please have a member of your staff contact my Chief Legislative Assistant, Mitch McConnell at X4343, for the purpose of co-sponsorship.

With best wishes,

Sincerely yours,

MARLOW W. COOK.

Mr. COOK. I continue to question the advisability of a strategy which might endanger the passage of the Scott-Hart proposal, which I strongly favor. But I shall support the Mansfield amendment for two reasons:

First. I cannot oppose any proposal designed to enfranchise this group by statute. Since I strongly support this approach; and

Second. I defer to the judgment of the majority leader, who has assured us that the addition of this section will not endanger the Scott-Hart voting rights package in the House.

Consequently, I urge the supporters of S. 3560, which would by statute lower the voting age to 18 in all elections, to support the Mansfield amendment.

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

Mr. COOK. I yield.

Mr. MANSFIELD. The Senator is aware of the fact that what I am expressing in regard to the fate in the House of the pending measure is only my own personal opinion.

Mr. COOK. That is correct.

Mr. President, I should like to make an inquiry of the majority leader and the controller of the time on this amendment. I have an amendment, of which the President is aware, which cannot be offered until all the time has expired on the pending amendment. The majority leader has read the amendment, and I have given an explanation of it. In effect, it would set an effective date on the amendment of the Senator from Montana. It adds a new section, section 305, which states that the provisions of title III shall take effect with respect to any primary election held on or after January 1, 1971, which the amendment does not cover.

I am wondering whether the Senator from Montana will accept this amendment, or whether it will be necessary to wait until all time has expired, so that the amendment may be offered.

Mr. MANSFIELD. Mr. President, I would be willing to accept that amendment now, because I think it adds strength to the amendment and takes away some legitimate questions which might have been raised.

So I ask unanimous consent that the Cook amendment to the pending amendment be in order and be made part of the record.

The ACTING PRESIDENT pro tempore. The Chair states to the Senator from Montana that he can modify his amendment, if he desires, in that fashion. Does the Senator wish to make that request?

Mr. MANSFIELD. Yes. I modify my amendment to incorporate the Cook amendment.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Montana is so modified.

Mr. COOK. I send the amendment to the desk.

Mr. RANDOLPH. Mr. President, may I inquire now what the modified amendment is?

The ACTING PRESIDENT pro tempore. The clerk will state the modification.

The legislative clerk read as follows:

At the end thereof add a new section:

"EFFECTIVE DATE

"SEC. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1971."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. RANDOLPH. Mr. President, I think that the able Senator from Washington makes a continuing and valid argument for the ability of 18-, 19-, and 20-year-olds to vote.

The conclusion of the Washington Star editorial yesterday entitled "Voting and Age," reenforces what the Senator said today.

To paraphrase the editorial comment, their increased factual knowledge will result in increased maturity, so they certainly will grow in maturity with the actual use of the responsibility at the ballot box. I am sure that my colleague feels that strongly.

Mr. MAGNUSON. Yes, I do.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER (Mr. NELSON). The Senator from Georgia is recognized for 5 minutes.

Mr. TALMADGE. Mr. President, over a quarter century ago, my State extended the franchise to 18-year-olds. Since 1943, Georgia's young people have made the sophisticated decisions and have assumed the mature responsibilities of voting. Their performance has exceeded the greatest hopes and expectations.

Having witnessed youth power firsthand in my State, I earnestly believe that 18- to 20-year-old men and women throughout the country should be recognized as responsible and active citizens. However, Mr. President, as strongly as I feel that these young people should have the right to vote, I cannot support the legislation offered by the distinguished Senator from Montana. In my judgment, an attempt to lower the voting age through the statutory method is constitutionally unsound and flies in the face of our federal system.

Mr. President, the proponents of this amendment presume to exercise the authority granted Congress to enforce the 14th amendment guarantees by appropriate legislation. They would use this limited authority to enact legislation directly contrary to the Constitution. As we all know, no less than three specific provisions—article I, section 2; article II, section 1; and the 17th amendment—

give the States the power to set qualifications for voting.

Mr. President, I need not remind the Senate that the Constitution must be read as a whole. One section cannot be used to nullify other sections and, certainly, legislation enacted under the purported authority of one section cannot be inconsistent with the dictates of other sections. Should the Congress accept the legislation proposed by the Senator from Montana, a single act of Congress would render three major provisions in the Constitution a dead letter and inoperative.

Certainly, Mr. President, if such a fundamental change is to be worked on the Constitution, the orderly procedure outlined in that document to accomplish this purpose must be followed. The worthiness of a cause and the popularity of an issue should not and cannot be used to circumvent the process by which the Constitution can be amended.

I have joined over two-thirds of the Members of this body in cosponsoring a constitutional amendment extending the right to vote to 18-year-olds.

We have heard arguments that the ratification procedure can be a lengthy one. This possibility cannot be denied. But, in this instance, totally to disregard and abandon the very procedure previously used in abolishing the poll tax and extending the franchise to women would represent legislative gymnastics of the highest order.

Also, Mr. President, we must not lose sight of the fact that the statutory approach offered by the Senator from Montana would further emasculate the federal system and further disrupt the proper balance between the National and State governments. It would ignore the identity and political integrity of the individual States and deny the people of this country the right to affirm the actions of Congress otherwise afforded them through the constitutional amendment process.

Mr. President, I am in complete sympathy with the cause championed by the Senator from Montana. Eighteen-year-olds should have the right to vote. Our Nation's young people would welcome the opportunity, and I am confident that they would perform their duties admirably. However, in light of the damage which it would do to our federal system, and considering that it represents a usurpation of power denied to Congress by the Constitution, the hazards of lowering the voting age by the statutory method are too great. The Senate must exercise restraint. We must act within the confines of the Constitution and reject the amendment of the Senator from Montana.

Mr. President, I yield the floor.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. ERVIN. Mr. President, I associate myself with the remarks just made by the distinguished junior Senator from Georgia. I would be glad to vote to submit a constitutional amendment to the States for ratification or rejection, providing that 18-year-olds should have the right to vote.

During the course of some remarks yesterday, I said that Chief Justice John Marshall, the greatest jurist North America has ever produced, laid down the three essentials of constitutional interpretation.

He declared that these three essentials were as follows:

First, that the provisions of the Constitution were designed to be permanent unless altered by an amendment adopted by the States and the Congress pursuant to the provisions of the fifth article.

Second, that the patriotic men who framed the Constitution and the people who ratified the Constitution must be understood to have meant what they said in that instance.

Third, that the Constitution prescribes a rule for the official action of all officers of Government who have taken an oath to support it.

Applying these landmarks of constitutional interpretation to the pending amendment shows that the adoption of the pending amendment would violate every one of these three rules stated by Chief Justice John Marshall.

As I construe the amendment offered by the distinguished majority leader and others, it would provide in effect that every 18-year-old in the United States meeting other qualifications would be entitled to vote in all elections, both Federal and State. Under this interpretation of the Constitution, the proposed amendment offends four separate provisions of the Constitution—the second section of article I, the first section of article II, the 10th amendment, and the 17th amendment.

The distinguished senior Senator from Washington said that to follow the amendatory process would be too slow. That was one reason that the Constitution was written—to keep those in authority, impatient Presidents, impatient Senators, impatient Representatives, and impatient judges from doing things in a hurry without due deliberation.

No truer statement was ever made than that made by George Washington in his farewell address to the American people. It seems ironic for us to have that Farewell Address read in the Senate each year and then for the Members of the Senate to ignore what George Washington had to say in that farewell address in respect to this very subject.

George Washington said in his Farewell Address that the Constitution was written because the occupants of public office suffered from the disease of tyrants, that is, love of power and the proneness to abuse it.

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

Mr. GRIFFIN. Mr. President, I yield the Senator an additional 3 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for an additional 3 minutes.

Mr. ERVIN. Mr. President, one reason that the Constitution was written was to restrain the Senate and the House of Representatives from usurping and exercising the power to prescribe the qualifications for voters.

There are only three limitations of that power in the Constitution—the equal protection clause, the 15th amendment, and the 19th amendment.

I implore the Senate not to ignore four separate provisions of the Constitution.

I would say that there are two reasons why the Senate should reject the amendment, irrespective of the merit which may underlie the purpose which inspires the offering of the amendment.

The first of these reasons is that the Constitution forbids the Senate to take this action by four separate provisions.

The second reason is that each Member of the Senate has taken an oath to support those four provsions of the Constitution.

I trust that in our zeal to do something fast, even though it may be a worthy objective, we do not disregard what George Washington said in his Farewell Address to the American people.

He said:

> If the Constitution should be changed, let it be changed by an amendment in the manner provided in Article V. Let there be no change by usurpation, for usurpation is the weapon by which free governments are destroyed.

And when the Constitution of the United States is nullified by those in authority because of their impatience or because of their zeal to do what they consider to be advisable, whenever it is destroyed, liberty in America has no chance to survive; because then we will have a government of men and not a government of laws.

Let us abide by our oaths to uphold the Constitution of the United States which forbids the passage of this law four separate times.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I think it has been well established that lowering the voting age to 18 is a desirable goal.

I think this is quite clearly reflected by the number of Senators who have cosponsored the various proposals that have been submitted, varying from constitutional amendments to the action by statute which has been suggested in the amendment now pending before the Senate.

The question of the constitutionalities of action by statute has been raised most emphatically by the distinguished Senator from North Carolina (Mr. ERVIN) and others. And as recently as yesterday, the same question was raised by the administration as to the appropriateness of achieving this goal by the means suggested by the majority leader, myself, and other Members of the Senate—amending the statute pending before the Senate today.

I would like to review very briefly the desirability of lowering the voting age to 18 from a policy standpoint. I think all of us have recognized, as the distinguished Senator from Washington pointed out, that young people today are better educated, are better informed, and

have a better sense of feeling for the great issues before us than at any time in our Nation's history. The statistics on this point are striking evidence. In 1920 only 17 percent of 18- to 21-year-olds were high school graduates; now the figure is 79 percent. In 1920 only 8 percent of the 18-year-olds went on to college; now it is 41 percent. In terms of the degree of education of young people today, the statistics present an extremely convincing argument.

I think, in addition, a convincing case was made by the commission established by President Kennedy in 1963. The commission recommended a number of ways to develop a greater sense of political involvement in the processes of our Government. One of the recommendations made by the commission was to lower the voting age. A major observation made in the commission's report was that many of our young people are forever lost from the political process because the voting age is set at 21.

Young people in school and college today have the highest degree of interest in events and issues. There and after their graduation, they become involved in many worthwhile projects. In too many other instances, however, they are lost to the political process.

Mr. President, by lowering the age to 18, we will have greater participation by youth in our political processes. We will strengthen our institution of democratic government.

I think one of the significant arguments for lowering the voting age is that if young people are old enough to fight, they are old enough to vote. Thirty percent of our forces in Vietnam are under 21 years of age. Tragically, one-half of the deaths in Vietnam are of young Americans under the age of 21.

Moreover, we know there are many issues before us—issues like civil rights, education, health, the environment, and many questions of war, as in Vietnam and Laos, half a dozen different potential pressure points throughout the world—on which youth should be heard. There are important and impelling reasons for young people to be involved in these issues. They have earned the right to vote, and they can counsel us wisely at the polls.

Yet another justification for a finding by Congress that the voting age should be lowered is the fact that in a number of States the voting age has already been lowered, with no unsatisfactory results whatever. In Georgia and Kentucky the age has been lowered to 18. In Alaska it has been lowered to 19, and in Hawaii the voting age is 20. In England the voting age has been lowered to 18 this year. Even in South Vietnam the voting age is 18. Yet we have not heard presented on the floor this afternoon or in the hearings of the subcommittee of the Senator from Indiana (Mr. BAYH), any testimony to suggest that young persons now exercising the franchise in those States have not acted responsibly or in the best interest of the States or of the country. That is a further convincing argument on this question before us.

Finally, on this section of the argument, I think it is not inappropriate to go back in history to recall why the age of 21 was established as the age of maturity of young persons. It goes back to the 11th century.

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

Mr. KENNEDY. Mr. President, will the Senator yield to me for 5 additional minutes?

Mr. MANSFIELD. I yield 5 additional minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 additional minutes.

Mr. KENNEDY. It was believed at that time that a young man had to be 21-years-old to carry the heavy armor of a knight. Why should the age of voting in the 20th century be governed by a rule established in the 11th century, that has no relevance to the extraordinary problems and opportunities this country faces in today's complex world?

Mr. President, I feel for these and many other reasons that there is a strong and compelling argument to extend the franchise to 18-year-olds.

Another basic question is the means of lowering the voting age. Do we have the power under the Constitution to extend the Voting Rights Act to include such an amendment as had been proposed by the distinguished Senator from Montana (Mr. MANSFIELD)? My good friend from North Carolina has suggested this afternoon that there are four places in the Constitution that explicitly or implicitly deny the right to change the voting age by statute.

I would recall to my good friend that the 14th amendment is also part of the Constitution, and section 5 of that amendment gives the power to Congress to enforce its provisions by any appropriate legislation. All we have to be able to do in the Senate is to find reasonable grounds for extending the suffrage to 18-year-olds. As the Morgan case makes clear, the Supreme Court will not look beyond the findings of Congress, but only determine whether there is a reasonable basis for the action by Congress.

If one reviews the history of constitutional decisions about the right to vote, he will find that the Supreme Court has stated time and time again that this is the first right protected by the Constitution, the first right of our democracy. And, when Congress acts, the Supreme Court defers to the Congress with respect to findings of reasonableness.

This is not just the interpretation of any Member of the Congress, nor is it just my interpretation. This is not just the interpretation of Prof. Archibald Cox or Prof. Paul Freund of the Harvard Law School. This is the holding of the Supreme Court in the famous case of Katzenbach against Morgan, in which the Court said:

> It was for Congress, as the branch that made this judgment, 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 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.

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

Mr. KENNEDY. I would like to conclude my statement in the time available, and, then, if there is any time remaining, I would be glad to yield to the Senator from North Carolina.

Mr. President, I think the Morgan case presents a convincing and compelling argument that the Supreme Court will respect the power of Congress to make the finding based on reasonableness that 18-year-olds deserve the franchise. I think the finding can be made based on many factors, especially the rapid changes that have taken place in our society, and the greater sense of responsibility of 18-year-olds.

We give responsibility to 18-year-olds in terms of contracting, in terms of criminal responsibility, in terms of being able to drive, and in terms of owning guns or weapons. It is generally agreed that 18 is the appropriate age of maturity with respect to many basic responsibilities. It is not unreasonable for Congress to make a finding that the 18 to 21 age group has been denied the equal protection of the laws by having been denied the opportunity to vote.

I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the Senator made reference to the case of Katzenbach against Morgan. In that case the Court said it was an "invidious" discrimination by the State of New York toward those who could not read and write the English language to make that a requirement of voting. There is no invidious discrimination here, because people are treated exactly alike.

Furthermore, the majority opinion in that case states that it is not the function of the Supreme Court, and it was not the function of the Supreme Court in that case, to interpret the Constitution and determine whether or not the literacy test of New York was valid under the equal protection clause. The Senator from Massachusetts may believe that that is a proper interpretation of the Constitution, but the Senator from North Carolina thinks it is not. It is the duty of the Supreme Court to interpret or review the Constitution of the United States, and they abdicated that duty in the Morgan case.

Mr. KENNEDY. The Senator from North Carolina is right in stating the holding of the Supreme Court with respect to the English literacy test in the Morgan case, but I disagree that the present case is different because all people are treated exactly alike. The fact of the matter is that 18-year-olds are treated differently from 21-year-olds with respect to the right to vote, and I believe that Congress has the power to

find that this unequal treatment is unfair and violates the equal protection clause. The clear holding in the Morgan case is that the Supreme Court will look to Congress to make the findings. So long as they are reasonable, the Court will respect those findings. That holding was explicitly expressed in the lines I have read from the decision.

One final and concluding matter: I am surprised and distressed by the role the administration has taken on this question. Only yesterday we had before the Constitutional Amendments Subcommittee——

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

Mr. KENNEDY. Mr. President, I ask unanimous consent to have 2 additional minutes.

Mr. MANSFIELD. Mr. President, I yield 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. William Rehnquist, an assistant attorney general, testified yesterday for the administration and expressed serious doubt that the Morgan case was really applicable to the voting age.

Yet in two different memorandums submitted by the Department of Justice to Senator ERVIN's subcommittee—these memorandums are contained in the copies of the hearings, a copy of which is on the desk of each Senator—the administration is extremely generous in supporting action by statute to abolish State literacy tests and to change State residence requirements. These memos appear on page 662 and 684 of the hearings. I was going to read some passages from these memos, but our time is limited. In one passage there is a reference to the case of South Carolina against Katzenbach, which established the legitimacy of the 1965 act's suspension of literacy tests.

Let me just read briefly from the bottom of page 664 of the hearings:

> Even assuming that the 14th amendment does not itself bar lengthy State residence requirements in presidential elections, it seems clear that Congress may abolish such requirements in the exercise of its power to enforce the 14th amendment. The enforcement section of the amendment, as a "positive grant of legislative power" (*Morgan* v. *Katzenbach*, supra, at 651), authorizes Congress to expand the substantive reach of the amendment. Judicial review of congressional action is limited. The statute will be sustained if the court can "perceive a basis upon which Congress might predicate a judgment" that a State enactment "constitutes an invidious discrimination in violation of the equal protection clause."

I think the justification by the Department of Justice in the two memorandums it submitted for changing the law on literacy tests and residence requirements can be equally applied to extension of the franchise to 18-year-olds. I think the argument the administration made earlier for its own bill before the Judiciary Committee is powerful support for the Mansfield amendment. I hope my colleagues will have an opportunity to review it.

Mr. GRIFFIN. Mr. President, I yield myself 2 minutes for the purpose of asking the distinguished majority whip a question or two.

ADDITIONAL COSPONSOR

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. GRIFFIN. I yield.

Mr. MATHIAS. I ask unanimous consent that my name be included as one of the cosponsors of the Mansfield amendment, as modified by the Cook amendment.

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

Mr. GRIFFIN. Mr. President, the distinguished Senator from Massachusetts makes an argument and expresses his sincere conviction that it would be constitutional to lower the voting age to 18 by statute.

Mr. President, in my opinion, respectable authority does exist for this view, but, obviously, considerable arguments also exist on the other side of this question.

I have great respect for those who graduate from Harvard. And as is well known, both of the experts referred to by the Senator from Massachusetts are graduates of Harvard. But I am also aware that until just recently, legal scholars were unanimous in their opinion that lowering the voting age would require a constitutional amendment.

The best that can be said now, in view of the language of the Katzenbach decision, is that there is a division among legal experts as to whether the voting age can constitutionally be lowered by statute. Quite frankly, in light of this division of authority, I believe the Senate should consider carefully encumbering the vitally important voting rights bill with additional substantive legislation of this type.

I would like to ask the Senator from Massachusetts what will happen to the efforts being made to lower the voting age to 18 by a constitutional amendment if the amendment now pending is adopted? Does the Senator from Massachusetts perceive that the Judiciary Committee will continue its hearings and will continue to consider the possibility of a constitutional amendment? Is it reasonable to assume that this possibility will go down the drain and we will be left to rely completely on the arguably questionable course that the Senator from Massachusetts proposes?

Mr. KENNEDY. Let me respond to that question in two ways.

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

Mr. GRIFFIN. Mr. President, I yield 3 additional minutes to myself.

Mr. KENNEDY. One of the great social movements in recent years has been for the extension of the franchise. All we have to do is look at the arguments we had on the floor of the Senate on the question of the poll tax. Then many of us urged that it was reasonable for the Senator to make a finding with respect to abolishing the poll tax. The Senate rejected our suggestion, and a year later the Supreme Court held that the poll tax was unconstitutional, even in the absence of action by Congress. The same point can be made on the whole question of congressional redistricting.

I think the Supreme Court, especially in the Morgan case, has demonstrated that it will sustain any reasonable finding that we make with respect to lowering the voting age.

The argument that the Mansfield amendment will delay action by constitutional amendment is a false issue. For nearly 30 years, many Senators have tried without success to give the vote to 18-year-olds. A delay of a few more months, while the validity of a statute to accomplish the change is challenged, is insignificant. If this amendment is defeated this afternoon, then we will have to take whatever steps are reasonable to achieve our goal. I am extremely hopeful and optimistic that it will pass, and that it will be upheld in the courts, and that there will be an expeditious ruling by the Supreme Court, as the amendment asks. I do not see how the pending amendment can be considered a setback to action by the constitutional amendment route.

Mr. GRIFFIN. If I may pursue that a step further, my concern with the 18-year-olds and their right to vote is not so much what would happen if the amendment were defeated. I realize that if the amendment is defeated, the Congress can proceed by constitutional amendment. But my concern is what happens if the amendment is adopted. If it is adopted, I anticipate that the Congress will drop its efforts to proceed by constitutional amendment. In such an event, our Nation's young people may be left for several years with their right to vote at 18 severely endangered if the Senator should be wrong in his argument on the constitutionality of the statutory approach.

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

Mr. GRIFFIN. I yield myself 1 minute.

Mr. KENNEDY. I would say the evidence which has been presented before the Constitutional Rights Subcommittee is overwhelmingly in support of the view that Congress does have the power to lower the voting age by statute. A reading of the leading Supreme Court case on this question quite clearly establishes that power. The whole trend of Supreme Court decisions in recent years has been to expand the right to the franchise.

There will be no delay in other actions, whether the amendment is adopted or defeated.

I think we will have successful passage of this measure. If not, if we have to proceed by constitutional amendment, there will obviously be long delays. The State legislatures will have to meet to adopt a constitutional amendment. By statute, we will have changed the law by 1971, long before many State legislatures can act. If we have to have a constitutional amendment, it will be sometimes in the future also. So I do not think we are jeopardizing the right of the 18-year-olds to vote. I believe we are strengthening it.

Mr. GRIFFIN. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. All time expires at 12:46. The Senator from Pennsylvania has 41 minutes remaining; the Senator from Montana has 25 minutes.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, if the distinguished Senator from Massachusetts will respond to a question, I would like to ask him if——

Mr. KENNEDY. May I respond on the Senator's time? I am afraid we are running out of time.

Mr. ALLEN. Fine. If the amendment which the Senator from Massachusetts is cosponsoring with the distinguished majority leader should pass and become law, and if, in a presidential election, some 10 million boys and girls of the ages of 18, 19, and 20 participated in that election, and then the Supreme Court, the day following the general election, were to hold that this statutory method is unconstitutional, where would that leave the status of the presidential election?

Mr. KENNEDY. Mr. President, let me just say to my good friend from Alabama, there are provisions within the amendment that provide for an expeditious testing of its constitutionality by the Supreme Court of the United States. All we have to do is look back over the recent history of the Voting Rights Act itself, where the Supreme Court acted on the question of the constitutionality of its provisions within 6 or 7 months. Since the effective date of the amendment has been deferred to 1971, I believe that a judicial test of its provisions will not jeopardize future elections. I refer the distinguished Senator to page 3 of the amendment, line 16—that would be section 303(a)(2)—which sets out the procedures for an expeditious judicial determination.

Mr. ALLEN. I am familiar with that; but the Senate does not have the capacity to tell the Supreme Court of the United States when it shall act or how it shall act; so it occurs to me that we would possibly open up a great area of uncertainty that would not be in the public interest.

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

Mr. ALLEN. I do not have the floor.

Mr. COOK. Will the Senator from Massachusetts yield briefly?

Mr. KENNEDY. Yes; just let me speak briefly, and then I will yield.

It took only a few months for the constitutionality of the 1965 act to be tested. Possibly, this provision might be tested even prior to the time that it becomes applicable, which is January 1 of next year.

In conclusion, Mr. President, I ask unanimous consent to have printed at this point in the RECORD several of the documents and other materials I have mentioned on the appropriateness and constitutionality of this amendment: an address by Prof. Paul Freund in 1968, in which he clearly recognized the power of Congress to lower the voting age by statute, and in which he makes a number of perceptive observations on the maturity and responsibility of our youth; the recent testimony of Professor Cox before Senator ERVIN's subcommittee; my own recent testimony before Senator BAYH's subcommittee; and, the two Department of Justice memorandums supporting the constitutionality of action by Congress to change State literacy and residence requirements by statute.

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

THE STUDENT GENERATION AND SOCIAL REGENERATION

(Commencement address of Paul A. Freund, Cornell College, Mount Vernon, Iowa, June 9, 1968)

It is a special privilege to participate in the first Commencement presided over by my good friend Samuel Stumpf. At a time of tragedy and travial, when the leaves are falling in season and out of season, I cannot help recalling the ancient Chinese doom: "May you live in an age of transition." But transitions can also be harbingers of blessings, and it is my confident hope that President Stumpf will lead these Commencements through years of more generous humanity and more full-hearted rejoicing.

It is a hazardous undertaking to speak to a gathering of several generations on the theme of the student and society. I ought to heed the advice of a certain Episcopal bishop in Virginia who was asked by a parishioner whether a non-Episcopalian could enter the Kingdom of Heaven. "Frankly," he said, "the idea had never occurred to me; but if he is a gentleman, he will not make the attempt."

It would be easy—much too easy—to dwell on the manifestations of disorder and violence that have marked student demonstrations around the world. Surely at this moment in our history the last thing we need is further episodes of lawlessness, of disregard of means in the pursuit of ends, and the last group from which such episodes should derive is the college generation. Mob rule is mob rule, by whomever perpetrated. The rifling of personal files is a detestable act, in whatever cause it is committed, as the student culprits would be the first to proclaim if their own belongings were ransacked by the university administration.

But this condemnation of student unrest is, as I have said, much too easy. It is also too superficial. A phenomenon of this magnitude calls for an inquiry into its causes, and an appraisal of its meaning.

In searching for causes Everyman is his own psychologist—as in judging the Supreme Court Everyman is his own constitutional lawyer. There are those who are convinced that the college generation has been corrupted by having been reared on the permissive doctrines of Dr. Spock and Dr. Gesell. Passing the question whether these counsellors were as permissive as they are accused of being, it is hard to believe that in Poland and France and Latin America these good American doctors determined the infant care and feeding of the present college generation. Other interpreters find in this generation strong evidence of the alienation of adolescence, the moratorium from omnipresent reality, that has come to be stereotyped as an identity crisis. The inventor of that term, Erik Erikson, is much too wise to explain all the protestant activity of youth in those terms. Sometimes the psychological explanation is transparently simplistic. When a healthy, engaging student approaches Professor Erikson on the campus and announces "I have an identity crisis," Erikson is likely to reply "Are you complaining or boasting?" More fundamentally, as in his psychobiography of that pioneer protestant the Young Luther, Erikson insists that behavior is produced not by the psyche alone but by its interaction with the society of the time and place. The same caution applies to the facile explanation in terms of a "generation gap." Of course there has always been that gap. Why do grandparents get along so well with their grandchildren? Perhaps because both can unite in their failure to understand the generation in between.

More basically, again, the gap theory fails to consider the social context, to explain why in the 1920's the disaffected escaped from school and college into exile on the Left Bank of Paris while today in much larger numbers they are turning to the inner city and Indian reservations and the schoolroom.

Unless we try to understand the objectives of this generation, the directions they are taking in their discontent, we shall miss their message, exacerbate the failure of communication, and above all we shall fail to see the historic turning point that they are both reflecting and creating in our world. For I believe that the student movement around the world is nothing less than the herald of an intellectual and moral revolution, which can portend a new enlightenment and a wider fraternity, or if repulsed and repressed can lead to a new cynicism and even deeper cleavages. The student generation, disillusioned with absolutist slogans and utopian dogmas, has long since marked the end of ideology: wars of competing isms are as intolerable to them as wars of religion became centuries ago. Youth turned to pragmatism, to the setting of specific manageable tasks and getting them done. But that has proved altogether too uninspiring, and youth has been restless for a new vision, a new set of ideals to supplant the discarded ideologies. If the new vision is not yet wholly clear, its essence is plain enough if we look at the objects of student revolt.

The student generation is in revolt, first of all, against hypocrisies, and in particular against the hypocrisies of three three-letter words: sex, war, and law. Taboos in sex impress this generation as being the product, in many cases, of prudery or class distinctions rather than mutual respect and love. "The Society for the Suppression of Vice," said Sidney Smith, the nineteenth-century English cleric and wit, "ought to be called 'The Society for the Suppression of the Vices of Those Who Earn Less Than a Thousand Pounds a Year';" and many young Americans, making the necessary conversion of currencies, would agree.

In war, youth sees the conscription of the services and even the lives of their own generation in a cause they do not understand, but not the conscription of property or even of excess profits to wage that war or to relieve the wretchedness about them that they are told cannot be relieved while the war is on.

In law, they observe the thunderous condemnation of their own number who disrupted a week of classes and caused a shutdown at Columbia University but they may also remember that the public schools in Prince Edward County, Virginia, were closed not for weeks or months but for years by a school board determined to resist the rule of desegregation, a shutdown that drew far less general rebuke because it was the work of respectable ladies and gentlemen defying the law while holding public office.

A second target of the revolt, in addition to hypocrisies, is irrelevance—irrelevance in education. John Maynard Keynes defined higher education as the inculcation of the incomprehensible into the ignorant by the incompetent. Today's generation would amend the definition in two respects: what is inculcated is not incomprehensible, it is only irrelevant, and it is not inculcated into the ignorant. Otherwise the definition might stand. Our students find too much of our educational content to be what Professor Whitehead called "inert knowledge," information having no apparent relation to the problems of living in our world or understanding it.

A third object of revolt is authoritarianism, governance superimposed from without.

What an English lord said about the Reform Bill of 1932 seems to the college generation to describe the attitude of their seniors toward the community of the university: "I don't know what the people have to do with the laws of a country except obey them." The age of majority was fixed at twenty-one, historians tell us, because at that age a young man was deemed capable of bearing the heavy armor of a knight. The moral needs no elaboration.

I have tried to put the drives of the student protesters as sympathetically and strongly as I can; in the process I have doubtless lost not only the parent generation in the audience but the grand parents as well. I do believe that if we fail to listen to the message of the student generation, strident though it be, we do so at our peril—I mean our spiritual peril.

But, as the Romans pointed out, the corruption of the best is the worst, and there is peril too in the pathology of youth's ideals. The revolt against hypocrisies can breed a form of assured self-righteousness that easily turns into cynicism. The danger is that having discovered that so-called neutral principles may not always be neutral in fact, that justice itself, by rewarding so-called merit and achievement may be perpetuating and reinforcing a system of inherited inequities—that having discovered these things the student generation will repudiate all principles in pursuit of a righteous end, forgetting that the end is tainted by the means, and that to jettison principles of law because your aims are pure, or holy, or patriotic, denudes you of defenses against those who are just as certain of their rectitude. Certitude and rectitude are in fact only acronyms, not synonyms. In *A Man For All Seasons* Sir Thomas More is arguing about the man's law and God's with his friend William Roper, who is described as a young man in his early thirties, with "an all-consuming rectitude which is his cross, his solace, and his hobby." More asks: "What would you do, cut a great road through the law to get after the Devil?" Roper replies: "I'd cut down every law in England to do that." More is roused to excitement: "Oh? And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil the benefit of law, for my own safety's sake."

How are we to mediate between the revolt against hypocrisy and its pathology of self-righteousness? I suggest that we start by re-examining candidly the concept of justice, acknowledging that it can indeed serve merely as a reinforcement of the status quo, but recognizing also that it can powerfully promote social change by holding up the criteria of need and intrinsic human worth, so that in the end justice is no stranger to compassion and love, and in the anatomy of social regeneration law is the necessary backbone.

The revolt against irrelevance has its pathology too, in the form of egocentrism. The notion that nothing is really relevant unless it bears directly on today's decisions is a regressive concept, the relevance of the nursery. We understand ourselves and our problems by in some sense transcending them. Without the perspective of time and distance we are prisoners of the egocentric predicament, confusing the immediate and specific with the genuinely practical, like the plight of the stuttering boy who, having been sent away for a cure, reported sadly "I can say Peter Piper picked a peck of pickled peppers; b-b-but it r-r-rarely oc-c-curs in c-c-conversation." The art of relevant teaching is not to contract the range of inquiry but to expand the possibilities of relevance, to see the general in the particulars, to study the flower in the crannied wall in order, as Tennyson put it, to seek to know what God and man is.

The revolt against authoritarianism, finally, has its own pathology, which is anarchy or nihilism. The road to reconciliation here is to devise new forms of participation and shared responsibility. "Responsibility," said Justice Brandeis, the wisest man I have known, "is the great developer of men." When the struggle for woman suffrage was raging, Brandeis argued for the reform in his own distinctive terms: not that it is woman's right, but that we cannot afford to shield her from sharing in the responsibilities of citizenship. When the radical labor tactics of the I.W.W. brought pressures for repression, Brandeis' advice was to place representatives of the I.W.W. in positions of common responsibilities. If I make a similar suggestion in the case of students, I hope it will not be construed as a patronizing counsel, any more than Brandeis was patronizing toward women as voters or radical labor leaders as collaborators in the industrial community.

Not only the younger generation, but all of us, will be the 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.

In the academic community the issue of student participation in government is a complex one. However inappropriate it would be to give membership to students on the governing boards of colleges, given their transitory status among other disabilities, it does seem feasible and desirable to include on alumni governing bodies some representatives of the recent graduating classes; and on the campus itself new forms of participation through faculty-student committees are proving to be a constructive and rewarding institution.

Between World Wars One and Two, it has been said, the Allied powers showed that they would never listen to reason but would always yield to force. Let us not repeat domestically either part of this double-blind procedure.

We are met at a time of deep national mourning and self-searching. We have become so inured to violence on a massive scale that only when it singles out one of our best and most courageous do we stop to look it squarely in the face and ask whether generations have suffered and died to produce a civilization of inhumanity. This, I believe is the question that the college generation is, in its own way, holding up to us. Let us listen to their question with humility and to their answers with hope.

On Memorial Day 1884 Justice Oliver Wendell Holmes spoke these words, which I leave with you:

"Every year—in the full tide of spring, at the height of the symphony of flowers and love and life—there comes a pause, and through the silence we hear the lonely pipe of death. Year after year lovers wandering under the apple boughs and through the clover and deep grass are surprised with sudden tears as they see black veiled figures stealing through the morning to a soldier's grave. Year after year the comrades of the dead follow, with public honor, procession and commemorative flags, and funeral march—honor and grief from us who stand almost alone, and have seen the best and noblest of our generation pass away.

"But grief is not the end of all. I seem to hear the funeral march become a paean. I see beyond the forest the moving banners of a hidden column. Our dead brothers still live for us, and bid us think of life, not death—of life to which in their youth they lent the passion and glory of the spring. As I listen, the great chorus of life and joy begins again, and amid the awful orchestra of seen and unseen powers and destinies of good and evil our trumpets sound once more a note of daring, hope, and will."

STATEMENT OF ARCHIBALD COX, WILLISON PROFESSOR OF LAW, HARVARD LAW SCHOOL, BEFORE THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS, FEBRUARY 24, 1970

As a teacher and student of constitutional law, I have been asked to testify upon the constitutionality of two provisions of proposed voting rights legislation: the elimination of residence requirements as a condition of voting in Presidential elections and the nationwide abolition of literacy tests. I would like also to urge upon the Committee that Congress has power, under the very same constitutional theory to reduce the age for voting from twenty-one to eighteen years of age.

My chief qualification is study of constitutional law. As Solicitor General of the United States I briefed and argued a number of voting rights cases. I participated in drafting the Voting Rights Act of 1965 and defended its constitutionality as special counsel for Massachusetts in *South Carolina* v. *Katzenbach*, 383 U.S. 301.

My testimony will be confined to the constitutional questions. I would like to state, however, that I favor (1) the extension of the Voting Rights Act of 1965 without change; (2) the elimination of durational residency requirements in Presidential elections; (3) the abolition of all literacy tests; and (4) the reduction of the voting age to eighteen years of age, all by act of Congress without awaiting a constitutional amendment.

1. *Congress has constitutional power under Section 5 of the Fourteenth Amendment to abolish State durational residence requirements for voting in Presidential elections.*

Article II, Section 1 of the Constitution allows a State to determine its own method of choosing members of the Electoral College but that authority, like all other State powers, must be exercised in accordance with the Fourteenth Amendment. *Carrington* v. *Rash*, 380 U.S. 89.

Section 1 of the Fourteenth Amendment provides that no State—shall deny to any person within its jurisdiction the equal protection of the laws.

The Equal Protection Clause is violated by any State action that works an arbitrary and unreasonable discrimination or an invidious classification. It applies to State restrictions affecting the franchise and electoral process, including voting qualifications. *Gray* v. *Sanders*, 372 U.S. 368; *Reynolds* v. *Sims*, 377 U.S. 533; *Harper* v. *Virginia Board of Elections*, 383 U.S. 1244; *Kramer* v. *Union Free School District*, 395 U.S. 621. For example, the Supreme Court has invalidated State laws denying residents in military services the right to vote, *Carrington* v. *Rash*, *supra*, or excluding from school district elections persons who have neither an interest in real property nor children in the schools. *Kramer* v. *Union Free School District*, *supra*.

It is uncertain whether a State law establishing a 6 months or longer residency requirement for voting in a Presidential election is subject to judicial condemnation as a violation of the Equal Protection Clause even in the absence of congressional action. *Drueding* v. *Devlin*, 380 U.S. 125, affirming 2347. Supp. 721 (D. Md. 1964), upheld a one year residency requirement, but last November 24 Justices Brennan and Marshall stated

that that decision was no longer good law. *Hall* v. *Beals*, 38 U.S. Law Week 4006, 4008. Since the majority dismissed the Halls' suit as moot, no other justices spoke to the issue.

The outcome of such an equal protection challenge depends upon balancing the interests of the putative voters against the interests the residency requirement is said to serve. The interests of the voters are twofold: participation in the most important aspect of democratic self-government and freedom to move to a new home. Both interests are so fundamental that any classification affecting them or discriminating against their exercise must be scrutinized meticulously. *Kramer* v. *Union Free School District, supra; Shapiro* v. *Thompson*, 394 U.S. 618, 634. In support of a six months' or one year's residency requirement, some States have invoked a concern for preventing fraudulent claims of residence for administrative convenience, and for familiarity with local interests affected by the outcome of even a national election. In striking the balance in the absence of Congressional action, the federal judiciary—ultimately the Supreme Court—must either find the pertinent facts and evaluate their significance for itself or else defer, at least to some extent, to the findings and evaluation of the legislature.

But the situation is different if Congress has legislated on the subject. The critical difference is that Congress has power under Section 5 of the Fourteenth Amendment to make the investigation, to find the facts, to make its own evaluation of the opposing interests, and to conclude, looking to the actual state of affairs in the country, that the citizen's interest in participation in the election of his President, as well as in freedom of movement, so greatly outweighs any State interest in the residency requirements as to make the requirement an instance of invidious or arbitrary and capricious classification in violation of the Equal Protection Clause. In this sense, Congress has constitutional power to determine what the Equal Protection Clause requires. It is an appropriate legislative function because it involves the finding and evaluation of facts. When Congress acts, the only question for the judiciary is whether it can perceive a basis upon which Congress *might* view the removal of the classification as necessary to secure equal protection of the laws.

The constitutional principle I am seeking to emphasize was established in *Katzenbach* v. *Morgan*, 384 U.S. 641. A New York statute made literacy in English a prerequisite to voting. The discrimination against Spanish-speaking citizens was claimed to be justified because of the State interest in assuring informed and intelligent use of the franchise as well as in encouraging immigrants to learn English. In the absence of a federal statute the Court might well have sustained the New York law. *Cardona* v. *Power*, 384 U.S. 672. Section 4(a) of the Voting Rights Act of 1965, however, provided that no person should be denied the franchise because of inability to read or write English, who had successfully completed the Sixth Grade in a Puerto Rican school where instruction was in Spanish. The Court sustained the congressional abolition of the English language literacy test, saying—

"Congress might well have questioned, in light of the many exemptions provided, and some evidence suggesting that prejudice played a prominent role in the enactment of the requirement, 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. 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. 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 State of *South Carolina* v. *Katzenbach, supra*, to which it brought a specially informed legislative competence, 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 application 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."

The substance of the holding is that Congress may decide, within broad limits, how the general principle of equal protection applies to actual conditions. In other words, as Justice Harlan pointed out in dissent, Congress can invalidate State legislation upon the ground that it denies equal protection where the Court would uphold, or even has upheld, the constitutionality of the same State statute. 384 U.S. at 667–668.

Under this decision, it is for Congress to determine whether a right so precious and fundamental as casting a vote for President can be denied to new residents without invidious discrimination merely to serve supposed administrative convenience in registering voters and preventing fraudulent votes. Similarly, it is for Congress to weigh the significance of a longer opportunity to learn (or of continued attachment to) peculiar local interests. Personally, in my opinion, the supposed justifications are trivial but that is not for me to decide. From the standpoint of constitutionality it would be enough that Congress had a rational basis for the conclusion that requiring more than bona fide residence is an invidious classification.

Such a rational basis plainly exists. Accordingly, I have not the least doubt that Section 2(c) of H.R. 4249 is constitutional.

2. *Congress has constitutional power under Section 5 of the Fourteenth Amendment to abolish State literacy requirements for voting in State and federal elections.*

The same constitutional principles that sustain the power of Congress to abolish State residency requirements for voting in Presidential elections also sustain its power to abolish all literacy tests in all States for all elections. State voting laws are subject to the Equal Protection Clause of the Fourteenth Amendment. Congress has power, within broad limits to determine the requirements of equal protection in any given situation, if the judgment depends in any way upon appraisal of factual conditions.

If Congress finds that denying a vote to citizens who cannot read and write is so little justified as to be invidious, and therefore forbids the enforcement of contrary State laws, the judicial branch will uphold that statute under *Katzenbach* v. *Morgan* unless there is no rational support for the congressional conclusion.

In *Lassiter* v. *Northhampton Election Board*, 360 U.S. 45, the Court upheld a North Carolina literacy test where there was no claim that it had been used as an engine of racial discrimination. The issue turned upon whether denying the franchise to those classified as illiterates was justified by the contributions of the test towards ensuring an intelligent exercise of the right of suffrage. North Carolina found the justification sufficient. The Supreme Court, in the absence of federal legislation, concluded that North Carolina had made an allowable choice.

The *Lassiter* case does not stand in the way of congressional abolition of all literacy tests. Just as Congress was held in *Katzenbach* v. *Morgan* to have power upon its own review of the facts to overturn an English-speaking literacy requirement that might have withstood constitutional attack in the absence of Section 4(e) of the Voting Rights Act, so here Congress has power upon its own review of the facts to overturn the literacy test that withstood constitutional attack in *Lassiter* v. *Northhampton Board of Elections*. The critical difference in each instance is that the judicial branch will respect the constitutional function of Congress under Section 5 of the Fourteenth Amendment.

Under *Katzenbach* v. *Morgan*, therefore, it is for Congress to appraise whether a literacy test does in fact produce a more intelligent exercise of the franchise. The increasing reliance upon other media of communications, the opportunities to see and hear the candidates, and the experience of twenty-four States which have no literacy tests strongly suggest that the contribution is trivial. It is also for Congress to weigh the seriousness of exclusion from the processes of self-government and the extent to which the exclusion of those denied an education is really based upon a prejudice against the poor—a classification which is plainly unconstitutional in relation to elections. *Harper* v. *Virginia Board of Elections*, 383 U.S. 663; *Kramer* v. *Union Free School District*, 395 U.S. 621. If the Congress, upon review of such facts, finds that literacy tests have so little justification under modern conditions as to work discrimination that is arbitrary and capricious in relation to the franchise, then Congress has ample power to require their elimination, under Section 5 of the Fourteenth Amendment.

I should emphasize that this power nowise depends upon a finding that literacy tests everywhere result in racial discrimination. The theory here is altogether different from the constitutional theory supporting Section 4 of the Voting Rights Act of 1965. Section 4 of the Voting Rights Act of 1965 was framed under Section 2 of the Fifteenth Amendment upon the theory that literacy tests and like devices had so widely been—and were so likely to be—used as engines of racial discrimination in certain States and counties as to warrant prohibiting their use unless and until the contrary was proved in a judicial proceeding. *South Carolina* v. *Katzenbach*, 383 U.S. 301. See also, *United States* v. *Mississippi* 380 U.S. 128; *Louisville* v. *United States*, 380 US. 148. The total abolition of literacy tests in all States should be based, as I view the matter, not upon any racial abuse but upon the finding that to separate out those who were denied an education in order to exclude them from voting works an invidious classification in violation of the Equal Protection Clause.

Before leaving the point I should add that I do not understand the basis for abolishing requirements of good moral character in places where such tests have not been engines of racial discrimination.

3. *Congress has the constitutional power under Section 5 of the Fourteenth Amendment to reduce the minimum age for voting from twenty-one to eighteen years.*

In my opinion, the constitutional underpinning for abolishing residency requirements and literacy tests is equally applicable to legislation reducing the voting age to eighteen. States in which the voting age is twenty-one put those who are 18, 19 and 20 in a separate class from those who have reached their twenty-first birthday. Under the Fourteenth Amendment the question is whether the classification is reasonable or arbitrary and capricious. Undoubtedly, the Supreme Court would sustain such a State rule in the absence of federal legislation. Under Section 5 of the Fourteenth Amendment, however, the Congress has the power to make its own determination.

The supposed justification for denying the franchise to those between eighteen and

twenty-one is that they lack the maturity and appreciation of their stake in the community necessary for an intelligent and responsible vote. The Congress would wish to consider whether there is a compelling basis for this belief, bearing in mind the spread and improvement of education, the age at which young people take jobs, pay taxes, marry and have children, the tremendous interest of young people in government and public affairs, and their increased knowledge and sophistication as a result of new forms of mass communications. On this point, surely it is not irrevelant that the educational system draws a major line roughly at eighteen years of age, upon graduation from high school. The Congress would also wish to consider that "[a]ny unjustified discrimination in determining who may participate in political affairs or in the selection of public officials undermines the legitimacy of representative government" (*Kramer* v. *Union Free School District, supra*). The exclusion is uniquely bitter when one may be summoned to fight and perhaps to die in defense of a policy he had not even a citizen's indirect voice in making.

If Congress upon reviewing these and related facts should find the classification invidious under contemporary conditions, the Court, if it adhered to *Katzenbach* v. *Morgan*, should sustain the legislation.

These views are not newly developed for this occasion. I expressed them in an article published in November 1966 shortly after *Katzenbach* v. *Morgan* was decided (*Constitutional Adjudication and the Promotion of Human Rights*, 80 Harv. L. Rev. 91, 107):

"Much of President Johnson's desire to expand the electorate by outlawing all literacy tests, reducing the age for voting, and simplifying residence requirements can probably be realized by legislation without a 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 a finding that all literacy requirements are barriers to equality should be equally conclusive. Congress would seem to have power to make a similar finding about state laws denying the franchise to eighteen, nineteen, and twenty years olds even though they work, pay taxes, raise families, and are subject to military service. The constitutionality of federal prescription of residence requirements would seem more doubtful because the differentiations made by state laws are more difficult to characterize as invidious."

The doubt expressed in the final sentence is plainly unwarranted when the federal prescription is confined, as in the present bills, to Presidential elections.

Before closing, I must add two notes of caution.

First, I suspect that some constitutional scholars would not share my view that Congress can reduce the voting age without a constitutional amendment. Possibly, my reasoning runs the logic of *Katzenbach* v. *Morgan* into the ground. Possibly, the case will be explained away upon the ground that the discrimination was invidious because it ran against Puerto Ricans. But that is not what the Court held and if a congressional finding that residency and literacy tests work a denial of equal protection would be binding upon the courts, then logically a finding that the present discrimination against 18–21 year olds is invidious should be equally conclusive.

Of course, constitutional decisions do not rest upon logic alone. Our mobility has outmoded residency requirements at least in Presidential elections, as radio and television have outmoded literacy tests. The traditional attitude towards the voting age seems to be more deeply ingrained, and it is not impossible that the Court would adhere to that tradition until changed by constitutional amendment.

Second, these doubts suggest that an act of Congress reducing the voting age might be the subject of serious constitutional litigation. Possibly, enough votes would be involved to cast doubt upon the outcome of a Presidential or major State election. It might be calamitous to have the doubt remain for the full time required for a Supreme Court decision.

I have not had time, since the problem occurred to me, to review the legal precedents bearing upon the difficulty. The Committee will undoubtedly wish to study them. I suggest, however, that any danger can probably be avoided by including in any legislation reducing the voting age a section declaring that, pending a final ruling by the Supreme Court, the decision of the highest election officials or federal court with jurisdiction in the premises, rendered prior to an election, shall be conclusive with respect to the validity of votes cast in that election.

Of course, this solution would leave open the possibility of different results in different States pending final Supreme Court resolution. That diversity could be avoided by providing that no challenge to a vote in any Presidential election upon grounds that the statute is unconstitutional shall be entertained unless an action against the United States for a declaratory judgment to determine the question of constitutionality shall have been filed in the United States District Court for the District of Columbia within one year after the effective date of the Act. The action should be triable before a three judge court. The decision of that court should be binding unless reversed by the Supreme Court more than three months in advance of the election.

Although candor obliges me to add these words of caution, I repeat that in my opinion congressional reduction of the voting age would be constitutional.

Testimony of Senator Kennedy on Lowering the Voting Age to 18 Before Senate Subcommittee on Constitutional Amendments

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 18% 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 politics and the old politics, but nowhere is the gap more clear than the gap we see as parents between our own education and education of our children.

Only last week, we read that the winner of the annual Westinghouse high school science talent search was the son of a Pennsylvania pipefitter. His parents never went to 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 must 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%—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 vote 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% 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 is 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 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 Constitution, 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 has 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 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 . . . *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.*" (Emphasis 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 decision 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 flight, 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 open-hearted 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." (Emphasis 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 . . . 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 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 requirement was unconstitutional based their views 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

DEPARTMENT OF JUSTICE MEMORANDUM NO. 1—CONSTITUTIONAL BASIS FOR PROPOSED VOTING RIGHTS ACT AMENDMENTS OF 1969

In general, the States are free to establish qualifications for voting in both State and Federal elections. *Pope* v. *Williams*, 193 U.S. 621 (1904). This principle is qualified, however, by the Fifteenth Amendment, which provides that the right to vote shall not be abridged on account of race, color, or previous condition of servitude, *Guinn* v. *United States*, 238 U.S. 347 (1915), and the Fourteenth Amendment, which provides that the States may not deny to persons within their jurisdiction the equal protection of the laws, *Carrington* v. *Rash*, 380 U.S. 89 (1965); *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966).[1]

[1] The principle is also qualified by the Nineteenth Amendment (women's suffrage) and the Twenty-fourth Amendment (no poll tax in Federal elections), but these amendments are not relevant to our discussions.

Both the Fourteenth and the Fifteenth Amendments grant Congress the power to enforce their provisions by "appropriate legislation." These grants of legislative power, *i.e.*, § 5 of the Fourteenth Amendment and § 2 of the Fifteenth Amendment, provide the constitutional bases for the proposed Voting Rights Act Amendments of 1969.

In *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), the Supreme Court upheld, against constitutional attack, certain provisions of the Voting Rights Act of 1965, in-

cluding the section suspending tests and devices in covered jurisdictions [§ 4(a)], the procedure for review of new voting laws [§ 5], and the provision for administrative designation of federal examiners [§ 6]. To the extent that the proposed amendments continue in effect provisions like those considered in *South Carolina* v. *Katzenbach*, that decision supports the constitutionality of the proposed legislation.

The Supreme Court noted in *South Carolina* v. *Katzenbach*, 383 U.S. at 329, that, in most of the states covered by the 1965 Act, literacy tests had been instituted with the purpose of disfranchising Negroes and had been administered discriminately. The proposed amendments would suspend literacy tests in all states, including states where evidence of intentional abuse in administration of tests is lacking. However, the validity of this proposal is shown by recent decisions of the Supreme Court.

First, in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), the Court held that the power of Congress under § 5 of the Fourteenth Amendment to enact legislation prohibiting enforcement of a state law is not limited to situations where the state law is unconstitutional.[2] The test as to the power of Congress in such a case is whether the federal statute is "appropriate legislation," that is, legislation "plainly adapted to [the end of implementing the Fourteenth Amendment] . . ." and consistent with the Constitution. 384 U.S. 651.

In *South Carolina* v. *Katzenbach, supra*, 383 U.S. at 326–327, the Court indicated that the same test is applicable to the power of Congress to enforce the Fifteenth Amendment. The proposed nationwide suspension of literacy tests is "appropriate legislation" to implement the guarantees of the Fourteenth and Fifteenth Amendments.

The reasoning of the Supreme Court in *Gaston County* v. *United States*, 37 L.W. 4478 (1969), bears directly upon use of literacy tests by any state or county which formerly restricted Negroes to inferior, de jure segregated schools.[3] And Congress can properly extend the Court's reasoning to states which did not themselves have laws requiring racially segregated schools, for large numbers of Negroes who were educated in the states which had such laws have moved to other parts of the country.

If we accept the conclusion of the Court that it is a denial of the right to vote on account of race to impose a literacy test on Negroes who have been denied an adequate education because of their race, then it should not make any difference whether the government which denies the right to vote is the same government as that which denied the education.[4] The effect upon the individual is the same in either case, and the abolition of literacy tests is intended to remedy a present evil and not to penalize a jurisdiction because of its past sins. At least, Congress could so reason.

But it might be argued that the bill would not be limited to literacy tests which adversely affect Negroes raised in the South but would apply to jurisdictions which do not have significant Negro populations and without any showing that their tests adversely affect Negro voting. However, Congress has a wide choice of means for accomplishing permitted ends, see *Gaston County* v. *United States, supra* at 4479–80, and in our highly mobile society Congress would be justified in assuming that the same problem exists or will exist to a measurable extent in all jurisdictions. Certainly, in view of the Broad scope which the court has given to Congress' power to implement the Thirteenth Amendment by removing the "badges and incidents of slavery," *cf. Jones* v. *Mayer Co.*, 392 U.S. 409, 441–44 (1968), the assertion of authority under the Fifteenth Amendment to ban literacy tests generally seems reasonable.

In addition to protecting Fifteenth Amendment rights, the proposed nationwide suspension of literacy tests would serve to implement the Fourteenth Amendment.

In *Katzenbach* v. *Morgan, supra*, 384 U.S. at 652, the Court reasoned that section 4(e) of the Voting Rights Act of 1965[5] implemented the Equal Protection Clause not only by requiring equality in voting rights but also by extending to the Puerto Rican community the political power necessary to prevent denials of equal protection in other areas. Thus, the Court's reasoning in *Katzenbach* v. *Morgan* has broad implications with respect to Congressional power to prevent limitations of the franchise. The Court recognizes that limitations on the right to vote, however reasonable they may be when viewed in isolation, tend to breed other inequities and that equalizing the franchise is a permissible means of preventing inequities. Similarly, in other cases the Court has pointed to a special status for the right to vote. "[S]ince the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." *Reynolds* v. *Sims*, 377 U.S. 533, 562 (1964); *Kramer* v. *Union Free School District*, 37 L.W. 4530, 4531 (1969).

If Congress determines, as Congress is justified in doing, that literacy tests deny to illiterates fundamental political rights and also work a potential denial of equal protection to those minority groups whose participation in the electoral process is adversely affected, Congress may, in our view, forbid such tests by virtue of its authority to enforce the Fourteenth Amendment.

The proposal to eliminate residency requirements for voting in Presidential elections would nullify laws in about half the States requiring substantial periods of residence as a precondition to voting in Presidential elections. This feature of the proposal is supportable as an exercise of Congress' authority to enforce the Fourteenth Amendment.

Although the Supreme Court has never discussed the precise question in an opinion, it may be conceded for purposes of this discussion that the Fourteenth Amendment does not, standing alone, prohibit residency requirements in Presidential elections. In contrast to Article I, Section 2, and the Seventeenth Amendment, dealing with qualifications of electors of members of the House of Representatives and the Senate, respectively, the Constitution is silent with respect to the power to prescribe qualifications of voters in Presidential elections. Article II, Section 1 merely provides that "Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors" for the purpose of choosing the President and Vice President. The existence of the power to prescribe qualifications for voting in Presidential elections, however, has apparently long been assumed. See *McPherson* v. *Blacker*, 146 U.S. 1, 35 (1892). In *Pope* v. *Williams*, 193 U.S. 621 (1904), the Supreme Court sustained a one-year residency requirements as a reasonable classification with respect to voting generally, while expressly reserving the question whether the requirement could validly be applied to Presidential elections. In 1965 the Court summarily affirmed a lower court decision unholding a one-year residency requirement with respect to Presidential elections. *Drueding* v. *Devlin*, 234 F. Supp. 721 (D. Md. 1964), *aff'd per curiam*, 380 U.S. 125 (1965) However, during the last term, the Supreme Court noted probable jurisdiction in a case presenting essentially the same issue *Hall* v. *Beals, O.T.* 1968, No. 950.

Even assuming that the Fourteenth Amendment does not itself bar lengthy State residence requirements in Presidential elections, it seems clear that Congress may abolish such requirements in the exercise of its power to enforce the Fourteenth Amendment. The enforcement section of the Amendment, as a "positive grant of legislative power" (*Morgan* v. *Katzenbach, supra*, at 651), authorizes Congress to expand the substantive reach of the Amendment. Judicial review of Congressional action is limited. The statute will be sustained if the court can "perceive a basis upon which Congress might predicate a judgment" that a State enactment "constitutes an invidious discrimination in violation of the Equal Protection Clause." *Id.* at 656.

Residency requirements a prerequisite to voting are commonly justified as necessary to assure familiarity with issues and candidates, and to prevent fraud. However valid these considerations may be in State and local elections, Congerss might reasonably conclude that no substantial State interest is advanced by residency requirements in Presidential elections, or at least that narrower means exist to promote such interests. *Cf. Carrington* v. *Rash*, 380 U.S. 89 (1965).

The primary justification for residency requirements, familiarity with candidates and issues, is inapplicable to Presidential elections because the issues and personalities involved are national. The new resident is as familiar with them as the older resident.

A second justification commonly advanced for residency requirements, prevention of frauds such as double voting, may be a legitimate State concern with respect to Presidential elections, but a lengthy residence requirement is an unnecessarily broad and inefficient means to this end. Criminal sanctions for double voting or requiring surrender of registration certificates from former States of residence may be viewed as equally effective in preventing double voting.

It might also be suggested that residence requirements promote the administration of

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[2] *Katzenbach* v. *Morgan, supra*, involved the constitutionality of section 4(e) of the Voting Rights Act of 1965, which provides that persons who have completed the sixth grade in an American-flag school in which the predominant classroom language was other than English shall not be denied the right to vote because of inability to pass a literacy test in English. The primary purpose and effect of this provision was to enfranchise those residents of New York who were schooled in Puerto Rico and literate in Spanish but unable to pass New York's English literacy test.

[3] In *Gaston County* v. *United States*, 37 L.W. 4478 (1969), a suit under section 4(a) of the Voting Rights Act of 1965, the Court refused to permit the reinstitution of a literacy test on the ground that inasmuch as Negro educational facilities in the county had been inferior in quality to facilities for whites during the period in which the population presently of voting age had attended school, such literacy tests would have the effect of denying the right to vote on account of race or color.

[4] In the *Gaston County* case, the Supreme Court stated that it assumed that most of the adult residents of the county resided here as children, but the Court also stated that: "It would seem a matter of no legal significance that they may have been educated in other counties or States also maintaining segregated and unequal school systems." 37 L.W. at 4480, note 8.

In a prior footnote, the Court pointed out that it had "no occasion to decide whether the Act would permit reinstatement of a literacy test in the face of racially disparate educational or literacy achievements for which a government bore no responsibility." 37 L.W.

[5] See footnote 2, *supra*.

voter registration procedures, since registration must be closed at some time before elections to allow time for compilation and distribution of lists of voters to the polling places. However, registration deadlines are not, generally speaking, keyed to residence requirements. Most States having lengthy residency requirements allow registration until shortly before the elections. In any case, the legislative proposal takes this administrative problem into account. To be entitled to vote in the Presidential election, the new resident must have resided in the State for at least two months as of the date of the election. If he moved more recently, he may have to vote from his former residence. In either event the election officials have an ample opportunity to devise procedures for establishing his identity and qualifications.

The States would be required to prepare separate ballots for persons only eligible to vote for Presidential electors. However, there is precedent for such separate ballot procedures under the Twenty-fourth Amendment, which outlawed the poll tax as a precondition to voting in federal elections. In any event, the convenience of printing a single ballot is, at best, a "remote administrative benefit" which cannot justify deprivation of the fundamental right to vote. *Carrington* v. *Rash, supra,* at 96.

Perhaps the strongest basis for a Congressional judgment that residence requirements in Presidential elections are invidiously discriminatory is the strength of the recent movement to repeal such requirements. In the past decade, repeal has been advocated by the Council of State Governments, the National Conference of Commissioners on Uniform State Laws, and other knowledgeable organizations. Largely in response to these initiatives, approximately half the States no longer bar new residents from voting in Presidential elections. See S. Rep. No. 1017, 88th Cong., 1st Sess. (1964); 9C *Uniform Laws Annotated* 202 (Supp. 1968).

In light of the foregoing consideration, the proposal to invalidate State residency requirements in Presidential elections is well within the power of Congress to enforce the equal protection of the laws.

DEPARTMENT OF JUSTICE MEMORANDUM NO. 2—THE CONSTITUTIONAL BASIS FOR RESIDENCY PROVISIONS OF THE "VOTING RIGHTS ACT AMENDMENTS OF 1970"

1. Subsection 2(c) of the proposed "Voting Rights Act Amendments of 1970"[1] would effectively eliminate state residency requirements as a basis for denying the right to vote for President and Vice President.[2] Under the proposed legislation, no person otherwise qualified who has resided in a state or political subdivision since September 1 of the election year could be denied, because of failure to comply with a residency or registration requirement, the right to vote in the presidential election in that state or political subdivision. Any person otherwise qualified who changes his residence after September 1 of the election year (and does not meet the residence requirement of the new state or political subdivision) would be permitted to vote for President and Vice President in the state or political subdivision from which he moved.

Subsection 2(c) of the bill also provides that no person otherwise qualified to vote by absentee ballot in any state or political subdivision in a presidential election may be denied the right to vote in such election because of any requirement of registration that does not include a provision for absentee registration.

2. At the time of the November 1968 election, 42 states and the District of Columbia imposed some residence requirement with respect to presidential elections.[3] The minimum length of residence in the state required varied from 30 days to 2 years. According to a recent Bureau of the Census report, for more than 3 million of the persons who were not registered to vote as of the November 1968 election, the primary reason for not being registered was inability to satisfy residence requirements.[4]

Eight states had no residence requirement with regard to voting for President and Vice President. In 21 of the states which had a residence requirement for presidential elections, the time period was 60 days or shorter. Therefore, in those states and in the 8 which had no residence requirement as to presidential elections, any otherwise qualified person who moved to the state (or within the state) by September 1 of the election year would under the terms of existing state law be eligible to vote for President and Vice President. Thus, the proposed federal statute would not affect application of the residence requirement in such states.[5]

In the other 21 states and in the District of Columbia, the period of residence within the state required for presidential elections exceeded 60 days. Under the proposed legislation, such requirements could not be enforced. For example, a state law requiring one year's residence in the state with respect to all elections could not be used to prohibit an otherwise qualified person, who began residence in the state on or before September 1 of the election year, from voting for President and Vice President in that state.

The same would apply to requirements of residence within the county and/or precinct. Almost all of the states which had lengthy state residence requirements as to presidential elections also imposed county or precinct requirements (or both) with respect to such elections. Fourteen of those states had a county or precinct residence requirement which exceeded 60 days. Thus, where 6 months' residence in the county was required, a person who moved from one county to another within the state in June 1968 would have been barred from voting for President and Vice President in November 1968.[6] As noted above the proposed statute would bar application of any residence requirement—state, county or precinct—with respect to persons who moved on or before September 1 of the election year.

3. The constitutional basis for the proposed residency provisions is section 5 of the Fourteenth Amendment.[7] It is important to note, at the outset, that the power of Congress under section 5 to enact legislation prohibiting enforcement of a state law is not limited to situations where the state law is unconstitutional. *Katzenbach* v. *Morgan*, 384 U.S. 641, 651 (1966).[8]

The Constitution itself is silent with respect to the power of the states to prescribe qualifications of voters in presidential elections. In contrast to the provisions regarding voter qualifications for elections for members of Congress,[9] the provision regarding selection of the President (Article II, section 1) merely states that: "Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors [that is, members of the electoral college] . . ." for the purpose of choosing the President and Vice President.[10] It has long been assumed, though, that the states have authority to prescribe qualifications for voters in presidential elections. See *McPherson* v. *Blacker*, 146 U.S. 1, 35 (1892).[11]

In *Pope* v. *Williams*, 193 U.S. 621, 633 (1904), the Supreme Court sustained a one-year residency requirement as a reasonable classification with respect to voting generally, but the Court expressly reserved the question whether the requirement could validly be applied to presidential elections. In 1965, the Supreme Court summarily affirmed a lower court decision upholding a one-year residency requirement with respect to presidential elections. *Drueding* v. *Devlin*, 234 F. Supp. 721 (D. Md. 1964), *aff'd per curiam*, 380 U.S. 125 (1965)

More recently, the Supreme Court decided *Hall* v. *Beals*, a case involving an attack on Colorado's six-month residency requirement with regard to voting in the presidential election.[12] 396 U.S. 45 (1969 (per curiam). The majority opinion did not discuss the merits of the constitutional challenge, but

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[1] A bill entitled the "Voting Rights Act Amendments of 1969" was introduced during the first session of the 91st Congress. See H.R. 12695 (introduced on July 9, 1969); S. 2507 (introduced on June 30, 1969).

On December 11, 1969, the House of Representatives adopted (as a substitute amendment to H.R. 4249) the provision of H.R. 12695. Thus, as passed by the House of Representatives, H.R. 4249 is identical in substance to H.R. 12695 as introduced.

[2] The proposed legislation would have no effect upon residency requirements in regard to voting for members of Congress or for state and local offices.

[3] See the U.S. Bureau of the Census, Current Population Reports, Series P–25, No. 406, Estimates of the Population of Voting Age (Oct. 4, 1968), table A–1.

[4] U.S. Bureau of the Census, Current Population Reports, series P–20, No. 192, Voting and Registration in the Election of November 1968 (Dec. 2, 1969), table 16. The above figure does not include military personnel.

[5] Of course, a person who moved from such a state after September 1 of the election year would, under the proposal, be able to vote in the presidential election in that state, assuming he could not satisfy the residence requirement of his new state. It should be noted that, as of November 1968, seven states permitted former residents to vote for President and Vice President if such persons were not qualified in the state to which they had moved.

[6] Three of the States with lengthy county (or township) requirements permitted persons to vote in their former place of residence within the state if they failed to meet the county requirement in regard to their new residence.

[7] Section 1 of the Fourteenth Amendment provides in part that: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Section 5 provides that: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article [*i.e.*, amendment]."

[8] *Katzenbach* v. *Morgan, supra,* involved the constitutionality of section 4(e) of the Voting Rights Act of 1965, 42 U.S.C. 1973b(e) (Supp. IV, 1965–68), which provides that persons who have completed the sixth grade in an American-flag school in which the predominant classroom language was other than English shall not be denied the right to vote because of inability to pass a literacy test in English. The primary purpose and effect of this provision was to enfranchise residents of New York who were schooled in Puerto Rico and literate in Spanish but unable to pass New York's English literacy test.

[9] Under Article I, section 2 and the Seventeenth Amendment, the states are empowered to set the qualifications for voters for members of the House of Representatives and the Senate, respectively.

[10] The procedures to be followed in the electoral college are set forth in the Twelfth Amendment.

[11] In *Williams* v. *Rhodes*, 393 U.S. 23, 29 (1968), the Court made clear that the authority of the states to legislate with respect to the selection of presidential electors is subject to the provisions of the Fourteenth Amendment (as well as the Fifteenth and Nineteenth Amendments).

[12] Subsequent to the November 1968 election, the Colorado Legislature reduced the residency requirement for presidential elections from six months to two months.

ruled that, because the 1968 election had been concluded and because, as of the time of the decision, the plaintiffs satisfied the residency requirement, the case had become moot and should be dismissed.[13]

None of the above cases involved federal legislation implementing the Fourteenth Amendment. As mentioned previously, in exercising its power under section 5 of the Fourteenth Amendment, Congress may prohibit restrictions on the franchise even though the restrictions are not prohibited by the terms of the amendment itself. *Katzenbach* v. *Morgan, supra.* See also the dissent of Justice Black in *Harper* v. *State Board of Elections,* 383 U.S. 663, 678–680 (1966).

Section 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." *Katzenbach* v. *Morgan, supra,* 384 U.S. at 651.

In assessing legislation intended to enforce the equal protection clause, the test applied by the Court is whether the statute is "appropriate legislation" under the *McCulloch* v. *Maryland* standard, that is "whether . . . [the statute] 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.'" *Katzenbach* v. *Morgan,* 384 U.S. at 651. Clearly, the proposed residency provisions are "appropriate legislation" within the meaning of the standard set forth above.

First, the proposal may properly be regarded as an enactment to implement the equal protection clause. It is firmly established that the equal protection clause itself prohibits certain types of restrictions on the franchise. See, *e.g., Kramer* v. *Union School District,* 395 U.S. 621 (1969); *Harper* v. *Virginia Board of Elections,* 383 U.S. 663 (1966); *Carrington* v. *Rash,* 380 U.S. 89 (1965). The state laws which would be affected by the proposed legislation operate so as to prevent a large class of citizens from voting for President and Vice President. The purpose of the proposal is to secure for that class the equal protection of the laws, that is, in regard to voting in presidential elections, to place such persons upon equal footing with persons who do not change their residence.

Secondly, the proposed residency provisions are "plainly adapted" to the end of enforcing the equal protection clause. The effect of the proposal would be to enable any otherwise qualified citizen to vote for President and Vice President, regardless of the date when he changes his residence. Here, as with regard to the provision at issue in *Katzenbach* v. *Morgan* (see 384 U.S. at 653), it is well within congressional authority to determine that the rights of individuals who are disfranchised by residency requirements warrant federal intrusion upon any state interests served by those requirements.

The Supreme Court has stressed repeatedly the fundamental importance of the right to vote, the right "preservative of other basic civil and political rights." *Reynolds* v. *Sims,* 377 U.S. 533, 562 (1964). See also, *e.g., Kramer* v. *Union School District, supra,* 395 U.S. at 626. Certainly, this is true with respect to selection of the President and Vice President.[14] *Burroughs* v. *United States,* 290 U.S. 534, 545 (1934); *Williams* v. *Rhodes,* 393 U.S. 23, 31 (1968).

Residency requirements as a prerequisite to voting are commonly justified as necessary to assure familiarity with issues and candidates and to prevent fraud. Congress could properly conclude that no substantial state interest is advanced by residency requirements in presidential elections or at least that narrower means exist to promote such interests. *Cf. Carrington* v. *Rash, supra.*

The primary justification for residency requirements, familiarity with candidates and issues, is largely inapplicable to presidential elections because the issues and personalities involved are national. The new resident is as familiar with them as the older resident.

Similarly, there is no merit in the notion that a state may require a lengthy period of residence on the ground that the presidential election may involve certain parochial interests of the state and, therefore, time is required to impress local viewpoints upon voters. *Cf. Carrington* v. *Rash, supra,* 380 U.S. at 94, where the Court stated that: "'Fencing out' from the franchise a sector of the population because of the way they may vote is constitutionally impermissible." See *Hall* v. *Beals, supra,* 396 U.S. at 53 (dissent of Justice Marshall).

A second justification often advanced for residency requirements, prevention of frauds such as double voting, may be a legitimate state concern with respect to presidential elections. However, a lengthy residence requirement is an unnecessarily broad and inefficient means to this end. Criminal sanctions for double voting or administrative safeguards such as requiring surrender of registration certificates from states of former residence may be viewed as equally effective in preventing abuse.

It might also be suggested that residence requirements promote the administration of voter registration procedures, since registration must be closed at some time before elections to allow time for compilation and distribution of lists of voters to the polling places. However, registration deadlines are not, generally speaking, keyed to residence requirements. . . .

Mr. COOK. If the Senator will yield, I think it is an interesting point which the Senator from Alabama has raised. I merely bring this up to show what I think is a great degree of courtesy on the part of the Supreme Court of the United States. If the Senator will remember, in the case of Katzenbach against South Carolina, South Carolina was very much interested about getting a ruling on the 1965 Voting Rights Act prior to its June 1966 primary election. The Supreme Court bent over backward. It did not assign anyone to hear testimony; it heard it itself. It asked any of the States which wished to join. It rendered an opinion in March of 1966, so that the law was clear to the State of South Carolina well prior to its primary in June of 1966.

I feel that the Supreme Court in that instance, regardless of the lack of power of the Senate—which, as we know, is absolutely none over the Supreme Court—realized the necessity of making a ruling for the benefit of the respective States which were disturbed about the Voting Rights Act of 1965. If it did it then, I am sure it will do it again.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. May I have 1 minute?

Mr. GRIFFIN. I yield the Senator 1 minute.

Mr. ALLEN. In response to the statement of the distinguished Senator from Kentucky, the Senator from Alabama would suggest that possibly there is not the same rapport between the Supreme Court as it now exists and the present Chief Executive of the Nation as existed in 1965 between the Warren court and the then Chief Executive. So we might not have that quick hurry-up of action by the Supreme Court to prevent the opening up of such a Pandora's box.

Mr. COOK. Mr. President, will the Senator yield me 1 additional minute?

Mr. MANSFIELD. I yield 1 minute.

Mr. COOK. Mr. President, I think it is unnecessary for us to try to determine what the attitude of the Court is or what the attitude of the Chief Executive is on a matter on which the legislative history specifically says that we have established, by an amendment to this amendment, a deadline of January 1, 1971, for the benefit of the class involved, the 18-, 19-, and 20-year-olds, and also for the benefit of the courts, to give them time to make a determination so that no election in the United States, whether it be local or whether it be national, would in any way be put in jeopardy in relation to the eligibility of voters. There need be no discussion, I would think, on the basis of opening up a Pandora's box, when the legislative history shows it is based on giving the courts ample time to make a determination and come up with a decision on this particular subject.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the concern of Senators, with the exception, I am sure, of only a few of our colleagues, is not with the validity of 18-, 19-, and 20-year-olds voting. The Senate has shown its desire to enfranchise this segment of approximately 11 million persons of our population. Our discussion and our concern today is directed toward the methodology by which we will move forward on this issue, whether by the the statutory approach or by constitutional amendment.

I have a very genuine concern, and even now I am attempting to thread my way through the arguments. I am familiar with those that have been presented on both sides of this question, which is primarily a legal judgment.

I think it is important to underscore that the Senate is ready to act on the subject of a lower voting age. Senate Joint Resolution 147, which I introduced in August 1969, now has 70 cosponsors. In other words, there are at least 71 Members of this body who believe in 18-, 19-, and 20-year-olds voting via the

[13] Two justices dissented, asserting that the case was not moot and that the Colorado statute was in violation of the equal protection clause of the Fourteenth Amendment. *Hall* v. *Beals, supra,* 396 U.S. at 50, 511.

In *Shapiro* v. *Thompson,* 394 U.S. 618 (1969), a majority of the Supreme Court held to be unconstitutional statutes imposing upon new residents a one-year waiting period for eligibility for welfare benefits. The Court expressed no view as to other types of waiting periods or residency requirements. 394 U.S. at 638, footnote 21.

[14] Application of the equal protection clause to voting in presidential elections is not affected by the fact that a state might provide for appointment, rather than election, of presidential electors. *Williams* v. *Rhodes, supra. Kramer* v. *Union School District, supra,* 395 U.S. at 628.

constitutional amendment route. The most recent Member of this body to cosponsor the proposed constitutional amendment is the able assistant minority leader, the Senator from Michigan (Mr. GRIFFIN).

Mr. President, there is no question that the Senate could approve the constitutional amendment by the two-thirds plurality necessary. Now we ask, what is the situation within the Committee on the Judiciary?

Mr. President, I would point out for the RECORD that there are 11 members on the Subcommittee on Constitutional Amendments, chaired by the able Senator from Indiana (Mr. BAYH). There is at the present time a vacancy; therefore, there are 10 active members on that subcommittee. Seven of those 10 members are ready, not a month from now or 6 months from now, but within a matter of a few days, to vote favorably on Senate Joint Resolution 147.

Why do I say that? I say it because seven members of the subcommittee are cosponsors of Senate Joint Resolution 147. They are the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. BYRD), the Senator from Kentucky (Mr. COOK), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. FONG), the Senator from South Carolina (Mr. THURMOND), and the Senator from Maryland (Mr. TYDINGS).

There will be no difficulty in reporting the Senate joint resolution from the Constitutional Amendments Subcommittee. We come now, Mr. President, to the question, What is the condition within the full committee?

Twelve members of the full committee are cosponsors of Senate Joint Resolution 147. They are the Senator from Connecticut (Mr. DODD), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Maryland (Mr. TYDINGS), the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. FONG), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), the Senator from Kentucky (Mr. COOK), the Senator from Maryland (Mr. MATHIAS), and the Senator from Michigan (Mr. GRIFFIN).

Not on the resolution are the names of the chairman, Senator EASTLAND, Senator MCCLELLAN, Senator ERVIN, Senator KENNEDY, and Senator HRUSKA.

Mr. President, I submit that with that support in the subcommittee and that support in the full committee, there will be no delay in reporting the Senate joint resolution, the constitutional amendment, to the Senate.

If the Senate works its will and approaches this problem through the statutory procedure, we, of course, realize that on a subsequent date another Senate, another Congress, could undo what this Congress had done in reference to voting for 18-, 19-, and 20-year-olds. But if we follow the constitutional approach, we can bring this issue to finality. If the Senate and House act affirmatively the amendment will then be referred to the States. If three-fourths of the States ratify it, then the constitutional amendment will be proclaimed. It would then be part of the basic law of our land—the Constitution.

It should be noted that voting age of 21 is recognized by 46 of the 50 States. Evidence of how deeply ingrained this voting age is in our democratic system is illustrated by the fact that every State excluding the four States which have lowered the voting age, provides for voting at age 21 in their State constitution except for one State.

In all but two of the 46 States, such a change in the voting age would have to be put to a referendum.

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

Mr. GRIFFIN. I yield the Senator 3 additional minutes.

Mr. RANDOLPH. I think we must not forget that women were given the right and responsibility of the vote in this Republic through the constitutional amendment route. I remind by colleagues that there were doubts then that the States would ratify women's suffrage. But within a period of 15 months, a sufficient number of the States had ratified, and women's suffrage was proclaimed.

I feel that there certainly is cause for caution when I read in part what was said by Assistant Attorney General William Rehnquist, Office of Legal Counsel, Department of Justice, on March 10:

> 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.

Mr. GRIFFIN. Mr. President, will the Senator from West Virginia yield to me?

Mr. RANDOLPH. I yield.

Mr. GRIFFIN. The Senator has made some very important points, particularly in terms of the extent of support for a constitutional amendment to give the 18-year-olds the right to vote, both in the Subcommittee on Constitutional Amendments and in the Committee on the Judiciary. Possibly some will still say that despite that support, the constitutional amendment will not be reported by the Judiciary Committee.

Does the Senator agree with me that, although the procedure is seldom used, if it should become necessary, there is a procedure available in the Senate to discharge a committee and bring a matter immediately to the floor for consideration? Although discharging a committee is—and should be—used very sparingly, I believe that in this kind of situation it would be justified.

Mr. RANDOLPH. Yes, there is a way; but I think it is unnecessary——

Mr. GRIFFIN. I think it would be.

Mr. RANDOLPH. That we even anticipate a condition of that kind.

I feel it is important to say that the chairman of the Committee on the Judiciary, Senator EASTLAND, has assured me, as the sponsor of Senate Joint Resolution 147 which 70 Members are now cosponsoring, he is aware that this is the sentiment within the Senate, and he has indicated that he will allow the Judiciary Committee to work its will with dispatch.

Mr. GRIFFIN. I would point out that in connection with the very bill that is pending before the Senate now—the voting rights bill—the Senate, as a body, indicated its own judgment that it should be reported by a given date.

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

Mr. GRIFFIN. I yield 1 additional minute.

So it would not be unusual for the Senate as a whole, particularly in view of the large number of cosponsors of this proposal, to make sure that this matter was reported within a reasonable time.

Mr. RANDOLPH. Mr. President, the Senator is correct.

I repeat what I said at the beginning of my remarks: The time for argument within the Senate as to the validity of giving the responsibility of the vote to 18-, 19-, and 20-year-olds really has passed. We have the sentiment of the Senate expressed—71 Members—on the proposed constitutional amendment. We have the word of the subcommittee chairman, the able Senator from Indiana (Mr. BAYH), that his subcommittee will act. We have the assurance of the able chairman of the Committee on the Judiciary that the full committee will act. So there will be no delay in the Senate in approving this plan.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute. Then I will yield 3 minutes to the distinguished Senator from Arizona and 3 minutes to the distinguished Senator from Oklahoma.

Yes, the sentiment to lower the voting age to 18 is widespread here in the Senate. I wonder if the votes are. I am not at all sure that you can get even the constitutional amendment lowering the age out of the Judiciary Committee this year. And if you do get it out, what will its prospects be? What will the House Committee on the Judiciary be doing? Where will we end at the end of this sine die session? Right where we have been ending for the last 20 or 25 years, with great sentiment but no fact.

The distinguished Senator from West Virginia himself has been introducing resolutions since 1942, and where are they? Still in committee. Where are they when Congress adjourns? Dead.

This is a chance to put sentiment to the test, and if you believe in giving the vote to the 18-year-olds, this is the time and the way to do it. It is not only appropriate but our last clear chance in this Congress.

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

Mr. MANSFIELD. I yield 3 minutes to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, having expressed myself for many years in favor of the vote for 18-year-olds, I would be remiss if I failed to support this amendment, although I must say that I prefer the constitutional amendment approach. I am convinced, however, that, contrary to what my friends in the Justice Department say, we would be constitutionally correct in passing a statute to accomplish it.

There is nothing magic about the age of 21. It is not in the Constitution. It is not mentioned any place in our founding papers. It was used back in the dark ages as an age at which people were supposed

to reach maturity. I think that when my generation was 21, we were not too mature. I think this generation at 18 is better equipped, mentally and emotionally, to vote than my generation was at 25. After all, 25 percent of all the girls reaching 19 are married and saddled with the responsibility of raising a family. Eighteen-year-olds can work; they can be taxed; they can be tried in our courts.

I am not too much impressed by the argument that they have to fight for our country. This is a responsibility of every American, regardless of age. But we do not let them vote.

As I have said, I would like to see a constitutional amendment come out of the Judiciary Committee. I do not think it will. I think this will be a good test, to see what the sentiment of this body really is, although I do not believe that if this amendment is adopted today it will be in the ultimate bill. I think the House will reject it. Nevertheless, I think it will show the other House and this body what the sentiment really is, so that when the bill introduced by the distinguished Senator from Kentucky comes to the floor, we will have better knowledge of the chances and we will have a better understanding of the constitutional aspects of the entire matter.

Mr. GRIFFIN. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I yield.

Mr. GRIFFIN. The Senator seems to imply that anyone who votes against the pending amendment may not favor the 18-year-old vote? I think the Senator will recognize that some who will vote against this amendment believe that there is a better, more effective and permanent way to accomplish the objective. Although I am not convinced that the constitutional amendment is the only means available to lower the voting age, I am concerned that our actions at this time without further study may be an exercise in futility.

Mr. GOLDWATER. I did not make my statement to intimidate anyone. I made the statement knowing that there are Members of this body who honestly and sincerely believe that the 18-year-olds should vote, but that it should be achieved by the constitutional process. I prefer it that way. I prefer it greatly over voting for the pending amendment. But I see nothing but frustration if we try to go the constitutional amendment route. The amendments get into the Judiciary Committee and they just seem to rot and die there. I have not seen many of them come out of that committee in the 13 years I have been in the Senate. Thus, I do not imply anything about a person's voting against this. I expect there will be quite a few voting for it. I am just being practical.

I talked to the distinguished majority leader earlier, when he first thought of submitting this amendment, and of what it might do to the ultimate bill we will pass when it gets to the House. Knowing the feelings of the chairman of the Judiciary Committee over there, I think that that amendment will certainly come out. I merely mention that as a practical matter. Just as that same gentleman would be opposed to a constitutional amendment, he just does not go along with the 18-year-olds voting. I think he would put the voting age up to about 90. That is all I have to say.

Mr. GRIFFIN. If the Senator would permit me 1 minute more for a further observation. Even if a Senator is convinced in his own mind that this can be accomplished by statute rather than by a constitutional amendment, he might well, in the interests of prompt passage of the voting rights bill, believe it would not be good procedure to tack this amendment on to the vitally, important voting rights bill.

What I am trying to say is that every Senator who votes against this amend— and I am sure he will agree with me on this—is not necessarily opposed to 18-year-olds voting. There is an honest and reasonable difference of opinion as to what is the best thing for the Senate to do in this particular situation.

Mr. GOLDWATER. I must confess that I spent a good long night last night trying to figure out how I would vote. I felt that I should vote against it, but I also came to the conclusion that, to be consistent—and I try to be consistent— I would have to express myself in favor of the amendment although, as I say, I do not think it will become the law of the land through this procedure.

Mr. MANSFIELD. Mr. President, I now yield 3 minutes to the Senator from Oklahoma (Mr. HARRIS), but before doing so, I yield myself one-half minute to say that I do not look upon this as an exercise in futility so far as the 18-year-old vote is concerned. I am serious. I realize that there are differences of opinion, honest differences of opinion, in this body; but if we are all as much in favor of 18-year-olds and above voting, as we say we are, we will have a chance to prove that this afternoon.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. HARRIS. I thank the Chair.

Mr. President, I concur with the statement just made by the distinguished Senator from Montana (Mr. MANSFIELD) that now is the time to act.

Young people today are maturing, both physically and intellectually, at far earlier ages than they have in the past. Through television and better education, a young person today becomes aware at a rather early age of the real world and the problems of the real world; he becomes concerned about these problems and rightly wants to be involved in solving them. I think we must recognize this fact, and respond to it.

One very obvious way and fundamental is by allowing 18-years-old to vote. As have others, I have advocated this since I have been in the Senate, and I rise to support it now in the form of the amendment offered by the distinguished Senator from Montana, MIKE MANSFIELD, and others. I am also hopeful that action may come soon on the Youth Participation Act of which I am the sponsor, and which would establish an Office of Youth Participation, that would make grants for social action programs to youth-run public and private agencies, and would provide for an Advisory Commission on Youth Participation, authorized to hold hearings, conduct studies and make recommendations on issues which concern American youth today.

The newest generation of Americans is the largest, best educated, and most dedicated group of young people our Nation has ever produced. In 1940, 40 percent of our population was under age 25; today the proportion is 47 percent, and by 1972, over half of the American population will be under age 25. The number of Americans entering college has increased by fully one-third since 1960.

These young people of 18, 19, and 20 can be given the right to vote by statute passed by Congress in accordance with the 14th amendment. Prof. Archibald Cox of Harvard Law School testified in committee hearings that "the Supreme Court would recognize fully the power of the Congress to make this determination with respect to voting age, and to change the age limit by statute." I find these arguments, outlined in detail by the distinguished Senator from Montana (Mr. MANSFIELD) and the distinguished Senator from Massachusetts (Mr. KENNEDY) to be convincing and compelling.

I honor the distinguished Senator from West Virginia (Mr. RANDOLPH) for his longtime efforts in this field; I have supported him in them. If the present amendment fails to become law, I will continue to support him. But, I am convinced we can and should act now on the pending amendment.

Today, there has been a substantial increase in the educational attainment levels of young Americans. There has been a great change in the age at which young people take jobs, get married, and raise families. As Professor Cox points out, they have "greatly increased their knowledge and sophistication on all issues."

U.S. Bureau of Census figures show that lowering the voting age to 18 would extend the franchise to approximately 10 million additional citizens and increase the voting electorate by as much as 8 percent. The voting age population in the State of Oklahoma would be increased by 8.4 percent, representing some 129,000 new voters.

Mr. President, Senators know that of late I served as chairman of the Democratic National Committee and, while, as the distinguished Senator from Arizona (Mr. GOLDWATER), has just demonstrated, this is not a partisan matter. I call attention to the strength behind the support for 18-year-old vote by pointing out that it was endorsed in the 1968 Democratic platform and that the Commission on Party Structure and Delegate Selection, the McGovern commission, which I appointed, has recommended that, until the law can be changed, the Democratic Party at all levels allow 18-year-olds to participate fully in all decisionmaking processes. I strongly support that position and that recommendation.

Today, four States—Georgia .since 1943, Kentucky since 1955, and Alaska and Hawaii since they entered the Union in 1959—grant the right to vote to persons under 21. There is no evidence

that the reduced voting age has caused any special difficulty whatever in those States. In fact, former Governors Carl Sanders and Ellis Arnall of Georgia have testified in the past that permitting 18-year-olds to vote in their States has been a highly successful change.

With increasing activism on the part of the "below 25" generation concerning foreign and domestic affairs, and with the advent of new educational methods and techniques, coupled with television, this age group is perhaps the best informed age group in our society.

Many of the arguments used today against the right of 18-year-olds to vote were also used in the fight against women's suffrage 50-odd years ago. They are no longer acceptable.

Now is the time to give the youth of our Nation this additional opportunity for constructive participation in our system of government. We need them.

Mr. PASTORE. Mr. President, will the Senator from Montana yield me 2 minutes?

Mr. MANSFIELD. I am happy to yield 2 minutes to the Senator from Rhode Island, but then I will have to let the other side go, because we are getting too far behind here.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PASTORE. I thank the Senator from Montana.

Mr. President, certain questions may be raised as to the constitutionality of what we are doing today, but that should be left up to the courts, at any rate, at the proper time.

I am in favor of lowering the voting age to 18 years.

This is not a new position as far as the senior Senator from Rhode Island is concerned.

In January of 1946, as Governor of my State, and speaking to the General Assembly in Rhode Island, I said at that time:

> There is one other constitutional change that I recommend should be adopted. The voting age of citizens should be lowered from twenty-one years to eighteen years. This is the first time that this amendment has been proposed to you and you are entitled to know the reasons for my recommendation.
>
> The principal qualifications necessary to the intelligent exercise of the right of franchise lie in the ability of the voter to understand his civic obligations and appreciate the responsibilities as well as the functions of both the voter and the government. I believe that our average young man and woman of the age of eighteen years is eminently qualified in that respect. With the advances made in recent years in the field of education in Rhode Island rarely does an individual attain the age of eighteen years without having had some secondary school education. Moreover, the recent war has made tremendous demands upon our youth. Their assignments have called for initiative, dependability and intelligence. Our youth have not been found wanting. I am convinced that by their own actions they have demonstrated their qualifications to exercise the right of franchise. This should be no longer denied to them when we consider the part that our youth must play in moulding the future peace and prosperity of the world.

I said that in the General Assembly of Rhode Island in 1946. And I say that in the Senate on this, the 11th day of March 1970. I will be glad to vote for the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I yield 10 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, today we are considering an amendment to the Scott-Hart voting rights bill. This amendment would lower the voting age to 18 years old. Proposals to lower the voting age to 18 by a constitutional amendment rather than by statute have been considered for many years. President Nixon "strongly favored extension of the franchise to 18-year-olds in this country" prior to his election. Recently in hearings before the Constitutional Amendments Subcommittee, Deputy Attorney General Kliendienst testified that after careful study and consideration, the President has concluded that a constitutional amendment to permit 18-year-olds to vote in national elections is desirable. I agree with him. In my own State in the last election there was a proposed constitutional amendment on the ballot proposing that the voting age be lowered to 19. I supported that amendment and voted for it. It was narrowly defeated. This year there will again be an amendment on the ballot in Nebraska to lower the voting age and I believe that it will be passed.

I believe, however, that we must recognize the proper role which the States are called upon to play in our federal system.

The President feels, and I agree, that an amendment permitting 18-year-olds to vote in national elections only is the best solution. However, the most important question before us now is not the extent to which we enfranchise 18- to 21-year-olds, but the manner in which this is undertaken.

There are those who are impatient with the process of constitutional amendment. There are those who are impatient because of the lack of action on the part of the Judiciary Committee. However, they use that as a basis for saying, "Let's discard the process suggested by the American Constitution, the proper and sound and traditional way to do this. We will abandon that for the purpose of achieving an end which we temporarily in this Chamber consider very desirable." But it certainly would deny one of the most sacred and long-enduring principles of sound legislation and certainly of Senate procedures.

After all, it should be borne in mind when we think of our impatience at the lack of action, that any one of the 50 States could enact State legislation to lower the age to 18 years, and it would be valid in their jurisdiction.

There are only three or four States that have now done so. Why is it that they do not want it? If they wanted it, they would have it.

Let me suggest, Mr. President, that when a constitutional amendment is proposed, it is the same State legislature that would propose the constitutional amendment in its State that would act upon the ratification of a proposed amendment to the Federal Constitution. That is the way in which we proceed.

It is my belief that because of our federal system of government, we should travel the route of getting State approval to giving the right to vote to the 18-year-olds. There are two such routes. One is for the States respectively and severally to legislate and change their voting age by means of their State constitution. The other is to submit an amendment to the Federal Constitution by a two-thirds vote of the House and the Senate and then send it to the States for ratification.

But in either event, it would be the States that would be doing it.

If the voting age is to be lowered to 18, there is no question in my mind that this should be accomplished by a constitutional amendment rather than by Federal statute. There are several reasons why I believe an ordinary act of Congress reducing the voting age should be opposed. It is certainly vulnerable to constitutional attack; it may create confusion in a presidential election at the very time when there should be no doubt as to the winner; and the amending process is better suited than an act of Congress to manifest the necessary consensus for such a proposal.

I would like parenthetically to call attention to the fact that the term of the President of the United States does not run for 4 years and until his successor is elected and qualified. It ends on January 20 in the year following the presidential election.

If there is a hassle about an election or its validity, whether on account of State election with a direct vote of the people for the President or an attack on the constitutionality of this act of Congress, we would be without a President if that litigation extends beyond January 20.

A noted constitutional lawyer, Mr. Louis H. Pollak, dean and professor of law at Yale Law School, expressed similar reasons in his testimony before the Constitutional Amendments Subcommittee yesterday.

In summarizing his testimony he said:

> I have serious doubts about the power of Congress, by statute, to lower the voting age to 18 in state as well as national elections: (a) prior to the decision in *Katzenbach* v. *Morgan*, I would have supposed that no serious case could be made that such a statute would be constitutional: (b) in my judgment, *Katzenbach* v. *Morgan* provides the basis for a modestly plausible, but not for an ultimately persuasive, case for the constitutionality of such a statute.

Mr. Pollak continued saying:

> Even if I thought the case for the constitutionality of such a statute were substantially better than I believe it to be, I would think it imprudent to proceed in this area by statute rather than by Constitutional Amendment, provided there is a substantial chance that the amendment route would work: (a) it would be detrimental to our voting processes to have an extended period of doubt about the ground rules by which elections are to be conducted, pending a Supreme Court determination of the constitutionality of the proposed statute lowering the voting

age; (b) assuming the Supreme Court were to uphold such a statute, the question whether Congress should make other statutory redefinitions of the electorate might become a continuously unsettling ingredient of American voting processes; (c) hitherto, we have made changes in the composition of the electorate only by Constitutional Amendment. We should continue to follow this course which recognizes how fundamental such decisions are.

I believe that only a brief discussion of the objections which have been raised is required to make clear the danger and undesirability of taking the statutory rather than the constitutional amendment route.

First, there is a question as to whether a legislative enactment by Congress in this field is likely to survive constitutional attack. If this were an area where the risk of invalidation by the courts were slight, that might indeed be a reasonable basis to accomplish the objective before us by ordinary legislation. The contrary, however, is the case. It has long been recognized by judicial decision, congressional reports, and by views expressed by the Department of Justice that the Constitution leaves to the States the authority to regulate voting qualifications, including voting age.

It may be recalled that when the Constitution was adopted the traditional "majority"—21 years—was in effect in all States. There is no intimation in the Constitution that this matter was to be withdrawn from State regulation. On the contrary, that the Founding Fathers intended that the minimum voting age was a qualification to be determined by the State. This was manifested by 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.

Statements in recent decisions of the Supreme Court such as *Lassiter* v. *Northampton Election Board*, 360 U.S. 45 (1959), made 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.

The Lassiter case stated:

> 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.) (Pgs. 50–51)

In *Carrington* v. *Rash*, 380 U.S. 89, 91 (1965), the Supreme Court's opinion in Pope against Williams was cited with approval and followed, the court said:

> There can be no doubt . . . of the historic function of the states to establish, on a nondiscriminatory basis, and in accordance with the Constitution, qualifications for the exercise of the franchise.

In that case, however, the Court held that the Texas law which denied a ballot to a bona fide resident merely because he was a member of the armed services constituted an invidious discrimination against an identifiable group in violation of the 14th amendment. See also, *Kramer* v. *Union Free School District*, 395 U.S. 621, 625 (1969).

It has been urged, however, that the Supreme Court's decision in *Katzenbach* v. *Morgan*, 364, U.S. 461, decided in 1966, supports congressional legislation such as the kind being considered today. Reliance on the Morgan case for such support is misplaced. The Morgan case involved 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 the inability to read or write English. The recognized purpose and effect of section 4(e) 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's English literacy tests. The Supreme Court held that section 4(e) was an appropriate exercise of congressional power under section 5 of the 14th amendment for the enforcement of the equal protection clause.

That is all it held. It did not undertake to go into that other area and into the the jurisdiction of the States to legislate as to the elector's qualifications in regard to residence or age or previous criminal record or things of that kind which are not involved in the 14th amendment or the equal protection clause.

It has to be construed in that way. There are those who would say, "Let us go ahead. The Supreme Court will, after all, take notice of this. They know of the trend through the poll tax and this, that, and the other thing. The one-man, one-vote rule is in that direction. So, they will go ahead and approve this congressional act."

This, Mr. President, I think is presuming too much. It is presuming too much beyond the well-established ways in which we are supposed to amend the Constitution. Now, in recent years, Congress has been faced with a similar dilemma.

Unlike the State law of New York which was held to be discriminatory in its effect in the Morgan case, and therefore contrary to the 14th amendment, invidious treatment in a constitutional sense is by no means so readily demonstrated when a State sets the voting age at 21 for all citizens, regardless of race, color or religion. A strong argument can and undoubtedly would be made that a State's decision to fix the voting age at 21 rather than at 18 was not an invidious discrimination, but a permissible legislative judgment.

In the light of these decisions, enactment of the amendment would merely be an invitation to lawsuits in which the validity of the act would be contested, lawsuits in which there would be a definite risk that the courts might hold such an act to be unconstitutional.

As a practical matter, where authority to move by legislation is less than clear, as it is here, it would be most unwise not to proceed by constitutional amendment.

The PRESIDING OFFICER (Mr. MONTOYA). The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I yield 4 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator is recognized for 4 additional minutes.

Mr. HRUSKA. Mr. President, consider for a moment what is likely under the proposed statute. In the presidential election of 1972, for example, citizens 18 years old and over would vote. The constitutionality of the statute might not be tested until the election is near or over. Even if there is a decision by a lower court, review would be sought in the Supreme Court. At the very time when there should be certainty as to whose votes may be counted, the matter would be left in doubt. Regardless of which way the Supreme Court ruled, its decision affecting the highest offices of the land would be the subject of suspicion and criticism. If the votes of 18-year-old citizens were disregarded as invalid, an election might be thrown into the House of Representatives. This uncertainty and confusion would arise at the very time when the Nation can ill afford to await the outcome of protracted litigation, and even worse, be divided by it. Yet these would be inevitable byproducts of this amendment. These fearful consequences would be avoided by a constitutional amendment.

In recent years Congress, faced with a similar dilemma, has resolved it by choosing a certainty of the constitutional route over the speed of the statutory route.

When the question of providing for Presidential inability arose, there were many eminent scholars and statesmen who felt that Congress could deal with the matter by statute under the "necessary and proper clause." In opposing the legislative route, Attorney General Brownell said:

> 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 L.J. 189, 205 (1958).

Attorney General Rogers took the same position in testimony before the Senate Committee on Constitutional Amendments. And Robert Kennedy, as Attorney General, concurred in Mr. Brownell's judgment in an opinion to the President. 42 Ops. A.G. No. 5, p. 22 (1961).

As experience has shown in each of those cases, ratification by the States was prompt, and difficult constitutional questions were avoided. So here, too, there can be no question at all that the constitutional amendment route is the

preferable method of providing a right to vote for 18-year-old citizens.

Finally it seems fairly clear that this is not a matter, as in the case where voting rights are denied because of racial discrimination, of curing a longstanding failure to observe constitutional standards imposed by the 14th amendment. Rather, this is an effort to enlarge the accepted and traditional standards to vote. A measure with such an objective ought to have the support of a substantial national consensus before it is undertaken. The amending process is ideally suited to manifesting such a consensus if it truly exists.

Mr. President, I urge that this amendment to lower the voting age by statute be rejected.

Mr. RANDOLPH. Mr. President, will the Senator yield? I would like to ask a question without breaking the continuity of the Senator's remarks.

Mr. HRUSKA. I have very limited time, and I do have one more point I must make for the RECORD.

Mr. President, the junior Senator from Florida (Mr. GURNEY) is absent on account of an illness in his immediate family. I have been authorized and requested by him to say that he strongly favors the administration-sponsored voting rights bill and spoke very impressively in support of it in this Chamber last week.

He wishes me to make clear his position on the Scott-Hart amendment. The Senator is opposed to that amendment and, if present, would have voted against it. His reasoning was made clear, I think, in his statement concerning H.R. 4249 last week.

Senator GURNEY has also asked me to make known his views on amendment No. 545, sponsored by the distinguished majority leader.

Senator GURNEY has joined in cosponsoring the constitutional amendment—Senate Joint Resolution 147—offered by the distinguished Senator from West Virginia (Mr. RANDOLPH). He feels very strongly that 18-year-olds are entitled to, and should be granted the franchise, and that the proper means to accomplish this desired end is to put this proposal before the States in the form of a constitutional amendment, as prescribed by article V of the Constitution.

The Senator does not accept the notion that this change can properly be accomplished by a mere legislative enactment. Senator GURNEY feels that traditionally, and by virtue of specific language of our Constitution, the States are charged with setting voting qualifications, including age qualifications. Some States favor and have already enacted legislation which sets the voting age below 21 years. That is their prerogative. In Senator GURNEY's view, if this proposal to lower voting age on a nationwide basis were put before the States in the form of a Constitutional amendment, we would be honoring proper Constitutional procedures, and at the same time, be giving the States the opportunity to pass on the far-reaching measure. The Senator is confident that, if set before the States, the amendment would be enacted.

In making this very drastic change in our voting procedures, Senator GURNEY feels that what is needed is full and comprehensive debate and discussion, of the kind that the Mansfield amendment will, in all likelihood, not receive.

In sum, then, the Senator from Florida (Mr. GURNEY) feels that extending the franchise to 18-year-olds is a very desirable goal, but that there is specified in the Constitution a proper and lawful means to accomplish that goal: That is, by means of a Constitutional amendment. He feels very strongly that we should not take liberties with our Constitution, even when the goal is laudable and necessary. For these reasons, Senator GURNEY would oppose amendment No. 545 if he were present and voting today. He would oppose it, not because he opposes the end it seeks, but because the means it employs are, in his view, improper and unsound.

Mr. STENNIS. Mr. President, I must register my strong opposition to the amendment proposed by the distinguished majority leader, the Senator from Montana, which would lower the voting age in national elections to 18. In doing so I want to make it clear I have no basic objections to considering evidence relating to the maturity of our young people and whether it would be proper and desirable to lower the voting age by proper methods. This is a question upon which I reserve judgment.

My basic objection to the Mansfield amendment is its postulate that the voting age can be lowered validly by a statute rather than by constitutional amendment. I think it is clear that the constitutional validity of such a statute would be open to such serious doubt that it would bring about an uncertain and dangerous situation.

I recognize that those who support the amendment argue that lowering the voting age by a constitutional amendment would be a lengthy and time-consuming process. I submit, however, that if we adopt the Mansfield amendment, we may be getting ourselves into the situation where haste would make waste.

The precise question involved, of course, is whether the Congress has the authority to lower the voting age in national elections to 18. We should begin this discussion with the well-established proposition that the State-imposed minimum voting age of 21 violates no provision of the Federal Constitution. In addition, 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 by the terms of the Constitution itself, and specifically by article 1, section 2, and by the debate during the constitutional convention in which efforts to set up a national standard for electors were overwhelmingly defeated.

Setting the minimum voting age at 21 years certainly does not discriminate against prospective voters on the grounds of race, creed, or national origin and, therefore, would not be violative of the 14th amendment.

If there is any meaning left to States rights at all, it would appear that the Mansfield amendment is infected with clear constitutional invalidity. At best, its constitutionality would be open to the most serious doubt. I cannot but feel that the adoption of this amendment would be taking an unnecessary and unwarranted constitutional risk.

The practical question facing us today is whether we should proceed by the shorter but very risky statutory route or by the surer if longer constitutional route which would give certainty to the validity of lowering the voting age. I cannot imagine a worse case for relying on a doubtful statute than one dealing with a national election.

This is particularly true in the case of the presidential elections While it may be that, if the Mansfield amendment is adopted, the validity of the statute would be settled by the Supreme Court before the presidential election in 1972, no one can be sure of this. We should not take a road that might leave the legality of the presidential election hanging in midair when there is a safer road by which we can proceed which would eliminate all doubt.

Let me emphasize again, Mr. President, that we are not dealing here with a case of discrimination. We are only dealing with a case of whether a uniform lower voting age requirement for national elections can be imposed by statute or whether it requires a constitutional amendment. In my opinion, the latter is the proper and correct interpretation. In any event, the Mansfield amendment presents such obvious and dangerous questions of validity that it would be most unwise for us to follow this course.

Mr. President, we have recognized in the past that changes in the composition and qualifications of the electorate should be made only by constitutional amendment. This shows how fundamental decisions in this area are. I think that both wisdom and prudence dictates that we continue to follow this course and, therefore, that the Mansfield amendment should be defeated.

Mr. YARBOROUGH. Mr. President, I support amendment 545 to the Voting Rights Act submitted by the Senator from Montana (Mr. MANSFIELD) and other Senators, which I have cosponsored. The amendment would provide for something that I have advocated for a long time—lowering the voting age to 18. In the 90th Congress, I was happy to cosponsor with the distinguished senior Senator from Montana, Senate Joint Resolution 8, which would provide for a constitutional amendment to achieve this purpose. In this Congress, on April 29, 1969, I introduced Senate Joint Resolution 102, which would also provide for a constitutional amendment to lower the voting age to 18. I ask unanimous consent that the full text of Senate Joint Resolution 102 be printed in the RECORD at the end of my remarks.

My reasons for supporting this amendment are simple. As I said in my statement on April 29, 1969, we are demanding of young men and women from the age 18 to 21 all the duties of citizenship, yet we deny them the most basic right—

the right to vote. My particular concern about this is the obvious injustice of requiring young men to serve in the armed services, very often at the risk of their lives, and then deny to them any voice in the decisionmaking process which conscripted them and sent them off to battle. I think it is hypocritical to criticize young people for demonstrating in the streets and for not expressing their dissenting views through proper channels of dissent when we close to them the most widely accepted channel of dissent—the ballot box.

Sixteen years ago, as a candidate for the governorship of Texas, I advocated the vote for the 18-year-olds. I have advocated the vote for 18-year-olds ever since.

Mr. President, this amendment, which I enthusiastically support will, in my opinion, correct this glaring inequity in our political system. I commend the Senator from Montana for introducing it and I urge its adoption.

There being no objection the joint resolution (S.J. Res. 102) was ordered to be printed in the RECORD, as follows:

S.J. RES. 102

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or by any State on account of age if such a citizen is eighteen years of age or older. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

Mr. MCGEE. Mr. President, as a longtime advocate of a lower voting age who has previously joined colleagues in proposing that we amend the U.S. Constitution to extend the franchise to citizens 18 years of age or older, I want to restate today my belief that the time has come for this Nation to recognize the responsibilities already carried by its younger citizens and admit them to full participation in our democratic processes. Indeed, my own State, Wyoming, will be voting later this year on a proposed amendment to its own constitution lowering the present 21-year-age limit for voting to 19. I applauded the legislature's move in proposing this amendment to the people. And I would hope that the people of Wyoming would give resounding approval to the proposition at the polls in November.

I am persuaded, however, that it would be better if all 50 States were to extend the franchise equally. The age of 18, rather than 19, has been proposed and I would not argue against it. I will, in fact, support it with my own vote. Recent developments make it reasonable for Congress to push ahead, as the excellent statement by the Senator from Massachusetts (Mr. KENNEDY) has detailed. There is supportable argument for this position that leads me to deduce that we have the power and that it would, if tested, be upheld. There is, I believe, a growing consensus in the country in favor of a lower voting age, as well as a general movement within the States, my own included, to act upon that consensus.

Our history, Mr. President, has been one of expanded democracy, of ever-widening participation in the affairs of society. The time has come, I believe, to expand the participation to include young adults, those under the age of 21, in full realization that today's young people are better equipped to exercise this responsibility than were the 21-year-olds of a generation or two back. In my mind, they have earned it. And our society has earned it for them. Never before has a generation been given such educational opportunity or been kept so well informed on the essential issues of their time. Never before has a generation been raised to maturity and sophistication in the affairs of society at this age. But today's young people are. What is more, Mr. President, they already shoulder many responsibilities. The old cliche about being old enough to vote if they were old enough to soldier for their country is valid, I believe. But there are even better arguments; those based on the judgment of a generation of young people better prepared for the responsibilities of citizenship than any people in history.

Nor should we fear that by adding 10 million people between the ages of 18 and 21 to the voter rolls will upset the political balance of America. Mr. President, I have found that our young people, just like those of us with more years on our heads, do not see everything alike.

In fact, a few years ago I sponsored an essay contest among Wyoming high school students on this very subject as part of my annual competition to select outstanding youths to come to Washington to intern in my office. We rather expected, as did the judges, to find an overwhelming number of students writing in favor of a lower voting age. But, in fact, some excellent entries did not see it that way at all. But we did find tremendous interest in the issue among young people. All evidence indicates that these new voters we are proposing to enfranchise would be of various political and ideological persuasions. Why stall any longer, Mr. President? By insisting upon a constitutional amendment, we only delay for 6 or 7 years, at least, the day when 18-, 19-, and 20-year-old citizens may vote. We can act now, under the powers given Congress in the 14th amendment. I think we should act now. We need only arrive at a finding that for the States to deny the vote to persons 18 or over because of age is unfair. Today, it is. Further, the Constitution makes nothing sacred out of the age of 21. It is an ancient and arbitrary standard which is being increasingly abandoned in other nations, as well as some of the States of the Union.

Mr. HARTKE. Mr. President, I am pleased to support the amendment offered by our distinguished majority leader extending the franchise in Federal elections to those 18 years old and above.

As I have long argued, the 21-year age requirement represents no particularly rational demarcation in the lives of today's citizens. It is generally believed to be an historical holdover from the medieval English tradition that set 21 as a qualification for knighthood. It has little or no relation to maturity, responsibility, or capacity of the modern American citizen.

Certainly there is no profound belief among the American people in the sanctity of 21. The failure of Congress and the various State governments to act in this matter over the years has not been related so much to the merits of the case as to the press of other business, procrastination, and the procedural difficulties facing attempted change in many States.

By the time an individual reaches the age of 18 today, he is expected in many significant ways to act the role of adult citizen, yet in every State but Kentucky and Georgia, he is deprived of the most fundamental privilege of full citizenship in a democracy—the voting privilege.

By the time most Americans are 18, they have completed their secondary education. They have embarked upon careers or further education. Some have taken up the responsibilities of marriage and rearing a family.

In the eyes of the law most Americans at 18 are held responsible as adults; they can sue and be sued; they may enter into contracts—marriage and otherwise; they are held accountable to the law, not before a juvenile court but before a court of their adult peers. They drive on our highways having adult responsibility for the lives and safety of their fellow citizens.

The tragedy in Vietnam has again made us painfully aware of the burden we place on the shoulders of our young people and the sacrifice we require of them. The misunderstanding about the draft and the unfairness of the draft makes us painfully aware of what it means for a young man to "celebrate" his 18th birthday.

These examples should be ample expression of the confidence that our society for some years has had in the maturity, responsibility, and capability of our young people. Yet there are still a few persons who would argue that somehow the act of voting embodies another kind of responsibility which requires special knowledge and special maturity. While I would not want to underestimate the qualities required of the good democratic citizen, I do not subscribe to the belief that our 18-year-olds, any more than any other age group, fail to meet such high standards. Indeed, various surveys have shown that 18-year-olds are at least as politically aware, and often times more so, than a cross section of adults over the age of 21. I think none of us would doubt that today's high school graduates—and the vast majority of young Americans today finish high school—are on the whole better informed about governmental affairs than our own

generations at that age. In most of our high schools, students receive intensive civic training, particularly in their senior year; yet for many it is another 3 years before they may coordinate this training with the civic responsibility of voting.

Lowering the voting age to 18 would significantly increase the number of eligible voters in the United States. As of July 1967, the Census Bureau estimates that there are more than 10 million citizens who are aged 18, 19, or 20.

But the most significant consideration, it seems to me, is the problem we face today of growing alienation among young people—alienation from the political institutions that have served us so well for so long, and that still appear to many of us to be the crowning achievement of man's age-old struggle to find the means to govern himself.

I deeply believe that we are not mistaken in that view. Yet the young people who do not share it are not simply being frivolous or badtempered. They have ample reason to assume that in recent years our institutions have *not* served to translate the public will into public policy as effectively as they might. I do not say that the fault lies entirely, or even primarily, in the institutions themselves—still less that we can refurbish them to mint-new condition merely by lowering the voting age.

My point, instead, is that those who have a justifiable complaint about our institutions can only be enraged by being totally excluded from attempting to make them work better. Let me quickly add that this sense of alienation and rage is by no means confined to any one side of the ideological spectrum. Conservative as well as liberal young people are today profoundly dissatisfied with what social scientists call the "outputs" of the system. Both groups believe that the popular will is not being truly reflected in the policies of this government.

It, therefore, seems to me, Mr. President, that by agreeing to this amendment we would be taking a very significant, if not decisive, step toward relieving some of the legitimate grievances of a thoughtful and articulate minority among us, Americans aged 18 to 21. By extending the franchise to them, we would be inviting them to test for themselves the strength, flexibility, and responsiveness of the political institutions that have so much to do with shaping their destinies.

It is both morally right and politically prudent to take that step now, and I strongly urge my colleagues to join with us in doing so.

Mr. HATFIELD. Mr. President, I want to alert the distinguished majority leader of the support for this proposal by young leaders in my State of "GO–19." This group is heading the efforts in Oregon to lower the voting age to 19. A vote on this will be held in May and many young people are giving many hours in working toward this goal.

When I called the leadership of "GO-19" about an hour ago, they authorized me to give their full support to this amendment.

I might add, that in 1955, as an Oregon State senator, I introduced a bill to give 18-year-olds the right to vote. That bill, Senate Joint Resolution 1, did not pass, but I am hopeful that this amendment passes and that "GO–19" is successful in Oregon.

Mr. TYDINGS. Mr. President, I have long been a supporter of the right of the 18-year-old citizens to vote and have repeatedly testified in favor of a constitutional amendment to accomplish this purpose.

Twenty-one is the traditional voting age in 46 of the States.

Whatever justification existed for imposing 21 as the minimum age a century ago, however, the fact is that today's American young people are achieving physical, emotional, and mental maturity at an earlier age than ever before. While the traditional 21-year-old voting age has remained unchanged, the character of our population has changed dramatically, especially with regard to the education, maturity, and responsibilities assumed by our young people.

Some argue that since the common age for legal majority is 21, the minimum age for voting should be 21. There is no compelling connection between the age set as the minimum for voting and the age set as the minimum for other State-regulated activities, such as the purchase of alcohol or the administration of an estate. The law in each case should be shaped to the subject matter involved.

In the case of voting, the question is whether 18-, 19-, or 21-year-olds are mature enough to make an intelligent choice in the voting booth for the Government leaders who tax them, regulate their lives, and can send them to war. I think the answer is clearly that these young people are as qualified to make such political judgments as most of their elders.

Some people argue that lowering the voting age would add to the voting population many whose idealism has not been tempered by practical experiences in adult society.

I do not think that we should fear a little dream in politics. I think we should welcome it.

Moreover, although precise figures are unavailable, the Census Bureau has given me statistics which indicate in my own State of Maryland at least, that more than one of every five citizens between 18 and 21 is a full-time wage earner. Many others work part time while putting themselves through college. Thousands of Maryland boys between 18 and 21 are not only getting practical experience in adult society, they are getting it in a very hard school—in the jungles and on the battlefields of Vietnam.

The argument is made that reducing the voting age would add to the voting population persons highly influenced by their parents, schools, television, and special interests.

I reject the notion that young Americans are any more susceptible than their elders to parental political influences, political pitchmen, or special interests. My experience, as a Senator speaking to high school and college groups and answering their questions in every corner of the Nation, has been that these young people—as a group and as individuals—are as acutely aware of the world as anyone in society. They know their history and current events; they are earnest and informed; they are skeptical and searching; they are no more likely to be taken in by demagogues than anyone else. As a matter of fact, they are less likely. As for undue parental influence, if 18- to 21-year-olds take the advice of their parents on whom to vote for, it will be, if the testimony of many parents is to be believed, the only aspect of life on which parents advice is the prevailing factor at that age.

If a perfect test could be devised, we will have to continue to have an arbitrary minimum age limit. But that age limit should be based on today's realities, not those of a century ago or legalistic concepts developed during the Middle Ages.

All the arguments made against giving young adults the vote have been made against every expansion of the franchise. All of them were made, for example, against the 19th amendment, which gave women the right to vote.

The tradition of nearly every State was against it.

Other State laws were against it. Women had been legally deprived of certain rights—such as the right to make contracts—for centuries, and, it was argued this same legal inferiority should be continued in the case of the vote.

Giving the vote to women, it was said, would add to the voting population many persons whose idealism has not been tempered by practical experience. Women would be highly influenced by their parents, schools, and handsome rogues and demagogues.

Women, it was said, would affect elections even though they had little knowledge of, or interest in, local affairs.

Fifty years have now passed since these prophesies of doom, but the Republic still stands. I believe few would argue against the point that our political system is much richer and wiser because of the participation of women in the electoral process.

I think the fears expressed against extending the vote to persons under 21 are just as invalid today as these same arguments were a half century ago when they were used against the universal suffrage.

Thus I am fully convinced that we should provide the vote for all citizens over the age of 18. The amendment before us raises another question; namely, whether this change in voting age can and should be done by statute instead of constitutional amendment.

First I think it is clear that Congress has the Constitutional power to make this change in voting age.

Under section 5 of the 14th amendment, the U.S. Congress has the power by majority vote of both houses to suspend State voting age requirements in Federal elections. Section 5 of the 14th amendment provides that Congress shall have the power to enforce, by appropriate legislation, the provision of the 14th amendment. The voting rights act now being considered by the U.S. Senate suspends State literacy tests under the power granted to Congress by this section of the 14th amendment.

Katzenbach v. *Morgan* (1966) 384 U.S. 641, upheld the validity of section 4(e) of the Voting Rights Act of 1965, which provided that no State could deny the vote to any person on the grounds of inability to read or write English if such person had completed the sixth grade in a Puerto Rican school in which the language of instruction was not English. Defendant argued that an exercise of congressional power under section 5 of the 14th amendment is invalid unless the Federal legislation is limited to prohibiting the enforcement of State laws which a court would in any event declare unconstitutional as being in conflict with the 14th amendment. This argument was rejected by the Supreme Court (384 U.S. at 648).

The Court reasoned that section 5 granted the same broad power to Congress regarding the 14th amendment as expressed in the necessary and proper clause (384 U.S. at 650). Correctly viewed section 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 14th amendment (384 U.S. at 651).

Section 4(e) of the Voting Rights Act was sustained on two separate grounds. First, the enhanced political power flowing from the partial abrogation of the literacy requirement would be helpful in gaining nondiscriminatory treatment in public services for the Puerto Rican community. It was up to Congress to assess and weigh the various conflicting considerations in this regard and to determine whether this need of the Puerto Rican community for the vote warranted Federal intrusion upon the State interests served by the literacy requirement—384 U.S. at 653. It was enough that the Court could "perceive a basis upon which Congress might resolve the conflict as it did"—384 U.S. at 653.

Section 4(e) was also sustained on the ground that Congress might conclude that the denial of a right deemed so precious and fundamental in our society was not necessary or appropriate either to further the goal of intelligent exercise of the franchise or to encourage people to speak English—384 U.S. at 654. Here again the Court could "perceive a basis" upon which Congress might predicate a judgment that the application of New York's 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 discrimination in violation of the equal protection clause—384 U.S. at 656.

Certainly one can perceive a basis for a congressional conclusion that the application of State voting requirements to deny the vote in Federal elections to that class of citizens who bear the total burden of compulsory military service constitutes discrimination in violation of the equal protection clause. Congress could legitimately conclude that as a matter of the equal protection of the laws, our young men ought to participate in the selection of the President, Congressmen, and Senators who determine whether the Nation shall wage war and the procedures for raising necessary military forces. Congress could also conclude that the interest in furthering the goal of intelligent exercise of the franchise in Federal elections was not sufficiently compelling to justify the denial of such a precious right on the basis of age alone to those who had reached 18 years.

Additional arguments can be made in favor of the constitutionality of congressional legislation lowering the voting age when the legislation is not applicable to the election of State and local officials. The Supreme Court has repeatedly held under the equal protection clause of the 14th amendment that the right to vote may not be denied to any citizen or class of citizens unless the denial is necessary to promote a compelling State interest (*Kramer* v. *Union School District* (1969) 395 U.S. 621). Any interest which a State may have in denying the right to vote to a class of its citizens would certainly be entitled to less consideration when only Federal elections are involved. The Court could not presume a national interest in denying the vote to a class of citizens if the Congress of the United States had concluded that the national interest lay in having that class vote in Federal elections.

For these reasons I conclude that the amendment before us is constitutional. Although a very strong argument can be made that it would be more prudent and traditional to use a constitutional amendment, the cold political reality that this avenue contains several major roadblocks leads me to conclude that our present course of action is best. We should delay no longer.

My only uneasiness concerning this amendment stems from its possible effect upon the successful extension of the 1965 Voting Rights Act. But since that choice has already been made by others, I am happy to cosponsor this measure and to vote for it.

Mr. CANNON. Mr. President, during the first session of the 91st Congress, I introduced Senate Joint Resolution 32 to give 18-year-old citizens the right to vote.

A reassessment of voter qualifications in the United States must cause any reasonable person to realize that 18-year-old citizens have reached a level of maturity and a breadth of knowledge sufficient to qualify for the voting franchise.

High school graduates today possess as much academic training as college graduates of a decade ago. They own property, hold licenses, conduct their own businesses, are legally liable for their acts, and serve in the Armed Forces.

Education, communications, travel, work, and all of life's factors have been quickened and compressed to speed up the maturation process.

Mere chronological age should no longer be a total barrier to one of the greatest basic privileges American citizens enjoy. The ability to understand the issues facing the States and the Nation is clearly within the grasp of our younger citizens. Their deep and sincere commitment to the Peace Corps and to other socioeconomic programs, as well as to political candidates, is proof of their desire and need to participate in the political process.

I am convinced that just as other barriers against voting—poll taxes, property taxes, sex, and so forth—have been eliminated, the requirement that citizens be 21 years of age before voting ought to be eliminated in favor of 18-year-old voting.

Four of our States—Georgia, Kentucky, Hawaii, and Alaska—have already lowered the age limit.

I support this amendment and hope that it will be approved by the Senate.

THE INTERPARLIAMENTARY UNION MEETING—APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MONTOYA). The Chair, on behalf of the Vice President, pursuant to title 22, United States Code, section 276, appoints the Senator from South Carolina (Mr. THURMOND) to attend the Interparliamentary Union Meeting, to be held at Monaco, March 30 to April 4, 1970.

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 Officers laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 14169. An act to amend section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, in order to remove certain restrictions against domestic wine under title I of such act;

H.R. 15021. An act to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile;

H.R. 15831. An act to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile;

H.R. 15832. An act to authorize the disposal of castor oil from the national stockpile;

H.R. 15833. An act to authorize the disposal of acid grade fluorspar from the national stockpile and the supplemental stockpile;

H.R. 15835. An act to authorize the disposal of magnesium from the national stockpile;

H.R. 15836. An act to authorize the disposal of type A, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15837. An act to authorize the disposal of type B, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15838. An act to authorize the disposal of shellac from the national stockpile; and

H.R. 15839. An act to authorize the disposal of tungsten from the national stockpile and the supplemental stockpile.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H.R. 14169. An act to amend section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, in order to remove certain restrictions against domestic wine under title I of such act; to the Committee on Agriculture and Forestry;

H.R. 15021. An act to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile;

H.R. 15831. An act to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile;

H.R. 15832. An act to authorize the disposal of castor oil from the national stockpile;

H.R. 15833. An act to authorize the disposal of acid grade fluorspar from the national stockpile and the supplemental stockpile;

H.R. 15835. An act to authorize the disposal of magnesium from the national stockpile;

H.R. 15836. An act to authorize the disposal of type A, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15837. An act to authorize the disposal of type B, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15838. An act to authorize the disposal of shellac from the national stockpile; and

H.R. 15839. An act to authorize the disposal of tungsten from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

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. MANSFIELD. I had told the Senator from Ohio, the Senator from Indiana, and the Senator from Kentucky that I would yield to them, and that will be all.

Mr. COOK. Mr. President, with the hope that the Senator from Indiana will treat the subject on a legal basis in regard to the presentation of the Senator from Nebraska, I would like to place in the RECORD the following information for the purpose of showing the availability of 18-year-olds, 19-year-olds, and 20-year-olds to assume this responsibility. Insurance companies hold a person to be an adult at the age of 18; 18-year-olds are treated as adults by the penal code; they are allowed to obtain a driver's license; they can enter the Federal civil service at the age of 18; they may be taxed at the age of 18; and they can be married at the age of 18.

Mr. President, I would like to have these facts in the RECORD so that it may be clear. As of June 1968 the statistics of the Department of Defense show there was a standing military force of 3,510,000 men. Of these 3,510,000 men the 18-year-olds constituted 123,000, the 19-year-olds constituted 266,000, and the 20-year-olds constituted 567,000. In other words, in those three age categories of 18-, 19-, and 20-year-olds, in a standing army of 3.5 million men, 956,000 of them were under 21 years of age and denied the right to vote.

I would also like to get into the RECORD that as of December 30, 1969, in the present conflict in Southeast Asia the United States had lost 40,028 men. Of these losses 2,413 were 18 years of age, 6,368 were 19 years of age, and 10,421 were 20-year-olds; or 19,202 out of 40,000 men.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 1 minute.

Mr. YOUNG of Ohio. Mr. President, the history of voting in America has been one of constant expansion ever since President Andrew Jackson called for the abandonment of property ownership as a requirement for voting. Since then the 14th, 15th, 19th, and 24th amendments have expanded the franchise by bringing suffrage to the American Negro and the American woman and by eliminating the poll tax as a qualification for voting.

The time has now come to lower the voting age to 18 in the United States and bring our youth into the mainstream of American political life.

Today's youth are more highly qualified then ever before to assume the responsibility of voter participation. Nearly 80 percent of our people graduate from high school and approximately 45 percent receive some form of higher education. By comparison, 43 percent completed high school in 1940 and only about 16 percent of high school graduates attended college.

It was during the Middle Ages that the age of 21 was selected to signify attaining adulthood. It was at that age that a young knight was considered capable of wearing a full suit of armor brandishing a sword and wielding a lance. Here in 1970, more than half a millennium later, it is common for young Americans between the ages of 18 and 21 to don flack jackets, carry M–16's and assume all the burdensome responsibilities of modern manhood. Many thousands of young Americans have made the supreme sacrifice in Vietnam, that quagmire of misery in Southeast Asia. The fact is that about three of every 10 men of our armed forces in Vietnam are under 21. More than 20,000, almost half of all our men who have died in action there, had not attained their 21st birthday.

Momentum is clearly building toward lowering the voting age. Four States have a voting age lower than 21 right now. In Georgia and Kentucky, the voting age is 18. In Alaska, the age is 19 and in Hawaii, 20. In the last 2 years bills have been introduced in every State legislature with the sole exception of Mississippi to enfranchise youth below 21 years of age. A growing number of foreign countries now permit 18-year-olds to vote.

The main argument here in America against lowering the voting age to 18 is the lingering doubt in the minds of many adults that our young people are not mature enough to accept the responsibility of electing our highest officials.

Let us take a close look at today's 18-year-old. In addition to fighting and dying in our wars the 18-year-old man can marry, rear a family, work for a living, contribute to the community, and pay taxes. Of each 100 young women 18 years of age, 26 are married. Often, little difference exists between a 21-year-old father or mother and the mother or mother who is 18 or 19 years of age except that the younger husband and wife cannot vote for the man who makes the policies affecting him and his children.

Mr. President, the enfranchisement of 18-year-olds would add approximately 10 million persons to the voting age population in the United States and increase the eligible electorate by almost 10 percent.

I believe that this generation of young people is the best ever—that they are healthier, quicker of mind, and better trained than their predecessors. Also, that there is a moral energy in this generation that exceeds that of 18-year-old boys and girls of any previous generation. Their interest in public affairs and their potential for public service at home and abroad has been clearly shown in their participation in the Peace Corps, VISTA, and through the active part that millions of young Americans have played in the political events of recent years.

At a time when there is so much talk of a generation gap and alienated youth threatening to overthrow the establishment and drop out of society, extending the franchise to 18-year-olds is a sensible counter measure that will help to keep the majority of our youth politically active in our society where they have important contributions to make.

Mr. HRUSKA. Mr. President, will the Senator from Michigan yield to me for 1 minute?

Mr. GRIFFIN. I yield 1 minute to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, with reference to statistics such as those just cited by the Senator from Kentucky and other Senators, that 18-year-olds are old enough to fight, pay taxes, work, drive cars, I think that is all true. I accept it. This Senator is for having the voting age lowered. The question is by what means it should be done. However, I do not like to place my brief for the conclusion they should vote on the ground of being old enough to fight. I would prefer to put it on the basis on which President Nixon put it. He recited all of these things and then said these are not the reasons he favors lowering the voting age. The reason he favors lowering the voting age is that the 18-year-olds are smart enough to vote. They are in changed conditions in the matter of literacy tests. No longer is it necessary for people to be able to read in order to vote intelligently. Modern technology by communications has so improved that it is not necessary. Education has so improved that the 18-year-olds are intelligent enough to vote, and they should vote, and I want them to vote; but I want that job done properly, and not to the possible confusion and chaos in this country.

Mr. MANSFIELD. Mr. President, I yield 1 minute to the distinguished Senator from Rhode Island (Mr. PELL).

Mr. PELL. Mr. President, I wish to strongly support the concept of 18-year-olds being entitled to vote. I was par-

ticularly struck by the statement of the Senator from Massachusetts that more than half of those killed in Vietname would be eligible to vote under the present proposal.

It would seem to me that the question of constitutionality will soon be decided in the courts. If we are incorrect and it is unconstitutional, then the courts will decide otherwise. If we are correct—and I believe we are—in moving in this way, this would appear to be the most expeditious way in which to move. For those reasons, I am glad to support the amendment.

Mr. MANSFIELD. Mr. President, how much time do we have left?

The PRESIDING OFFICER. The Senator from Montana has 9 minutes remaining. The Senator from Pennsylvania has 7 minutes remaining.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Nevada (Mr. BIBLE) such time as he may require.

Mr. BIBLE. Mr. President, I am pleased to be a cosponsor of this amendment, and rise to urge its adoption by the Senate.

Measures to lower the voting age have been introduced in the Congress frequently ever since the First World War. I have supported a lowering of the voting age to 18 throughout my service in the Senate, and I think the adoption of this amendment is long overdue.

Many of my colleagues in the Senate will recall that during the time I was honored to serve as chairman of the Committee on the District of Columbia, as we pressed repeatedly—on five occasions—for home rule here in the Nation's Capital, I actively supported legislative provisions to establish the voting age at 18 years.

In the 87th Congress, the Senate District Committee favorably reported District of Columbia elections legislation recommending that the vote be allowed at age 18. However, as passed, the bill—H.R. 8444—established the voting age at 21.

Again in 1965 on the 89th Congress, the District Committee reported and the Senate approved home rule legislation calling for 18-year-old voting. That legislation passed the Senate on a rollcall vote and by the very substantial margin of 63 to 29. Unfortunately, the measure failed in the House of Representatives.

To me, Mr. President, there has never been any sound argument offered in opposition to a lowering of the voting age. There is no special wisdom that is magically acquired on reaching age 21. And indeed, heavy responsibilities come to young Americans long before they reach the present magic age.

Our young men bear the grave obligation of military service. Too often they find themselves in armed combat facing death for their country nearly 3 years before they are permitted to vote.

But this "old enough to fight, old enough to vote" argument—however compelling it may be—is not by any means the sole rationale for a change in the voting age.

Our young citizens today are better educated, better informed, and better equipped to participate in our democratic form of government. The average person of 18 today undoubtedly knows more about issues, events, politics, and government than his counterparts and even many of his elders did at the turn of the century.

There is the question of maturity. When does a person become mature enough to cast a wise and intelligent ballot? Again, I say, there is no magic in age 21.

When an American citizen becomes mature enough to earn his living, pay taxes, start a family, become a soldier, and take on many other responsibilities at age 18, I say he or she is mature enough to vote.

I realize that certain events in the past few years seem to work against 18-year-old voting proposals. We have heard and read about irresponsible demonstrations on our college campuses and elsewhere by militant youngsters who seem to feel they are entitled to determine higher education policies and other matters. At times some demonstrations have degenerated into rowdyism, and were not the kind of performance to inspire confidence in the maturity of our younger generation.

These occurrences do not stand as a valid argument against a lowering of the voting age. We must maintain a proper perspective, and understand that the militants and renegades who foment and fuel campus and other disruptions are but a tiny minority of our young people. For every rowdy demonstrator there are thousands of serious, responsible, hard-working youngsters going about their daily business of earning a living or getting an education. They do not make television and newspaper headlines, but they constitute legions of socially minded men and women who are eager to register their opinions and have their views made known through the orderly democratic process of the ballot box.

Mr. President, I believe a lowering of the voting age to 18 will be a topic for the entire electoral system in the Nation. Today I understand that on the average some 30 percent or more of our registered voters fail to get to the polls on election day. Many others do not even bother to register.

I think the injection of a younger voting element would spark more activity among the present electorate, and would bring to bear on public issues a larger and better rounded public voice.

I realize that there are some who oppose this amendment not because they object to 18-year-olds voting, but because they feel this change should be brought about through a constitutional amendment rather than by statute. I will not undertake to restate the argument on this point. The distinguished majority leader has answered that argument, and I think he has done so correctly and effectively.

It is high time the law recognized that the bulk of the population of the United States is growing younger as the years pass. More and more of our younger citizens want to participate in their government. Their votes will enrich our democracy. I hope and urge that the Senate will act favorably on the amendment.

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

Mr. President, I think the sentiment of Congress is to find some way to lower the voting age. The reasons are practical as well as emotional. The desire to do it has pretty well made manifest. At the same time my concern is that by adding the amendment to this bill—and I have said this candidly—if this sort of thing leads to a landslide toward this amendment, it might well be adopted, but at the same time it would create considerable problems in conference with the House of Representatives, where, I am told, a number of conferees feel very strongly about adding this particular amendment to the Voting Rights Act.

I favor doing something about it. I have looked kindly on the proposal of the Senator from Kentucky, for example.

I favor a constitutional amendment to lower the voting age. The proposed amendment of the pending bill to achieve this objective by a statute should be rejected. It is unwise; it is unsafe; it is contrary to the course taken by the Congress when it has sought to change a law in effect over a long period which has been recognized as being well within the authority of the States under the Constitution.

Beyond question, the age requirement is one of several factors which the Supreme Court has recognized a State may properly take into consideration in determining the qualifications of voters. The Supreme Court expressed this view in 1959 in *Lassiter* v. *Northhampton Election Board*, 360 U.S. 45. This position has not been shaken in any way since then; language in subsequent opinions of the Supreme Court has reemphasized the right of the States to set, on a nondiscriminatory basis, qualifications—specifically as to age—for the exercise of the franchise.

In a situation such as this, Congress in its wisdom and on the basis of its experience has taken the constitutional route.

For example, the 15th amendment bars the States from denying or abridging the right of citizens of the United States to vote on account of race, color, or previous condition of servitude. The 19th amendment precludes the States from denying the right of suffrage to women. The 24th amendment prevents the States from imposing a poll tax as a condition for voting in presidential and congressional elections. These amendments were proposed by Congress in recognition of the powers which the States have always exercised under the Constitution in determining the qualifications to vote.

Congress was faced with a decision similar to the one before it today when it was called on to decide in 1961 whether to recommend enactment of legislation to outlaw the poll tax as a condition for voting in national elections or to recommend a constitutional amendment with similar objectives. At that time, it was aware that from the recent trend in decisions the courts might ultimately uphold such a statute, but the matter was not free from doubt. However, as a practical matter, the Congress felt that the matter could be disposed of faster by constitutional amendment than by an attempt to enact and

litigate the validity of a statute. In about a year and a half, after the 24th amendment was proposed, it was ratified.

More recently, Congress faced with a similar dilemma in dealing with the problem of Presidential inability, also adopted the constitutional route in preference to the statutory course. And again, the amendment took merely about a year and a half to be ratified after it was proposed.

The prompt action taken to ratify these two recent constitutional amendments and several others before it may be compared with the Presidential Succession Act of 1947 which took about 5 years to pass.

In the case of Presidential inability, the problem was resolved by constitutional amendment in order to avoid a test of the proposed statutory procedure at the very time when uncertainty should not exist. The same type of uncertainty could readily be presented here, shortly before or after a presidential election. An unfavorable Court decision might throw an election of the President into the House of Representatives. The Court's decision might be looked upon as influenced by political considerations. If the votes of those between 18 and 21 were nullified, the hopes of these young voters would be dealt a hard blow. No one can foresee what their frustration might lead to.

A vote against this amendment would in no way preclude a later favorable vote on a constitutional amendment lowering the voting age, or perhaps even on some very carefully drafted statute, although I admit to the difficulties of doing this by statute, in view of the definite uncertainty as to how the Supreme Court will react.

Therefore, I raise these cautionary remarks, fully aware of the political dangers of voting against motherhood, the flag, the veterans, the youth, or any other established and vocal group in America.

Mr. MANSFIELD. Mr. President, how goes the time?

The PRESIDING OFFICER. The Senator from Montana has 6 minutes remaining and the Senator from Pennsylvania has 3 minutes remaining.

Mr. MANSFIELD. Mr. President, I yield myself as much time as I may require within the 6 minutes.

Mr. President, so far as I am aware, not a Member of this body, to my knowledge, has spoken during this floor debate against extending the voting franchise to those 18 and above. There is a great deal of concern about the proper way to achieve this objective. Some persons think, very honestly, that the only way is through the constitutional process. Others think it is by statute.

There has been a lot of talk this morning about the Randolph constitutional amendment resolution, with 74 or 75 signatures, which now resides within the confines of the Judiciary Committee. There has been some talk, encouraging at least on the surface, that if we do not do anything about this, or let it slide by, it will not be long before the Randolph resolution will be reported out of the Judiciary Committee.

Frankly, I doubt that it will be reported shortly, under the very best of circumstances. Frankly, I know, as far as the House Judiciary Committee is concerned, no action will be taken this year, any more than was taken in previous years.

So what we are going to do if we do not face up to this issue on this basis, not only for this year but perhaps for years to come, is forgo the possibility of a constitutional amendment which will put into effect what every Member of this body desires, at least as far as I am aware——

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

Mr. MANSFIELD. I yield.

Mr. AIKEN. I wonder if perhaps the Senator feels that if the amendment is defeated today the defeat will be taken as the sentiment of this body, and perhaps the constitutional amendment proposal will never come out of the Judiciary Committee at all, since the interpretation will be that the Senate has already voted against it, and so why bother?

Mr. MANSFIELD. That is correct. It is a good burial ground for certain types of legislation, and I do not think we ought to try to blink away the facts.

What we have now is the first chance and the only chance that I can recall, on a national scale, for this institution to face up to this issue squarely.

This amendment would extend the right to vote to every citizen of the United States who is 18 years old and older. It would afford that right in every election, Federal, State, or local.

Much has been said lately about extending the franchise by statute. It is argued by those that oppose this method that Congress does not have the power to act; only the Supreme Court can make those fine constitutional distinctions. The Supreme Court is the final arbiter of these questions, but it is about time that Congress assumed its responsibilities as well.

In an effort to determine the limits of Congress' constitutional authority, I sent a telegram to Prof. Paul Freund, probably the best constitutional lawyer in this country. In addition, I looked up the testimony of the former Solicitor General of the United States, Archibald Cox, talked to other people, and have received information which, to my way of thinking, as a nonlawyer, validates the procedure which we are following and does insure a possible way by means of which the 18-year-olds and above can achieve the right to vote.

At 18, 19, and 20, young people are in the forefront of the political process—working, listening, talking, participating. They are barred from voting.

I do not think they do enough talking. I do not think they do enough infiltrating into the established political parties. I think those of us above the age of 30 could stand a little educating from these youngsters—not the minuscule minority that always gets the publicity, but the conscientious, idealistic majority of young men and women who could bring our parties some new blood, some new vigor, some new ideas. Both parties could stand a pretty strong transfusion.

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

Mr. MANSFIELD. If I may finish, first. I am on a tight schedule here.

They will not only bring us a fresh outlook, but will bring us their innovation, and will do what they can through acts of participation, to become a part of the whole, rather than on the outside, as is the case at the present time.

They fight our wars. You can brush aside that argument all you want, but that is a most important argument, and I think these youngsters who are called because of our responsibility, because we have laid down the policy, should have a right, at least in some small part, to influence the setting of that policy.

They are eligible to be treated as adults in the courts, in both civil and criminal actions. They marry at 18. They have children. They pay taxes. The hold down full-time jobs.

So I would hope that the Senate would approve the ballot for the 18-year-olds at this time, in this fashion, and on this, the voting measure to which it is germane. As a political forecaster, I possess no extraordinary capacities. But I am aware of the public reports by some in opposition to the extension of voting rights—by any method—to 18-year-olds. I know that some who have spoken out are in a position to thwart the efforts of the congressional proponents of this proposal. So this amendment on this bill will be, in my opinion, the only chance the Congress will have of enacting this proposal. Either it becomes law on this bill, or it is dead for this Congress.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD with my remarks a letter which I received from Prof. Paul A. Freund of Stanford University under date of March 5, 1970.

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

CENTER FOR ADVANCED STUDY IN THE BEHAVIORAL SCIENCES,
Stanford, Calif., March 5, 1970.

Hon. MICHAEL J. MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: I greatly appreciate your telegram inviting me to elaborate on the opinion which I expressed in an address in June 1968, that Congress might, by statute, lower the voting age for state and Federal elections to the age of eighteen.

The Constitution of 1787 left the question of suffrage basically to the several states. In Article I, section 2, it is provided that the electors in each state for the House of Representatives "shall have the qualifications requisite for electors of the most numerous branch of the state legislature." Article I, section 4, provides that the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each state. Congress is given the power by law to make or alter such regulations. My opinion does not at all rest on the last clause Although "manner" has been given a generous construction to include, for example, Federal corrupt practices laws applicable to national elections, the specific provision on "qualifications" in the earlier section would rule out any effort to absorb the requirement of a minimum age for voting into the "manner" of holding such elections. And so if the text of 1787 stood alone there would appear to be no basis for the legislative proposal.

But that original text does not stand alone. The Fourteenth Amendment, with its guarantee of equal protection of the laws (no less than the Fifteenth, prohibiting specifically disqualifications based on race or color) introduced a vital gloss on the authority of the states, namely that unreasonable classifications by law are unacceptable. This general standard applies to the laws of suffrage no less than to other laws, despite the fact that racial disqualifications are treated specifically in the Fifteenth Amendment. It is much too late to question this force of the Fourteenth Amendment in this area. Indeed, the first of the so-called white primary cases was decided on the basis of the Fourteenth rather than the Fifteenth. As Justice Reed later pointed out, "Without consideration of the Fifteenth, this Court held that the action of Texas in denying the ballot to Negroes by statute was in violation of the equal protection clause of the Fourteenth Amendment," *Smith* v. *Allwright*, 321 U.S. 649, 658 (1944), referring to *Nixon* v. *Herndon*, 273 U.S. 536 (1927). The whole line of reapportionment cases rests on the applicability of the equal-protection guarantee to the suffrage; and surely religious qualifications, which are impermissible for officeholding, would be equally forbidden for voting in light of the Fourteenth Amendment.

The essential question, then, is whether Congress, in its power and responsibility to enforce the guarantees of the Fourteenth Amendment, may properly conclude that the exclusion from the suffrage of those between 18 and 21 years of age now constitutes an unreasonable discrimination. That this is a judgment for the Congress to make is plain from the original conception of the Fourteenth Amendment and from recent decisions under it. Section 5 of that Amendment, empowering Congress to enforce its provisions "by appropriate legislation," was regarded as the cutting edge of the Amendment. It was expected that Congress would supply the substantive content for the deliberately general standards of equal protection, due process, and privileges and immunities.

Recent decisions have emphasized the propriety, indeed the responsibility, of Congressional action in the area of voting rights. In 1965, as you know, Congress enacted a provision of the Voting Rights Act that overrode state requirements of literacy in English, where a person had received a sixth-grade education in another language in a school under the American flag. It was argued, in contesting the Federal law, that Congress could so provide only if the English-literacy requirement were regarded by the Court itself as in violation of the equal-protection guaranty of the Fourteenth Amendment. Upholding the Federal law, the Supreme Court emphasized that the judgment of unreasonable discrimination was one that Congress had appropriately made for itself, and that its judgment would be upheld unless it were itself an unreasonable one. Any other view of the Court's function, said the Court, "would depreciate both Congressional resourcefulness and Congressional responsibility for implementing the Amendment. 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 section 1 of the Amendment." "[I] is enough," the Court added, "that we perceive a basis upon which Congress might predicate a judgment that the application of New York's literacy requirement . . . constituted an invidious discrimination in violation of the Equal Protection Clause." *Katzenbach* v. *Morgan*, 384 U.S. 641, 648–649 (1966).

The Supreme Court has held, in a six-to-three decision, that the poll tax as a condition of voting in state elections is unconstitutional even without a Congressional judgment on the matter. *Harper* v. *Virginia Board of Elections*, 388 U.S. 663 (1966). Whether or not one agrees with that decision, for present purposes the case has a twofold significance. The first relates to the dissenting opinions. Justice Black, protesting against the "activism" of the majority (as others have termed it), went on to say, "I have no doubt at all that Congress has the power under section 5 to pass legislation to abolish the poll tax in order to protect the citizens of this country if it believes that the poll tax is being used as a device to deny voters the equal protection of the laws . . . But this legislative power which was granted to Congress by section 5 of the Fourteenth Amendment is limited to Congress . . . For Congress to do this fits in precisely with the division of powers originally entrusted to the three branches of government—Executive, Legislative, and Judicial." *Id.* at 679–680. The other dissenters, Justices Harlan and Stewart, referred to the possible authority of Congress and said that they "intimate no view on that question." Id. at 680, n. 2. Thus it is entirely possible that had Congress itself acted, the decision might have been unanimous.

The second point of significance in the poll-tax case is the bearing of the constitutional amending power. There was then in effect, of course, the Twenty-Fourth Amendment, abolishing poll taxes in relation to Federal elections. Both the majority and minority opinions show that Congressional authority is not precluded because the subject might be committed, indeed had been committed, to the amending process.

It could be asked whether, on the basis of the views reflected here, it was actually necessary to have achieved woman suffrage through a constitutional amendment. At the time of the Nineteenth Amendment the power of Congress to enforce the equal-protection guaranty was in a dormant state. The alternatives were thought of as a judicial decision striking down exclusively male suffrage, or an amendment to the Constitution. In retrospect, it seems tolerably clear that from the standpoint of constitutional power (putting aside considerations of political expediency), Congress could have determined by law that exclusion from voting on the basis of sex was an unwarranted differentiation.

The question for Congress is essentially the same, whether the exclusion be on criteria of sex, residence, literacy, or age. It is not my purpose to review the considerations that have been brought forward in favor of reducing the voting age. They involve a judgment whether twenty-one has become an unreasonable line of demarcation in light of the level of education attained by younger persons, their involvement in political discussion, their capacity in many cases to marry, their criminal responsibility, their obligation for compulsory military service. Historically, we are told, twenty-one was fixed as the age of majority because a young man was deemed to have become capable at that age of bearing the heavy armor of a knight.

The cumulative effect of such considerations on the continued reasonableness of twenty-one as a minimum voting will, I am sure, be canvassed by the Congress. My purpose, responsive to your invitation, has been to indicate why I believe that Congress may properly make such a judgment and embody it in the form of a statute.

Yours very sincerely,

PAUL A. FREUND,
Professor, Harvard Law School.

Mr. MANSFIELD. I am sorry I could not yield to the Senator from Florida.

Mr. SCOTT. Mr. President, I understand I have 3 minutes remaining. I yield it to the Senator from Iowa (Mr. MILLER).

Mr. MILLER. Mr. President, the pending amendment is an example of the philosophy that desirable ends warrant any means deemed expedient to attain them. Instead of amending the Constitution on a most fundamental aspect of citizenship, it is sought to do this by merely passing a statute. We went through all of this over the poll tax problem and finally decided to follow the constitutional amendment procedure. Poll taxes are now outlawed by the 24th amendment to the Constitution, three-fourths of the State legislatures having promptly ratified it. Why are the proponents of this pending amendment so reluctant to follow the same procedure? They seek to blame inaction on the Senate Judiciary Committee, but they well know that such an amendment as they propose could be offered as a constitutional amendment to a suitable House-passed vehicle—just as was done with the poll tax amendment.

The pending amendment is also an example of the philosophy that the State legislatures are incapable of properly deciding the question of age for voting and, indeed, for other privileges and responsibilities of citizenship. Such an attitude might have had some merit before the one-man, one-vote principle was established for State legislatures. It is no longer valid now.

Some of the States have already moved to lower the voting age for their citizens. Others have put the question on the ballot to be voted on by their people in a general election. Why are the proponents of this amendment so anxious for the Federal Government to usurp the power to make these decisions? Do they believe that the Members of Congress are specially endowed with a wisdom not to be found in the State legislatures or in the voting electorate of the States? Where do they plan to stop in this unseemly grab for power? Will their next move be to set a uniform age for jury service within the various States? A uniform age for making legal and binding contracts? A uniform age for marriage? A uniform age for consuming liquor?

Now we hear self-serving, gratuitous, and emotional statements that a vote on this amendment will be a test of whether a Senator favors lower the voting age. I hope that such contempt for the intelligence of the public will not be swallowed by the public. In 1955, as a Member of the Iowa Legislature, I voted for 18-year-old voting. However, that hardly suggests that, as a Member of the Federal Congress, I should now proceed to take away from my State's legislature and from the people of my State the power to decide this question. As a member of the Iowa Legislature I sought to modify our so-called right-to-work law, but, as a Member of the Federal Congress, that does not mean I should now proceed to take away from my State's legislature and from the people of my State the power to decide this question by voting to repeal section 14(b) of the Taft-Hartley law.

These are questions which I wish the people of Iowa to decide for themselves rather than having them decided for them by Senators from Montana, Arizona, Oklahoma, or any other State. I say to the proponents of this power-grabbing amendment—go back to your own States and persuade your own State legislatures and your own people on this question. Keep your noses out of mine.

The PRESIDING OFFICER. All time has expired.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I offer an amendment to the amendment of the Senator from Montana, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

Amend Section 302 of Mansfield amendment by adding after the words and figures "Sec. 302" the following: "Except as required by the Constitution."

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, how much time does the Senator intend to use?

Mr. ALLEN. I intend to use the full hour.

Mr. MANSFIELD. I am wholeheartedly in agreement with the amendment.

The PRESIDING OFFICER. Who yields time.

Mr. ALLEN. Mr. President, I yield myself such time as I may require, with the understanding and the offer that I will yield to any Senator who wishes to discuss the measure, feeling that this matter is of such great importance that it should not be decided on a time limitation of 2 hours. The unanimous-consent agreement gives 2 additional hours for each additional amendment, which should entitle every Senator not only to discuss the amendment to the amendment, but the amendment itself.

Mr. President, this is a matter that the distinguished Senator from West Virginia (Mr. RANDOLPH) has been working on for many, many years. He is traveling the constitutional amendment route. I approve of the use of that route.

I favor voting by 18-, 19-, and 20-year-old young people. I favor it because in the judgment of the junior Senator from Alabama, they are qualified to reach the proper decisions in their exercise of the franchise.

I favor it, too, for the reason that in my own State of Alabama and six other Southern States, by act of Congress, our local registrars and the Federal registrars that are gratuitously sent to us in the South must register any person 21 years of age or over to vote, irrespective of any question of literacy, and irrespective of his degree of mental awareness. If they have the required age, our registrars and the Federal registrars do register them.

So certainly we should extend the franchise to 18-, 19-, and 20-year-old young men and women. I favor the constitutional amendment. I believe that is the only way this proposal can properly be enacted.

The force and effect of the amendment which has been offered is to put into effect the prohibition set forth on page 3, line 2, of the amendment:

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.

That is set forth in a little paragraph here just as though it were a constitutional amendment. But it is not. It does not purport to be. It is a proposed statute that would seek to prohibit the States from denying the right to vote to people who are as old as 18 years.

All that the amendment of the junior Senator from Alabama does is to insert a phrase that has been approved right in this Chamber on at least two occasions: "except as required by the Constitution."

What in the world can be wrong with that? We have heard the argument advanced by those who did not favor amendments to the HEW appropriation bill that certainly we would not want something that the Constitution does not permit. So all the proposed amendment says is that if the Constitution permits this, well and good.

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

Mr. ALLEN. I am delighted to yield to the distinguished senior Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am grateful that my colleague yields at this point.

Members of the Senate will recall that earlier in the debate, I indicated that the distinguished chairman of the Committee on the Judiciary had assured me that he would not withhold action by that committee on Senate Joint Resolution 147. Of course, I realize that he speaks only for himself, and cannot speak for the other 16 members of that committee. Although I would remind Senators again that 12 of the 17 members of the committee are cosponsors of Senate Joint Resolution 147. In view of the comments which have been made regarding committee action, I think his comment is important and I would ask at this point that the Senator from Mississippi, the chairman of that committee, speak as to his feeling in this matter.

Mr. EASTLAND. Yes. As chairman, of course, I would not attempt to hold the bill up. I am bound to say that I am opposed to the amendment. The committee is at perfect liberty to work its will so far as the chairman is concerned.

Mr. RANDOLPH. Mr. President, I am grateful for the response of the chairman of the Judiciary Committee.

Mr. President, will the Senate be in order?

The PRESIDING OFFICER. Senators will take their seats, so that we may have order in the Chamber.

Mr. RANDOLPH.

Mr. RANDOLPH. As I said earlier, 12 members of the Committee on the Judiciary are cosponsors of Senate Joint Resolution 147. It is inconceivable to me that those Senators would not vote in favor of reporting the resolution, and I think they will do so promptly. Senator ERVIN, who is not a cosponsor of Senate Joint Resolution 147, has said in this forum today that he will vote to report this proposed constitutional amendment to the Senate floor.

Frankly, I seriously doubt—and I respect the conviction of any member of that committee and of the Senate on this subject—that these members of the committee would not report this constitutional amendment to the Senate floor.

Mr. ALLEN. I yield to the distinguished Senator from New Hampshire.

Mr. COTTON. I merely wanted to ask the Senator a question. I listened with deep interest to his explanation of his amendment. It seems to me that the matter of putting in the words referring to the Constitution—not only in this case, but also in the other cases that have been suggested—has no constructive effect. If Congress passes an act that is not constitutional, we could refer to the Constitution 15 times, and it would not make it so. If we pass an act that is constitutional, we do not need any reference to the Constitution.

It seems to me that the only effect of inserting these words—in my opinion, that applied also to the other situations not just that of the Senator from Alabama—is to proclaim to the world that we had some question in our own minds as to whether we were acting constitutionally.

Mr. ALLEN. I appreciate the suggestion of the distinguished Senator from New Hampshire. As the junior Senator from Alabama recalls, the distinguished Senator made the very same argument with respect to the Scott amendment to the Whitten amendments, and the Senate, in its wisdom, saw fit to vote against the recommendation of the Senator from New Hampshire.

All that the junior Senator from Alabama is suggesting is that we have a little uniformity, which we have been talking about on the floor of the Senate for some weeks, and that if "except as required by the Constitution" is good for the Whitten amendments, it is good for this amendment.

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

Mr. ALLEN. I am delighted to yield to the distinguished majority leader.

Mr. MANSFIELD. First, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. MANSFIELD. Second, I wish to compliment and commend the distinguished Senator from Alabama. I think that the amendment to the amendment is excellent, first rate, and in the best traditions; and how anybody could find fault with the language of the Allen amendment, is something I cannot understand.

So I just want to say how happy I am that this fortunate contribution has been made. I want to commend and compliment the distinguished Senator from Alabama and to tell him that I am 100

percent with him in what he seeks to do in this instance.

Mr. ALLEN. I appreciate the words of my distinguished leader, and I am delighted in that only some 7 or 8 minutes the junior Senator from Alabama has been able to convince his distinguished leader of the wisdom of this amendment.

Mr. MANSFIELD. The Senator underestimates his capacity.

Mr. ALLEN. I thank my distinguished leader.

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

Mr. ALLEN. I will yield in a moment.

I want to state that when the Senator spoke of the amendment having now come to a good or a favorable end——

Mr. MANSFIELD. Ending.

Mr. ALLEN. The junior Senator from Alabama would suggest that possibly some other Members of the Senate might need a little more of an educational campaign before they would be willing to vote favorably on this amendment.

At this time, I am happy to yield to the distinguished Senator from Florida.

Mr. HOLLAND. Mr. President, I thank my distinguished friend from Alabama. Unfortunately, I am tied up in a hearing downstairs and I will have to go down there before long, so that what I wish to say will not be directly on point.

As to the amendment offered by the Senator from Montana, I want to say, in the first instance, that I strongly support the belief that this subject can be dealt with effectively only by a constitutional amendment. I cannot conceive of the Senate's taking any other position at this time.

The second thing I want to say is that I think for the Senate to adopt the Mansfield amendment at this time would be the most flagrant refusal to observe what has been done in the Nation——

Mr. ALLEN. If the Senator will yield there, the Senator is referring to the amendment, rather than to the amendment to the amendment, when he says it would be the most flagrant refusal——

Mr. HOLLAND. Yes, the amendment offered by the Senator from Montana.

Mr. ALLEN. I thank the Senator from Florida.

Mr. HOLLAND. Mr. President, it would be the most flagrant failure to observe what the people of this country in many States have shown how they feel about this matter over a period of several years.

There have been 11 States in recent years to which this question has been submitted by a proposed State constitutional amendment, as to whether they would reduce the voting age from 21 to 18, and I shall place those 11 States in the RECORD at this time:

First is Oklahoma, and the result of the election there was that the people clearly voted 639,000 to 233,000 not to adopt the 18-year voting age amendment.

Second is the State of South Dakota which, by the way, has passed on this matter twice. In the first instance, it was barely defeated by 128,916 to 128,231; but the second time it was submitted, and they had more time to think about it, they defeated the 18-year-old proposal as a constitutional amendment for that good State by 137,000 to 71,000.

The third State I mention is Hawaii where, after having adopted a Constitution which already provided for an age lower than 21 years, a constitutional convention submitted the proposal to the people on the basis of an 18-year-old amendment, along with other amendments, and that proposal was defeated heavily by a vote of the people of Hawaii. I do not have the exact vote.

The fourth State I mention is Idaho, where the proposal was put to the people in a referendum in November 1960, and it was defeated 155,000 to 113,000.

The next State I mention is Michigan, which put it to a referendum of the people, the voters of Michigan in 1966, and they defeated the proposal by 1,267,000 to 703,000.

The next State I mention is Nebraska which put it on the ballot and it was rejected by the people. I do not have the exact figure on the vote.

In 1969, it was placed on the ballots by the States of Ohio, New Jersey, and North Dakota, and in each instance was rejected by the vote of the people, although I do not have the exact figures of the votes.

In the State of New York it was submitted as a new provision by a constitutional convention, which allowed the legislature to reduce the voting age to 18 if they desired to do so. It was heavily rejected by the voters of the State of New York.

The last State I mention is Maryland where, by a vote of 283,400 for to 366,000 against, Maryland rejected a new constitution. Senators will remember that there were many letters published in the Washington Post, the Evening Star, and the Baltimore Sun shortly after that election, making clear that one of the major reasons for rejection of the new constitution was the provision to reduce the voting age in that constitution.

Thus, there are 11 States to which this question has been submitted and the sovereign voters of no State, since the State of Kentucky adopted their 18-year-old provision in 1955 in which the matter has been submitted by the legislatures to the voters of their States, which has adopted this reduction of the voting age.

To my mind, aside from any constitutional question, aside from any question of the personal views of any Senator, the adoption of this amendment as offered here now would be to most flagrantly ignore the general expressions of the voters of this country through solemn referendums in 11 different States in recent years without any single State having adopted it since 1955, when Kentucky adopted it.

Now, aside from that, I want to say that there is a compilation—and I am sure that my distinguished friend from Alabama will place it in the RECORD—prepared by the Library of Congress, which shows that in practically every State there have been efforts made in the legislatures to submit such constitutional amendments reducing the voting age. In my State of Florida, I think there has scarcely been a session for many years in which that has not been offered, but it has never been submitted by the legislature of my State—and many other States—so that the people have not had a chance to vote upon it, but, instead, have gladly accepted the verdict of those who represented them as members of their State legislatures.

There are other States in which constitutional conventions have been set up to draft new constitutions for submission to their people. I think of one of them now, Connecticut, where one of the efforts made, and a strong effort, in Connecticut, was to put the 18-year-old voting limit into their constitution, and it was made in that convention, but was defeated. There have been other States, including my own, in which we have had a constitutional commission set up on two occasions to draft a new constitution. A new one was recently adopted in my State, and one of the things argued heavily in that commission and later in the legislature was the question of reducing the voting age. It was defeated and eliminated from the proposed constitution which, when submitted, was adopted by the people of my State.

I know of no issue submitted so often to so many voters by so many legislatures which has been so generally and heavily repudiated and defeated as has been this one; yet, it is proposed here that we simply put it into legislation dealing with voting rights, as an amendment, which would express the wisdom or the unwisdom of the Senate, in such a way as to make it appear that we are not even knowledgeable about the many expressions of the people in the many States, the legislatures of the many States, and the constitutional conventions of the various States which, without exception, have knocked it out, or if they have not knocked it out, the people have knocked it out every time they have been given the chance since 1955.

I appreciate the fact that my distinguished friend from Alabama has yielded to me to make these remarks. I simply want the RECORD to show clearly what we are asked to do, which is to run upstream against the uniform expression of great numbers of our people, many millions in total, in recent years, since 1955, on this very subject.

I thank the Senator for yielding to me.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Florida for his remarks.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. ALLEN. In just a moment. If I may, I would like to state that while I agree with the senior Senator from Florida on the matter of not authorizing voting by 18-year-olds by statute, I certainly disagree with him on the wisdom of taking that action by constitutional amendment. By going the constitutional amendment route, since the constitutional amendment would have to be referred back to the States for their ratification, it would take three-fourths of the States to ratify it, that would be the States putting this qualification on, authorizing the 18-year-olds to vote. And therein lies the difference between the junior Senator from Alabama and the senior Senator from Florida.

I yield for a question to the distinguished Senator from Iowa.

Mr. MILLER. Mr. President, I understand the Senator's amendment to provide in effect that unless the Constitution so requires, no State can prohibit 18-year-olds voting.

Mr. ALLEN. The purpose of the amendment offered by the Senator from Alabama is to say that this action is not effective unless the Constitution does not forbid it. That is the effect of the amendment.

Mr. MILLER. Why does the Senator take the approach that unless it is prohibited by the Constitution, no State shall exclude 18-year-olds from voting? Why does he not say, unless it is permitted by the Constitution.

Mr. ALLEN. The reason the Senator from Alabama took this approach was that this very language in a similar situation, or a situation of comparable nature, has been approved by an overwhelming vote of the Senate—the exact six words in the case of the Scott amendment in one instance and the Mathias amendment in the other, to the Whitten amendments to the HEW appropriations bill.

Mr. MILLER. In other words, the Senator is saying that the "except as required by the Constitution" phrase incidental to the Scott-Hart amendment rests on the same rationale and the same logic as his amendment to the pending Mansfield amendment.

Mr. ALLEN. Exactly, because the Whitten amendment said that no portion of the funds made available by the HEW appropriations bill should be used for the purpose of busing students, closing schools, or forcing any child to go to a school not of the choice of his parents.

The Senate, in its wisdom, in 1968 added the phrase, "in order to overcome racial imbalance." And the HEW constructed that to mean, "in order to overcome de facto segregation."

So the Scott amendment, in effect, said that these things should not be done except as required by the Constitution, thus in effect protecting de facto segregation and outlawing de jure segregation.

The purpose of the amendment offered by the junior Senator from Alabama is to put this amendment on the very same basis.

Mr. MILLER. Mr. President, does the Senator believe that the Constitution requires the exclusion of 18-year-olds from voting?

Mr. ALLEN. No. However, I believe that the Constitution permits or requires the State to set the qualifications for those who vote within is boundaries.

Mr. MILLER. The Senator from Iowa shares that belief. But that is not what the Senator's amendment would make the pending amendment mean.

If I read the amendment correctly, the Senator provides that, "Except as required by the Constitution, no citizen of the United States otherwise qualified to vote in any State shall be denied the right to vote on account of age, if he is 18."

The very wording of the amendment suggests that there might be some constitutional requirement against the 18-year-olds voting.

Mr. ALLEN. No. The constitutional requirement is against Congress taking that action, because it places that power in the hands of the States in four different sections of the Constitution, as pointed out by the distinguished Senator from North Carolina this morning.

Mr. MILLER. The Senator is saying that notwithstanding those qualifications established by a State, if the State should establish as one of its qualifications the age of 19 years, then that is invalid.

Mr. ALLEN. Mr. President, the junior Senator from Alabama would point out to the distinguished Senator from Iowa that the distinguished majority leader, who is the author of the amendment to the Scott amendment has endorsed the amendment offered by the Senator from Alabama, as he stated, 100 percent, and he called on the Senate to accept the amendment of the Senator from Alabama.

The suggestion of the Senator from Alabama to the Senator from Iowa would be that if he would prefer a different wording, he prepare an amendment, and after action has been had on the amendment of the Senator from Alabama, he offer his amendment and get a vote on it.

Mr. MILLER. Mr. President, may I say that I have a great amount of respect for the distinguished majority leader, the Senator from Montana. But just because the Senator from Montana has concluded that the amendment of the Senator from Alabama has a great amount of wisdom and has applauded it, does not mean that the Senator from Iowa will support it, especially if the Senator from Iowa does not think it is responsive.

I would like to have a responsive answer from the Senator from Alabama to my question as to whether he thinks there is any prohibition in the Federal Constitution against 18-year-olds voting.

Mr. ALLEN. Mr. President, unless the States have authorized it, there is a prohibition against it, yes, because the Congress has no power to set that qualification.

Mr. MILLER. The Senator says, "Unless the States have authorized it."

Mr. ALLEN. The Senator is correct.

Mr. MILLER. Suppose the States authorize 19-year-olds to vote. Does the Senator believe there is a prohibition in the Constitution against that?

Mr. ALLEN. Of course, there is no prohibition in the Constitution against that. As the Senator from Alabama has just said, the States have the power to set the qualifications of electors.

Mr. MILLER. But the Senator's amendment now says, "Except as required by the Constitution, no State shall prohibit 18-year-olds from voting." Suppose we were to say 19-year-olds? Does the Senator suggest that the Constitution would prohibit that?

Mr. ALLEN. No. I do not suggest that.

Mr. MILLER. Well, with the Senator's amendment as suggested, this is what I might understand. That is why I would think the amendment would be much better if it were worded, "Except as permitted by the Constitution," instead of, "Except as required by the Constitution."

Mr. ALLEN. Mr. President, the Senator from Alabama cannot be responsible for the failure of the Senator from Iowa to understand the amendment. But the amendment, in the judgment of the junior Senator from Alabama, would make this provision be constitutional before it is effective. That is the effect of the amendment.

Mr. MILLER. The Senator says it would make it constitutional. However, I am trying to find out whether he thinks there is anything in the Constitution that requires the exclusion of 18-year-olds from voting.

Mr. ALLEN. No. I have said the exact opposite to the distinguished Senator on several occasions. The State has that authority. But in the absence of constitutional amendment, the Congress does not have that authority.

Mr. MILLER. Does the Senator think if a State establishes 19-year-old voting there is anything in the Constitution that requires they be excluded?

Mr. ALLEN. No.

Mr. MILLER. Does the Senator think if a State requires the age of 20 for voting there is anything in the Constitution that requires the exclusion of 20-year-olds?

Mr. ALLEN. No. There is nothing in the Constitution, as the Senator from Alabama has stated time and again, that provides that States, under the present law, under the present Constitution, do not have the right to set the qualifications of electors. Any change in that authority, in the judgment of the junior Senator from Alabama, would have to come by constitutional amendment. So the effect of the amendment is to say that unless the Constitution permits this route which the Mansfield amendment seeks to follow, it would be ineffective.

Mr. MILLER. May I say that the way I read the Senator's amendment, and I want to repeat it, I find it very difficult to find his answer responsive to my question, because if his amendment is agreed to, on page 3 of the pending Mansfield amendment we would have this language:

> Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

What the Senator is saying is that if a State has on its statute books or in its Constitution a provision to be eligible to vote, one must be 21 years of age.

Mr. ALLEN. Yes, unless the Constitution permits the statute to change that, then this law would be ineffective.

Mr. MILLER. But the Senator does not say "unless the Constitution permits." He says "except as required by the Constitution." There is all the difference in the world.

The Senator has already used the language to which I suggest the amendment be changed, "except as permitted by the Constitution." However, I suggest he is not going to find anything in the Federal Constitution that requires a

State to exclude 18-year-olds, 19-year-olds, and 20-year-olds.

I must say I do not see any substance to his amendment whatever.

Mr. ALLEN. The Senator has been saying the very same thing the Senator from Alabama is saying. I do not see a great deal of difference between the thoughts of the Senator from Iowa and the Senator from Alabama. But we have a similar provision now on the statute books on the HEW appropriation bill.

Mr. MILLER. Mr. President, I am looking at the language of the pending amendment to the Mansfield amendment. I suggest most respectfully there is nothing in the Federal Constitution that requires a State to exclude 18-year-olds from voting, to exclude 19-year-olds from voting, to exclude 20-year-olds from voting, or to exclude 15-year-olds from voting, that I know of. So I do not understand the purpose of the Senator's amendment.

Mr. ALLEN. I appreciate the comments and the interest of the distinguished Senator from Iowa. The junior Senator from Alabama will state to him that if this amendment is not adopted the Senator from Alabama would be happy to support an amendment by the Senator from Iowa seeking to adopt an amendment putting into effect the language he suggests the Senator from Alabama use.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, how much time does the Senator from Indiana desire?

Mr. BAYH. Ten or fifteen minutes.

Mr. FULBRIGHT. Could I have 3 or 4 minutes?

Mr. MANSFIELD. Without taking the time from the Senator from Indiana, I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I have long favored lowering the voting age to 18, and I have expressed my feeling about this on numerous occasions. I think perhaps my sentiments were summed up in a letter last summer to a constituent wherein I stated:

Extending the suffrage to eighteen, nineteen, and twenty year-olds will broaden the base of democracy not only by the number of young people which it immediately adds to our voting population, but also by encouraging the participation of these people at an age when they are enthusiastic and interested in government and politics. This will enable us to make real inroads on voter apathy in the United States and in Arkansas as well. Our young people could be more than mere passive voters—they could be a catalytic and informative force in American politics. They have the enthusiasm and the idealism of youth; they are fresh from our schools and colleges, with a lively interest in politics and social affairs; and they could take on their political responsibilities at a time when they will be more apt to place the national interest above those particular interests which they will later acquire. In our schools today, students develop an interest in politics that even their parents may not have. But when they graduate at 17 or 18, they find that they cannot put their knowledge to use. At this point, their political enthusiasm is in danger of waning. With a lowered voting age, this enthusiasm could be channeled into constructive, effective political actions.

So I do not quarrel with the merits of this issue. I have, nevertheless, listened to the questions raised about whether it would be constitutionally correct for the Congress to enact a statute to this effect in view of the constitutionally based premise that voter qualifications shall be set by the several States. However, as this issue has been developing in the Senate, and especially with regard to the new amendment just offered, I have been most impressed with the arguments made by such eminent legal authorities as Professors Freund and Cox, not to mention those made by the distinguished majority leader and the assistant majority leader. The reasoning supporting the amendment has been most eloquently expressed in the Chamber today and I need not elaborate upon it at this time. I am persuaded by these arguments and, accordingly, I shall vote for this amendment.

SENATE RESOLUTION 368—SUBMISSION OF A RESOLUTION TO EXPRESS THE SENSE OF THE SENATE ON ARMED FORCES IN LAOS

Mr. FULBRIGHT. Mr. President, I submit a resolution which states the sense of the Senate that the Constitution of the United States requires that the involvement of U.S. Armed Forces in combat in or over Laos must be predicated upon proper affirmative constitutional action.

The United States has no treaty or other national commitment to the Government of Laos or to any faction in that country.

The Congress has not granted authority to the President to wage war there.

As Commander in Chief, the President may use the Armed Forces of the United States to defend the United States. He may have authority to dispatch American Armed Forces abroad to protect American citizens.

The President does not have authority, however, nor has Congress given him authority, to engage in combat operations in Laos whether on the land, in the air, or from the sea.

An argument might be made that the Tonkin Gulf resolution is broad enough to authorize the President to engage the Armed Forces of the United States in stopping North Vietnamese traffic headed for South Vietnam over the Ho Chi Minh trail. But neither that resolution nor any other affirmative constitutional action by the Congress has authorized the use of any U.S. Armed Forces in action in Laos which is unrelated to the war in Vietnam.

Efforts have been made to distinguish between combat action in the air and combat action on the ground.

Mr. President, I submit that such a distinction is specious.

If the President has authority to engage American air forces in a country with which we have no treaty or other obligation, and without the approval of Congress, he has a similar authority to engage our ground combat forces.

The Constitution is clear. It is the Congress which has the power to declare war and to make rules for the Government and regulation of the land and naval forces of the United States.

If the Senate is to remain silent while the President uses air forces in an Asian country without authority of the Congress, we should remain silent about his use of ground combat forces.

Two years ago by an overwhelming vote, the Senate went on record stating that a national commitment to a foreign power arises only from affirmative action taken by the executive and legislative branches of the United States through means of a treaty, convention, or other legislative instrumentality intended to give effect to such commitment.

The Senate must not remain silent now while the President uses the Armed Forces of the United States to fight an undeclared and undisclosed war in Laos.

Acquiescence now in even a limited use of air power in Laos will mean the Senate has surrendered one more legislative power to the Executive.

Mr. President, I ask unanimous consent that the resolution may be printed in the RECORD at the conclusion of my remarks together with an article concerning Laos.

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

The resolution (S. Res. 368), which reads as follows, was referred to the Committee on Foreign Relations:

S. RES. 368

Whereas, the United States has not by treaty or other constitutional procedure undertaken to engage American military forces in combat in Laos; and

Whereas, United States Air Force and other American military personnel have nevertheless become increasingly involved in, and have suffered casualties as a result of, combat activities in Laos distinct from the interdiction of military supplies or forces destined for South Vietnam; and

Whereas, the full nature and extent of U.S. military involvement in Laos has not been completely communicated to the American people: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Constitution of the United States requires that authority for the use of United States armed forces in combat in or over Laos must be predicated upon "affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect" to the commitment of American forces in Laos as agreed to by the Senate in the so-called commitment resolution (S. Res. 85, 91st Congress, first Session).

The article, ordered to be printed in the RECORD, is as follows:

[From the New York Times, Mar. 9, 1970]

DEATHS OF 27 AMERICANS IN LAOS DISCLOSED BY UNITED STATES

(Captain and 26 civilians reported killed in last 6 years—Nixon aides say he stands by earlier statement on role.)

(By James M. Naughton)

KEY BISCAYNE, FLA., March 8.—The Nixon Administration said today that an Army captain and 26 American civilians stationed in Laos on Government business had been killed by Communits troops or listed as missing as a result of enemy action over the last six years.

The disclosures came two days after President Nixon declared that "no American sta-

tioned in Laos has ever been killed in ground combat operations."

PRESIDENT'S STATEMENT STANDS

Gerald L. Warren, deputy Presidential press secretary, said in a briefing for reporters at the Florida White House that Mr. Nixon stands by the assertion he made in a report to the nation on the conflict in Laos.

[In Washington, Senators Mike Mansfield of Montana and J. W. Fulbright of Arkansas called for an end of United States involvement in Laos and accused President Nixon of not having gone far enough in his statement on the American role.]

The death of the American captain, in a Communist commando raid last year against a Royal Laotian Army headquarters, was confirmed by Mr. Warren. Other Administration sources disclosed that 25 civilian employees of the United States or Government contractor and one civilian dependent were dead or missing in Laos.

Mr. Warren said the President was not aware, when he issued his statement about Laos on Friday, that Capt. Joseph Bush, described as an American Army adviser to Royal Laotian troops, had been killed Feb. 10, 1969, near Muon, Soui, on the western edge of the Plaine des Jarres. Captain Bush's death, in action against Communist troops, was reported in the Los Angeles Times this morning by Don A. Schanche, a freelance writer who has spent much of his time reporting in Laos.

NIXON REPORTED DISTURBED

The distinction, Mr. Warren maintained, was that Captain Bush had died as a result of "hostile action." The President's spokesman gave this account of the captain's death:

"Captain Bush was in his quarters, in the compound 10 miles to the rear of the expected line of contact with the enemy, when North Vietnamese commandos attacked the compound. Captain Bush took action immediately to attempt to protect other persons in the compound, exposing himself to enemy fire, and was killed.

"He was not engaged in combat operations."

Mr. Warren confirmed that Captain Bush fired at the enemy during the skirmish. Mr. Schanche's account said that Captain Bush killed one Communist soldier before he was "almost literally cut in half by enemy automatic weapons fire."

White House sources, who declined to be identified publicly, said that President Nixon had been disturbed by the account, which appeared to contradict his statement, and had ordered a check of records of all those who had served in Laos in the last six years.

According to these sources, no other cases were discovered in which American military personnel had been killed, but the records showed that 25 civilians and one dependent had been listed as dead or missing as a result of "hostile action."

The White House sources said that Mr. Nixon had been aware of the civilian casualties when he made his statement on Laos, but that he did not feel they were attributable to "ground combat operations."

Some of the casualties resulted from enemy ambushes or long-range artillery attacks and others may have occurred in the downing of American aircraft over Laos, the sources said.

REFERS TO "GROUND COMBAT"

When Mr. Nixon issued his report on Laos, the White House confirmed that 200 Americans had been killed and 193 listed as missing or captured as a result of air operations over Laos, but the officials insisted that Americans had not been engaged in ground combat operations.

They pointed, in fact, to the absence of casualties on the ground to emphasize the President's statement that the United States had no ground combat forces in Laos and no plans to introduce them.

In his account, Mr. Schanche referred to Captain Bush's death as a "ground combat" casualty. He said that when the captain was shot he was helping to "coordinate ground action involving Thai artillery, American air power and Meo infantrymen against a Communist force that was dug in on a road a few miles east of Muong Soui."

He said he learned of the captain's death the next day, from an Army sergeant he called "Smokes" and from some of the 62 Air Force radar technicians also stationed at the lightly-guarded Laotian compound.

The White House would not comment when asked if the President was disturbed about the possibility that the new information would raise questions about the credibility of Mr. Nixon's statement on Laos.

Nor would the sources disclose whether the captain had been receiving combat pay. They directed these and other questions—including one inquiry about the way in which similar casualties are listed in Vietnam—to the Defense Department.

[A Pentagon spokesman said that Captain Bush's records were locked up for the weekend in the Army records center in St. Louis and that military officials would not be able today to identify the captain's hometown or to determine whether he was receiving combat pay.

[The spokesman said that had Captain Bush's death occurred under the same circumstances in Vietnam it would have been classified a "death due to hostile action," a category that includes those killed in action as well as deaths that result from enemy action but not while victim was in combat.]

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. BAYH. Mr. President, I rise to discuss the subject which has concerned our Subcommittee on Constitutional Amendments of the Committee on the Judiciary for a good many weeks, indeed for a period of years, the entire question of how we give our younger citizens the right to have some voice in determining their destiny.

During the last several weeks this subcommittee, which I have the privilege of serving as chairman, has held extensive hearings on the entire matter of lowering the voting age. More specifically, this week we have held hearings trying to determine not just the merits of lowering the voting age, but what vehicle it would be most appropriate to use; whether we should follow the course recommended by the distinguished majority leader and proceed by statute, or whether we should follow the course so vigorously pursued by our distinguished colleague from West Virginia (Mr. RANDOLPH).

I think it is important first to look at some of the facts disclosed by these hearings. I will try to summarize, to be totally honest, the Senator from Indiana's interpretation of these facts. It is quite conceivable that some of our colleagues might look at the same facts and reach a different interpretation.

I think it is fair to say we have been able to create a greater degree of national awareness of the need to lower the voting age. It is my judgment that the debate in which we are participating now can add to this awareness.

I think the hearings plus the dedicated efforts of the Senator from West Virginia, the Senator from Montana, the Senator from Massachusetts, and others have done more than has ever been done before to try to convince Members of this body that the time has come to lower the voting age. It has been difficult for me to believe that there are some Senators who, only in the last week, have added their names and influence to the effort to lower the voting age. Some of these Senators, before this time, would not even consider discussing it in executive session of the Judiciary Subcommittee on Constitutional Amendments.

I think the evidence before our subcommittee discloses a significant constitutional question as to whether the statutory approach will be upheld by the Supreme Court when it is ultimately tested. After looking at the constitutional arguments presented by witnesses pro and con, it is my judgment that there are constitutional grounds for proceeding by statute. The basis for this judgment must rely almost totally on the Supreme Court decision in Katzenbach against Morgan. Although we might differ as to whether that is a sufficient ground, I am inclined to believe it is.

I think it might be helpful to look at the crucial element in the Morgan case, the basis on which we must proceed in lowering the voting age by statute. In Morgan, the Court relies primarily on section 5 of the 14th amendment, the provision giving Congress "power to enforce, by appropriate legislation, the provisions of this article," including the equal protection and due process clauses. The Court in Morgan upheld congressional authority under section 5 to override State legislation as violative of the equal protection clause, even though the Court itself might well have been reluctant to declare the State law in question unconstitutional. It thus held in Morgan that the Congress has a broad grant of authority to enact such legislation as Congress reasonably believes necessary to establish and protect the guarantees of the equal protection clause. Such legislation will be sustained so long as it is fairly based on factual determination, and I would like to quote one paragraph from Katzenbach against Morgan in which the Court said that:

> It was for Congress . . . to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state's 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 . . .

Then the Court proceeded—

> 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.

Different views were presented to the committee. The distinguished dean of the

Yale Law School, Mr. Pollak, expressed deep reservations and opposition to proceeding by statute, and he is indeed, a learned scholar in this area. Two constitutional experts, Professor Freund and Professor Cox, former Solicitor General, as stated earlier, have expressed strong support for the method which we are pursuing here today.

The issue resolves to the old question of drawing the constitutional line between State rights and Federal rights? This is not a question the Senator from Indiana takes lightly. With all due respect, the Senator from Indiana must say he is not impressed by the argument made by the senior Senator from Florida that Congress should be timid about pursuing the lowering of the voting age because of actions by State legislatures and by referendums in which the States themselves denied the right of 18-, 19-, and 20-year-olds to vote.

If we had pursued that argument to its logical concluison, we must recognize that the 19th amendment, which gave to women the right to vote, would never have become law, because we had circumstances similar to those existing now which preceded ratification of the 19th amendment. Time after time referenda and State legislative actions said to women of voting age—who comprise more than half of the people of this Nation "You are not going to have the right to vote." But Congress initiated the activity which ultimately led to giving the women of our country the right to vote.

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

Mr. BAYH. I yield.

Mr. RANDOLPH. I think it is very important that the Senator from Indiana has brought to our attention a constitutional amendment in which more than three-fourths of the States ratified the action of the Senate itself. In other words, the Senate referred the matter to the States, and although the States had failed to grant to women the responsibility and privilege of voting, it was only 15 months, under the impetus of the action of Congress, until a sufficient number of States ratified and the Secretary of State proclaimed the right to vote for the women of this country.

I think it is very important for us to realize what we are doing today. The methodology as we move this proposal to a conclusion, is very important. Sometimes, it is said, form is unimportant, but sometimes the batter of form is very important. I think in this case it is important that we give to the States the opportunity and the responsibility to speak on this matter after the Senate and the House—the Congress—has referred this challenge, as it were, to them.

That is what the Senator is saying, in other words.

At this point I want to explore with the able chairman of the Subcommittee on Constitutional Amendments what the situation will be if the amendment of the distinguished majority leader, or the amendment as amended by the Senator from Alabama (Mr. ALLEN), were to pass this body. What would be the Senator's feeling about pursuing the resolution in his subcommittee, in view of the 4 days of hearings which have been held on Senate Joint Resolution 147. I wonder if the Senator's subcommittee would be prepared to go forward, and if there would be sufficient votes in the subcommittee to go forward. I wonder whether the Senator would be inclined to feel it is his responsibility to have the Senate subcommittee which he so capably heads bring this matter to fruition, and then after it is brought to a vote affirmatively in subcommittee, to go to the full committee for action?

I am trying to determine what the situation will be, even if the amendment were adopted.

Mr. BAYH. I will proceed to try to substantiate my opinion concerning the amendment of the Senator from Montana, but I think the question raised by our distinguished colleague from West Virginia is a good one. As one Member of the Senate, and particularly as chairman of the subcommittee, I intend to do all I can, to use all the influence I might have, to move Senate Joint Resolution 147 speedily into executive session of the subcommittee, and into the full Committee on the Judiciary, and out to the Senate floor, and then to join with the Senator from West Virginia and other Senators at that time to see that we pass it and get the two-thirds vote necessary.

As the Senator from West Virginia knows, the Senator from Indiana can speak only for himself. But I think the times are so critical—and I shall touch on this in more detail in a moment—and the need to give young people the feeling of belonging, give them a meaningful piece of the action is so great—that we must act quickly in whatever parliamentary manner may be necessary to prevent this matter from being log-jammed at any step along the way. I think we must proceed.

Mr. RANDOLPH. Will the Senator from Indiana indulge me one further comment?

Mr. BAYH. Yes; of course.

Mr. RANDOLPH. I realize the cogency of the argument now being presented for supporting the Mansfield amendment, which, frankly, I may support. I probably never have had a more difficult decision to make on a matter. I feel very strongly about the constitutional amendment route; I feel that that is the way we should proceed.

The Senator from Indiana is saying that if we support the Mansfield amendment, we would really be proclaiming the sense of the Senate, as it were, in support of a lower voting age, but we would not delay the process of the Subcommittee on Constitutional Amendments or the full Committee on the Judiciary in continuing to deal with Senate Joint Resolution 147. That has been said by the Senator from Indiana, and it has been said by the Senator from Mississippi (Mr. EASTLAND), the chairman of the Committee on the Judiciary.

The Senator from Indiana speaks for himself. But we do have in the subcommittee and full committee among those who are cosponsoring Senate Joint Resolution 147, a sufficient number to bring this matter to the floor of the Senate, and I think it would come here speedily. Would the Senator from Indiana respond? Does he feel that it would come here quickly?

Mr. BAYH. I do. The Senator from West Virginia and I have been working together on this subject, as has our distinguished majority leader. I came to the Senate 8 years ago. The Senator from West Virginia and the Senator from Montana, and other Senators, have been laboring at this level before that. Before I came to the Senate, I was working in the vineyard of the Indiana Legislature, unfortunately, to no avail. But now my barometer indicates that the environment in this body and in the country is much more in tune with giving the young people the right to vote.

I think we need to proceed as rapidly as we can with this constitutional amendment. I think that certainly, at the very least, the effort we are making now would explain to our colleagues in the House of Representatives the sense of the Senate.

I think the Senator from West Virginia, and all of us here who are so committed to giving young Americans the right to vote, agree that we will use any vehicle which we feel reasonably has the opportunity to succeed, whether it is by statute or by constitutional amendment. Frankly, I do not think any of us really are bound to one vehicle or the other. We may feel somewhat concerned about the constitutionality, about the possibility of acceptance at the State level or in the House of Representatives, or about reservations by one Member of the House of Representatives or another, but I feel we are determined to pursue this goal until we reach it.

Mr. RANDOLPH. One final comment. It has been said here that because we did not act 10 years ago, 15 years ago, or any other time on the constitutional amendment approach, we have no reason to believe we will have affirmative action now.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAYH. Will the Senator yield me 10 additional minutes? I shall not use any more than necessary.

Mr. MANSFIELD. I yield 10 minutes.

Mr. RANDOLPH. There was a time when it was not the sense of the Senate or the sense of Congress that we act to control pollution in this country. But now Congress is active in that area. There is a time when a subject comes to the foreground, and when the Members of the Senate and the House of Representatives determine that the time has arrived to act.

I think the time has now arrived to act on this subject. I am only saying that the fact that we have not done it in the past is no reason that we will not do it now, by whatever route we find expedient and necessary, either by statute or by constitutional amendment. Irrespective of our action today I hope the Judiciary Committee will act in the manner we have discussed.

Mr. BAYH. As a former member of the Indiana State Legislature, I do not take the legislative interest or lack of interest lightly, very frankly. But I think, to

keep this record absolutely clear, we should point out that poll after poll shows that more than 60 percent, sometimes as high as 70 or 80 percent, of the people of this country, when asked whether they want the voting age to be lowered, have said, "Yes." So we have a strong case, it seems to me, for looking at what the people of this country want. And we as Members of the Senate and of Congress surely have to take into consideration the desires of the people, and what they feel is important, as well as the desires of the individual State legislative bodies.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. JORDAN of North Carolina. If the Mansfield amendment passes, would that nullify any action on a constitutional amendment coming later out of the subcommittee of which the Senator is chairman, or the full Committee on the Judiciary?

Mr. BAYH. As far as I am concerned, no. We are going to proceed at full speed to try to get that matter to the floor of the Senate. We do not know as yet, of course, what is going to happen to the pending amendment when it gets to the House of Representatives. If they do not agree to it, I do not want us to look back here, at the end of the session, and say, "Oh, if we had only worked just a little harder to get that constitutional amendment out of the committee."

Mr. JORDAN of North Carolina. But if the Mansfield amendment is passed and adopted, and becomes law, constitutionally or otherwise, we would not have a constitutional amendment, if it becomes law and the Supreme Court upholds it.

Mr. BAYH. That is right.

Mr. JORDAN of North Carolina. I want to make just one very brief statement. I have no personal objection to the 18-year-olds voting. I know there is strong sentiment for it. But I am very much of the opinion, as was my colleague (Mr. ERVIN) in his statements yesterday, quoting various sections of the Constitution—in which I am convinced he was correct—that this body has no legal right to pass any kind of voting law for this Nation, because if we can do that, we could also say, "You are going to start voting at midnight," or 10 o'clock, or order them to close the polls at this time or that. That is reserved to the States. I do not want, by a vote on the Senate floor, to take away the right of my State to decide what it wants to do. That is my objection to the Mansfield amendment. I want the State to make that decision itself. I do not want to abridge the right of my State legislature to decide what it wants to do, and let the people vote on it.

I thank the Senator for yielding.

Mr. BAYH. I am always glad to yield to my friend from North Carolina.

We were discussing what might happen if the amendment of the Senator from Montana is passed by the Senate. I want the record to be clear that although the Senator from Indiana feels that there is a case that can be made, and a solid case, on the constitutionality of the statutory approach, we must all recognize that this is a gray area. A reasonable question can be raised. But in the past this body has not been timid, and Congress has not been timid, to move into gray areas where they thought a problem existed.

I think it is important to understand that in 1965, when we passed this Voting Rights Act itself, no one could be certain that it would be held constitutional, because we were plowing new ground—new ground designed to deal with critical problems that existed in the country as of that moment, and still exist today. In the case of South Carolina against Katzenbach, we found out that our efforts had been successful, and the doubts as to the constitutionality of the 1965 Voting Rights Act were removed.

We have the testimony of Professor Freund and Professor Cox to the effect that in their expert judgment a statute lowering the voting age would be constitutional, although I think we must point out that Professor Cox had some reservations. There is no clear right or wrong. The majority of the Members of the Senate, in looking at the measure which is presently before us, the Scott-Hart substitute, have indicated their willingness to support this provision. I think the Senate needs to recognize what we are saying in the Scott-Hart bill. We are saying that for the first time the Congress of the United States is ready to move into the whole area of residency. This is what the Senate is going to be saying by supporting the Scott-Hart bill. I think that Katzenbach against Morgan and the case of Shapiro against Thompson give us constitutional grounds to do this.

We are moving into the area of banning literacy tests nationwide, and we are saying that we are willing to abolish all literacy tests because there is something per se discriminatory about a literacy test. We base this view on Katzenbach against Morgan, but that case did not deal with all literacy tests; it dealt with certain specific literacy tests. So I think we are plowing new ground in all those areas.

I support these efforts because I think it is important for us to set a uniform test so far as residency and literacy are concerned. But we are plowing new ground.

I do not concur with the distinguished Senator from Nebraska when he suggests that the Lassiter case is contrary to the direction in which we are headed. The Lassiter case was decided in 1959. The act we are now seeking to extend and amend was passed in 1965, and the Morgan case came along in 1966. If the Lassiter case had any relevance before Morgan, there is no doubt that Morgan relegated Lassiter to oblivion on the issue we are here considering; namely, whether Congress can prescribe statutory voting standards contrary to State laws which the Supreme Court might not declare per se unconstitutional.

The administration, I might point out, has supported the constitutionality of moving into the area of residency and literacy tests. It seems to me that if we in the Senate can say that it is constitutional to move into the area of literacy and residency, as I am willing to say we can, then we must put the question of lowering the voting age in the same category. As was said in Morgan, it is for Congress to assess and weigh the various conflicting considerations.

In my judgment, a case has been made time and time again, by those who have spoken before and by statements that have been put in the RECORD, that there is critical need today to give young people meaningful participation in the system. There has been considerable discussion about the fact that young people are better qualified. Over half of our young people today attend college. In 1920, less than 20 percent were high school graduates; today, almost 80 percent are high school graduates.

I ask unanimous consent to have printed at this point in the RECORD very pertinent testimony given yesterday before our committee by Dr. Margaret Mead, the distinguished anthropologist, who is one of the leading experts, if not the leading expert, in the country in the whole field of the maturing of young people.

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

TESTIMONY OF DR. MARGARET MEAD

The history of freedom is the history of the extension of the franchise from an exclusive possession of the aristocratic and wealthy to a possession of every man, then every woman, within this country. At present there is a grievous discrepancy between what we ask of young men—and some young women—and the political roles we permit them to play. We draft them for wars about the conduct of which they have nothing to say, they are taxed on their earnings, they marry and maintain homes, they are entrusted with deadly weapons which may shatter the peace of the community or precipitate deadly conflict, they drive cars and fly planes, taking their own lives and that of thousands in their hands. Yet when it comes to the exercise of the franchise, we treat them as dependent children, boys instead of men, even until they are twenty, as *teen-agers*.

With today's universal education and nationwide exposure to the mass media, they are among some of our best informed citizenry, in step with the rapid changes in technology and organization which are the mark of our period in history. They have grown up with all of the things which older people have had to learn to understand and to use after they themselves were grown—the responsibilities of a world in which nuclear war is a danger that must be consciously avoided, the openness of a universe in which men go to the moon, the simultaneity of a world where television rings the globe, the possibilities of a world in which computers can both criticize and implement men's best or worst laid plans, the urgency of a world where the population has suddenly exploded and the careless use of technological power is threatening to suffocate us. In the world of today they are the native born, native to the third-quarter of the 20th century.

This nation was founded on our recognition that taxation without representation is tyranny. We know that powerlessness where there should be power, weakness where there should be responsible strength, voicelessness where one's voice is relevant, breed desperation, a distrust of the law and action outside the law. Lack of political responsibility can put the sanest men and women into

a rebellious and frustrated state where they no longer trust the political process on which our freedom is built. As one of my students wrote:

"Young people should be allowed to vote into office those politicians who may one day send them off to war to defend this country. Young people are more aware today of what's going on around them than they have ever been . . . You can't help but know what is going on in the world. Perhaps the same men would continue to be elected but we have a right to find out . . . We should be allowed to voice our feelings in the voting booth, not out in the streets. Let us vote!"

I should not have to speak for them, they should be able to speak—and vote—for themselves.

We recognize that those who are born in this country have a birthright citizenry. Those who are eighteen today have a birthright citizenry in time as well as in space. They have grown up in a world to which we elders come as immigrants from a simpler age. We need them as partners in the urgent task of catching up with the times in which we live, we need them to ask the timely questions, to release the latent power and strength of this country to deal responsibly with the present and the future, for the future is Now, just a day away, March 11, 1970, not 1973.

Mr. BAYH. Dr. Mead told us that in the last hundred years the age of maturing young people has lessened by 3 years. So we can say reasonably, scientifically, and medically that a young person today is as mature at 18 as a young person 100 years ago was at age 21.

We have discussed in some detail the question equity involved. We have talked about due process and equal protection. It seems to me that if we are concerned about due process and equal protection, we have to be concerned about the fact that half of the young men who die in Vietnam are not old enough to vote. All of them, and all young people, pay taxes; they are tried in our courts; and yet they do not have a voice in shaping policy.

I should like to close by suggesting that the most vital need for lowering the voting age today is the need to give young people a feeling of belonging and to bring the moral energy of their ideas and the force of their convictions into the system, to help us solve the great problems of our times. We need to let them know that this system can respond to their needs. We need to say to the far out fringe group which is appealing to their contemporaries to join in overthrowing the system, the group arguing that there is no place for them in the system, that this is not right. We must show that this system can purge itself, can do away with its inequities, and can give to the young people the right to vote and to participate in the decisionmaking process.

I, for one, salute our distinguished majority leader and will join him in this effort. I think it is extremely important for us to recognize, as I said before, that we are not absolutely certain. I concur in the concern expressed by the Senator from West Virginia (Mr. RANDOLPH). We cannot afford to fail in this effort. Whether it is by statute or by constitutional amendment, we must proceed until we succeed. We must not raise the expectations of young people that we are going to give them a place in the system and then fail them once more. We must show them that we mean what we say, and we must continue until they are full participatory partners in this great system of ours.

To that end, I intend not only to support the distinguished majority leader, the Senator from Montana, but also to pledge a continued effort to see that the constitutional amendment moves forward promptly.

Mr. MANSFIELD. I yield 10 minutes to the distinguished Senator from Utah.

Mr. MOSS. I thank the majority leader.

Mr. President, I intend to support the amendment of the majority leader, and I ask unanimous consent that my name be added as cosponsor of that amendment.

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

Mr. MOSS. Mr. President, I follow the lead of the Senator from Montana (Mr. MANSFIELD) in his willingness and desire to accept the amendment that has been suggested by the Senator from Alabama (Mr. ALLEN). It seems to me that it is a perfectly good and proper amendment and one that I would be glad to see incorporated in the amendment offered by the Senator from Montana, which would give to the citizens of this country 18 years of age and older the right to vote in Federal elections.

I have listed many times the reasons why 18- to 21-year-olds should be given the vote. Young people already have other rights and responsibilities of citizenship except the most fundamental of all—the right to vote. Almost 1 million young people under 21 are already fulfilling perhaps the most burdensome responsibility of citizenship by serving in the Armed Forces. Over 19,000 young Americans between the ages of 18 and 21 have made the supreme sacrifice for their country in giving their lives in Vietnam.

Opponents of lowering the voting age, however, hold that despite the other rights and duties given to young people, they are still too immature to vote. Young people are said to be too rebellious and militant.

But such beliefs have no basis in fact. Of the millions of college students, studies show that less than one-half of 1 percent were engaged in any kind of disruptions that involved violence.

This image of immaturity and rebelliousness no doubt comes from watching the television news. But those older people sincerely concerned about maturity should remember that there are over 11 million young people in this age group and only a tiny minority of them ever get on television. Opponents of the 18-year-old vote should look around at their own children or grandchildren before concluding that all young people riot.

This country should stop penalizing the great majority of young people for the transgressions of a few. It is time to make young people full participants in the democratic process instead of preaching to them how good our democracy is.

We can give 18- to 21-year-olds the vote now, this session of Congress. We need not wait for the drawn-out process of a constitutional amendment.

I believe that it is not unconstitutional for Congress to lower the voting age by statute. It is not a violation of States rights. I should like to quote from a statement by Senator GOLDWATER, probably this Nation's foremost advocate of State's rights, in support of lowering the voting age by statute:

But not even the strongest advocate of State's rights could claim that a State may limit the right to vote on arbitrary or unreasonable grounds. It would be nonsense to say that a State could fence out all left-handed persons from the polls. Or all Catholics. Or all males with long hair.

Clearly there are limits as to how this authority may be used. To say that the States may establish voting qualifications is not to say that their power is absolute.

To me, where there is a conflict between the fundamental, personal right to vote and the purely administrative power of a State to regulate its elections, the State power may prevail over the right of the individual citizen only if it serves a major and compelling State interest. Since no such interest has been shown in the case at hand, I believe it is entirely fitting for Congress to act to protect the freedom to vote of young Americans.

Simple justice demands that 18- to 21-year-olds be given the vote. To grant it would give them a sense that they indeed have a stake in their society and a political voice to protect it.

We hear that the young people of this generation are alienated, that there is a generation gap between the young and the old. If there is any way to bridge such a generation gap, it is to accord to our young people the full responsibilities of citizenship. They have most of the obligations now, and they are entitled to all the privileges and prerequisites of citizenship. As I indicated, the most precious of all these rights, perhaps, is the right to choose the officers who will lead this country and give direction to the course the Government will follow and the policies it will espouse.

I believe that we must give this right to our young people, because this generation of young people is more mature, more informed than any that has gone before, including, certainly, the time when the age of maturity and the age of voting became grafted into our law from the mother country. Then people were more immature and were bound to the regions in which they lived, and did not have the opportunities for experience and learning which the young people of today have. So I think it is long overdue that we should call them into our councils and let them become full citizens of our country when they become 18 years of age.

I therefore gladly support the amendment of the Senator from Montana, as it will be modified, I hope, by the amendment of the Senator from Alabama, and I urge that the Senate take speedy action on this matter to solve one of the pressing problems which plague us at this time; namely, the feeling of our young people that we do not include them, that we do not trust them, that we do not want their participation in the operations of our Government.

Mr. ALLEN. Mr. President, I yield 15 minutes to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from South Carolian is recognized for 15 minutes.

Mr. THURMOND. Mr. President, I am in favor of 18-year-olds voting.

Yesterday, at the hearing before the Subcommittee on Constitutional Amendments, I made this statement:

I am of the opinion that most young people are responsible citizens who are aware of the vital issues of the day and are capable of casting an intelligent vote; therefore, I endorse a constitutional amendment to lower the voting age to 18.

The disorder, destruction, and rebellion that has occurred on our college campuses recently has called for a reexamination of the questions of 18-year-old voting as many of the participants in these irresponsible activities have been between the age of 18 and 21; however, my experience in speaking on college campuses across the nation indicates that it is only a handful of students who are causing the trouble, and I have found that most students are intelligent, law-abiding, responsible people.

I feel that a constitutional amendment is a proper way to bring about a lowering of the voting age as I am of the opinion that a statute passed by Congress would not be constitutional.

Mr. President, that statement, which I gave out yesterday, I think expresses my complete position.

First, I am in favor of 18-year-olds voting.

Second, I do not believe it can be done constitutionally by statute but must be done by amendment to the Constitution of the United States.

Mr. President, article I, section 2 of the Constitution states:

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.

What does that mean, Mr. President?

It means this, that when the section states, "the electors in each State," of course that means the voters in each State "shall have the qualifications."

What qualifications? "requisite for electors of the most numerous branch of the State legislature."

Who fixes the qualifications for elections to the State legislature? The State does that. The Federal Government has never entered that field. It is not in that field now.

Thus, since the States fix the qualifications for a person who becomes a member of the most numerous branch of the legislature, which is known as the House of Representatives of the State, and since a Member of Congress is elected by the people having those qualifications, then it is clear that the Constitution leaves to the States the matter of fixing voter qualifications.

Since that is the case, I do not see how it would be proper, legal, or constitutional to pass a statute to allow 18-year-olds to vote.

I think that this matter was pointed out quite well yesterday in the hearing I referred to before, the Subcommittee on Constitutional Amendments, by the dean of the Yale Law School, who is by no means a conservative. He is known as a liberal. In fact, a few weeks ago, he testified against Judge Carswell. But even this liberal dean has taken a position that in State and Federal elections, it would be necessary to have a constitutional amendment and that it would not be proper to go forward by Federal statute.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary outline and statement by Louis H. Pollak, dean and professor of law, Yale Law School, March 10, 1970, before the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee.

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

SUMMARY OUTLINE OF STATEMENT OF LOUIS H. POLLAK

1. I favor reduction of the voting age to 18, in state and federal elections, but I think this should be accomplished by Constitutional Amendment rather than by federal statute.

2. I have serious doubts about the power of Congress, by statute, to lower the voting age to 18 in state as well as national elections: a) prior to the decision in *Katzenbach* v. *Morgan*, I would have supposed that no serious case could be made that such a statute would be constitutional: b) in my judgement, *Katzenbach* v. *Morgan* provides the basis for a modestly plausible, but not for an ultimately persuasive, case for the constitutionality of such a statute.

3. Even if I thought the case for the constitutionality of such a statute were substantially better than I believe it to be, I would think it imprudent to proceed in this area by statute rather than by Constitutional Amendment, provided there is a substantial chance that the amendment route would work: a) it would be detrimental to our voting processes to have an extended period of doubt about the ground rules by which elections are to be conducted, pending a Supreme Court determination of the constitutionality of the proposed statute lowering the voting age; b) assuming the Supreme Court were to uphold such a statute, the question whether Congress should make other statutory redefinitions of the electorate might become a continuously unsettling ingredient of American voting processes; c) hitherto, we have made changes in the composition of the electorate only by Constitutional Amendment. We should continue to follow this course which recognizes how fundamental such decisions are.

Mr. THURMOND. Mr. President, also at the same hearing, Assistant Attorney General, William H. Rehnquist, of the Office of Legal Counsel, testified before the Subcommittee on Constitutional Amendments and took the position for the Department of Justice that it would be necessary to have a constitutional amendment and that this would be the proper way to proceed.

I call attention to his entire testimony and hope that Members of the Senate will take the opportunity to read it. I refer to a paragraph on page 1, in which he says:

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 . . .

And he goes on and gives those reasons.

Now, Mr. President, this administration, headed by President Nixon, is in favor of 18-year-olds voting; but this administration is also in favor of a constitutional amendment to accomplish this rather than through the enactment of a statute.

The Department of Justice has researched this matter most carefully. They have gone into it from every angle and they have reached the conclusion that it cannot be accomplished through a statute, that it must be accomplished by a constitutional amendment.

I want to say that the more one delves into this problem, the more he will be convinced that that is the case.

Now there is one case that has been referred as being authority for being able to proceed by statute, preventing the necessity to follow a constitutional amendment, which is a much longer procedure, and that is the case of *Katzenbach* v. *Morgan*, 384, U.S. 461.

However, Mr. Rehnquist considers this case in his statement, on page 5, and describes it carefully and goes into every facet of it. He also answers the questions, and he comes up with the conclusion that it would be necessary to have a constitutional amendment.

Mr. Rehnquist says in his last paragraph:

I urge, therefore, that this Subcommittee report favorably on the proposed constitutional amendment to reduce the voting age in national elections to 18, and that it recommend against the enactment of a statute for this purpose.

Mr. President, that subcommittee has been hearing witnesses on this matter. And the witnesses who have testified, I believe, have all testified in favor of 18-year-olds voting. I see no reason why this Subcommittee on Constitutional Amendments cannot report this constitutional amendment promptly.

The argument is brought up that there would be delay and that it would be better to proceed by statute. Some say, "Let us go ahead. We want it so badly. This suggestion is for such a worthy purpose that we ought to go forward and enact a statute and also bring out a constitutional amendment."

I do not agree with this because each Senator has to judge for himself whether a matter is constitutional. I do not think we have to wait and let the Supreme Court pass on it.

I think that each Senator, having held up his hand and having taken an oath to support the Constitution of the United States, should decide for himself in his own opinion whether any bill he is voting on is or is not constitutional. And if it is not constitutional in his judgment, then he should not vote for it. I am convinced that we will be on sound ground, and that we will only be on sound ground, if we proceed in this way, by constitutional amendment.

I do not say that the Supreme Court of the United States as now constituted would not hold the statute to be constitutional. Why, they have reversed the Supreme Court on so many precedents of the past that one hardly knows what the law is. However, I am looking for changes on the Supreme Court in the next few years. And I am looking for sounder judgments with Chief Justice Burger on the Court and with Judge Carswell soon to be there, and other Justices when vacancies occur.

I look for the Supreme Court to assume a more balanced position on the

subject matter and to adhere to the Constitution of the United States.

I think it would be a great mistake for us to say that simply because we favor the 18-year-olds voting, we are going to vote for a statute to accomplish that purpose quickly.

I think that first we ought to respect the Constitution enough so that we would not pass any law that is unconstitutional. I think second, that even if it takes longer to follow the constitutional route, we should realize that that is what our forefathers intended when they wrote the Constitution. If the Constitution is to be amended, they wanted the Congress to stop, look, and listen.

To amend the Constitution, we would have to get a two-thirds vote of both bodies, the House and the Senate, and then three-fourths of the States would have to ratify such an amendment. It is well that such is the case, because the Constitution is the organic law of the land. We should not toy with it. We should not play with it. We should abide by it and respect it.

I feel exceedingly strongly that the proper way to proceed here to give the 18-year-olds the right to vote is to follow the method of amending the Constitution that has been prescribed. And as I have stated, we have an amendment presently before our subcommittee to this effect, and since very member of that subcommittee is in favor of the 18-year-olds voting, there is no reason why this amendment could not be reported promptly.

I would like to see it reported today or tomorrow. There is no reason why it cannot be done tomorrow. The Judiciary Committee, I feel certain, would act favorably on it and report it to the Senate for prompt action.

I commend the distinguished and able Senator from West Virginia on being the chief sponsor of the proposed constitutional amendment. I am proud to join him as a cosponsor of the amendment to allow the 18-year-olds to vote.

I hope that the Senate will not try to take a shortcut and say, because of its appeal to the youth, that we will give them the vote right now.

I hope the Senate will not act on political expediency or attempt to follow a shortcut route that could end in striking down such a law.

I hope we will follow the constitutional method of submitting an amendment. If we do this, there will be no question. If we amend the Constitution in the proper way, as provided for in the Constitution, and give 18-year-olds the right to vote, that is all they can ask. That is fair. And that is just.

I hope the Senate will follow that procedure.

Mr. President, I ask unanimous consent that a statement by Assistant Attorney General William H. Rehnquist be printed at this point in the RECORD.

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

STATEMENT OF ASSISTANT ATTORNEY GENERAL WILLIAM H. REHNQUIST, OFFICE OF LEGAL COUNSEL, ON PROPOSED STATUTE TO LOWER THE VOTING AGE

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, any 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 a 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 nondiscriminatory 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 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 discrimination 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 constitutional 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.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOK. Mr. President, I have listened to the remarks of the Senator from South Carolina. I had an opportunity during the course of the hearings to propound many questions to Mr. Rehnquist.

One of the amazing things to me is that somehow or other the Justice Department wants the Members of the Senate to make absolutely certain that what we pass will pass the test of the Supreme Court of the United States and will under all circumstances pass the test of the Constitution.

I asked the distinguished Attorney General, Mr. Rehnquist, why he cited the Lassiter against Northampton Election Board case and expressed the idea that age was one of the things that was reserved to the respective States when, had he read the entire paragraph, he would have seen that it said residence requirements, age, and previous criminal record. It says that the residency requirements are just as important as age.

If the Senate passes the Scott-Hart amendment, it will not only pass an extension of the 1965 act, but it will also pass a new section in the 1965 act that would require that everyone in this country be allowed to register for presidential elections on or before September 1, regardless of voting qualifications or voting restrictions that the Constitution of the United States would impose on any elector, which would probably run contrary to the voting requirements of almost every one of the 50 States.

I presume that not everyone would vote against that section, because it would as they contend violate the Constitution. If it violates the Constitution to say that 18-year-olds can vote, we have another section that says that we have, in fact, eliminated all literacy tests in the United States by statute, which I suppose they would contend, would deny a constitutional right.

We are hung up on the question of age. We are not hung up on the question of residence, but we are hung up on age.

There is one other point that I think is important. We have had several Senators say they would back a constitutional amendment to allow 18-, 19-, and 20-year-olds to vote in presidential elections. What kind of a mess would that create in the United States?

When we submitted a constitutional amendment for women suffrage, we did not only say that they could vote in Federal elections, but we also said they could vote in every election.

Somehow or other, a constitutional amendment is to be proposed, I would expect, that would allow 18-, 19-, and 20-year-olds to vote in Federal elections only. That would mean that those States which do not want that matter submitted to their people as a referendum, will have to have a separate ballot in the Federal elections for the 18-, 19-, and 20-year-olds, but those 18-, 19-, and 20-year-olds can no longer vote in State elections.

No longer could we have a party ballot for President, Vice President, Senator, Representative, Governor, county judge, or whatever the local election may be because 18-, 19-, and 20-year-olds would be able to vote in Federal elections only but everyone else 21 years of age and older would be able to vote in all of them. What kind of situation would that cause?

I only propose these points to show that when we stand up here and say we want a constitutional amendment and we want to let 18-year-olds vote in Federal elections only, do we really know what we are causing? Do you really know we are not being responsible?

Let us take, for instance, the constitutional amendment we did pass, which was submitted to the States, and which the people approved, the 24th amendment, which eliminated the poll taxes in Federal elections. We did this because of the pressure of the respective States.

It was not long thereafter that the case of Texas against United States went to the Supreme Court, and in 1966 the Supreme Court said in that case that the right to participate and the right of liberty was so important that even in regard to State elections no State could impose a poll tax on the right of the individual voter as a prerequisite to voting. They were saying that if the Congress of the United States years ago had established a statutory record that they opposed poll taxes as a prerequisite to voting, the 24th amendment would never have been necessary.

I am saying only that we should look at these things logically and honestly. As a matter of fact, let us look at them honestly now.

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

Mr. MANSFIELD. I yield the Senator 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. COOK. If Congress had wanted to solve the problem in relation to the States, and if Congress had wanted to impose a penalty on those States that failed to allow minorities to register and vote years and years ago, why did they not live by the Constitution and impose article II of the 14th amendment which states in cold black terms that if a State fails to allow its male individuals 21 years of age and over to vote, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

All of these fine constitutional lawyers did nothing about that for years because it was a penalty statute. We resolved the matter by the passage of the Voting Rights Act of 1965 and it was further resolved by the case of Katzenbach against Morgan. That is the basis on which this proposal is before the Senate today.

Mr. COOPER. Mr. President, will my colleague yield so that I may ask a question?

Mr. COOK. I yield.

Mr. COOPER. Mr. President, I wish to say at the outset that the experience of Kentucky in enfranchizing 18-year-olds to vote has been the greatest and most refreshing political act in my lifetime. The young votes have been brought into participation in government. They have contributed to the betterment of politics and government and have strengthened the processes of government.

I have been troubled about the constitutional question involved, though I am not as troubled as I have been about other measures whose constitutionality was doubtful. In order that the legislative record may be made clear, I would like to ask a few questions of my colleague, who is a fine lawyer, and who has studied this question carefully.

I think we agree that if Congress has the power to pass this statute——

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

Mr. COOPER. Mr. President, will the Senator yield to me for 3 minutes?

Mr. MANSFIELD. I yield 3 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, if Congress has the power it arises from section 5 of the 14th amendment. The Senator has provided as examples of the exercise of that power several cases. One dealt with the poll tax case, and others concern the suspension of voting tests.

I would say there is a distinction between those cases and the question of the voting age. The poll tax and voting test cases involved prohibitions against voting which effected discrimination between one class against another or discrimination against persons in the same situation. I think the Senator will agree.

Mr. COOK. The Senator is correct. I agree.

Mr. COOPER. Also, I believe we will agree in the case of permitting all citizens to vote in a presidential primary, it can be argued that not doing so has resulted in discrimination among the same class of citizens.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate and will the Chair ask attachés to be seated?

The PRESIDING OFFICER. The Senate will be in order. Attachés will be seated or leave the Chamber. The Sergeant at Arms is instructed to carry out the order of the Chair.

Mr. COOOPER. Our ability to enact a uniform voting age depends on the question as to whether citizens 18-, 19-, and 20-year-olds are denied the equal protection of the law. As far as those in the age of 18, 19, or 20 are concerned, there is no denial of the equal protection of the law to them. They are similarly situated. Does the Senator agree with me?

Mr. COOK. Yes, except I believe there is a denial as a class.

Mr. COOPER. To deny all 18-, 19-, and 20-year-olds the right to vote, in my view, is no discrimination between the persons in those age categories.

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

Mr. MANSFIELD. Mr. President, I yield 1 additional minute.

Mr. COOPER. It may be argued there is discrimination between one class—those permitted to vote at the age of 21, and another class—those in the ages of 18, 19, and 20. It may be argued that the former class is equally capable of exercising the voting right as those in the 21-year-old class, and is denied the equal protection of the law. But even in this case it would be necessary for the Congress to make a strong case on the facts. I must say a grave constitutional issue is involved.

Mr. COOK. Mr. President, I wish to say to the Senator that I cannot disprove him, but it seems to me that never to my knowledge has there been evidence to support any conclusion that a person who is 21 years of age or over has greater electoral wisdom, or that a person, on the contrary, under 21 years of age, possesses electoral imprudence.

I have it in my mind that they are discriminated against as a group. I feel it comes in that classification. We have had this experience for 14 years in our State, and we have shown the wisdom of this action. But they do not really fall within a class because in Kentucky over 100,000 of the citizens who are 18, 19, and 20 years old, are allowed to participate in any election.

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

Mr. MANSFIELD. I yield 1 additional minute to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. COOK. In the State of Georgia I would assume that well better than 100,000 people who are 18, 19, or 20 years of age are allowed to participate in Federal and local elections. In Hawaii all of their population 20 years of age and older is allowed to vote. In Alaska 19 and 20 year olds are allowed to vote.

So it is discrimination to the rest of the 18, 19, 20 year olds in this United States who are not allowed to participate because a great many of them are not allowed to vote, even though they are allowed to do so in four States.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, without the time being taken from my time, the Senator from Idaho be recognized.

VISIT TO THE SENATE BY DISTINGUISHED MEMBERS OF THE CANADIAN PARLIAMENT

Mr. CHURCH. Mr. President, we are honored to have in the Chamber a number of distinguished members of the Canadian Parliament who are in Washington to participate in the 13th meeting of the Canada-United States Interparliamentary Group.

These annual meetings between members of the Canadian Parliament and the U.S. Congress have contributed much toward strengthening the bonds which unite our two countries, have helped to bridge our differences, and have deepened our understanding of common problems. They serve also to remind us that although our nations are interdependent, with similarities founded on a common heritage and mutual interests spanning the spectrum of international association, we must never take each other for granted.

The two delegations have been meeting all morning—in two committees—to consider a long list of items of common interest, and the meetings will continue this afternoon.

I must say that the discussions have been exceedingly frank and helpful. Many delegates have commented that they do not recall any previous discussions more productive than those that took place this morning. We look forward to our conversations this afternoon.

Actually, our Canadian friends should feel very much at home in this Chamber, what with the emphasis we so frequently place upon States' rights in our debates here.

I recall reading not so long ago of an essay contest, worldwide in scope, which dealt with the subject of elephants. The four national winners of the contest happened to be an American, an Englishman, a Frenchman, and a Canadian. The American's paper was captioned, "Bigger and Better Elephants." The Englishman's paper was entitled, "Elephants and the Empire." The Frenchman's paper bore the caption, "The Sex Life of Elephants." But the Canadian's paper was entitled "Elephants: a Provincial or a Federal Responsibility?" [Laughter.]

You gentlemen could step onto this floor, enter into the debate and never know you left home. (Laughter.)

I am very much honored to present this distinguished group of Canadian parliamentarians. I propose to introduce them by name, then give Senators an opportunity to applaud them, following which I ask unanimous consent that there may be a recess for 5 minutes, so that we may personally meet them in the rear of the Chamber.

The Canadian group is headed by two cochairmen, the President of the Canadian Senate, the Honorable J. P. Deschatelets, Speaker of the Senate, and the Deputy Speaker of the House of Commons, Mr. J. Hugh Faulkner.

Other members of the delegation include:

From the Senate: Hon. T. D. Leonard, Hon. Alan A. Macnaughton, Hon. M. Grattan O'Leary, Hon. L. Phillips, and Hon. H. A. Willis.

From the House of Commons: Mr. Lincoln Alexander, Mr. G. W. Baldwin, Mr. Les Benjamin, Mr. E. Corbin, Mr. André Fortin, Mr. Lloyd Francis, Mr. Philip Givens, Mr. Hu Harries, Hon. George Hees, Mr. Fernand Leblanc, Mr. T. Lefebvre, Mr. David Lewis, Mr. David MacDonald, Mr. James McGrath, Mr. Walter Deakon, Mr. John Roberts, and Dr. Paul Yewchuk.

We are much honored to have such a distinguished delegation of Canadian parliamentarians with us this afternoon. I invite Senators to welcome them at this time. [Applause, Senators rising.]

RECESS

The PRESIDING OFFICER. Without objection, the Senate will now stand in recess for 5 minutes.

Thereupon, at 2 o'clock and 34 minutes p.m., the Senate took a recess, during which Senators greeted members of the Canadian Parliament.

At the conclusion of the recess, the Senate was called to order by the Presiding Officer (Mr. HUGHES).

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.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. I yield 5 minutes to the distinguished Senator from Michigan (Mr. GRIFFIN).

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, if I may have the attention of the junior Senator from Kentucky, when he spoke earlier, he may have left an impression which I am sure he did not intend to leave. I refer to his very eloquent argument that seemed to leave the impression that those who were supporting the proposed constitutional amendment to lower the voting age to 18 were doing so only as to Federal elections.

I want to make sure that the Senator from Kentucky understands and agrees, and that the Senate understands that the amendment of the distinguished Senator from West Virginia (Mr. RANDOLPH), in which some 72 or 74 Members of this body has joined, does not apply only to Federal elections, but would lower the voting age to 18 in Federal, State, and municipal elections.

I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, the Senator is correct, and I would not want to leave that impression.

When I first rose to speak on the subject, I was speaking right after the distinguished Senator from South Carolina reaffirmed the position of Mr. Rehnquist, the Deputy Assistant Attorney General, and the position that the Deputy Assistant Attorney General had taken. He put his statement into the RECORD, and I was talking to that point, and to the support that the Senator from South Carolina gave to the Justice Department's position. On page 1 of that——

Mr. GRIFFIN. I understand. I believe there is no misunderstanding now.

Mr. COOK. Fine.

Mr. GRIFFIN. I just wanted to be sure that everyone understood that the proposed amndment of the Senator from West Virginia, which the overwhelming majority of the Members of this body have joined in sponsoring, does provide for lowering the age to 18 in State and local elections as well as Federal elections.

The Senator from Kentucky is absolutely correct; there is no reason in the world why we cannot do that if we want to amend the Constitution.

Mr. COOK. That is correct.

Mr. GRIFFIN. Mr. President, I supported the 18-year-old vote in 1966 in my State, when it was submitted to the pople of my State. I support the proposed constitutional amendment of the Senator from West Virginia. But I shall reluctantly vote against the pending amendment to this voting rights bill. I shall do so for two reasons.

First, I think that the question of constitutionality is substantial, and the Senator from Indiana (Mr. BAYH), the chairman of the subcommittee, has not only indicated as much, but has conceded that there is a substantial question of constitutionality as far as accomplishing this objective by statute is concerned.

That being the case, we should not take this route unless there is no other way to achieve the desired result. I do not see how anyone can believe, in view of what has transpired—and I would certainly say that this debate and the amendment have been very helpful and very useful in terms of advancing the cause of lowering the voting age—now that we have had this debate, I do not see how anyone can say that the chances are not good that the Committee on the Judiciary will act and the Senate will act on the proposed amendment to the Constitution.

Second, aside from the doubtful constitutionality——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRIFFIN. Is there more time available?

Mr. ALLEN. I yield the Senator 3 additional minutes.

Mr. GRIFFIN. Aside from the doubtful constitutionality of this method, I would suggest that it is a very unwise procedure, in any event; in fact, I would say it is an affront to the other body of the legislative branch of this Government to tack on such a fundamental change as a rider to a bill which they have already passed, which rider their committees have not considered and which the House would not be able to consider in the normal way. I cannot conceive of the House of Representatives acceding to this kind of procedure. I think we are dealing with what is essentially an exercise in futility in trying to achieve the objective in that fashion.

I believe that those who want to achieve the vote for the 18-year-olds, put it in the proper order, and give it the meaning that it should have, will vote to

put this amendment aside and get the voting rights bill through and behind us, and then proceed to consider and to pass a constitutional amendment which can be adopted in the regular way, and which will give the 18-year-olds the solid entitlement which they should have.

Mr. MANSFIELD. Mr. President, I yield myself 2 minutes.

I do not consider the action of the Senate an affront to the other body. I think we are facing up to our responsibility, and we are taking the only chance we have ever had to face up to this particular issue, and to try, through action on a bill which is germane, to give to the 18-, 19-, and 20-year-olds of this Nation the opportunity to exercise the franchise and to have at least a small, wee voice in the making of policies which they are called upon to carry out.

I am referring to Vietnam and Laos and other such places; and I am not pushing aside the fact that that is no argument, that simply because they are drafted at 18, they should not be given the rights of citizenship, including the right to vote. I think they should. I think they have earned it, and have earned it far better than many of us in this Chamber.

Maybe we are afraid of these youngsters, that they are too smart for us, they have too much on the ball, that they may in time take some of our jobs.

It might be a good thing if they did, because I think we need new vision. I think we need clearsightedness. I think we need people of open minds who are not tied to policies and vestiges of the past.

I am happy—win, lose or draw, and I do not care how any Member of this body votes—that at long last, and for the first time in my experience, on a national level we are having a chance to face up to and decide whether we mean or do not mean what we say.

Of course I do not doubt the sincerity of those Members that question proceeding by legislation; but that question will be settled in the courts. I shall vote for the Allen amendment to the original amendment, because I think it emphasizes that point clearly. I think it is a good amendment. I hope that every Member of this body will vote for it and for the original amendment itself.

Mr. ELLENDER. Mr. President, for several years now I have supported various constitutional proposals to extend voting rights to our 18-year-old citizens. It has seemed to me that as our educational system has expanded, an earlier maturity has been gained by the youth of our Nation. Today, in 1970, a far larger number of students finish high school than only 20 or 25 years ago. A far larger number go on to college and gain some higher education than only a short time ago.

In addition to formal education, the growth of mass communication, principally television, has brought all persons in our Nation into a greater contact with events taking place everywhere in this Nation and everywhere abroad. The operation of a successful democracy requires a fair amount of informed judgment on the part of its citizens. This, in turn, requires that ways and means be available to obtain that information and order it through education so that reasoned judgment can be formed.

I think that those between 18 and 21 years of age in our society are as able to take advantage of what is available to them as are many other groups of the country. Whether they will do so, of course, is up to them just as it is up to every other individual.

There are those who will argue that recent riotious activity and other forms of antisocial behavior indicate that our young people are not capable of exercising the responsibility of the ballot. It is true that these events and circumstances are much in the news. The point is that they make the headlines because they represent what is unusual in our society and not what is common. From my conversations with young people all over Louisiana, and in other areas as well, I am convinced that the vast majority of them are intent upon becoming productive law-abiding citizens, and a credit to their community and Nation.

Having said that, however, I regret that I cannot favor the pending proposal put forward by our majority leader, the distinguished Senator from Montana. Ever since I came to the Senate, I have consistently maintained the position that the Federal Government should not encroach upon the States in the establishment of voting rights. At one time I held the record in the Senate for the longest continuous and uninterrupted speech—May 12, 1944, 78th Congress, RECORD pages 4387 to 4401. It was delivered as part of an educational campaign against an early attempt to violate article I, section 2 of the Constitution and involve the Federal Government in establishing Federal voter qualifications in the States. I believe that it is a trend which should be resisted.

History tells us that the 13 Original States eagerly guarded the right to set voting qualifications for their citizens. It was only after constitutional guarantee was provided that such control would remain in State hands that the Constitution was ratified by the State legislatures.

Provision is made for changes in qualifications on a national basis to be accomplished through constitutional amendment. That has been done previously by outlawing the poll tax in Federal elections. I would favor such an amendment, although I see that it might cause problems to the States because of differences in State and Federal election laws. Nevertheless, I believe that the States themselves will move in this direction if given sufficient reason to by the Federal Government. I favor voting rights for 18-year-olds but I believe the proper constitutional procedure should be followed.

Mr. ALLEN. Mr. President, in order to get on with the consideration of the amendment, I yield back my remaining time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN) to the amendment of the Senator from Montana (Mr. MANSFIELD).

Mr. AIKEN. Mr. President, is the vote on the Allen amendment?

The PRESIDING OFFICER. The Senator from Vermont is correct.

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 Connecticut (Mr. RIBICOFF), 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 Connecticut (Mr. RIBICOFF) 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 Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Maryland (Mr. MATHIAS) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "yea."

On this vote, the Senator from Maryland (Mr. MATHIAS) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from Maryland would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 84, nays 7, as follows:

[No. 93 Leg.]

YEAS—84

Aiken	Goldwater	Murphy
Allen	Goodell	Muskie
Allott	Gore	Nelson
Anderson	Hansen	Packwood
Bayh	Hart	Pastore
Bellmon	Hartke	Pearson
Bennett	Hatfield	Pell
Bible	Holland	Percy
Boggs	Hollings	Prouty
Brooke	Hruska	Proxmire
Burdick	Hughes	Randolph
Byrd, Va.	Inouye	Schweiker
Byrd, W. Va.	Jackson	Scott
Cannon	Javits	Smith, Maine
Church	Jordan, N.C.	Sparkman
Cook	Jordan, Idaho	Spong
Cooper	Kennedy	Stennis
Cranston	Long	Stevens
Curtis	Magnuson	Symington
Dodd	Mansfield	Talmadge
Dole	McClellan	Thurmond
Dominick	McGee	Tower
Eagleton	McGovern	Tydings
Eastland	McIntyre	Williams, N.J.
Ellender	Metcalf	Williams, Del.
Fannin	Mondale	Yarborough
Fong	Montoya	Young, N. Dak.
Fulbright	Moss	Young, Ohio

NAYS—7

Case	Griffin	Miller
Cotton	Harris	
Ervin	McCarthy	

NOT VOTING—9

Baker	Mathias	Russell
Gravel	Mundt	Saxbe
Gurney	Ribicoff	Smith, Ill.

So Mr. ALLEN's amendment to Mr. MANSFIELD's amendment was agreed to.

Mr. MURPHY. Mr. President, yesterday, the distinguished senior Senator from Kentucky, in presenting his

amendment No. 549 to the Voting Rights Act Amendments of 1969, stated that Imperial County, Calif., would be included under section 4(b). This, he said, was because either there were fewer than 50 percent of the residents of the county registered to vote on November 1, 1968, or there were less than 50 percent of such residents who voted in the presidential election of 1968.

Mr. President, I have learned from the Bureau of the Census that as of the 1960 census, there were 41,215 persons eligible to register to vote. I have also learned from the Office of the Secretary of State of California that on November 1, 1968, there were 24,963 persons registered to vote, or 60.6 percent.

In addition, I have learned that in the presidential election of 1968, 20,812 persons voted, or 50.5 percent.

Mr. President, based on these figures, it is my belief that under the amendment introduced by the distinguished senior Senator from Kentucky and adopted by the Senate yesterday, that Imperial County, Calif., would not be brought under the coverage of section 4(b) of the act.

Mr. ALLEN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. Mr. SCHWEIKER). The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Alabama (Mr. ALLEN) proposes an amendment to the amendment of the Senator from Montana (Mr. MANSFIELD), by striking section 303(b), as follows:

(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.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. Who has control of the time on the pending Allen amendment to the Mansfield amendment, outside of the sponsor of the amendment?

The PRESIDING OFFICER. Under the agreement, the time is to be equally divided and controlled by the proposer of the amendment and the minority leader.

Mr. ALLEN. Mr. President, I yield myself 15 minutes or such time as I may require.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I yield 1 minute to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. RANDOLPH. Mr. President, I am grateful to my colleague from Alabama.

I ask unanimous consent to have printed in the RECORD editorials and excerpts from articles and speeches, and other pertinent material which covers the varying points of view on this very important subject of voting for 18-, 19-, and 20-year-olds.

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

SENATOR RANDOLPH JOINED BY 71 SENATORS IN SPONSORING CONSTITUTIONAL AMENDMENT TO LOWER VOTING AGE TO 18

Our attention today is fixed on an issue directly affecting approximately 11 million Americans—our citizens between the ages of 18 and 21 and legislation pertaining to their right to participate in the democratic process by means of the ballot.

My interest and efforts in behalf of such a change are not new. They cover a span of over 28 years beginning when I was a member of the United States House of Representatives. I recall the first Congressional hearing on this issue conducted by the then ranking majority member of the House Judiciary Committee, Representative Emanuel Celler, October 20, 1943. These hearings were on a resolution I had introduced.

Numerous resolutions have been before the Congress to effect such a change. Hearings have been conducted. But only once has this issue reached the Floor of the Senate or House. That was in 1954. Late on a Friday afternoon in May—after 4:30—the Senate defeated a proposed Constitutional amendment by a vote of 34 yeas and 24 nays. The proposal failed by two votes.

The true test of American citizenship is the ability of an individual to use the ballot. The vote in each person's role in the governing process. It is the greatest responsibility available equally to all American citizens.

However, 14 million Americans—educated, motivated, and involved Americans—cannot participate in the electoral process. We tell them they are not ready for such responsibility. They are too immature.

Yet at 18—

In 39 states one or both sexes can marry without parental consent;

In 26 states they can make wills;

They can have unrestricted driver licenses;

They are subject to personal income tax;

They are covered by social security tax;

In 49 states they are treated as adults in our criminal courts of law.

I emphasize this. In all states except one an 18 year old by law is treated as an adult in criminal court, fully responsible for his or her actions. In all states juvenile rights can be waived at the discretion of the court for even younger defendants. These young people are certainly being held responsible for their actions and the outgrowth of their actions which in many cases will plague them for the rest of their lives. I submit for the RECORD a state by state rundown of the age at which young people are first treated as adults for purposes of prosecution for violation of criminal law, prepared by the Legislative Reference Service.

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AGE AT WHICH MINORS ARE TO BE CONSIDERED AS ADULTS FOR PURPOSES OF PROSECUTION UNDER THE CRIMINAL LAW (FIRST FIGURE GIVEN); EXCEPTIONS

1. Alabama. 16. Juvenile court may waive jurisdiction of any child from 14 to 16, for any crime, to regular courts for trial as adult, in its discretion.

2. Alaska. 18. Juvenile court may waive jurisdiction of any minor under 18 for any crime and he then may be tried as an adult in the regular courts.

3. Arizona. 18.

4. Arkansas. 18. Juvenile court, in its discretion, may transfer to regular courts, for trial as adults, any child under 18, accused of any crime.

5. California. 21. Juvenile court may waive jurisdiction and transfer to regular courts, for trial as adult, all crimes of all minors age 16 to 21, in its discretion.

6. Colorado. 18. From 16 to 18. Juvenile court may waive to regular courts, for trial as adults, all felonies of minors, in its discretion. Juvenile court has no jurisdiction of minor's crimes punishable by death or life term, where minor is between 16 and 18; they are tried as adults.

7. Connecticut. 16. (or 18 where case transferred to juvenile court by regular court).

8. Delaware. Family Court for Kent and Sussex Counties: 18. This court has no jurisdiction over capital felonies of minors under 18; they are tried as adults. This court may waive jurisdiction of all crimes of minors age 16 to 18 to the regular courts for trial as adults.

Family Court for New Castle County: 18. The rest is same as above.

9. Florida. 17; 16 for capital crimes; 14 for other felonies in discretion of judge or upon demand of child and parents.

10. Georgia. 17. Court, in its discretion, may transfer to regular court any criminal case involving child of 15 and older.

11. Hawaii. 18. (Juvenile court has concurrent jurisdiction with criminal court of minors from 18 to 20). Juvenile court may waive jurisdiction of child 16 or over in felony cases and of minors 18 or over where crime committed prior to 18.

12. Idaho. 18; probate court may waive jurisdiction from 16 to 18 if a felony; pre-18 offenses after child reaches 18.

13. Illinois. 17 for males, 18 for females. Juvenile court may waive jurisdiction of crimes of those 13 and over.

14. Indiana. 18. Juvenile court may waive jurisdiction of crime of minors age 15 to 18. Juvenile court has no jurisdiction of crime of minors punishable by death or life terms.

15. Iowa. 18. May be tried as an adult for indictable offenses when under 18 and Juvenile court may waive any criminal case of any child under 18 in its discretion.

16. Kansas. 18. From 16 to 18 Juvenile court may waive jurisdiction if it concludes child is not amenable to treatment.

17. Kentucky. 18. From 16 to 18 child, in felony case, may be waived to regular courts in discretion of Juvenile court (in murder and rape, child may be under 16).

18. Louisiana. 17. (15 in cases of capital crimes and rape).

19. Maine. 17 (Juvenile court may bind over to regular courts any indictable offense or try such case itself).

20. Maryland. 18 (not including crimes punishable by death or life term). All crimes of juveniles are waivable to regular courts.

In Montgomery County, 18. From 16 to 18 Juvenile court may waive all offenses to the regular courts. Offenses punishable by death or life term not within jurisdiction of juvenile court.

21. Massachusetts. 17. From 14 to 17 Juvenile court may waive jurisdiction and send child to regular courts for trial.

22. Michigan. 17. From 15 to 17 Juvenile court may waive jurisdiction of any felony to the regular courts.

23. Minnesota. 18. From 14 to 18 Juvenile court may waive all offenses to regular courts.

24. Mississippi. 18. Juvenile court has no jurisdiction over capital and life term crimes of juveniles at all; it may waive felonies of children 13 to 18 to regular courts for trial.

25. Missouri. 17. Juvenile court may waive to general courts felonies of minors age 14 to 17.

26. Montana. 18. From 16 to 18, in certain serious felonies, minors may be prosecuted as adults in discretion of Juvenile court.

27. Nebraska. 18.

28. Nevada. 18. From 18 to 21 a minor may be prosecuted in Juvenile court (except in capital cases). From 16 to 18, in felony cases, child may be prosecuted in regular courts.

29. New Hampshire. 17. All felonies of all minors may be waived to regular courts for trial as adults.

30. New Jersey. 18. Juvenile court may

waive to regular courts all offenses of minors 16 to 18 for trial as adults.

31. New Mexico. 18. 14 to 18, Juvenile court may waive felonies to regular courts.

32. New York. 16. From 15 to 16 minor may be prosecuted as adult for crimes punishable by death or life term.

33. North Carolina. 16. Juvenile court may waive to general courts felonies of children 14 to 16 which are punishable by not more than 10 years in prison.

34. North Dakota. 18. Juvenile court may waive to regular courts any crime of minor aged 16 to 18 for trial as adult, in its discretion.

35. Ohio. 18. In all felony cases Juvenile court may waive to regular courts for trial as adult any child under 18.

36. Oklahoma. 16 for males, 18 for females. Juvenile court may waive to general courts any crime of any child under 16 (male) or 18 (female) for trial as adult, in its discretion.

37. Oregon. 18. Juvenile court may waive to general courts all crimes of minors age 16 to 18 for trial as adult in its discretion.

38. Pennsylvania. 18. Criminal charges against minors from 16 to 18 may be prosecuted in regular courts or transferred to Juvenile court, not including murder charges which must be tried in regular courts; or they may be transferred to Juvenile court in discretion of court. Juvenile court may waive to general courts all offenses punishable by imprisonment in State penitentiary (except murder) charged to a minor aged 14 to 18, in its discretion.

39. Rhode Island. 18. Juvenile court may waive to regular courts any indictable offense of minor aged 16 to 18 for trial as adult, in its discretion.

40. South Carolina. 16[1] (in domestic relations courts), 17 (in Juvenile domestic relations courts). Excluded from Juvenile court jurisdiction are capital offenses and crimes punishable by life term. These courts may waive to regular court all crime of all minors in its discretion.

Greenville County: 16. All offenses of minors aged 14 to 16 may be waived to regular courts by Juvenile court in its discretion. Provision is made for trial in regular courts for trial as adult of serious crime of all minors, regardles of age (if over 7).

Greenwood County: 18. Provision is made for trial in regular courts for trial as adult of serious crimes of all minors. From 16 to 18 juvenile court may waive to regular courts all crimes of children, in its discretion.

41. South Dakota. 18. All crimes of minors may be waived to regular courts for trial as adult.

42. Tennessee. 18. Juvenile court may in its discretion waive to general courts for trial as adult any child of 16 to 18 who is charged with a felony. From 14 to 18 the Juvenile court must yield jurisdiction of murder, rape, robbery cases to regular courts for trial as adult. If child is under 14, in these cases, the juvenile may retain jurisdiction.

43. Texas. 10 through 17 (females), 10 through 16 (males). As to child 15 or over who commits a felony, Juvenile court may in its discretion waive jurisdiction to regular courts for trial as adult.

44. Utah. 18. Juvenile court may in its discretion waive jurisdiction of felonies of minors from 14 to 18 for trial as adult.

45. Vermont. 16. However, regular courts may send case of child of 16 to 18 to the Juvenile courts for trial.

46. Virginia. 18. From 14 to 18, in offense punishable by penitentiary term, Juvenile court may, in its discretion, waive jurisdiction to regular courts for trial as adult. For capital offenses and serious felonies, all minors up to 18 may, in discretion of district attorney, be prosecutable in regular courts as adults. For misdemeanors of minors of 14 to 18, such persons may be tried as adults in discretion of juvenile court.

47. Washington. 18. Juvenile court may waive jurisdiction of any crime of child under 18 to regular courts for trial as adult, in its discretion.

48. West Virginia. 18. Juvenile court may, in its discretion, waive to regular courts any crime of any minor age 16 to 18, for trial as adult.

49. Wisconsin. 18. From 16 to 18 Juvenile court may waive jurisdiction any crime of child to regular courts for trial as adult, in its discretion.

50. Wyoming. 18.

They are drafted into military service. They are on the battlefields faced with the alternatives of kill or be killed. Immaturity is incompatible with what we expect of them under these conditions. On January 28, 1968, the *Pueblo* with 83 men was captured by North Korea. There were 18 men aboard under age 21. We not only expected them to bear up under the physical and mental strain and torture while prisoners but we subjected them later to a court of inquiry. According to Department of Defense statistics, in 1968 there were 3,510,000 persons serving in the armed forces. 983,000 of these were under the age of 21. The Department of Defense as of December, 1969, reported 40,028 casualties in connection with the Vietnam War. Fifty percent, 19,211, were young Americans under the age of 21.

It takes time to change habits and customs. A voting age of 21 is a result of an old practice—centuries old—dating from the Roman empire when this was the age of majority. Slowly we have been changing this custom. It is past time that we act to lower the voting age. America has a changing society. It is certainly not static. Our progress justifies such a change.

America today is on the move by means of surface travel or by air. We are a mobile society.

World happenings and activities are at our fingertips in seconds through radio and television and the news media.

We have immediate communication with friends, neighbors, business associates and family by the telephone.

This is a changed and challenging country and world. The young people are aware of the world around them and are familiar with the issues before our government officials. In many cases they have a clearer view because it has not become clouded through time and involvement. They can be likened to outside consultants called in to take a fresh look at our problems.

Eighteen is the logical voting age in America. It signals the end and the beginning of many tasks. Foremost is the completion of the formal education process. There is logic to 18 year old voting.

There is no disputing the statement that America is her people. We are only as powerful and as progressive and as purposeful as we make ourselves. The youth of America are doing their share and we can be proud of their accomplishments.

Most political campaigns could not get off the ground today without the support and help in man-hours of youth.

Summer camps and Federal and state recreation areas would not be able to function in a manner responding to the demands of Americans without the input of youth in the summer.

What is VISTA? The Peace Corps?

We know of many programs and projects in which our young people are effective participants.

I call to your attention two very significant studies. The first was a House Task Force of 22 members headed by Representative William Brock, III, of Tennessee, which conducted a study and survey of the situation on our Nation's campuses. Among their recommendations to the President was one advocating that the voting age be lowered to 18. The report strongly recommends lowering the voting age to permit "active involement in the political process which can constructively focus youthful idealism on the most effective means of change in a free society."

The National Commission on the Causes and Prevention of Violence in their report last year recommended that the voting age be lowered to 18 through a Constitutional amendment.

State activity on this issue increases. Ten states will have referendums on this proposal in the fall. Two legislatures have approved it once but have the consecutive sessions rule.

To await individual action by 48 state legislatures and 48 referendums will be a slow process. It is my belief that action by the Congress would place this matter four-square before the states. States could then take immediate action either to accept or reject this amendemnt.

In our 193 year history we have worked to expand the base of our democracy. Full participation is the ideal for which we strive. We accomplished this in giving women the right to vote, in eliminating the poll tax, in passing the Voting Rights Act, and in other measures. We now should further extend our base by affording young people the opportunity and the responsibility for full participation.

The future, in large part, belongs to youth. It is imperative that they have the opportunity to help set the course of that future.

My estimate of young people is high. It continues to grow. I feel that our youth is equal to the challenges of today and tomorrow. They will aid in bringing into being a better world.

I repeat, there are 72 Senators now listed on Senate Joint Resolution 147. Yes, there is overwhelming evidence that the Senate is ready to act on an amendment to lower the voting age to 18.

[From the Evening Star, Mar. 10, 1970]

VOTING AND AGE

There's no doubt about it, the tide is running strong around the world toward a lower voting age. England has this year given the vote to 18-year-olds, Australia went from 21 to 19 in 1968. In Russia, where it really doesn't matter very much, 18-year-olds have been voting since 1936. Ten South American countries have set the voting age at 18. Sweden, New Zealand and Japan have opted for 20. In South Africa and Ceylon, 18-year-olds have been voting for more than a decade.

Every year, the list of countries that have broken the 21-year-old barrier grows. And there is a reasonable chance that among the next to lower the traditional age of presumed political maturity will be the United States.

The Senate is presently locked in battle over the issue. The dispute rages not over whether the vote should be lowered or maintained, but over how to go about lowering it. Senator Mansfield is pushing a bill that would set the voting age at 18 by simple legislation. Senator Randolph has introduced a constitutional amendment to do the job.

The Randolph route has the disadvantage of requiring a two-thirds majority to get

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[1] This figure applies only to those counties of South Carolina with population of between 60,000 and 70,000; the domestic relations courts are in counties with a city of over 70,000 population, the juvenile domestic relations courts are in counties with a population of from 60,000 to 70,000, both as of the 1940 census.

As to remaining counties age of criminal majority only will be given.

Lancaster County: 18.
Lexington County: 18
Orangeburg County: 17
Anderson County: 17

through Congress, and ratification by three-fourths of the states to become law. Its appeal lies in the fact that it would avoid a serious question of constitutionality raised by the Mansfield short cut.

In either event, the votes are there in the Senate to deliver a bill or an amendment to the House. But in the House, the prospects are considerably less certain. Emanuel Celler, the 81-year-old chairman of the Judiciary Committee, has in effect told the teen-agers not to hold their breaths in anticipation of the vote.

A strong Senate vote in favor of the lower age coupled with unequivocal administration backing for the move would at least give the bill a fighting chance of survival. It should be given all the help it needs.

No one should assume that lowering the voting age will solve any major problems or that it will produce any upgrading of the electorate's choices. But the addition of millions of young voters is bound to have some effect—if only a matter of shading—on the coloration of American politics.

The vote should be lowered, regardless of the effect on the political process, because it is the right and fair thing to do. It should be lowered because those who are asked to fight for their country should have a hand in shaping the political structure of that country. It should be lowered because modern communication makes the present crop of teen-agers better informed—if not wiser—than was the case with previous generations.

Four states already have abandoned the 21-year-old requirement—Georgia gave the vote to 18-year-olds 27 years ago—and those states have survived with no discernible distress. There is no reason to suppose that the experience would be any more disastrous for the other 46. And there is always the chance that handing young men and women increased responsibility to go along with their increased factual knowledge will result in increased maturity.

[From the Charleston (W. Va.) Gazette, Mar. 2, 1970]

STOP WRINGING HANDS; LET 18-YEAR-OLDS VOTE

More and more it appears that West Virginia's Sen. Jennings Randolph may be destined to achieve a reform which over the years has generated much talk but no action: The extension of voting rights to all citizens 18 years of age or older.

Sen. Randolph is the father of a resolution proposing to amend the United States Constitution to that end. He has succeeded in winning the co-sponsorship of 67 other senators, thus apparently providing assurance of his resolution passing the Senate by the two-thirds majority required for a constitutional change. The measure must then pass the House by a two-thirds majority and be approved by three-fourths of the states before it becomes effective.

The Senate judiciary subcommittee on constitutional amendments recently held hearings on the Randolph resolution, and they produced this compelling testimony for its approval:

Sen. Birch Bayh of Indiana, subcommittee chairman: The surest—and most just—way to harness the energies and moral conscience of youth is to open the door to full citizenship by lowering the voting age. Youth cannot be expected to work within the system when they are denied that very opportunity.

Sen. Jennings Randolph: A citizen's use of the ballot is the greatest responsibility available equally to all Americans. Yet 14 million Americans—"educated, motivated and involved"—between the ages of 18 and 21 cannot participate in the electoral process. Young people are aware of the world around them and are familiar with the issues before government officials. In many cases they have a clear view because it has not become clouded through time and involvement. They can be likened to outside consultants called in to take a fresh look at our problems.

Theodore Sorenson, former special counsel to President Kennedy: Many statutes already recognize age 18 as the effective dividing line between children and adults with regard to employment, financial affairs, property, crime, alcoholic beverages, motor vehicles and family relations. "I support the proposition that the development of an informed social conscience, sense of public responsibility, and discriminatory intelligence deserves the franchise. Speaking as one who visits with college students frequently, I can testify first-hand to their analytical minds, skeptical outlooks and invulnerability to phony appeals."

Some young people—despairing of the society they are about to inherit—have misbehaved. But it is unfair to hold them to account for their acts if they are classified as children in terms of voting rights. "We cannot tell them their remedy lies in the ballot box rather than the streets if we continue to deny them the ballot. We cannot, in short, refuse to grant them political responsibility in this resolution and then act surprised if they act with political irresponsibility."

Ramsey Clark, former U.S. Attorney General: Young people must begin voting during their last year in high school to allow meaningful participation. If they do, the system will work. The fault is not with the system, but with the people. The 18-year-old vote is an essential element in the vitalization of American democracy.

Richard G. Kleindienst, deputy U.S. attorney general: The nation should follow the lead of England—which originated the traditional voting age of 21 but recently abandoned it. "The time has come for us also to measure the constraints of custom and tradition against the compelling force of reason and the everyday facts of life which surround us."

These are persuasive arguments, and we can think of no good reason why Sen. Randolph's resolution should not be acted upon promptly by the Senate, the House, and the states. It is high time for America to stop wringing its hands about the "irresponsibility" of youth, and give young people the responsibility that will make them participants in the democratic system.

[From the Wheeling (W. Va.) Intelligencer, Feb. 12, 1970]

GIVING BALLOT TO 18-YEAR-OLDS MIGHT ADD TO STABILITY

Committee hearings are scheduled to open on February 16 on a proposed Constitutional Amendment which would lower the voting age in national elections from 21 to 18 years.

West Virginia's Senator Randolph, chief sponsor of the proposal, says he believes he has the necessary votes to pass it. This would seem to be a safe assumption inasmuch as the Senator has 67 cosponsors back of him.

Here is one proposition which, it would seem, should receive prompt congressional approval—not in reaction to the popular chant to the effect that if a man is old enough to fight at 18 he is old enough to vote, but in recognition of the fact that, insofar as years are concerned, today's young men and women are sufficiently mature at age 18 to function as full-fledged citizens.

There is nothing magic about age 21 as the dividing line between childhood and adulthood. Any voting age is arbitrary and at best can be determined for practicable political purposes only by observation. But if 21 looked like a likely point of departure at the time it was adopted originally, the case for 18 years is equally valid today. Assuredly today's average 18-year-old is better informed and better equipped intellectually, if not emotionally, to assume the full duties of citizenship than his grandfather was at the same age.

Adding the votes of 18-year-olds to the election tally probably wouldn't alter election results, but it should tend to impress more of these young people with a sense of responsibility.

[From the Martinsburg (W. Va.) Journal, Aug. 16, 1969]

EIGHTEEN-YEAR-OLD VOTE NEEDED

Senator Jennings Randolph is pushing a measure which would ultimately result in granting voting privileges to all persons 18 years of age and older throughout the nation.

A recent report states he now has some 70 members of the Senate in support of a resolution which, if passed, would officially propose a constitutional amendment to this effect.

We are all in favor of granting the vote to these young people. The argument has long been that if they are old enough to be required to bear arms for their country, they are old enough to vote.

This, of course, is true but it goes much deeper than that. Today's person of 18 is usually more mature and better educated than the young person of 21 of a generation or so ago.

Our system of education has been advanced to the point that the 18-year-old has a better idea of local, national and world affairs than his father or grandfather had at 21.

The right to vote is also a responsibility and the youth of today is clamoring for "more of the action." Granting him the franchise would certainly be one of the most effective methods of cutting him in on helping to run the world.

CONGRESS LOOKS AT THE CAMPUS: THE BROCK REPORT ON STUDENT UNREST

(Remarks of Hon. W. E. "Bill" Brock of Tennessee in the House of Representatives, Tuesday, June 24, 1969)

Mr. BROCK. Mr. Speaker, I recently had the pleasure of leading a group of 22 colleagues in a volunteer tour of American campuses. Organizing into six regional groups, we visited over 50 universities of all types and sizes and personally met with over a thousand students, as well as many faculty, administrators, and other concerned adults. Our main purpose was to listen, not to lecture, and we came away with a new insight into student outlooks. One important result was the following written report, which we submitted to President Nixon on June 18.

Because of the publicity it has received in the national press, the high level of interest it has achieved, and the numerous requests we have received from fellow Members, I insert the report following my remarks.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 17, 1969.

The PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: We submit to you the following report of campus unrest. The critical urgency of the problem cannot be overstated.

This report reflects our impressions of student attitudes and problems, along with some proposed solutions applicable at local, state and national levels. It represents a general consensus of our 22 man group. However, because each of us undertook this task as individuals, we must reserve the right of members to expand upon, or even disagree with, any specific point.

It is our hope that the findings included in this document will be of use to you in

your continued efforts at solving what has become a major national problem.

Respectfully yours,

BILL BROCK, EDWARD BIESTER, GEORGE BUSH, LOU FREY, DONALD RIEGLE, BILL STEIGER, JOHN BUCHANAN, LAWRENCE COUGHLIN, MARVIN ESCH, JAMES HASTINGS, LARRY HOGAN, MANUEL LUJAN, DONALD LUKENS, PETE MCCLOSKEY, JACK MCDONALD, JERRY PETTIS, ALBERT QUIE, TOM RAILSBACK, PHIL RUPPE, GUY VANDER JAGT, LOWELL WEICKER, WILLIAM WHITEHURST.

REPORT OF THE BROCK CAMPUS TOUR

PREFACE

A deep concern about today's problem of unrest among our youth, and the realization that we possessed little reliable information about events on the American campus prompted us to go out to a variety of colleges and universities to talk with students, faculty, administrators, and other officials on their own ground. We had nothing to sell, no speeches to make, and offered only a desire to know and understand the factors which appear to threaten the destruction of many of our most respected institutions and the alienation of many of this nation's finest students.

The problems confronting higher education are so complex that no study or analytic effort yet mounted can really claim to be comprehensive. We recognize the need for continued in-depth research. Nonetheless, we believe we achieved substantial success with respect to our main concern—the acquisition of some degree of personal understanding of the nature of the problem.

We came away from our campus tour both alarmed and encouraged. We were alarmed to discover that this problem is far deeper and far more urgent than most realize, and that it goes far beyond the efforts of organized revolutionaries. By the same token, we were encouraged by the candor, sincerity and basic decency of the vast majority of students we met. Too often, however, we saw their idealism and concern vented in aimless or destructive ways.

If one point is to be emphasized in this report it is that violence in any form, in any measure, under any circumstances, is not a legitimate means of protest or mode of expression—and that it can no more be tolerated in the university community than in the community at large. If there is to be orderly progress and a redress of legitimate student grievances, student violence must be averted.

As Erwin N. Griswold, Solicitor General of the United States, has said:

"The right to disagree—and to manifest disagreement—which the Constitution allows to the individual . . . does not authorize them to carry on their campaign of education and persuasion at the expense of somebody else's liberty. . . ."

It is clear that if violence on our campuses does not end, and if the reaction to it is on the one extreme too lax, or on the other extreme too harsh and indiscriminate, the vast moderate student majority may be forced into the arms of the revolutionaries, and those few who seek to destroy the fabric of higher education will have succeeded.

We agree with the editorial in the June 8 *New York Times:*

"If lasting damage to the independence of the universities is to be avoided, if the society's attention is to be redirected to its larger, more serious problems, violence has to cease and tranquility has to be returned to the campuses."

There is on the campus today a new awareness of potential student power and the emergence of a large group, probably the vast majority of student leaders and a substantial number of intelligent, concerned and perplexed young people, which has genuine concern over what it feels is the difference between the promise and performance of America. While these students have no monolithic leadership or single set of goals, they are fairly united in questioning many of the values of our system. The revolutionaries on campus who desire to destroy our system are few in number. The vast majority of students are not poised on the edge of revolution and have not lost faith in our system. However, many students can be radicalized when violence or confrontation on campus occurs. Also disillusionment in our system by students can grow, even without violence, if we place one label on all students and fail to understand that they raise many areas of legitimate concern.

Perhaps our most important and pressing conclusion is that rash legislative action cutting off funds to entire institutions because of the actions of a minority of students would play directly into the hands of these hard-core revolutionaries. Legislation which treats innocent and guilty alike inadvertently confirms extremist charges that the "establishment" is repressive and indifferent to citizen needs and concerns. We must not put ourselves in the position of aiding the handful of anarchists.

In a period of conflict and turmoil, deep divisions on campus as well as between campus and community are understandable, but the danger exists that these divisions are polarizing America into two distinct camps. On neither side has there been enough willingness to listen and discuss problems before the fireworks have begun and emotions have been inflamed. Obviously it is time for our traditional American sense of fair play and tolerance to be evidenced by the responsible majority of this nation, young and old. The alternative of students, intolerant and unwilling to reason, and their elders, intolerant and unwilling to reason, constitutes the ingredients of chaos.

To the extent that our universities can foster an environment of trust, participation, involvement and interaction, we believe that the danger of violent confrontation (and the emotional climate which is its prelude) can be reduced. To the extent that this nation can foster an environment of quality, excitement and challenge throughout its total educational system, creative leadership can be developed. In this report we offer proposals aimed at implementing these goals. We can envision no greater tragedy for this nation and the free world than for us to allow our educational system to slowly settle into obsolescence, losing touch with reality and becoming incapable of responding to the needs of students and society.

We also suggest more positive contact between the campus community and the greater community—increased social action programs, volunteer projects and similar activities which provide students with an opportunity to work on pressing human problems side by side with other concerned citizens.

We are convinced that such experiences can be an important supplement to the classroom, acting to restore student faith in the basic soundness of the American system. Additionally, they can demonstrate in positive fashion the sincere good intentions of a significant portion of the adult community—which many students and faculty with whom we met so readily charged with hypocrisy.

Finally, this nation has an enormous stake in preserving our system of higher education. "The task of the university," as Alfred North Whitehead has written, "is the creation of the future as far as rational thought and civilized modes of appreciation can affect the issue." The creation of a better future will indeed be impossible if the free and orderly pursuit of knowledge is jeopardized by the destruction of our colleges and universities either through anarchy, or through a refusal to consider pleas for necessary improvements.

This report, in listing a series of ideas for consideration, is offered not as a panacea, but, hopefully, as a bridge to greater understanding of the problem.

FACTORS IN UNREST

In an effort to most accurately and clearly represent what students were saying and thinking on the campuses we visited, we have listed below areas of concern as they were described to us by the students themselves. In reporting student views, we are in no way passing judgment, but merely trying to convey a better understanding of what the students feel.

Where we have reached conclusions of our own, they have been specifically noted by indentation and italics, so that there can be no confusing the reportorial and analytical portions of this report.

Internal factors

Communication

On campus after campus we found widespread criticism from students who feel unable to communicate with administrators and faculty. They believe that no adequate channel is open to them to make their views known. Channels which do exist provide only limited access to individuals who will take responsibility for major decisions.

In some cases, the university structure itself seems at fault. In these instances the modern university is so large, and decision-making so fragmented, the student often finds it difficult to identify the individual or organization that has the final responsibility for a particular policy.

Operating within a large bureaucracy, administrators find it easy or necessary to avoid definitive answers to students inquiries; they pass the inquiries to the faculty, the regents, or the legislatures. These agencies in turn seem even more isolated from the student point of view and even less open to communication.

An immense frustration is built when the student feels he once again must go through a channel which is not "plugged into" the policy-making power of the university.

Charges of communication gaps are leveled against faculty, administrators, and governing boards alike. In many instances students charge that the actions of the overseeing bodies, i.e., regents, trustees, etc., are determined by outside business and political influences. Such boards are looked upon as keepers of the status quo who make no attempt to consult with students on any decisions, including those decisions which directly affect the students.

Students, in turn, seem unaware of the factors and pressures that the governing board must consider and endure.

Faculties are criticized for time spent on consulting work for the government or for private industry, and for spending too much time researching and publishing. These activities, however worthwhile, are seen as isolating the faculties from the concerns and problems of the students.

In our view the non-teaching activities of some faculty members, particularly in large universities, are excessive. The "publish or perish" phrase is not simply a cliche. In many areas it implies a valid criticism.

Responsiveness

Claims of inadequate channels of communication frequently were linked with complaints about the lack of responsiveness to student demands.

This situation is aggravated where there is a lack of agreement, or of shared perspective, between administration and faculty. Despite protestations to the contrary, such circumstances are hardly unusual. Faculty and administration often are at odds on every-

thing from the way to reply to student requests to the quality, method, and timing of university response to student protests.

When university action is taken, or problems are at least under serious review, students who are not involved in the step-by-step deliberations fail to understand the amount of planning required and the complexity involved in the solutions they propose to the university.

Since many universities do not seem to be geared to initiate or administer either quick or long lasting change, increasing passion mounts on both sides of an issue with resulting polarization and alienation of more moderate students who may or may not sympathize with some of the basic requests.

The students feel that it is the administration and the faculty who decide which students will be accepted as student spokesmen. Even when some students are in positions of consultation with the university, administration and faculty, a majority of students may deny that actual representation or communication occurs. On one large campus, for example, a list of student leaders drawn up by the Dean of Students and a list prepared by the editor of the student newspaper had no names in common.

We feel that these and similar situations can only lead to a conclusion that a lack of real or visible responsiveness has been an ingredient in campus conflict.

Student Intolerance

Although most students would deny it, and many would be genuinely surprised by the charge, the intolerance of a substantial portion of students is a contributing factor to the general unrest. Often insulated from day-to-day social responsibilities and contact with other age groups, some students seldom have the opportunity to see our society solving problems or meeting human needs. In the course of study and discussion, however, they are continually exposed to society's many real failures and seeming inconsistencies. The result for many has been a combination of deep social concern and a disenchantment with traditional institutions and approaches to problems.

Frequently students are strong in framing ideal solutions and weak in analyzing the factors involved in the problem and in its solution. Some demand immediate solutions and failing that, rush into confrontation as the "only alternative course". They may resort to "non-negotiable demands", a technique that is often cited as evidence of student intolerance.

The more militant students insist on acting as a group, feeling that their hope of success lies in refusing to deal with opponents on an individual basis. Refusal to negotiate may indeed indicate merely a desire to disrupt for the sake of disruption but it may also reflect a lack of understanding and a lack of skill and confidence in the bargaining techniques long vitally employed in a democratic society.

Such intolerance contains dangerous seeds of self-destruction. Unchecked, it can only breed a like degree of intolerance on the part of those who have made higher educational opportunity available to more young Americans than any society in history.

It should also be recognized that some of the intolerance displayed is purposeful and perhaps irreversible. The revolutionary is determined to remain unappeased in the hope of prompting administration reaction of a sufficiently excessive or violent nature to "radicalize" the moderate student majority. He must seek this goal because radicalism as a force to destroy can achieve no objectives, can obtain no real results on our campuses today without the tacit or even open support of far more responsible and moderate students who may be captured by the events of the moment. In order to be "radicalized", these students must have their emotions preconditioned by a situation (or series of situations) which would generate an initial expression of sympathy toward the avowed aims of the revolutionaries.

Hypocrisy

Students complained that the university, like society, fails to practice what it preaches. They point to teaching and the transmission of learning as the center of a university, and contrast this with faculty efforts to reduce teaching loads in order to have more time for research. Many students accused university administrations of applying a double standard in enforcing regulations. They claimed that students who violated rules as part of a politically motivated or anti-institutional protest were more heavily penalized than those who violated the same rules for other reasons. Replying to the university's often expressed concern for social problems in the community, students point to university expansion into ghetto neighborhoods through programs students call "urban removal."

They charge that academic freedom is a myth when the university's purpose and direction is "subverted" by massive infusion of funds for military and industrial research. In response to the effort to educate the disadvantaged, students charge that too few are admitted and that those admitted find the institution unresponsive to individual needs and problems.

Relevance

Underlying specific issues is a fundamental dispute about the structure of the university and its role in society. A vast gulf exists between the views of faculty and administrators and the views of the students.

It is characterized by the recently published statement of a university student:

"Most of them (the faculty) hold to the ideal that the university is a neutral institution, devoted to objective truth. But the people who have power in America have pervaded this institution. The university could never be neutral in our present society—profit making and war making—I'd be skeptical that the university could assume a neutral posture. The University ought to be a partisan of the progressive forces in society."

This student's view is an obvious departure from the generally held public view of a university as an isolated tower that transmits and enlarges knowledge in the process of preparing individuals for careers. This student opinion requires that the university be relevant to our era and its problems, that it be committed to an active role as a progressive force. What is important about this perspective is that it is expounded not by a minority of revolutionaries but by very large numbers of sincere and highly motivated young people.

For the student, a clear definition of this relevancy is very difficult, since its development is in a formative stage and its meaning changes from area to area. On one hand, for the university to be relevant, it is held that it must cease to uphold traditional "establishment" institutions and systems. In this context, many universities have seen demonstrations against campus recruiting by various corporations involved in defense contracts, against the inclusion of ROTC in the curriculum, and against certain research projects. On the other hand, it is suggested that these ties must be replaced with new commitments to support urban improvement, and the extension of civil rights. Clearly many complaints about specific course requirements are closely related to this concern for the university's relevance. The students ask, "What is a university? What should the relationship be between the university and the surrounding community?" They are asking to what extent higher education should be radically altered to prepare graduates to go into society to change things.

They are asking how much of what they learn is "relevant" to today's society. They would like to see a closer relationship between their courses and the problems they see. They are asking for courses which can provide answers to problems of race, poverty, and economic oppression, and they regard present course offerings as noticeably lacking in this relationship. In one notable instance these demands would be satisfied by nothing less than student control of the curriculum, but large numbers of students who do not make such radical demands are nonetheless asking for a more "relevant" education.

Some students appear to be more caught up in contemporary problems rather than in the difficult process of learning needed to toughen and strengthen their minds to achieve workable solutions to unsolved problems. In these students we found an impatience with and a lack of appreciation of method and process, whether it be the intellectual method of abstraction and generalization or the process of practicing democracy as a value in itself.

Over-reaction

The student voices deep concern about methods used to respond to student confrontations. Many feel that the university has over-reacted with excessive force. They point to incidents involving clubbing and gassing demonstrators and bystanders, as examples of an "oppressive system." On numerous occasions moderate leaders of peaceful demonstrations cited the subsequent inability to prevent individual acts of provocation and violence by radical students, thereby permitting a confrontation to erupt into violence. Likewise, students pointed to numerous instances of over-aggressive reaction by individual law officials which had the effect of radicalizing otherwise passive onlookers, turning a relatively small-scale disturbance into a general battle.[1]

Many individual students pointed to the Dartmouth procedure (a court injunction against the occupation of a building, and the peaceful and quiet arrest of demonstrators) as the best approach.

Lack of combined faculty-administration action aggravates a situation, and in some instances, a slow response due to a reluctance to act created further difficulties. In other instances an immediate resort to excessive force exaggerated the problem.

The student frequently complains of double jeopardy—prosecution by civil authorities and then by the university. He maintains that those who violate a university regulation in the more traditional manner, as a prank, are treated more lightly than those who violate the same rule for a political purpose.

Additional stress is borne by the administrator because of his role of buffer between the faculty and the governing board. He is subject to the direction of both and often the approval of neither.

Blacks at Predominantly Black Institutions

There is a depth of bitterness in even the most moderate of black students at black institutions that surpasses anything found among the whites.

The black student expresses bitterness about our system from personal experience. Many white students expressed concern about problems such as discrimination, poverty and hunger, but unlike the black students, most of them stated they had not personally experienced these problems. As more than one black student said—"You have to be black to understand."

A substantial number of black students at predominantly black institutions stated that they have lost faith in our political system, which over the years has promised them

[1] For a more detailed treatment of this process, see the appendix "Dynamics of a Confrontation."

much, but in their opinion, delivered little. They say there "are political wolves in the South and political foxes in the North." Many of the blacks want desperately to believe in the system, but can see no real progress being made. Their problem is more external than internal. They are concerned about non-college problems which they identify as discrimination, economic oppression, loss of identity, poverty, hunger and racism. They ask to be respected and desire true economic opportunity. Words and promises will no longer suffice.

In many cases the militant blacks at predominately black campuses are looking for a dramatic and, if necessary, violent upheaval in the United States. They would acknowledge our good intentions, but felt that the faster and more complete the failure of moderate programs, the sooner the final and absolute confrontation would occur. When asked how they would change the system, or what changes they would make, they didn't have an answer—but said that problem would take care of itself.

The black feels that the white radical is playing a game, and only need shave his beard and cut his hair in order to melt into the mainstream of the establishment, while the black student cannot.

The main goal of the majority of black students seemed to be service to their "black brothers and sisters". Some said that they would rather die for their people in the streets of the United States than in Vietnam.

The black students in most cases stated that their schools are inferior to white institutions, even when operated by the same authority, such as a state board of regents. In many cases, they also stated that, because of their inferior primary and secondary education, they are unable to compete with the white graduate or in predominately white schools. Many black educators and students felt that the H.E.W. guideline should be revised until our entire educational system is corrected, to allow for the continued existence of predominately black schools. The rationale offered was that the black schools would allow many blacks to attend college who couldn't get, or stay, in white colleges. Further it would allow the blacks to retain their own pride and identity and find themselves, instead of being submerged in predominantly white schools. The black schools would be able to offer many courses and programs in college which would allow the blacks to "catch up" to their white college counterparts who have received a better primary and secondary education.

The educators and students also suggested more programs, based on the Head Start concept, in the high schools or between high school and college to raise the educational level. They emphasized that the programs would work best if blacks were involved at all levels, i.e., they felt only a black could truly understand the problems faced by another black.

Relative to the relaxation of HEW guidelines, we discovered that the black institutions are making a concerted effort to recruit white students and faculty. While they have been moderately successful as far as faculty are concerned, they say it is extremely difficult to convince white students to attend a predominately black institution.

Non-White Student Issues

The primary concern of minority students is to acquire the kind of education they perceive as essential to being able to return to their communities and better the conditions of their people. They want their education to provide the training they need to deal with the problems of minority groups in America, and they see higher education as the best avenue to their personal development.

A particular example of the demand for relevance has been the widespread support for minority studies programs by blacks and other non-white minorities. Most of the activity in this area has taken place on predominately white campuses, and is often discussed within the framework of the problems of minority group students when they find themselves in a basically all-white environment. The students like to compare their position on a campus where they constitute less than two per cent of the student body, to the problems faced by a white student if he were to attend a university where the student body was 98 per cent black. Both faculty and students said that without thorough preparation of internal college processes and organization, increases in non-white admissions can result in the severe disillusionment of non-white students and a backlash among others on campus. They expressed the feeling that the courses offered by the university do not give adequate coverage to blacks and other minorities in American history and in other subjects dealing with the processes of American society. They feel that such courses are cast in terms and events totally foreign to the experience of most black students. It is claimed that an economics course which fails to present "accurate" views of economic conditions of ghetto life is not relevant, and history courses designed for middle class whites are not relevant for blacks.

The minority groups say that much of the difficulty turns on the inadequacies of the public school systems in deprived areas, as well as disadvantages which pervaded their early lives. Failure to respond to these concerns, we were told, would threaten to drive the black activists into the ranks of the revolutionaries.

Demands for Black Studies Departments, minority student centers and the admission of large numbers of minority students who often lack adequate preparation are issues not easily resolved. A number of universities are beginning creatively to make the kinds of adjustments needed. Of special interest are the programs now in operation at a few schools to accept students who do not meet normal requirements for entrance, to provide financial aid, special tutoring and courses, and enrollment in a five year program leading to a degree.

It is important to make a clear distinction between the purposes and goals of black militant students and white revolutionaries. Aside from similarities in tactics, there are substantial differences. Without doubt, the alienation and bitterness among some black students is so great that they have completely lost faith in the ability of the nation to remove obstacles to full equality (see preceding section). Many black student activists on predominantly white campuses, however, appear to be seeking to reform the university, to make it better suited to serve their needs and desires, to create the mechanism for training students from minority groups to go back into their communities to deal with major social and economic problems, and not to destroy the university. This is in contrast to the goal of destroying the institution held by some white and black revolutionaries. Thus black student militants have held the white revolutionaries at arm's length—forming alliances when useful but preserving their separate identity and independence. By the same token, the formal involvement of black student groups in issues not directly related to minority student problems has been, in most cases, limited.

Large Versus Small Institutions

An immediate difference appears in the ability of smaller institutions to deal with some problems more readily and with greater acuity than the multi-university. Size affects responsiveness, communications and many other needs. Meeting them at larger schools is more difficult, but it is not impossible, and the effort must be made.

Obviously, there are very good reasons for the tremendous growth of some institutions in recent years. The population explosion, increasing demand for mass education, university financing, and the national reputation of specific institutions have all resulted in the development of a number of very large schools.

The challenge is to find ways to preserve the benefits of size while overcoming its disadvantages. We must seek ways to strengthen the ability of our universities to provide close personal relationships and the experiences available in small group settings. Greater development of community colleges, and even cluster colleges around the large university, can also play an important part in "rehumanizing" the learning process.

External factors

As with the section on internal factors of student unrest, our main concern is to clearly depict what the students themselves told us. All interpretation and analysis by ourselves is included in separate indented, italicized passages.

Students relayed to us deep feelings about "the System", "the Establishment", etc. The word, System, covers a good deal and its components vary from campus to campus. In all we have discerned certain common threads. The System, as they define it, is characterized essentially as follows:

Racism

The student perceives the gulf between the promise and performance of this nation with respect to race relations. He sees inequality of opportunity, failure of the educational system, and he relates these to the country as a whole as well as to the university. For the most part, we found a perceived neglect of human problems to be the single largest motivating force behind the alienation of today's student. Whether in black studies questions, or in the university's relation with its surrounding community, an over-riding concern was the status of minority groups.

Military Industrial Complex

There is considerable student opposition to our formidable Defense budget. Why, they ask, do funds for domestic and educational programs get cut while the Defense budget goes almost unchallenged? They see a close relationship between the academic community and the military. They see university presidents sitting as members of boards of large industrial corporations. They see cuts being made in funds to hire teachers while boards of trustees authorize new building and facilities in order to receive greater Federal research funds.

Poverty and Hunger

In this age of affluence the medium of television brings home to people the gap between well-to-do and the poor. There is a growing dissatisfaction on the part of students with the response of the nation to the disadvantaged. They are not willing to wait to overcome decades of poverty and racial intolerance, and they question apparent past inaction. The immediate problems around the college campus often become the focal point for their attention. The failure of many institutions to act with regard for the neighborhood around them has caused the student to take as his own the cause of the Harlem or Woodlawn resident.

Certainly, student involvement in such matters is not new: witness the civil rights marches of the early 1960's. What is new is the intense impatience with change or the apparent lack of change in the lives of many Americans.

Imperialism and the Third World

On a number of campuses a recurring question related to the role of the United States and the problems of what is termed the "Third World" (blacks, Chinese, Puerto Ricans, Mexicans, etc.). The view expressed

was that we are the imperialists in Vietnam, in Formosa, in Latin America, and that the emerging nations are a new force with whom we have not yet come to grips. Some feel we are not treating other people in the world fairly, and from the view of the student, we are paying the price of not heeding the views and needs of others. In their view, self-determination, as expressed by the United States, is a pious proclamation which relates only to those with whom we agree.

Police State

The experience of one school more clearly demonstrates this problem than any other. When the students left in the summer of 1968 the campus police wore no weapons. When the students returned in the Fall of 1968 the campus police were equipped with billy clubs, guns, and mace. For a school that had experienced no difficulty, the students questioned why this was done. As violence grows, and as counter-violence escalates, the student views his relationship with both the university and the outside world as increasingly beset by the police and National Guard. Each demonstration brings with it the threat of violence on both sides.

Economic Oppression

The readiness of legislatures and alumni to strike back at campus turbulence seems only to reinforce the student's view that big government and big industry more and more dominate the university and society. What has happened at Peoples Park in Berkeley, on Mifflin Street in Madison, and other places, are examples of a new concern for matters outside the university, yet, in which the university plays a role. Student housing, the increases in rent rates, merchants who charge higher prices to students (as they do to ghetto residents) are examples used by students to justify their claims of oppression.

Remoteness From Power

A very large part of the alienation of students stems from their feeling that they cannot control their own destiny. Institutions are too large, and too remote for the individual to have an opportunity to change that which he does not like. The multiversity concept is often pointed to here, as is the overwhelming size of government, industry, and labor unions.

Misplaced Priorities

Over and over again we heard about priorities and the feeling that these are "out of whack" in the United States. The space program, large farm subsidies, cuts in education, the Defense budget, and more, all were cited as examples of the failure of our society to meet its urgent domestic needs.

Vietnam

It is apparent that Vietnam originally served as one of the major factors in radicalizing students. It is still a major source of alienation and dissatisfaction with our society and our national government. Many consider the war immoral and unjust. An increasing number vow to take any steps necessary to avoid military service.

However, it was repeatedly brought home to us by radicals and moderates alike that an end to the Vietnam war would not mean an end to campus unrest—or even a major, long-range, reduction of tensions.

The Draft

Coupled with Vietnam the operations of the Selective Service System serve as a significant problem among students. The present administration of the draft is viewed as totally unsatisfactory, as being unjust to minority groups particularly, and as a tool of the Federal Government to enforce discipline. Faculty and students alike tend to equate expulsion from the university with compulsory service in Vietnam.

Values: Materialism

As one student put it, "This is a 'thing' culture, and I want it to be a 'people' culture." In the midst of affluence the students see a society in which a high value is placed on material things. There is a longing for a belief, a belief in something other than material things. There is a deep conviction on the part of many students that they want to do something to help others, not only themselves. This is part of a rejection of materialism as viewed by the student. Moreover, there is a questioning of the fundamental values of our society, and our system of government.

Over-reaction

As can be seen from the portion of this report which analyzes confrontation, the efforts to control violence—as well as those steps leading to violence—too often create an over-reaction on the part of all concerned. In our view there has been an over-reaction on the part of students to what they consider to be the unresponsiveness of the institutions to legitimate calls for change.

This compounds what under the best of circumstances is a complex problem. But an excessive reaction from the outside world, aroused and disturbed as it is, does little to help. In a violent situation, students, faculty, administration and the community, are caught in a tangled web of sympathy, fear, reaction and frustration. Obviously then, as the Eisenhower Commission on Violence has said in its most recent report: "Over reaction in response to a violent illegal situation can be very dangerous."

The idea that campus violence comes from only a few is a myth. There are many dedicated, bright students who are concerned about the problems but who are not yet violent. They have not, however, rejected completely the view that they should resort to violence. Unfortunately, they can point to some campuses where violence has produced results.

Hypocrisy

Through all the external and internal factors runs this thread. Each campus would produce differing examples of this theme, but it is an underlying feeling on the part of the students.

Students believe that our society is hypocritical. They point to the treatment of blacks while contrasting this to the ideal of the Declaration of Independence; they see poverty in the midst of plenty.

The Media

Most of the people we talked with stated the opinion that superficial mass media coverage was contributing to the widening disillusionment and misunderstanding between the public and the nation's campuses. The media, particularly that utilizing the visual impression, concentrates on the dramatic, the sensational, the vivid acts of violence or disorder.

There is altogether too little effort made to thoughtfully explore the underlying issues and problems that concern the vast majority of students and educators who genuinely want to change things for the better. Not only does this distorted coverage inflame the worst fears and stereotypes in the public mind, but it adds to the frustrations of those trying to work for progress and constructive change on campus.

We believe the media can and must become a more powerful forum for bridging the "perception and understanding" gap between the public and our universities.

The very nature of modern communications—visual, instantaneous—plays a role both in determining the tactics of demonstrators and in shaping public opinion about events on a campus. The public focuses on disorders, and these have occurred with sufficient frequency to leave the impression that little else is taking place in higher education.

The point to be made is that the media can offer a mechanism by which misconceptions can be corrected. Although some publications and broadcasting networks have devoted substantial time and effort to excellent indepth studies of the factors discussed in this report, more is required if understanding is to be created.

IDEAS FOR CONSIDERATION

As we learned, there is no single answer, nor any set of answers, to the problems faced by students or our society. The internal and external factors which we have tried to catalogue here lead us, nevertheless, to suggest for your consideration, Mr. President, a series of ideas which we believe merit urgent consideration.

1. No repressive legislation. Any action by the Congress or others which would, for example, penalize innocent and guilty alike by cutting off all aid to any institution which has experienced difficulty would only serve to confirm the cry of the revolutionaries and compound the problem for each university. This holds, also, for any action which would establish mediation or conciliation on the part of the Federal government. In our opinion, the fundamental responsibility for order and conduct on the campus lies with the university community.

2. Establish a Commission on Higher Education. In light of our findings we believe that a Presidential Commission on Higher Education would be a valuable step. Running through our report are examples of problems which students, faculty, and administrators have raised and which deserve further exploration. What is the role of the Federal government in research? What has this contributed to creating priorities within the university? How best can communication be opened and maintained? How well does this report reflect the reality of the American college scene? These and more would be appropriate questions for such a Commission which we believe should include a thoroughly representative selection of students, faculty, and administrators together with the general public. We do not foresee an investigative body but rather one which can help to create understanding among members of the academic community, as well as the general public.

3. Open communication to university community. We have found that many were surprised by our visit and by our willingness to listen and learn. There is a need to expand lines of communication. We urge that Cabinet officers, Members of Congress, the White House staff, and others in the Executive Branch begin an increasing effort for this kind of two-way street of listening, learning and responding. Once our communication has become established it will be important to sustain it. Some of the questions raised by students were truly the kind which deserve and demand answers. Some of the viewpoints expressed by students deserve understanding. And some of the misconceptions of the system of government within which we operate desperately need correction. This can best be done, we believe, through an ongoing program of communication.

4. Lower the voting age. There is no question that the American college student for the most part is better educated and more vitally concerned with contemporary problems in our country than at any previous time in our history. We feel that active involvement in the political process can constructively focus his idealism on the most effective means of change in a free society.

The right to vote will give Young America the chance to become a responsible, participating part of our system. In essence they will have the chance to put their performance where their words are.

Between the time they become eligible for the draft, and the time they presently

become eligible to vote, there is a natural tendency to lose interest in politics and government because there is no right to participate. An extension of the franchise to the age of 18 when their interest is high can help engender in our youth (and our future leadership) an awareness of the full meaning of democracy.

5. Draft reform. In line with your own recommendations for reform of the Selective Service System, we believe Congress should move to act promptly on this important issue. It is a matter which affects hundreds of thousands of American young people and it is presently a sword over their heads. This can be improved and positive action on the matter would be significant.

6. Encourage student participation in politics. We found that the overwhelming majority of students with whom we visited hold little regard for either political party. The questioning of our system of government points to a loss of confidence in established institutions and that includes political parties. An increase in this loss of confidence poses a serious danger to the viable functioning of American government. Just as government must be responsive, so must political parties be responsive and open.

7. Expanding opportunities for involvement. We found an encouraging desire on the part of many students to do something to help overcome the problems of our society. This dedication or commitment to help others is a hopeful, important area which should be encouraged. Specifically, we recommend establishing a *National Youth Foundation*. We believe this concept should be initiated in order to better utilize the energy and resources of student groups. Models of student-community involvement were found at the University of South Carolina, Radcliffe and Michigan State University, among others, and we urge legislation to foster and encourage this opportunity for experience, learning and participation.

We also recommend establishing a *Student Teacher Corps*. Many more students are considering entering the teaching profession and this idea is one which we feel should be encouraged. In concert with the Teacher Corps, the student teacher concept can be a valuable tool to tap student potential and expand the learning opportunities for the disadvantaged.

Further, we recommend *increasing our support of the College Work-Study Program, National Defense Student Loan Program, and the Educational Opportunity Grant Program*. These three Federal programs would be beneficial in meeting the needs of students and the institutions in responding to student concerns. They are budgeted at levels far below the authorization, and we believe they should be increased.

From the community at large, American business, which has played such a large role in financially supporting higher education, must commit human resources as well. Expanded job-opportunity programs, work-studies programs, business men and other community leaders teaching on campus, intern and apprentice efforts, leadership in student-community problem solving, attendance at campus forums, among others, could measurably enhance the experience-learning process.

8. Coordinate youth programs. We think it would be helpful if an effort were made to coordinate all the present youth programs of the Federal government through one central office. At the moment there is considerable proliferation among many agencies as well as duplication of effort. In order to more effectively use the present resources of the Federal government we urge your consideration of a mechanism to coordinate and follow-through the work of our numerous programs and agencies.

9. Perspective. There is a need to mobilize opinion and resources. A sense of perspective is lacking on the part of the students and on the part of the public. What students are saying is, in some cases, the same as what the average American is saying regarding priorities, responsiveness, and humanization. Presidential leadership, governmental concern, and communication are all a part of the necessary work which must be undertaken if we are to replace revolution with reform, and despair with hope. Clearly we have found that violence is no answer, and that violence as a means to achieve an end is counter-productive. The crucial factor in the widening gap between students and others is the student's perception of reality. That must be understood by all who seek solutions. This requires of us comprehension, and of the student, understanding.

10. Balance. Henry Thoreau observed that, "There are a thousand hacking at the branches of evil to one who is striking at the root."

To take an isolated view of our universities as the one weak link in our educational system is to unfairly single out college students, their parents, professors and school administrators.

We must remember that the average college freshman has already undergone a dozen years of formal education before he enters the gates of the university. Obviously, he is going to reflect, at least in some measure, the strengths and weaknesses of the training he has already received. Many of his attitudes and many of the factors which may lead him into difficulties on campus, have already been implanted.

Therefore, a sweeping change in campus conditions alone is no guarantee of a return to orderly progress in our universities. There exist imperfections in our educational system from pre-school programs to graduate studies. These flaws in American education deserve the immediate and thorough attention of the nation. The problems which have already surfaced on the college campus exist in various dormant forms in our secondary schools, and the inadequacies which foster them can often be traced back even further. Until consistent, challenging, quality education becomes a reality, the problem will remain.

APPENDIX

Dynamics of Confrontation

Every stage of college confrontation—"before", "during" and "after"—is represented among the Task Force visits, including:

Tranquil campuses: With no history of, and little likelihood of, disruption.

Uneasy campuses: With some of the ingredients of discontent.

Troubled campuses: With various forms of group civil disobedience, e.g. sit-ins, protest rallies, occupation of buildings.

Paralyzed campuses: With civil war and open military siege.

Convalescent campuses: With diverse groups struggling to heal the wounds of confrontation and resolve differences. But the seeds of instability remain and there are conflicting opinions as to whether real progress or continuing instability will result.

Although schools vary widely in region, size, student body profile, structure, governance, and campus issues, there does emerge a common and almost predictable pattern of escalating circumstances through which a university can slide from dissent to open confrontation and chaos. This progressive breakdown is by no means inexorable on every campus, since only a few hundred of the nation's 2500 colleges have experienced disruption.

On many campuses a good mix of conditions, plus cooperation among students, faculty, and administration continues to make it possible to resolve differences without open confrontation and to make progress as a community. These influences toward rational progress are mentioned elsewhere in the report.

The temptation to oversimplify cause and effect relationships should be resisted—keeping in mind that some schools with much trouble have been working hardest, albeit unsuccessfully, to develop progressive change and self-governance.

However, the frequency of confrontation has increased at such an alarming rate over the last year, that it is well to look at the negative conditions which seem to accompany crisis. Once the dynamics of this process start to spiral ahead, the forward momentum and the fragility of any equilibrium lead to an almost inevitable escalation of risk, danger, and lack of coordinated civilized control over events.

Anatomy of conflict

1. The underlying malaise and frustration with both societal and personal issues—coupled with the existence of hardened revolutionaries among students and their sympathizers or even counterparts among the faculty.

2. Identification of an emotional issue which has broader appeal to the target group—non-violent moderates. The issue may be local and narrowly defined, e.g. minority studies, student participation, education reforms—or it may be broader and more symbolic, e.g. the "people's park," military involvement like ROTC or research, reaction to police or military force.

3. In most cases, confrontation comes only after frequent requests for change have failed or gotten bogged down. These attempts may cover several months during which there appears to be little or no action or responsiveness other than perhaps talk or committee wheel spinning. These complaints and/or demands may be legitimate, or they may be a deliberately escalating sequence designed to force confrontation. The reasons for slow action become less important than the absence of results—even though, ironically, the problems are sometimes not within the complete control of the immediate university community. Occasionally, militant radicals may seek violence and confrontation immediately, though this often fails from lack of moderate student support.

4. During this period, faculty and administration are unable to coalesce around initiation of prompt change. This usually results in increased polarization and alienation of more moderate students who sympathize with some of the basic ideas for change.

5. At some time, often almost spontaneously, there is a student-initiated provocation or minor confrontation, which might take the form of a sit-in or rally. Sometimes, incidents such as rock-throwing, yelling obscenities and destruction of property occur. Lack of good, clear, timely communications among faculty, students, and administration begins to exacerbate the crisis. Misinformation becomes more common than good information.

6. This provocation is then often met by excessive and/or indiscriminate rebuff, including the use of out-dated and unenforceable disciplinary procedures or even police in large numbers, weapons, etc. At this point, the moderates, carefully preconditioned to a general feeling of sympathy by events, by fellow students of a more radical orientation, and even by some faculty, and motivated by their lack of confidence and respect for the establishment, as well as by the immediate violation of "their community", join the fray in ever-increasing numbers. It is not difficult to imagine the recruits gained from witnessing a clubbing, tear-gassing, or firing of riot guns. Such an overwhelming situation can readily give the revolutionary cause legitimacy in the eyes of thousands of campus moderates. Thus, it accelerates the process of "radicalizing" a major portion of the student body. In most cases this change is irreversable once made. By this time, the original issue has given

way to far broader symbolic implications—and the original core of radicals, whether SDS or some other, have been swept aside by the tide of events. No matter—they have achieved their objective.

7. Positions of all parties become hardened, alternatives narrow as everyone stands on "principles", and virtually no one has full control over events. Finally, because of the excesses on both sides, there usually ensues a period of negotiations where all sides repond to pressures and some sort of compromise is worked out—but only because the pressures are so intense.

8. Relative calm returns, but left behind is an atmosphere of latent crisis. Student attitudes are more embittered and there may be a polarization among faculty, administrators, and most certainly, the surrounding public. To many, there is a general verification of the principle that only the strategy and tactics of confrontation can produce meaningful change, at least in the short run. Others sometimes see a few seeds of progress along with continuing, and perhaps more serious problems.

Mr. RANDOLPH. Mr. President, I shall not consume more time of the Senate except to say that this material is, I believe, important from the standpoint of the subject matter in general and a repetition, at least in part, of other speeches, articles, and material which have been prepared on this vital subject.

I appreciate the courtesy of the Senator from Alabama in yielding to me this time.

ORDER FOR RECOGNITION OF MRS. SMITH OF MAINE AFTER COMPLETION OF THE REMARKS OF SENATOR SCHWEIKER TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) completes his remarks around 10:30 o'clock tomorrow morning, that the distinguished Senator from Maine (Mrs. SMITH) be recognized for not to exceed 15 minutes.

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

MIRV DEPLOYMENT

Mr. PERCY. Mr. President, I am very much concerned about the news that MIRV deployment is scheduled to begin this June. This would dangerously escalate the arms race at a time when both the U.S. and U.S.S.R. agree that the arms race should be brought under control.

The U.S. readiness to deploy MIRV and ABM, and the administration estimates of accelerated Soviet ICBM construction, make it imperative that the arms race be stopped immediately.

I believe that, when the SALT talks resume in Vienna on April 16, the U.S. should propose a freeze on deployment of all strategic missiles, both offensive and defensive. Such a freeze on further strategic arms deployment is more feasible at the start of negotiations than trying to agree on weapons reductions. It is a logical first step at Vienna.

Moreover, the freeze would be fully verifiable through satellite reconnaissance and other intelligence methods. The need for a freeze on MIRV deployment is urgent because MIRV, once deployed, cannot be detected by present methods of surveillance.

This is a matter of great concern on the eve of the new round of SALT talks. It is our duty to halt the arms race if we possibly can.

NEW APPROACH ON LAOS

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I sent to the New York Times on the subject of a new approach on Laos.

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

SENATOR JAVITS URGES NEW APPROACH ON LAOS

WASHINGTON, D.C.,
March 5, 1970.

To the EDITOR:

The situation in Laos bears a disconcerting resemblance to the events preceding the Gulf of Tonkin Resolution of 1964. The Administration maintains that U.S. military activities in Laos are essential to the war in Vietnam. Our planes and pilots have already come under fire. The momentum of the struggle in Laos might, indeed, lead to the involvement of U.S. ground combat forces despite assurances to the contrary by Secretary Laird and Congressional intent as expressed in the military appropriations bill.

Congress should take the initiative lest we again find ourselves outmaneuvered by events. Pre-emptive action could be taken by repealing the Gulf of Tonkin Resolution, the only Congressional authorization for combat in Southeast Asia, which remains a blank check: ". . . as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." Laos as well as South Vietnam is a SEATO protocol state.

On Oct. 14, 1969, I introduced with Senator Claiborne Pell a resolution to terminate the Tonkin Gulf Resolution on Dec. 31, 1970. A recent visit to Vietnam reinforced my view that the Congress should impose a deadline for U.S. disengagement from the major combat responsibility.

This is the main purpose of the Javits-Pell resolution. Its legal effect would be to restore the *status quo ante* the Tonkin Gulf Resolution as regards Congressional authorization for U.S. combat operations in Southeast Asia.

Any further combat operations in Southeast Asia after Dec. 31, 1970, would need specific new Congressional authorization. But current legislation would permit giving continued aid, training and equipment to Vietnam, Laos and Thailand.

The President's "Guam Doctrine" has gained widespread support in Congress, and the setting is appropriate for a new approach. Enactment of the Javits-Pell resolution would require the Administration to justify U.S. military operations in Southeast Asia on the merits. Nothing could be more reasonable or salutary in my view.

If there are U.S. interests in Laos which justify our combat involvement there, the Administration should have no hesitancy in making its case to the Congress and to the people. Present U.S. policy actions in Laos have not been specifically authorized as such by Congress, and are, it is charged, even masked from public and Congressional scrutiny by a continuing policy of nondisclosure. [Editorial Feb. 8.]

I feel that the approach taken in the Javits-Pell resolution avoids potential pitfalls of other resolutions which seek to cut off funds for Vietnam after Dec. 31, 1970, or seek a blanket repeal of all Congressional authorizing resolutions—i.e., Cuba, the Mideast, Formosa and Berlin, as well as Tonkin Gulf.

The case in hand needing urgent attention is the situation in Vietnam and Laos. Resolutions dealing with other areas should be reviewed, preferably on a case-by-case basis to allow full time and attention to all the factors involved. At this stage, Congress should avoid an approach involving a constitutional confrontation which would impair the President's role as chief spokesman for the nation's foreign policy.

JACOB K. JAVITS,
U.S. Senator from New York.

ANNIVERSARY OF UNION COLLEGE OF SCHENECTADY

Mr. JAVITS. Mr. President, I take this occasion to observe an important date in the history of New York State, the 175th anniversary of the chartering of Union College in Schenectady. On February 25, 1795, the Board of Regents of the University of the State of New York issued its first collegiate charter to Union College, creating an institution that is junior in New York State only to Columbia.

For nearly two centuries, Union has served the community, the State, and the Nation as an innovator among colleges. The faculty and administration early recognized the importance of science and technology to our enterprising American society. As early as 1809, its students were taught the basics of chemistry. During the 1820s, the college offered a degree in scientific studies, and in 1845, Union became the first college of art in the country to offer training in engineering.

In the early years of the present century, when the "electrical wizard" Charles P. Steinmetz was a member of the faculty, Union led in developing the new field of electrical engineering.

More recently, the college's summer programs in science education provided the model for the all-important National Science Foundation institutes that today train high school science teachers in every State. Even now, Union's programs are providing innovative leadership for our Nation in fields ranging from aid to underdeveloped nations to new programs for reaching the educationally and socially disadvantaged. VITA, the Volunteers for International Technical Assistance, founded on the Union campus just 10 years ago, has responded to more than 14,000 requests for technical advice from more than 60 developing countries. Just last year, the Office of Economic Opportunity commissioned VITA to adapt its methods of aiding developing countries to the use of our own antipoverty program.

Last summer, Union combined with nearby Skidmore College and Rensselaer Polytechnic Institute to launch an academic opportunities program. The program enrolled economically disadvantaged students of strong motivation whose academic records did not qualify them for college enrollment through regular channels. These students received a summer session of intensive training in college work, coupled with close individual attention. Then they were enrolled in the regular freshman class last fall.

Thus Union, founded in the early years of the American Nation, has long reflected the ideals and aspirations of our own Union. I know my fellow Senators

join me in offering congratulations on his anniversary and will wish for the college continued centuries of distinction and achievement.

REPORT OF TASK FORCE ON INTERNATIONAL DEVELOPMENT

Mr. JAVITS. Mr. President, the Peterson Commission, established under the authority of an amendment to the Foreign Assistance Act of 1968, which I proposed, has now made public its report on foreign aid: "U.S. Foreign Assistance in the 1970's: A New Approach." The purpose of the task force report was to provide the President and the Congress with comprehensive recommendations concerning the role the United States should play in assisting the less developed countries in the 1970's.

The Peterson Commission has done a brilliant job in fulfilling its mandate. The report, in my opinion, lays the basis for a continuing U.S. economic aid role in the world—a role based on international economic cooperation, self-help, and partnership.

The report is responsive to many of the criticisms made of the aid program in the Congress and elsewhere.

A basic concept of the report is its recognition that development is a world problem that must be tackled on a worldwide basis in close cooperation with other donor industrial countries. Concomitantly, the report recommends a greater multilateralization of our development effort with the IDC's. Similarly, implementation of the recommendation that the U.S. international economic development program should be independent of the U.S. military and economic aid programs that provide support assistance as an element of security; will help remove from our aid programs a factor that has inspired adverse reaction overseas and that has disillusioned our young people at home.

The authors of the report have truly blazed a trail. I refer in particular to their recommendation that the Hickenlooper amendment be repealed and their recognition that enlightened trade policies toward developing countries are an essential element in the peace and stability we feel through ultimate development in the world. When the Congress considers the trade legislation that will soon be before us, we would do well to give serious consideration to the trade recommendations in the report—the need of extending some worldwide trade preferences to the developing world, and the need for a continued support for regional markets among developing countries.

The administration should now act and make its proposals in these crucial trading areas known to the Congress in the form of administration-sponsored legislation.

In the investment area, the report's emphasis on the importance of developing the private sector in the developing countries of the world is most welcome. An invigorated private sector must be one of the key "engines of change." I have long labored to increase the flow of private foreign capital to the developing world and am gratified that this distinguished commission has not only recognized the important contribution that private investment companies such as the ADELA and the PICA—which I have put before the Senate and the country—have made to development, but also has recommended that similar organizations be established for Africa and the Middle East. The recommendation noticeably to expand the role of the International Finance Corporation and the vision of the role the newly established Overseas Private Investment Corporation—OPIC—will play in encouraging investment flows complements the report's recommendations in the fields of trade and AID.

The world now stands posed on the brink of the second development decade. The United Nations is making preparations for the celebration of its 25th anniversary. Expectations of the poorer two-thirds of the world continue to rise—as does the gap between their development and that of the industrial nations. The necessary reports and studies have now been made. The United States—as it approaches its 200th anniversary—is still searching for its proper world role. Somewhat more than 100 years ago, a great American in surveying the United States—noting the divisions of race, the divisions of the haves and the have-nots—observed that our Nation could not survive if it were half-slave and half-free. The dichotomy has now been transposed to the world scale, and this truth is even more meaningful. Today's slavery takes the form of hunger, illiteracy, overpopulation, lack of opportunity, a slow rate of development and the despair that envelops much of the world. To move the world toward a better, more stable balance of justice in the 1970's is what the Peterson Commission report is all about—and this is in the direct interest of every American of the destiny of our Nation.

Mr. President, I ask unanimous consent to have this report printed in the RECORD, together with the statement by the President released by the White House on March 8, 1970.

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

U.S. FOREIGN ASSISTANCE IN THE 1970'S: A NEW APPROACH

(Report to the President of the United States from the Task Force on International Development, Mar. 4, 1970, Washington, D.C.)

PREFACE

In his first message to the Congress on foreign assistance, the President announced that he would establish a Task Force of private citizens to provide him with comprehensive recommendations concerning the role of the United States in assistance to less developed countries in the 1970s.

The Presidential Task Force on International Development was appointed on September 24, 1969.

In preparing its report, the Task Force met with the Cabinet members most concerned with these problems, with the Administrator of the Agency for International Development, and with the heads of other government agencies. It benefited from extensive discussions with their advisors and from excellent papers prepared by their staffs. It had meetings with members of Congress, business groups, university experts, journalists, and representatives of civic organizations, voluntary agencies, and foundations, around the country. It asked for, and received, carefully considered statements from labor and business and professional committees. It examined in detail the comprehensive report on this subject by the Commission of distinguished international experts headed by former Canadian Prime Minister Lester Pearson. It also studied reports by Governor Nelson Rockefeller, the Perkins Committee, the Committee for Economic Development, the National Planning Association, and other groups. And it commissioned studies on specific subjects from experts in the field.

The Task Force gratefully acknowledges this help.

The members of the Task Force are:

Rudolph A. Peterson (Chairman), President, Bank of America.

Earl L. Butz, Vice President, Purdue Research Foundation.

William J. Casey, Senior Partner, Hall, Casey, Dickler & Howley.

Terence Cardinal Cooke, Archbishop of New York.

John E. Countryman, Chairman, Del Monte Corporation.

Thomas B. Curtis, Vice President, Encyclopedia Britannica.

R. Burt Gookin, President, H. J. Heinz Company.

William T. Gossett, Last Retiring President, American Bar Association.

Walter A. Haas, Jr., President, Levi Strauss & Co.

Gottfried Haberler, Professor of International Trade, Harvard University.

William A. Hewitt, Chairman, Deere and Company.

Samuel P. Huntington, Professor of Government, Harvard University.

Edward S. Mason, Professor Emeritus, Harvard University.

David Rockefeller, Chairman, Chase Manhattan Bank.

Robert V. Roosa, Partner, Brown Brothers, Harriman & Company.

General Robert J. Wood, USA, (Ret.) Research Analysis Corporation.

Task Force Staff: Edward R. Fried, Executive Director; Donald S. Green, Deputy Executive Director; Reuben Sternfeld, William H. Lewis, Charles J. Siegman, Thomas J. Raveson.

Assistants to Task Force Members: Roland Pierotti, Ambassador Leland Barrows, William Butler, Joseph Dain, Jr., Richard Fischer, Msgr. William J. McCormack, Donald C. McVay, Al H. Nathe, Michael P. Roudnev.

MARCH 4, 1970.

DEAR MR. PRESIDENT: You asked us to examine U.S. foreign economic and military assistance programs, our trade and investment relations with the developing countries, and the fundamental problems that the United States faces in this area of foreign policy. You instructed us to look carefully into the underlying rationale for these programs, to take nothing for granted, and to recommend policies that will serve the best interests of our nation through the decade ahead.

Many with whom we consulted are deeply troubled by particular aspects of U.S. foreign assistance programs and by the apathy and misunderstanding that seem to surround the issues. Nevertheless, virtually all believe that the United States has a large stake and serious responsibilities in international development.

This feeling of commitment is natural in view of the distinguished role the United States has played for twenty-five years in this field. It has been a bipartisan endeavor. Many outstanding Americans have contributed direction, insight, and imagination to these programs in the past—and continue to do so today.

A Time for Change. We believe that the U.S. role in international development will

be as important in the future as it has ever been in the past; and prospects for success, if looked at in the perspective of experience, are very favorable.

For the first time in history, it appears feasible to approach this world problem on a worldwide basis. International development can become a truly cooperative venture—with the countries that receive help eventually achieving the ability themselves to help others. The Marshall Plan countries and Japan, which join us today in providing assistance, were yesterday the recipients of assistance. And some of the developing countries of a decade ago, no longer needing assistance themselves, are beginning to help others.

This kind of cooperation in international development is not only possible but essential. Only a genuinely cooperative program can gain the necessary long-term public support in donor countries—the United States, as well as others. Only by being cooperative, furthermore, can international development succeed abroad.

What the United States does now through its policies and through its determination to persevere for the long haul will influence what others do—the developing countries, the international organizations, and other industrial countries.

This, therefore, is a time for change, a time for reappraising our programs and designing them for the decade ahead. It is also a time to stake out in the most positive terms America's involvement in the way mankind manages its common problems. In time, U.S. international development policies may well prove to be the most important—and the most rewarding—determinant of America's role in the world.

Conclusions. With these considerations in mind we have reached the following conclusions:

1. The United States has a profound national interest in cooperating with developing countries in their efforts to improve conditions of life in their societies.

2. All peoples, rich and poor alike, have common interests in peace, in the eradication of poverty and disease, in a healthful environment, and in higher living standards. It should be a cardinal aim of U.S. foreign policy to help build an equitable political and economic order in which the world's people, their governments, and other institutions can effectively share resources and knowledge.

This country should not look for gratitude or votes, or any specific short-term foreign policy gains from our participation in international development. Nor should it expect to influence others to adopt U.S. cultural values or institutions. Neither can it assume that development will necessarily bring political stability. Development implies change—political and social, as well as economic—and such change, for a time, may be disruptive.

What the United States should expect from participation in international development is steady progress toward its long-term goals: the building of self-reliant and healthy societies in developing countries, an expanding world economy from which all will benefit, and improved prospects for world peace.

3. The United States should keep to a steady course in foreign assistance, providing its fair share of resources to encourage those countries that show a determination to advance. Foreign assistance is a difficult but not an endless undertaking. Some countries already have become self-reliant and are beginning to help others; U.S. policies should aim at hastening this process.

4. *U.S. international development programs should be independent of U.S. military and economic programs that provide assistance for security purposes.* Both types of programs are essential, but each serves a different purpose. Confusing them in concept and connecting them in administration detract from the effectiveness of both.

5. All types of security assistance—military assistance grants, use of surplus military stocks, military credits, economic assistance in support of military and public safety programs, budget support for political purposes, and the Contingency Fund—should be covered in one legislative act. *The State Department should exercise firm policy guidance over these programs.*

6. Military and related economic assistance programs will strengthen military security only to the degree that they help move countries toward greater self-reliance. These U.S. programs should be geared to the resources that the receiving countries utlimately will be able to provide for their own security. In some cases, reduction of U.S. military forces overseas will require temporary offsetting increases in such assistance. The ultimate goal should be to phase out these grant programs.

7. The United States should help make development a truly international effort. A new environment exists: other industrial countries are now doing more, international organizations can take on greater responsibilities, trade and private investment are more active elements in development, and, most important, the developing countries have gained experience and competence. Recognizing these conditions, the United States should redesign its policies so that—

The developing countries stand at the center of the international development effort, establishing their own priorities and receiving assistance in relation to the efforts they are making on their own behalf;

The international lending institutions become the major channel for development assistance; and

U.S. bilateral assistance is provided largely within a framework set by the international organizations.

8. U.S. international development policies should seek to widen the use of private initiative, private skills, and private resources in the developing countries. The experience of industrial countries and of the currently developing nations demonstrates that rapid growth is usually associated with a dynamic private sector.

Development is more than economic growth. Popular participation and the dispersion of the benefits of development among all groups in society are essential to the building of dynamic and healthy nations. U.S. development policies should contribute to this end.

9. While the Task Force shares the aspirations of many who have endorsed high targets for development assistance, we have deliberately decided against recommending any specific annual level of U.S. assistance or any formula for determining how much it should be. We do not believe that it is possible to forecast with any assurance what volume of external resources will be needed five to ten years hence. No single formula can encompass all that must be done—in trade, in investment, and in the quality as well as the amount of assistance. Our recommendation is to establish a framework of principles, procedures, and institutions that will assure the effective use of assistance funds and the achievement of U.S. national interests.

10. The downward trend in U.S. development assistance appropriations should be reversed. Additional resources, primarily in support of international lending institutions, are needed now for a new approach to international development. We believe this, having fully in mind the current financial stringency and urgent domestic priorities in the United States, as well as this country's balance-of-payments position. Over the long term, U.S. assistance for development abroad will be small in relation to expenditures for development at home. Moreover, the two programs can prove to be mutually reinforcing.

11. The United States must be able to respond flexibly and effectively to changing requirements in the developing world, and in association with other industrial countries, help make possible the progress that individual developing countries show themselves determined to achieve. As the United States cuts back its involvement in Vietnam, reduces its forces abroad, and seeks to scale down the arms race, it can more easily carry such a policy as far and as fast as the resolve and the purpose of the developing countries can take it.

12. To carry out these policies, the Task Force recommends a new focus for U.S. programs, a new emphasis on multilateral organizations, and a new institutional framework consisting of:

A U.S. International Development Bank, responsible for making capital and related technical assistance loans in selected countries and for selected programs of special interest to the United States. Whenever it is feasible, U.S. lending should support cooperative programs worked out by developing countries and the international agencies. The Bank would have assured sources of financing, including authority to borrow in the public market, and a range of lending terms appropriate to the development requirements of each borrowing country. It would be run by a full-time Chairman and a mixed public-private Board of Directors.

A U.S. International Development Institute to seek new breakthroughs in the application of science and technology to resources and processes critical to the developing nations. The Institute would concentrate on research, training, population problems, and social and civic development. It would work largely through private organizations and would rely on highly skilled scientific and professional personnel. It would seek to multiply this corps of U.S. talent and experience by supporting local training and research institutions. The Institute would be managed by a full-time Director and a mixed public-priavte Board of Trustees.

The Overseas Private Investment Corporation (OPIC), as recently authorized by the Congress, to mobilize and facilitate the participation of U.S. private capital and business skills in international development.

A U.S. International Development Council to assure that international development receives greater emphasis in U.S. trade, investment, financial, agricultural, and export-promotion policies. It also would be responsible for making sure that U.S. assistance policies are effectively directed toward long-term development purposes and are coordinated with the work of international organizations. The Chairman of the Council would be a full-time appointee of the President, responsible for coordinating all development activities under the broad foreign-policy guidance of the Secretary of State, and would be located in the White House.

With this new institutional framework, the United States government would need fewer advisors and other personnel abroad. It could assume a supporting rather than a directing role in international development.

In the sections that follow we discuss the considerations underlying these general conclusions and offer specific recommendations for reshaping U.S. policies, programs, and organization.

I. FOREIGN ASSISTANCE AND NATIONAL PURPOSES

At present, there is not one U.S. foreign assistance program but several. They serve different purposes and should be weighed on their individual merits.

They fall into three categories:

Security assistance;

Welfare and emergency relief; and

International development assistance.

To clarify the present aims of U.S. foreign assistance, we analyzed the programs in terms of the functions they serve. As is shown in the table below, security programs accounted for 52 percent of U.S. foreign assistance in 1969; welfare and emergency relief programs, 6 percent; and international development programs, 42 percent. Of the appropriations for economic programs under the Foreign Assistance Act, 26 percent was actually for security purposes.

How is each program related to U.S. national interests?

Security Assistance is an essential tool of U.S. foreign policy. Its goals are: to improve the military defenses of our allies and move them toward greater military self-reliance, to serve as a substitute for the deployment of U.S. forces abroad, to pay for U.S. base rights, and to deal with crisis situations. The size and specific objectives of these programs are subject to reassessment at any time. Their relation to national interests, however, is straightforward; they use resources for purposes essential to U.S. security.

U.S. FOREIGN ASSISTANCE, BY PURPOSE, FISCAL YEAR 1969

	Millions of dollars	Percent of total
Security:		
For Vietnam:		
Military equipment and supplies	2,129	
Supporting assistance in Southeast Asia	394	
Military assistance grants	450	
Military equipment loans	281	
Grant surplus military stocks	92	
Budget support and other political programs	50	
Total	3,396	52
Welfare and emergency relief (not including private assistance):		
Child and maternal feeding	240	
Emergency relief	88	
Refugees	40	
Total	368	6
International development (not including private investment):		
Bilateral:		
Development loans	729	
Technical assistance grants	340	
Peace Corps	101	
Agricultural commodity credit sales	870	
Food for work grants	62	
Multilateral:		
For lending institutions	516	
For technical assistance	88	
Total	2,706	42

Welfare and Emergency Relief activities reflect humanitarian values and international community interests. These programs are administered in large measure by private, non-profit organizations, both national and international, and the U.S. government funds expended on this kind of assistance are in addition to substantial resources that these organizations themselves provide. These programs follow a long-standing national tradition.

International Development Assistance serves long-term U.S. national interests. These interests should be redefined and brought into sharper focus.

In the past, the line of demarcation between security and development interests was blurred. The United States faced a divided world, in which foreign assistance was justified in terms of the conflict between East and West. Today all countries have a common interest in building and maintaining a global environment in which each can prosper.

Two reasons for an active U.S. role in international development are paramount:

First, the United States has an abiding interest in bringing nations together to serve common needs. It has consistently taken a position of leadership in creating institutions like the United Nations, the International Monetary Fund, and the World Bank, and in promoting cooperation in trade investment, and arms control. The size and power of the United States give us a special responsibility; if this country chooses not to play a major role, it necessarily endangers the success of such ventures.

Second, the developing countries contain two-thirds of the world's population. Their future success or failure will influence profoundly the kind of world we live in. The nations of the world are growing more interdependent—in trade, in finance, in technology, and in the critical area of political change. U.S. decision-making in such important areas as military expenditures will be influenced by the amounts of turburlence in the developing countries of the world, and U.S. prosperity will be influenced by their economic progress.

The United States shares with other nations concerns that call for common action. Problems related to population pressure, poverty, public health, nutrition, child development, literacy, natural resource exhaustion, rural backwardness, environmental pollution, and urban congestion exist in the United States as well as in the developing countries. Participation in both international development and domestic development can result in an exchange of useful experience. This has been demonstrated by government programs and by the work abroad of private organizations, such as universities, foundations, and voluntary agencies.

Participation in international development can promote progress toward the kind of world in which each country can enjoy the rewards of its own culture and the fruits of its own production in its own way, without impinging on the right of any other country to the same freedom for national fulfillment.

Finally, development can help make political and social change more orderly. There is at least a good prospect that more rapid development could facilitate more constructive social experiments, more open political procedures, and less disruptive international behavior.

Therefore, the United States has basic interests in intensifying its cooperation with other nations in a worldwide effort to accelerate international development. U.S. interests call for differing priorities among national organizations are concerned, the uses of resources are determined on a multinational basis. In its bilateral programs, the uses of U.S. resources should depend on U.S. interests in particular countries or particular areas, on where other industrial countries are poviding resources and on where the international institutions are concentrating their efforts.

II. THE CHANGING INTERNATIONAL ENVIRONMENT

The changes in international conditions that call for a new approach to U.S. foreign policy in general call for a new approach to foreign assistance as well.

The circumstances that shape U.S. security assistance programs today and are likely to shape them for the next decade differ markedly from those of the past. Most allies of the United States in Western Europe have been able for a long time to do without military assistance from the United States, although this country continues to share with them the costs of mutual defense. A growing number of developing countries now show a determination to assume greater responsibility for their own defense and to mobilize more resources for this purpose.

Threats to the peace will continue to exist. However, the security measures that once were needed in a sharply divided world of direct confrontation are not necessarily those that would be most effective in today's pluralistic world. All countries face the need to reexamine their national priorities in light of this new situation.

As for international development assistance policies and objectives, a number of significant new characteristics have emerged.

When the United States redesigned its international assistance activities in 1961, it dominated the field. Other industrial countries were doing relatively little, and mostly in areas of special interest to them. The World Bank was just beginning to lend to low-income countries on concessional terms, and regional financial institutions either did not yet exist or had not begun to operate. Many of the developing countries were newly independent, they lacked experts, and they were at a rudimentary stage in organizing national economic programs. There was an urgent need to coordinate internal and external investment resources.

Against this background, it seemed appropriate for the United States to assume a broad and active role in the development efforts of individual countries. The Agency for International Development (A.I.D.) formulated country programs to coordinate U.S. assistance with investment from other sources. These comprehensive programs were used to guide the developing countries toward more effective self-help and to monitor the use of U.S. funds to avoid waste. At the same time, the United States encouraged other industrial countries to provide more assistance and took the lead in supporting the growth of World Bank development activities and the establishment of regional lending institutions.

This ambitious U.S. role required a prominent U.S. presence in some countries; and friction with some governments resulted from attempts to influence sensitive areas of their national policy related to development.

U.S. policies, moreover, were heavily government-oriented and were based on the expectation that the transfer of U.S. resources and technology would bring immediate results as it had under the Marshall Plan.

These expectations proved to be unrealistic. Barriers in developing countries abound: unresponsible social and political systems, severe deficiencies of technical skills, poorly organized markets impaired in many cases by ill-conceived public policies, and limited local savings in an environment of deep poverty. Modernization is a long-term and much more difficult and complex process than was the reconstruction of war-damaged industrial economies.

Taking these limitations into account, U.S. assistance programs were remarkably successful in a number of countries, most conspicuously where local policies stimulated private savings, investment, and exports; where new technologies were adapated to the local environment and effectively disseminated; and where assistance was sizable. U.S. policies and resources also helped lay the foundation for making international development a worldwide program.

As a result in part of these earlier U.S. efforts, a new environment for development has now come into being. Today's environment calls for a significantly different role for the United States. In this connection, five new elements are of special importance:

New Capacities in the Developing Countries. Many developing countries now have the capacity and the experience needed to establish their own development priorities and a strong and understandable determination to do so. They are mobilizing more investment resources themselves, and they have many more well-trained, competent professionals and technicians. The developing countries themselves, therefore, should be at the center of the international develop-

ment effort. The policies they pursue will be the most important determinant of their success or failure. What the United States and other industrial countries do will have only a secondary, though essential, influence on the outcome.

Assistance Efforts of Other Countries. Other industrial countries have steadily expanded their development assistance in recent years. Today their combined official development assistance is about as large as that of the United States. This country works with them through consortia or consultative groups to provide assistance in many developing countries, under the auspices of international agencies.

The Role of International Institutions. The international financial organizations, although they still provide a relatively small part of the total flow of resources to developing countries, now account for more than half of all development loans and are gaining greater influence in organizing development activities. The World Bank is now able to give development advice on a worldwide scale and to work with the developing countries in establishing guidelines for their national programs. The Bank is today a worldwide source of professional development experience.

The Impact of New Trade Potentials. Policies in international trade, investment, and finance can no longer be formulated without considering their consequences for development. Action to be taken in these areas calls for international cooperation.

In the future, the developing countries will have to export more manufactured goods. Their traditional exports of primary commodities have only limited growth possibilities, but the developing countries are becoming more competitive in manufactured goods. Whether they can capitalize on their new capabilities will depend on whether industrial countries open their markets to this competition; they are likely to do this only in concert.

The prospect of a stronger international monetary system in the 1970's should make it possible to reduce the restrictions that are imposed on the flow of development resources for balance-of-payments reasons.

The Debt Burden. The debt burden of many developing countries is now an urgent problem. It was foreseen, but not faced, a decade ago. It stems from a combination of causes: excessive export credits on terms that the developing countries cannot meet; insufficient attention to exports; and in some cases, excessive military purchases or financial mismanagement. Whatever the causes, future export earnings of some countries are so heavily mortgaged as to endanger continuing imports, investment, and development. All countries will have to address this problem together.

Programs for the 1970's

The United States should adopt a new approach to foreign assistance that takes into account the changes that have taken place in the international environment and the valid criticisms that have been made of its own current programs. In the sections that follow, recommendations are made for carrying out each of the three U.S. foreign assistance programs and for coordinating U.S. policies related to international development. Security assistance is discussed first, then welfare and emergency relief, and finally international development, which is the main focus of this report.

III. SECURITY ASSISTANCE

Security assistance programs have been an integral part of U.S. foreign policy for more than two decades. In addition to military grant and sales activities, they include economic assistance in support of military and public safety programs, and budget support for political purposes.

Security assistance has strengthened the defenses of some forty nations. It has also helped nations to cope with pressing internal security problems and to deal with crisis situations. In serving these purposes, such assistance has played an important role in helping the United States to pursue the goal of a world order in which each nation, large or small, aligned or unaligned, can develop in its own way.

Military assistance today is going in large measure to Vietnam, Laos, and Thailand in support of the Vietnam war effort. All military equipment and supplies for these countries at present are funded and administered by the Department of Defense.

The remainder of the military assistance program is funded in the Foreign Assistance Act, comes under the policy guidance of the Department of State, and is administered in the Department of Defense. It is provided on a grant basis and is concentrated largely in the Republics of Korea and China, Turkey, and Greece, where the United States has specific treaty obligations. Grants to these countries are designed to help U.S. allies maintain an adequate defense, and they serve as a substitute for the stationing of U.S. forces abroad. Small amounts are provided to forty-four other countries for internal defense and training purposes and to a few countries as payment for U.S. base rights.

Sixteen countries receive credits for military items under the Foreign Military Sales Act.

Economic assistance for Vietnam, Laos, and Thailand is appropriated under the economic section of the Foreign Assistance Act (Supporting Assistance) and is administered by A.I.D. It is used to contain inflationary pressures and to finance police, pacification, resettlement, and selected reconstruction programs.

Budget support for political purposes is another kind of economic assistance for security purposes administered by A.I.D. It helps other governments in crisis situations—such as those that have occurred in the Dominican Republic and the Congo in recent years. It also has enabled the United States to give temporary help to governments while regular U.S. development assistance programs were being prepared; the assistance given to Indonesia in 1965 is an example.

Public safety programs also are in the category of security assistance administered by A.I.D. Through these programs, the United States helps to train police, advise them in modern methods and organization, and provide modern police equipment and supplies. The purpose of this assistance is to strengthen the prospect of preserving internal order through greater reliance on civilian rather than military authority, and to develop the concept that the police function is to assist the people as much as it is to protect them against violators of the law.

How should the United States shape these security assistance programs over the decade ahead? Several questions are involved: goals, the design and conduct of the programs, and management.

1. *Goals.* A comprehensive analysis of U.S. security requirements in the world of the Seventies is beyond the scope of this report, as are assessments of the U.S. worldwide defense systems and security interests in particular countries. The Task Force accepts the fact that the United States has security responsibilities in certain countries that make it necessary to help them maintain a more effective military defense than they could provide from their own resources. The questions then are: how much help should be given, in what way, and for how long?

Each sovereign nation must decide for itself what it is prepared to do—with the means at its disposal—to defend against the threat of external attack and to maintain internal order.

One clear goal of security assistance is to help countries move toward a greater degree of self-reliance in the area of security. To be fully effective, the principle of self-reliance must govern the behavior of both the United States and the developing countries. Decisions on U.S. military assistance should be based on the amount of resources that the receiving countries think proper and ultimately will be able to allocate for security. It is equally important that these countries themselves—not the United States—make the decisions on how to use their resources for security.

As the United States reduces its forces overseas, increased security assistance may be needed for a time to cushion the effect and to improve local security capabilities. The ultimate goal, however, should be to phase out these grant programs.

2. *Programming.* Military grants should be determined on a cost-benefit basis. The risks involved for the United States and the need for U.S. forces that would arise if funds were not provided should be specified.

The following factors should be considered in determining the amount, kind, and terms of security assistance:

First, assessments of force requirements in forward defense countries should be related to possible changes in the size of U.S. General Purpose Forces, to local financial capabilities, and to the availability of U.S. funds. Moreover, these assessments should be approved by the Secretaries of State and Defense, since they serve as the principal basis for estimating funding requirements for U.S. grants, as well as for evaluating the effectiveness of existing programs.

Second, the amount of military assistance allocated among countries should be related to a realistic assessment of needs, not to historical assistance levels. Furthermore, U.S. programs should assist receiving nations in adapting their military force structure, the risks permitting, to what ultimately will be within their own capacity to maintain.

Three-fourths of the grant assistance that the United States is giving (outside Southeast Asia) is used to finance the costs of operating and maintaining equipment and weapons already provided. In these circumstances, it does not seem possible that the receiving nation can both become self-reliant and modernize its forces. Unless these problems receive careful attention, the United States faces the prospect of continuing the programs indefinitely, without any assurance of improvement in local force capabilities.

This procedure could be penny-wise and pound-foolish. It may make more sense in some countries, for example, to eliminate units that are only marginally effective and to provide modern equipment to the ones that are retained. The initial costs may be higher, but the long-term results could be more effective at a lower recurring cost.

Third, military assistance and related supporting assistance should be considered together in planning security programs. In a few countries, supporting assistance under the economic program is being terminated while military assistance grants continue. It is possible that U.S. interests might be served better in some cases by continuing supporting assistance while scaling down military assistance. This could be particularly useful as a transitional device to help countries assume the operating and maintenance costs now financed with military grant aid.

These three factors highlight the need to plan and coordinate the use of all available security assistance instruments. Special studies addressing these problems are underway within the National Security Council

system, but firm policy guidance is needed. These issues probably will take on added importance in the adjustment from war to peace in Southeast Asia.

3. *Encouraging Self-Reliance.* The United States now makes the basic determination of the amount and kind of military equipment the receiving countries need, and U.S. military missions do most of the detailed logistical planning and costing for them. These decisions necessarily affect the size of their defense budgets. More should be done to enable these receiving countries to estimate their own requirements, to relate them to their budgetary priorities, and to make their military decisions in the light of available resources.

Service training programs in the United States can play an important role in strengthening planning skills and capabilities in the developing countries. Greater emphasis in training should be placed on force structure and logistics planning, and on fiscal and budget programming.

Moving military assistance from a grant to a credit basis also will serve this purpose. Unlike military grants, military credits are subject to the budgetary discipline of the receiving country. The current legislative ceiling on military credits is inconsistent with such a policy. As grants decline, more credits should be made available. Military credits, however, should be used only to finance the purchase of weapons that the developing countries need for their defense and that are within their financial capacity to maintain and operate.

To avoid both an unnecessary arms escalation and a waste of resources needed for development, it is U.S. policy to discourage developing countries from obtaining sophisticated military equipment. Legislative restrictions on the use of U.S. military and economic assistance designed to avoid these problems, however, have not proven effective. In many cases, as the Rockefeller Report points out, the military equipment is purchased elsewhere, while the restrictions leave a residue of ill-feeling toward the United States. Removing them would put the United States in a better position to work out with these countries, on a mature partnership basis, military equipment expenditure policies that are consistent with their means.

Finally, the Task Force believes that large military assistance advisory groups and missions are no longer necessary in many developing countries. In the past, these countries needed the close involvement of U.S. military advisors to ensure the effective integration of U.S. arms and equipment into their forces. By now, however, military officials in most of these countries have achieved adequate levels of professional competence and facility with modern arms. The United States now can reduce its supervision and advice to a minimum, thus encouraging progress toward self-reliance. U.S. military missions and advisory groups should be consolidated with other elements in our overseas missions as soon as possible.

4. *Organization and Management.* Changes in the organization and management of U.S. security programs would contribute to their effectiveness, clarify their relationship to U.S. foreign policy, and make our objectives and rationale more understandable to the Congress and the American public.

The Task Force recommends:

That security assistance programs be combined in one piece of legislation—an International Security Cooperation Act—separate from international development assistance. This Act should cover foreign military sales and grants, surplus military stocks, supporting assistance, public safety programs, and the Contingency Fund;

That responsibility be assigned to the Department of State for setting policy and for directing and coordinating security assistance programs. In carrying out this responsibility, the State Department should relate security programs to U.S. foreign policy, to global strategies, to changing military technologies, and to the financial capabilities of receiving countries. Administration of military grant and credit sales programs should remain with the Department of Defense; supporting assistance, public safety programs, and the Contingency Fund should be administered by the Department of State.

IV. WELFARE AND EMERGENCY RELIEF

The United States government provided some $360 million in 1969, mostly in agricultural commodities, for programs to relieve human suffering and improve nutrition in over one hundred countries. The largest part of this assistance was for maternal and child feeding and school food programs, aimed at raising nutritional levels. Most of these programs are initiated and administered by U.S. voluntary agencies, and the widespread local facilities of these agencies are used as essential distribution centers.

Important potentialities exist in this area. Recent biological research indicates that protein deficiencies in the early years of life have a depressing effect on future physical and mental development. Continued research on food supplements should be actively supported, and new programs should be considered where research results reveal promising opportunities.

Disaster and emergency relief and refugee assistance comprise the second major category under this type of assistance. These programs have helped in emergency situations resulting from civil war and natural disasters, such as drought, floods, and earthquakes. They also have helped in resettling and feeding refugees. They will be a continuing part of U.S. foreign assistance as the United States participates with other nations in meeting emergency situations.

These humanitarian assistance programs now are administered by A.I.D. and the Department of State in conjunction with the Department of Agriculture. Most of the food programs are conducted by U.S. affiliates of international voluntary agencies under arrangements made with A.I.D. The disaster relief and emergency programs are also the responsibility of A.I.D. The refugee program is administered by the Department of State, largely through international organizations.

The Task Force recommends that administration of these welfare programs be brought together under one office in the Department of State. This office could work effectively with the Advisory Committee on Voluntary Foreign Aid, which serves as a link between private organizations in this field and the U.S. government.

V. INTERNATIONAL DEVELOPMENT

U.S. policies relating to international development go beyond foreign assistance programs. Factors relating to trade, investment, the private sector, international finance, and population growth intimately affect the prospects of developing countries. Furthermore, the way in which the United States organizes and carries out its programs and the way these programs relate to those of other industrial countries and the international organizations will profoundly influence the results. In the sections below, we deal with this wider range of policies and programs influencing international development.

(We do not cover the work of: the Export-Import Bank, whose operations are designed to promote U.S. exports and only incidentally contribute to international development; the Peace Corps; and private, nonprofit organizations, which make a significant but largely non-quantifiable contribution to development. In making our recommendations, however, we have taken into account the possibilities for wider use of the private organizations.)

A. The Special Problem of Population

"No other phenomenon," the Pearson Commission said, "casts a darker shadow over the prospects for international development than the staggering growth of population." There is little dispute among experts as to the need to deal with this problem on an international basis. Countries cannot cope with the consequences for economic development, or social welfare, or political change of a doubling of the population every fifteen or twenty years. Population change at that pace threatens to dissipate the benefit of much that can be contributed from outside a developing country and indeed to offset some of the gains from the country's entire development effort.

Family planning assistance is an integral and necessary part of total development assistance and not a substitute for other development assistance. More rapid development itself can create a favorable environment for constructive action in the area of population. The developing countries that have made the most rapid economic advance and are approaching self-sustaining development—for example, the Republics of China and Korea—also have successful family planning programs.

More nations than is generally realized have faced up to the population problem and are undertaking programs to encourage responsible parenthood and to provide the means to ensure successful family planning.

The initiative and primary responsibility for action in the population area clearly lie with each country. Programs need to be adopted to the traditions and mores of each society and carried on with respect for the dignity and conscience of the individual. This is a sensitive area, and much needs to be learned about it. Nevertheless, there is a great deal of accumulated knowledge, and there are wide opportunities for providing help, through both U.S. programs and international efforts.

The U.S. government has allocated $75 million in 1970 for assistance to population programs and plans on $100 million next year. These funds are mainly to support the work of private organizations and international agencies. The Task Force believes that support for the development and implementation of acceptable programs addressing the population problem should have a high priority in the use of development resources.[1] The United States should be prepared to give more help abroad for this purpose when it is needed and requested, just as it is expanding similar programs at home.

The Task Force has received a number of careful studies, prepared by leading experts in this field, which outline new programs that the United States could support and

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[1] Terence Cardinal Cooke makes the following comment: "I am firmly convinced that the highest priority in our foreign assistance policy should be placed on those positive programs of economic and social development which are designed to improve the quality of life of those people presently living in conditions of extreme deprivation. I recognize that an accelerated population increase adds its own difficulties to the problem of human development. However, in this scientific age there seems little need to settle easily for a solely negative solution to this demographic problem. Major efforts in this area should be directed to research and the development of a sufficiently certain and morally acceptable solution to the problem. True economic and social progress can only be effected in an atmosphere that strengthens family life and preserves the dignity and freedom of man."

which indicate a need for increased financial assistance. They recommend additional support for research on human reproduction and family attitudes, for training specialized personnel, for organizing and administering family planning programs, for mass communication facilities, and for related maternal and child health care.

There are no objective standards against which to measure the developing world's total requirements for assistance in the population field. This is an area in international development that could benefit greatly from strong international leadership. A worldwide study, prepared on a priority basis, could give the United States as well as other countries—industrial and developing nations alike—a professional and politically acceptable base for examining the resources needed and the ways in which each country could best contribute to this pressing world problem. The Task Force recommends that the United States propose that the U.N. Fund for Population Activities, in conjunction with the World Bank and other interested international agencies, prepare a careful and detailed study of world needs and potentialities in this area and of ways in which all elements of the international community can help.

B. Private incentives and market forces

Rapid economic progress usually has taken place within a favorable environment for private initiative, such as that which existed in the Republics of Korea and China, Mexico, and the Ivory Coast in the 1960s. Checking the pace of inflation and introducing more realistic exchange rates helped achieve an economic turnaround in Brazil and Argentina, and increased reliance on market incentives was essential to the success of the "Green Revolution" in India and Pakistan and to the diversification of Colombia's exports. Even Communist countries have, in their own way, been moving in the direction of allowing market forces more scope in allocating resources.

Both in the United States and abroad, there is misunderstanding about the contributions of the private sector, the role of profits, and the benefits of the price mechanism. In some developing countries, private foreign investment has been under attack, partly because of an anachronistic view of how foreign companies operate abroad. There are now encouraging signs of a change in attitudes, as exemplified by a recent report prepared for the United Nations Conference on Trade and Development (UNCTAD) on the role of private enterprise in development.

Each nation must fashion its own policies and institutions to meet its own needs. If the goal is economic development, the issue is one of efficiency, not ideology.

In the most successful countries the value of encouraging private initiative has been amply demnostrated. It has made possible more employment opportunities, an upgrading of labor and management skills, a rise in living standards, and wider participation in the benefits of development. Furthermore, a dynamic private sector has resulted in greater internal savings, more effective use of domestic and foreign investment resources and rapid economic growth, in which export industries have played an important role.

1. *Trade.* Expansion of trade enhances the scope of the private sector and stimulates private initiative and investment. Developing countries cannot be expected to reach the point of financing their own developments unless they are given the opportunity to earn the means for doing so through an increase in their exports.

However, if a policy of promoting exports is prescribed for developing economies, accepting imports is one of the responsibilities of industrial countries. Providing better access for the products of developing countries offers both advantages and difficulties for industrial countries.

Unlike grants and loans, opening the markets of industrial economies to the products of developing countries does not lead to debt-servicing problems for developing nations or financial burdens for industrial countries. On the contrary, cheaper imports and a larger volume of trade would add to the real incomes of all participating countries and help to contain inflationary pressures. Of course, they also might result in adjustment problems. But, difficult as such adjustment problems sometimes are, they are temporary. They occur continually in our dynamic society as an essential element of a competitive economy. They highlight the need for effective adjustment assistance measures as a foundation for constructive U.S. trade policies. The adjustment assistance provisions of the Trade Bill now before the Congress would help to meet this need.

Enlightened trade policies toward developing countries are an essential element in achieving international development. The Task Force urges continued U.S. leadership in working for the reduction of tariffs and other obstacles to trade and in avoiding the imposition of new restrictions.

In addition:

The Task Force strongly supports your proposal for an international agreement extending temporary tariff preferences to developing countries on a non-discriminatory basis, with no quantitative limits and a minimum of exceptions. If the United States cannot reach agreement with other industrial countries on this non-discriminatory approach, it should unilaterally extend such tariff preferences to all developing countries except those that choose to remain in existing preferential trade arrangements with industrial countries.

The Task Force favors larger quotas for products important to developing countries and imported under mandatory or voluntary restrictive arrangements. Sugar, textiles, and meat are notable examples. These quantitative restrictions should be removed as soon as it is feasible.

The Task Force favors continued U.S. support for the formation of regional markets among developing countries. Regional arrangements will increase competition, provide more opportunities for economies of scale, and promote a more efficient allocation of domestic resources among developing economies.

At present, most developing countries rely too heavily and for too long on protective import restrictions and subsidies for their industries. The result is high-cost production, which is a burden on the rest of the economy and retards development. Trade liberalization among developing countries through regional arrangements can be a desirable first step toward a general liberalization of import policies, which, over time, will be to the benefit of all countries.

2. *Assistance to the Private Sector.* Apart from trade, development of the private sector in developing countries can be encouraged by appropriate domestic policies, by foreign investment, and by an adequate infrastructure and public services. U.S. programs in the past have tended to concentrate too much either on public services or on stimulating foreign investment. Yet domestic industry and locally financed investment are the predominant elements in economic progress. The developing countries finance 85 percent of their investment from their own savings. Foreign private investment can stimulate and complement domestic investment, but its contribution must necessarily be secondary to that of local investment.

Some basic data provide useful perspective. Four-fifths of total production in developing countries comes from the private sector. Total self-financed private investment in these countries amounts to perhaps $30 billion a year. Net private foreign direct investment from all sources has recently averaged about $2.5 billion a year.

Internal policies that stimulate initiative and domestic investment should be a primary objective of international development efforts. They will also provide a favorable climate for the contribution of foreign investment.

The Task Force recommends that more be done to marshal local and private resources for productive use.

The United States should invest more capital in local development banks. This is a tested way of getting a multiplier effect in the private sector from the use of public funds. These banks provide equity and loan capital for private firms and underwrite their security issues.

The United States should encourage other governments and more private firms to support regional private investment companies, such as ADELA for Latin America and the Private Investment Corporation for Asia (PICA). Comparable organizations could be useful in the Middle East and Africa. These multi-nationally financed companies help to underwrite local investment in developing countries, taking up part of the equity with the expectation of future resale to local investors.

The United States should contribute more actively to the evolution of capital and credit markets in developing countries. It is ironic that some countries that are sorely in need of investment resources have a capital outflow. Stabilization policies are essential to retain capital at home, but better financial markets are also needed.

U.S. professional organizations and businesses should do more to exchange experience with their counterparts in developing countries. One form of cooperation is exemplified by the program of the International Executive Service Corps, under which highly qualified U.S. business experts work with individual foreign firms to solve specific problems.

3. *International Organizations and Private Investment.* The international organizations can help bridge the gap between attitudes in developing countries and those of private foreign investors, and between divergent views on the proper roles of the private and public sectors. Too much misunderstanding—and at times hostility—exists in this area.

The Task Force recommends that the United States propose that the paid-in capital of the International Finance Corporation (IFC) be increased from $100 million to perhaps $400 million. The U.S. share of such an increase would be $100 million—paid in over several years. The increase in capital would enable the IFC to encourage joint ventures in developing countries by taking up equity for later sale to local investors.

In general, the IFC can play a leading role in developing the private sector. It brings together local and foreign firms in joint ventures and can serve as a referee of the terms of specific private foreign investment in these countries.

The Task Force believes that establishing an international investment insurance program against the risks of expropriation would improve the climate or private foreign investment. The World Bank has proposed a program that might encourage more multinational investments and could reduce the degree of bilateral confrontation in disputes over investments. The Task Force recommends that the United States seek early completion of the negotiation of this pro-

posal and obtain authority from the Congress for U.S. participation so that the agreement can go into effect as soon as the minimum required number of countries join.

U.S. Private Foreign Investment Policy. The policies of American firms operating abroad are an important determinant of the investment climate. In the past, the need to give more managerial responsibility to nationals of the host country and to establish good working conditions has been emphasized. Equally important to international development and good relations with the host country are active efforts by subsidiaries of U.S. companies and other foreign firms to export goods from developing countries, to build up local enterprise that can feed into their production, and to encourage widespread local participation in ownership. (However, we question the usefulness of rigid formulas for sharing ownership.) This approach will improve relations between U.S. firms and host countries. In the end it should make little difference to broadly based companies whether shareholders live in Mexico or Minnesota.

The new Overseas Private Investment Corporation (OPIC), recently authorized by the Congress, will be an effective instrument in encouraging U.S. private investment activities in developing countries—both through its guaranty programs and through advising American firms on how to make their investment more acceptable to the host country. The Task Force strongly supports establishment of this Corporation.

In addition—

The Task Force recommends elimination of the current restraints on U.S. direct private investment in developing countries. Although lifting this restriction would have a small short-run adverse effect on our balance of payments, it could remove an element of uncertainty that now discourages such investment.

The Task Force recommends that OPIC make greater use of U.S. guaranty programs, in combination with those of other countries, to encourage international joint ventures. These multinational projects, open to investors in the host countries, help to reduce nationalist sensitivities to foreign investment.

The worldwide housing guaranty program, now administered by A.I.D., should be added to the other investment guaranty programs administered by OPIC.

The Hickenlooper Amendment to the Foreign Assistance Act was introduced to deter foreign governments from expropriating U.S. property without prompt and adequate compensation. If private investment is to contribute to international development, a more effective means of discouraging such expropriations must be found. The United States, other lending countries, and the international institutions should take such acts into consideration in determining whether their development assistance would be used effectively. The Hickenlooper Amendment, however, has outlived its usefulness. It provides no room for flexibility in dealing with this difficult and politically sensitive problem. A more fruitful approach would be to seek positive ways of making foreign investment mutually attractive, such as we have outlined above, and to rely on an international forum when disputes arise.

The Task Force urges that recommendations for facilitating an increase in the flow of private investment to the developing countries be considered in the examination of business taxation currently underway within the U.S. government.

C. Reliance on International Organizations

The Task Force believes that more reliance on international organizations should be built into all U.S. policies relating to international development—whether they concern development assistance, debt rescheduling, typing, trade, investment, or population. This is basic to the new approach to foreign assistance we recommend. A predominantly bilateral U.S. program is no longer politically tenable in our relations with many developing countries, nor is it advisable in view of what other countries are doing in international development.

The issue for the present, however, is not whether U.S. development assistance should be bilateral or multilateral. The United States needs both, since it will be some time before the industrial nations are willing to provide all development assistance through multilateral channels and before the international organizations have the capacity to take on the entire responsibility. Even now, however, long-term development can be made essentially international in character.

Experience shows that an international organization such as the World Bank, with no political or commercial interests of its own, is able to obtain good results from the investments it makes or encourages. Furthermore, bilateral assistance programs are themselves more effective when carried out under the leadership of these organizations and in a multilateral environment. Moving in this direction holds the promise of building better relations between borrowing and lending countries.

The Task Force recommends three actions on the part of the United States:

It should rely heavily on international organizations to work out programs and performance standards with developing countries and should provide most of its assistance within that framework. This will mean a fundamental change in the conduct of U.S. bilateral programs.

It should provide the necessary increase in resources, on a fair-share basis with other member countries, to permit the international development organizations to increase their current lending within the next few years as fast as their capabilities and the tested needs of the borrowing countries permit.

It should join with other members to strengthen the capabilities of these international organizations and to build more coherence into their operations.

Operation of an International System. The World Bank Group and the regional lending institutions now account for more than half of total official development lending. This lending is only a part of the total resource flow to developing countries, but it is a key element. It gives international organizations a basis for taking primary responsibility for setting the strategy under which all donors provide assistance to developing countries.

Under an international system of development, international agencies would assume primary responsibility for analyzing conditions and policies in developing countries, for establishing close working relations with appropriate officials in these countries, and for determining total capital and technical assistance requirements and the policies necessary for effective use of investment resources. This would set the framework for the bilateral assistance programs of the United States and other industrialized countries.

To do this, the international organizations will have to take a less parochial view of their mission. They will need to have wider representation abroad and more flexible lending policies, without lowering standards. They will have to give increasing attention to the management, social, technical, scientific cooperation, and popular participation aspects of development. Finally, they will have to be diplomatic, flexible, sympathetic, and persuasive—but prepared to say no and to withstand political pressure from both the creditor and the borrowing countries.

The World Bank and the International Monetary Fund (IMF) are well along on this course. In Latin America, the Inter-American Development Bank and the OAS Inter-American Committee for the Alliance for Progress have begun to move in these directions. The other regional institutions too are beginning to gain some experience. The United Nations Development Program (UNDP) has been very active in pre-investment surveys and in a variety of technical assistance programs. It has missions on a worldwide scale and has recently re-examined its role and performance. With necessary reorganization, the UNDP would have the potential for exercising greater responsibility for technical assistance in an international system.

Furthermore, as these organizations expand their operations, they will have to prepare for a parallel buildup in their control procedures so as to assure continued high operating standards. Also member governments will have to become more fully involved in the work of these international agencies.

It will take time and sustained support from the member countries for the international organizations to assume the leadership role. It is not necessary that the same international organization assume primary responsibility in every country. The World Bank Group can now exercise such leadership in the major developing countries, as well as in many others. Eventually, the regional organizations and the UNDP could assume this role in individual countries. A clear decision by the United States to rely on international organizations for this purpose, and action to support this decision, would spur the pace of the entire process.

Financing. The international organizations could roughly double their present rate of lending—from $2.5 billion a year to $5 billion a year—over the next several years while continuing to follow sound practices and maintain high standards. This judgment takes into account the capabilities of these organizations, the current international investment climate, the increasing availability of sound development projects, better planning and performance in both public and private sectors of the developing countries, and estimates of the level of foreign investment and bilateral assistance.

The actual rate of expansion would depend on demonstrated need and assurances on the effective use of funds.

This increase in lending would require an increase in U.S. funding from the current rate of $500 million a year to roughly $1 billion a year, assuming, as we should, no increase in the U.S. share in financing these organizations. In addition, there would be a need for the United States and other member countries to subscribe additional callable capital, enabling these organizations to increase their borrowings in the capital market. This callable capital would require U.S. budgetary outlays only in the event that these international organizations defaulted on their bonds.

An increase in International Development Association (IDA) lending is critical to establishing an international framework for development. In view of the debt-servicing problem in a number of the developing countries, concessional lending on IDA terms is badly needed. Furthermore, IDA lending is the foundation for international participation in some of the major development programs.

The current level of country contributions to IDA is $400 million annually. The Pearson Commission recommended that these con-

tributions be increased to about $1 billion a year by 1972 and $1.5 billion by 1975. The Task Force recommends that the United States take the lead in supporting these suggested levels of financing. The U.S. share would be 40 percent of the total.

The Inter-American Development Bank (IDB) should be able to expand its rate of lending over the next few years by perhaps 50 percent—or, to indicate rough magnitudes, from $600 million a year to $900 million a year. The Task Force recommends that the United States support such an increase in line with the special consideration for Latin American development that is part of U.S. policy. This would involve an appropriate combination of contributions for concessional lending and subscriptions of paid-in and callable capital. In contrast to present practice, the IDB should reserve its concessional lending for its least developed member nations.

The Task Force also believes that the United States should support current initiatives to open membership in the IDB to other industrial nations. At present, the United States is the only industrial country member, and this makes for an awkward relationship. Since the Bank now borrows and obtains funds in Canada, Europe, and Japan, opening up its membership would both give it greater assurance of capital from these areas and make for more healthy relationships within the organization.

The Asian Development Bank is gaining experience and expanding its operations. It will be able to take on very large responsibilities in any postwar development effort in Southeast Asia.

The United States is not now a member of the African Development Bank, nor are other industrial countries. This country should work with other industrial countries to strengthen this Bank and eventually to provide it with financial support.

Four sub-regional lending institutions now exist: The Central American Bank for Economic Integration, the Caribbean Development Bank, the Andean Development Corporation, and the East African Development Bank. The United States is not now a member of any of these, but its policy, which the Task Force supports, is to assist such organizations through U.S. development loans.

The capabilities of the industrial countries for contributing to international development in general will be facilitated by the increase in international reserves made possible by the creation of Special Drawing Rights.[2]

However, other members believed that it is so important to the future of the world financial structure to establish firmly the SDRs as a new supplement to international reserves, absolutely independent of the balance of payments of any individual nation, or groups of nations, that no recommendation should be offered on the use of SDRs for international development finance.

Coordination. Bringing coherence to the work of international development organizations is essential to the success of the new approach to foreign assistance we recommend. The various international institutions do not now make up a system. A wide area of overlapping, and sometimes competing, responsibility exists. The same is true for the individual programs of the industrial countries. Furthermore, the work of other organizations, such as the IMF, the General Agreement on Tariffs and Trade (GATT), and the Organization for Economic Cooperation and Development (OECD), could be focused more effectively on international development.

This is a complex problem, involving a number of international agencies and many governments. Several proposals have been advanced to begin the process of creating an effective international system. What is important now, however, is to bring high-level attention to the problem. The Task Force, therefore, recommends that you, Mr. President, raise this issue with heads of selected governments—in both industrial and developing countries—and with heads of the major international organizations. Constructing an effective international system and establishing international development priorities in concert with others would do much to advance what must be a global enterprise.

D. Bilateral Development Lending: A U.S. International Development Bank

The Task Force sees a new role and a new organization for U.S. bilateral lending. If the international agencies are to carry expanded responsibilities for development, the U.S. program must assume a supporting role and not become involved in the entire range of country development policies and programs.

U.S. lending under such a system would be concentrated in selected countries, in selected programs—particularly in agriculture and education—and in multinational projects where long-term development is of special interest to the United States. This U.S. lending, however, would be made on the basis of development criteria. A bilateral lending program would put the United States in a better position to encourage countries demonstrating the ability to move rapidly toward self-reliance. It also would enable the United States to continue to take up its share, with other nations, of programs in India, Pakistan, Indonesia, and selected African countries and to support Latin American development, which is of special concern to the United States.

Whenever it is feasible, U.S. lending should support cooperative programs worked out by the developing countries and the international agencies. Current U.S. participation in World Bank consortia and consultative groups in India, Ghana, Indonesia, and Colombia are cases in point. The proposal in the Rockefeller Report to have the OAS Inter-American Committee for the Alliance for Progress assume larger responsibility for formulating programs and coordinating development assistance in Latin America is another example.

Method of Operations. The United States should manage its lending programs as a bank would, although the scope of lending necessarily would include all aspects of development.

Effective assistance for development requires that capital and related technical services be provided together. The U.S. lending agency should be able to finance pre-investment and feasibility studies. It also should finance training and expert advisors to strengthen the managerial and technical competence of the borrowing institutions. For example, a program for efficient water utilization might include funds for the purchase of equipment, for training workers, and for outside experts. A loan to finance fertilizer, seed, and pesticides could well include the provision of advice on agricultural marketing and distribution. In providing technical services related to its lending program, the lending agency would draw on its own staff or arrange for such services from outside sources.

In making loans for development purposes, the United States should recognize that development is more than an economic process. It should take into account not only the extent to which a loan will contribute to economic growth but also the extent to which it will encourage social and civic development and will result in a wide dispersion of benefits.

The U.S. program should emphasize loans in support of the local private sector and promote broad popular participation in development. It could include program loans, loans to development banks and regional private investment companies, and loans for infrastructure and other projects. The United States could also finance training institutes, such as vocational schools and scientific centers.

The United States should be able to provide a range of development lending facilities, with the terms of specific loans adjusted to individual country circumstances. Terms should range from the most concessional interest rates and repayment terms to near-market rates. The latter would be appropriate for countries that no longer need concessional lending but that do not yet have independent access to private capital markets. For these countries, the United States could provide, or join in providing, guaranty facilities that would enable them to borrow on international capital markets.

Financing. Funds for bilateral lending should be available on an assured basis and in ways that permit flexible use, and the characteristics of the sources of funds should correspond to the financing terms appropriate for each borrower. The Task Force recommends the following:

Appropriations should cover loans requiring the most concessional terms.

Borrowing from the public should be authorized for loans made on intermediate concessionary terms. The rate at which these funds are loaned would be lower than the rate at which they are borrowed.

Interest payments and repayments of principal on outstanding loans of A.I.D. and predecessor agencies should be available automatically to cover the interest differential on loans made at intermediate terms or for relending on the most concessional terms.

Guaranty of foreign official borrowing on international capital markets should be authorized as a transitional device to help countries become independent of U.S. concessional lending.

The Bank should have assured sources of financing. The Task Force recommends an initial capitalization of $2 billion through appropriations and authority to borrow $2 billion from the public as and when needed. In addition, the Bank should have available payments of interest and principal on existing loans. These payments are estimated at $200 million for 1970 and at about $300 million by 1975. As in the case of the Export-Import Bank, resources authorized should be available for the life of the Development Bank. This would relieve the pressure to make loans under fiscal-year limitations and thus encourage sound operations. The Bank should be in a position to go back to the Congress for additional resources when needed.

The level of Bank lending will depend on the rate at which the international institutions expand their programs and on a continuing assessment of the needs and performance of individual countries. In 1969, the U.S. bilateral lending program amounted to about $700 million.

Organization. The Task Force recommends

[2] The Task Force discussed the possibility of using these new reserves as a source of international development finance. Some members believe such a move should be explored with other industrial nations once the SDR system has been tested. There was agreement that time should be allowed to establish the new international reserves before proposals relating them to development finance are acted on. All agreed that the amount of SDRs created must be determined solely on the basis of liquidity needs—any tie-in to development would have to be clearly subordinate to the responsible operation of the SDR mechanism.

the creation of a U.S. International Development Bank to carry out the bilateral lending program. The Bank should be an independent government corporation, with a full-time President serving also as Chairman of a Board of Directors, which would be composed of government officials and private members. The Secretaries of State and Treasury should be *ex officio* members of the Board.

With independent status and a new mission, the Bank could attract a highly qualified professional staff and operate with a minimum of field representatives.

U.S. bilateral loans should be made under the broad foreign policy guidance of the Secretary of State, but independently of short-term foreign policy considerations.

The recommendation to establish a U.S. International Development Bank is based on an evaluation of the strengths and weaknesses of the existing and predecessor U.S. development agencies. One of the major issues involved is whether it is wise to separate the administration of capital assistance and of technical assistance. This is not an all-or-nothing proposition. Where the two are necessarily related, they would be provided together by a U.S. International Development Bank. There is a wide range of technical assistance activities, however, which require separate professional and managerial attention and which should not be submerged in a capital lending agency.

E. Research and Technical Cooperation: A U.S. International Development Institute

The Task Force recommends a basic change in the composition, method of operation, and administration of the current technical assistance program. As was noted above, part would be integrated into the lending operations of the U.S. International Development Bank. A new U.S. Institute would concentrate on four major areas:

Programs to deal with the population problem, which should be carefully designed and worked out with private groups, national authorities, and international agencies.

Research, both in the United States and abroad, with a heavy emphasis on strengthening local institutions in the developing countries. New technologies are urgently needed to provide breakthroughs in a variety of fields essential to broadbased development. They must be adapted to the needs of the developing countries and related to programs and local institutions that can ensure practical applications and evaluation of results. The successful combination of the development of new seeds for rice and wheat, and the programs to apply them, are a model. The United States should strongly support similar long-range efforts in agriculture, health, education, and other fields through national, regional, and international projects.

Training, both in the United States and in the developing countries. Strengthening local institutions for improving vocational, commercial, agricultural, industrial, scientific, and professional skills is of vital importance for modernizing societies.

Support of social development, designed to assure popular participation through organizations such as cooperatives, labor groups, trade associations, and civic associations and through community development programs.

Method of Operation. The United States should seek to operate these programs more as a private foundation would.

The current practice of employing large numbers of technicians and advisory personnel in many fields and in many countries should be changed. It has required high overhead and large field missions. Advisory personnel should be used far more selectively and only where a careful assessment indicates that they would be useful.

It would be more effective for the United States to concentrate on a limited number of specific problems, particularly those having regional or worldwide significance. In each program, it should seek agreement with the participating country or agency on specific goals, on cost-sharing arrangements, and on plans for the country to take over the program at some time in the future.

An increasing proportion of the work should be carried out largely through private channels—universities, scientific organizations, business firms, voluntary agencies, and special-purpose organizations in people-to-people and institution-to-institution programs. The program should rely heavily on scientific and professional experts from private institutions for specific assignments, rather than on permanent employees. This would permit the United States to draw on a broad range of talent around the country.

The Task Force believes that the United States should change the current practice of terminating technical assistance programs whenever concessional development loans end. Terminating both programs at the same time fails to take account of a possible continuing need for professional collaboration and training and of the mutual benefits of continuing such cooperation. Financing arrangements for technical assistance programs can always be adjusted to a nation's ability to pay.

The United States should continue to use funds for self-help community projects. These funds, in modest amounts, are available in a large number of countries on the approval of the U.S. Ambassador. They provide a useful element of flexibility in U.S. assistance programs.

Organization and Financing. The Task Force recommends creation of a U.S. International Development Institute to carry out the program described above. It should be an independent government agency with a full-time Director, who would act as Chairman of a Board of Trustees composed of public officials and private members. The Secretary of State should be an *ex officio* member of the Board. The Board could use specialized advisory groups to review particular projects, following the practice of the National Science Foundation in making research grants.

The Institute, in consultation with the Department of State, should be responsible for providing guidance to U.S. representatives on the Governing Board of the U.N. Development Program.

The Task Force recommends authorization of $1 billion for the Institue. In 1969, U.S. technical assistance programs, including contributions to international technical assistance programs, amounted to about $400 million.

As in the case of the Bank, these funds should be available over the life of the Institute, so that it can enter into long-term programs and avoid the pressure to spend funds under fiscal-year limitations. The Institute should have greater freedom in the use of funds than is now accorded to A.I.D. so that it can support innovative programs as the opportunity arises. It would go back to the Congress for additional funds when they are needed. At that time, the Congress could judge whether the flexibility in these arrangements was justified and should be continued.

The above guidelines would mean greater expenditures than under the present program for research, population programs, training, and support of local institutions and the U.N. Development Program, and considerably lower expenditures for American technicians and overhead services.

The Congress recently authorized an Inter-American Institute for Social Development to carry out various kinds of popular participation programs in Latin America. The Task Force suggests that these proposed functions be performed by the U.S. International Development Institute on a worldwide basis with a separate division for Latin America.

F. Agricultural commodity development assistance

Agricultural credit sales, Food-for-Work grants, and commodities provided for humanitarian purposes, all under the Public Law 480 program, are a significant part of U.S. foreign assistance. They also are an important element in our domestic agricultural policies. The cost to the U.S. taxpayer of this assistance is far less than its value to the recipient. More than half the budgetary cost would be required in any event to support farm incomes in the United States.

There is likely to be a continuing need for PL 480 development assistance for some time to come. This program now amounts to approximately $1 billion a year. There are no reliable forecasts of future needs; but the outlook is for a continued increase in agricultural production in the developing countries, combined with an increase in requirements arising out of population and income growth. The PL 480 program accounts for only a small fraction of total consumption in these countries. While needs vary from year to year, depending on production policies and on temporary factors, such as the weather, it is assumed that the program will continue at a level of about $1 billion a year on an average.

The Department of Agriculture now administers the sales programs under the foreign policy guidance of the Department of State and should continue to do so. First priority should be given to encouraging agricultural production in the developing countries and to self-help policies. In administering the sales program, the United States should recognize the need for developing countries to export agricultural commodities that they can produce efficiently. Competition from this quarter may hurt this country in the short run, but over time, income growth in the developing countries will make them better markets for those agricultural products that the United States can produce most efficiently.

Changes in Public Law 480 have provided for shifting the terms of assistance from local currency sales to dollar repayable loans. The terms for agricultural commodity loans should be consistent with those for development loans in each country. Both should take into account the debt-service burdens of developing nations.

The Food-for-Work program, in the form of grant commodity assistance, is now administered by A.I.D., partly in conjunction with the voluntary agencies. It is used in part to promote community development. The Task Force believes that this program should be administered by the proposed Institute and effectively coordinated with other social development programs.

Part of the local currency proceeds of credit sales agreements is available to borrowing nations for development purposes. Their use is subject to agreements reached with the U.S. government. These funds should be made available, as appropriate, to supplement the programs of the U.S. Development Bank and the Institute.

G. The quality of assistance

Over the past decade, most industrial countries have placed limitations on the use of their development assistance and have set terms for such assistance that have greatly reduced its value to developing countries. The most damaging of these practices are: the tying of development loans to procurement in the lending country, the promotion of exports by industrial countries on terms that lead to serious debt-servicing problems for developing countries, and the imposition

of a wide range of cumbersome and costly administrative restrictions on lending.

If the United States were to act alone in changing many of these practices, it would yield trade and financial advantages to the other industrial countries, thus discouraging domestic political support for development assistance. Other industrial countries are in the same position. However, if all the lending countries acted together, they would minimize the cost to each of restoring more efficient procedures.

Untying Development Lending. Total bilateral development lending that is effectively tied to procurement in the lending countries is estimated at $2 billion—half from the United States and half from all the other industrial countries combined. This amount does not include agricultural commodity development assistance, or official export credits (which are necessarily tied), or technical assistance, supporting assistance, or budget subsidies. The restrictions in development lending are estimated to reduce the value to developing countries of these loans by about 15 percent—or $300 million a year.

The Task Force recommends that the United States propose that all industrial countries agree to untie their bilateral development lending—permitting the developing countries to use these loans for procurement from the cheapest source on a competitive-bid basis.

The balance-of-payments cost to the United States of this proposal is estimated to be relatively small. In any event, the full effect would not be felt until some years from now. It would be even smaller if the United States improved its competitive position in world trade. The creation of new international reserves, which improves worldwide liquidity and was designed to help countries remove restrictions on trade and payments, provides further support for actions to untie development lending on a multilateral basis.

Untying development lending would help to create a better international climate for development. It could stimulate investment, production, and trade in all developing countries.

The Task Force recommends two actions that the United States could take alone:

Permit goods and services financed under U.S. development loans to be purchased in all developing countries as well as in the United States. Latin American countries have recently been authorized to compete in the sale of goods and services under all U.S. development loans made in Latin America.

Remove the procurement restriction in the U.S. investment guarantee program. This restriction unfairly impinges on the flexibility of U.S. investors, discouraging such investment without providing significant balance-of-payments benefits to the United States.

Better Debt Rescheduling Arrangements. The current public and publicly guaranteed debt of developing countries is close to $50 billion—five times the level of a decade ago. The cost of servicing this debt has been increasing at the rate of 17 percent a year, or three times the rate at which the export earning of these countries have risen. It is clear that these trends cannot continue.

The procedure up to now has been to reschedule the debt of countries about to default, usually as a result of extensive reliance on commercial credits or of financial mismanagement. The relief is short-term in nature and inadequate for dealing with the problem.

The debt situation for a number of developing countries, however, is long-term in nature and partly a consequence of loan terms the countries cannot handle. Keeping these countries on a short leash by emergency debt rescheduling operations does not show the necessary foresight. Countries with serious debt problems, in trying to avoid default, are likely to impose more internal and exchange restrictions and thereby intensify their future difficulties.

The Task Force recommends that the United States propose joint action—by the lending countries, the international lending institutions, and the developing countries concerned—to devise a comprehensive strategy for dealing with this problem. This strategy should be put into effect to prevent an emergency—not to deal with one after it has arisen.

Over the decade ahead, joint action probably will be required to deal with the debt problems of perhaps five to ten countries. These countries now account for at least one-third of the outstanding debt. Such action should be initiated soon on a case-by-case basis. It should consist of an interrelated package that includes the following elements:

The World Bank and the IMF should convene a meeting of representatives of the countries involved, these institutions should prepare debt-rescheduling proposals on the basis of the debtor country's long-term outlook—both for debt service and for export earnings.

Each debtor country seeking debt renegotiation should demonstrate by its plans and policies, that it is pursuing a coherent development program and appropriate fiscal and financial policies.

Bilateral government and government-guaranteed credits should be rescheduled over a long term. The international lending institutions, however, should not be required to reschedule their outstanding loans. Rescheduling their loans would endanger the ability of international institutions to continue borrowing in capital markets.

The IMF should be ready to provide standby credits as a part of this package. This would be useful for setting financial standards and for providing a transitional supplement to the countries' international reserves.

Governments should agree on a ceiling for guaranteed commercial credits to a participating debtor country in any one year. Minimum maturities for these supplier credits should also be set by multilateral agreement.

If agreement is reached on the above points, all bilateral lenders should agree to provide the most concessional terms on new lending to the participating debtor country. These countries should also be given priority in receiving IDA loans.

In addition to rescheduling the debts of countries that already have reached or exceeded the limits of serviceable indebtedness, the creditor countries should design their assistance policies to keep other developing countries from facing debt difficulties. The best way to do this is for all developed countries to improve the terms of their development assistance.

Administrative Flexibility. A large number of statutory and procedural requirements now make the administration of U.S. foreign assistance excessively cumbersome. An estimate prepared for the Task Force indicates that the equivalent of seven hundred full-time officials now is required to see that these regulations are followed.

Some of these restrictions reflect an attempt to use development assistance for foreign policy purposes that it never was designed to achieve. Others lead to an excessive multiplication of regulations. Often the complications arising out of these restrictions outweigh any intended benefits. However, some are designed to ensure good accounting practices.

A new approach to foreign assistance will provide an opportunity to make a fresh start. Procedural requirements and political limitations that are necessary for effective programs should be recast in forms that are manageable. Those that unnecessarily encumber the program and reduce its flexibility should not be carried forward.

In sum, the Task Force believes that legislation incorporating the proposals in this report should be based on the principle that administrators are accountable for achieving objectives. Restrictions on operations should be held to a minimum.

H. Coordination issues: A U.S. International Development Council

Presidential interests in international development are not adequately served by existing decision-making machinery. International development does not receive enough emphasis in the determination of U.S. trade, investment, financial, agricultural, and export-promotion policies. A number of departments and agencies have competing interests and responsibilities in this general area, with the result that too many issues go to the President for resolution. Furthermore, opportunities to take initiatives in policies toward developing countries are sometimes lost.

The Task Force recommends creation of a U.S. International Development Council to coordinate U.S. international development activities and relate them to U.S. foreign policy. The Chairman should be a full-time official appointed by the President. He should be located in the White House and be served by a small high-level staff.

The Council should consist of the Secretaries of State, Treasury, and Agriculture, the President's Special Trade Representative, the President of the Export-Import Bank, the Director of the Peace Corps, the President of the U.S. International Development Bank, The Director of the U.S. International Development Institute, and the President of the Overseas Private Investment Corporation.

As a means of keeping the Congress and the American public fully informed, the Council should prepare for the President an annual report on international development activities, which he would submit to the Congress. Establishment of a joint committee of the Congress to review the President's report would contribute to a better understanding of international development goals, policies, and results.

Responsibilities in Washington. The mission of the Council would be to assure consistency among U.S. development programs, the positions taken in international agencies and forums, and the actions taken on trade and financial issues, relating to developing countries.

The President would look to the Chairman and the Council to:

Formulate basic international development strategy;

Relate assistance programs to this strategy;

Review, on a continuing basis, bilateral and multilateral assistance policies and programs;

Focus high-level attention on the consequences for international development of U.S. policy decisions in agriculture, trade, investment, and international finance;

Deal with coordination problems among U.S. government agencies; and

Assure a consistent presentation of Administration views on international development to Congress and to international forums.

The Chairman of the Council would look to the Secretary of State for overall foreign policy guidance. The Secretary would continue to be responsible for assuring that U.S. programs in specific countries are consistent with U.S. foreign policy, and for conducting negotiations.

The Secretary of the Treasury would continue to have primary responsibility for dealing with international financial institutions. However, the Treasury Department, together with other agencies with responsibilities toward international organizations, would be guided on development aspects of policy by the U.S. International Development Council.

Responsibilities in the Field. The Ambassador would continue to have responsibility

for all U.S. activities in the country to which he is accredited.

The recommended program for reorganizing foreign assistance calls for much smaller field representation than now exists. The U.S. International Development Bank and the U.S. International Development Institute will need regional representatives and in some cases country representatives, but the principal operating decisions will be made in Washington. In countries where the United States has large bilateral programs or special development interests, foreign service officers trained in development problems should be assigned to the U.S. Embassy. Furthermore, the State Department should look to leading outside experts in the development field to undertake such assignments. These specialists could make a substantial contribution to development planning and be responsible for discussing development problems, development projects, and development assistance with host governments.

VI. BUDGETARY IMPLICATIONS AND THE LEVEL OF U.S. FOREIGN ASSISTANCE

The appropriate level of U.S. foreign assistance must be examined in the context of national priorities and the means available to meet them. What the United States can afford now—given urgent domestic requirements, the cost of fighting the war, other high national security costs, the balance-of-payments position, and an overriding need to contain inflationary pressures—will differ from what would be appropriate under a more favorable environment.

Moreover, this is only one side of the coin. The other side is a convincing determination that these resources can, and will, be used effectively.

Foreign assistance, like domestic programs, cannot be changed drastically from year to year without either a sacrifice of the goals the United States seeks or damage to the means for achieving them. Foreign assistance involves continuing programs, the actions of many other nations, and a functioning international framework—for all of which the position of the United States is of the greatest importance. This highlights the need for timely approval of the 1971 foreign assistance budget. Disruption of the U.S. program could undermine the entire system of international cooperation in this field.

The downward trend in U.S. development assistance appropriations should be reversed. Additional U.S. resources could be used effectively now for international development. To underwrite a new approach to foreign assistance, additional financing for international lending institutions and assured capitalization for U.S. bilateral lending and technical assistance are needed.

To sum up the budgetary implications, we have recommended:

An increase of $500 million in annual U.S. contributions to international financial institutions by 1972. Thereafter U.S. development assistance for international financial institutions should be increased as rapidly as is consistent with its effective use and with the willingness of other industrial countries to increase their contributions to such institutions;

An increase in U.S. subscriptions to the callable capital of these institutions, as needed;

Multi-year capitalization of $2 billion for a new U.S. International Development Bank through appropriations, and authority to borrow $2 billion from the public to be used as and when needed. In addition, the Bank would make use of payments of interest and principal on outstanding loans. These payments are about $200 million a year now and will be about $300 million by 1975;

Multi-year authorization of $1 billion for a new U.S. International Development Institute.

The amount of development assistance the United States would provide in any one year would depend on a continuing assessment of needs and performance in individual developing countries.

The Task Force has deliberately decided against recommending any specific annual level of foreign assistance. Assurance on how funds will be used and the establishment of organizations that can effectively further national interests should come first. We do believe, however, that the currently low level of economic development assistance must be raised substantially.

The Task Force shares the belief of the Pearson Commission that acceleration of international development is important to the well-being of the world and that over time a large increase in development assistance is necessary.

The Task Force has reservations, however, about the usefulness of any formula to determine how much assistance the industrial countries should provide. This approach puts the emphasis on the wrong side of the partnership. Instead, the starting point and the test should be the determination of developing countries to mobilize their own resources and to adopt policies that will ensure the effective use of funds. On evidence of good performance and of demonstrated need by the developing countries, the industrial countries should be prepared to make available the necessary amount of development assistance. In the end, this may mean greater or less assistance than would be called for by any predetermined formula.

These considerations aside, a uniform development assistance yardstick for all industrial countries would make no allowance for the international responsibilities the United States carries. The United States now devotes 7 percent of its GNP for defense expenditures. In part, these security responsibilities make it possible for our allies to spend less themselves on military security. As a group, their defense expenditures as a percentage of GNP are perhaps half those of the United States.

Other factors in burden sharing are worth noting. Despite a ten-year attempt in international forums to arrive at a uniform definition of development assistance, problems still exist. Each of the industrial countries in following its national interest emphasizes various kinds of resource flows. Development lending, however, should be the decisive element for all countries in burden sharing—not such special factors as loans to promote exports or political budget support of one kind or another.

Trade policy should also be taken into account—specifically, the value of preferential arrangements and measures taken to open markets to imports of manufactured and agricultural commodities from developing countries. Although they are difficult to measure, trade benefits have a multiplier effect on development.

In sum, the Task Force believes that the United States should keep to a steady course, prepared to help finance development in those countries demonstrating the will to advance. As the world's largest industrial power, the United States should participate fully with all other industrial countries in such an effort.

This country now spends $6.5 billion on foreign assistance, 40 percent of which is related directly to the war in Vietnam. As the United States moves from war to peace, a change in the mix of these programs from military assistance to international development assistance could give us more leeway to support to the full the resolve and the purpose that developing countries demonstrate.

With this approach, Mr. President, the Task Force believes that this country can take up the challenge of international development in a way that adds a new dimension to U.S. foreign policy and creates a broad and hopeful vision of the world and its future. Americans, young and old, can then take renewed pride in playing a constructive world role and in meeting the obligations of global citizenship.

The United States, in the future, can act more in partnership with others—the developing nations and the industrial nations. All are increasingly capable of assuming responsibilities and of providing resources. All have growing stakes in the results. As you said, "forging a new structure of world stability in which the burden as well as the benefits are fairly shared" is a primary aim of U.S. policy.

The members of your Task Force have found this assignment to be interesting and important. We hope this report will be useful to you and to the nation.

Respectfully submitted.

STATEMENT BY THE PRESIDENT

I have just received the report of my Task Force on International Development, chaired by Rudolph Peterson.

The Task Force has recommended sweeping changes in the foreign assistance programs of the United States: clarification of their fundamental objectives, changes in the overall role of the United States in the international development process, changes in the organization of the U.S. Government to carry out its responsibilities in contributing to that process.

A new approach to foreign assistance, based on the proposals of the Task Force, will be one of our major foreign policy initiatives in the coming years. I will propose this new approach in responding to the requirement of the Foreign Assistance Act of 1967 that I reappraise our present assistance effort and recommend changes for the future. Taking into account the discussion which will follow my proposals, including close consultation with the Congress, I will submit legislation in January 1971 to carry out the new U.S. approach.

To contribute to the discussion of this important subject, I am making the Peterson Report public immediately. I believe its ideas are fresh and exciting. They can provide new life and a new foundation for the U.S. role in this vitally important area of our relations with the developing countries.

The Task Force intensively examined our assistance programs of the past and present. Looking to the future, it concluded that "The United States has a profound national interest in cooperating with developing countries in their efforts to improve conditions of life in their societies." I agree. It is to enable the United States to best pursue that profound national interest that I will propose a new U.S. approach to foreign assistance for the 1970s.

ENHANCING THE RIGHT OF ALL AMERICANS TO CHOOSE THEIR PRESIDENT

Mr. GOLDWATER. Mr. President, the substitute amendment that is pending before us has been modified to include the amendment on presidential voting that I have offered for myself and 29 other Senators. This was a very gracious move on the part of the 10 Senators who have sponsored the substitute measure. It was a particularly happy moment for me because it signifies that there is a broad range of support for my amendment among Senators of all persuasions.

Frankly, this is the way I had hoped it would be. When I first presented my suggestions, I thought they should cut across party lines and political labels.

Everyone, it seemed to me, would be in favor of letting people vote.

And this—in a nutshell—is exactly what my amendment is designed to do. With one fell swoop it will clear away a barrier of outmoded legal technicalities that now deprive nearly 10 million American citizens of the basic right to vote for the leaders who will guide their country.

PURPOSES

Mr. President, I would like to explain today, in a layman's terms, just what the purposes of our amendment are and how our proposal differs from the House-passed language.

In short, my amendment will secure the right to vote for President and Vice President for every citizen of the United States without regard to lengthy residence requirements or where he may be in the world on election day.

In order to do this, my amendment will provide for the following reforms to be made in the Nation's election machinery.

First, it will completely abolish the durational residence requirement as a precondition to voting for President and Vice President. The provision will benefit both new residents and longtime residents of a State.

Second, it will permit new residents of a State who move after the voting rolls are closed to vote for such officers by absentee ballot or in person in their former State.

Third, it spells out the right of all citizens, both new residents and longtime residents of a State, to register absentee and to vote by absentee ballot for President and Vice President. One important facet of this provision is the fact that once the voting age is reduced to 18, the benefits of my amendment will be immediately available to all our young Americans who are attending college away from their homes.

Fourth, it will allow longtime residents of a State to register as voters for presidential elections at least up to 30 days before the election, whether or not they have moved their homes.

Fifth, it will expressly preserve the power of the States to adopt voting practices which are even more generous than those provided by the new law.

Sixth, it will authorize the Attorney General to institute court actions to insure compliance with the law.

Seventh, it will specifically prohibit double voting and false registration.

Eighth, it clearly sets out a congressional finding of the powers that Congress is exercising under the Constitution.

Ninth, it plainly is applicable to voting for the offices of President and Vice President alone.

HOUSE VERSION

Out of the nine features which I have listed, only the second one and half of the first one were contained in the House-passed bill.

The earlier version, as it was explained by its sponsors, would solely have benefited new residents of a State who moved across State lines.

Put in more tangible terms, the House provision would have helped approximately 5.5 million citizens gain the right to ballot for their President. My amendment will almost double that number of citizens.

Mr. President, I do not in any way mean to cast criticism on the approach used in the House version. It would be a major step forward in extending the right to vote. However, the suggestions which I had proposed in Senate Joint Resolution 59—which was introduced months before the House bill—would build upon the features set out in the House measure so that the broadest possible meaning could be given to the right to vote in presidential elections.

My present amendment, which is a refinement of our first proposal, goes even further in nailing down the objectives which I and 32 other Senators had in mind when we offered Senate Joint Resolution 59.

Mr. President, this is an appropriate place to express my deep appreciation to the many Senators who have joined with me in this effort, first in connection with the joint resolution and now in regard to the amendment. Without their assistance and endorsement, the idea would not have gotten as far as it has.

So, I want to say, in truth, that whatever credit is due for the contribution which the proposal might eventually make, should be shared by all of my colleagues who have kindly supported the election reforms I have suggested.

It is easy to explain my own great interest in improving the machinery by which the Chief Executive is selected. Having been my party's nominee for President in 1964, I perhaps have had more reason than most persons to examine the workings of that machinery.

REFORMS NEEDED

Mr. President, the more I have studied our national election system the more I have been convinced that it is in need of a major overhauling. To put it bluntly, the election system of the world's greatest republic and democracy is not geared to insuring that the maximum number of citizens will be eligible to vote. In many ways it even discourages or makes it impossible for citizens to register or to obtain ballots or to cast those ballots.

It is my belief that these restrictions are particularly arbitrary and injurious when they result in the denial of the fundamental right of an American citizen to choose the officers who will run the National Government.

Mr. President, I have outlined what the problems are when I described the primary features of my amendment. At this time I would like to develop the story at greater length so that there may be a solid legislative history of the problems which our amendment is designed to overcome.

STATE RESIDENCE REQUIREMENTS

The worst offender is the burden on voting imposed by lengthy residency requirements. Sixteen of our States require a full year's residence within their boundaries before they will allow a citizen to vote for President and Vice President. One of these States actually requires residence for as long as 2 years before a citizen can vote. Standing alone, the laws of these few States disqualify more than 620,000 Americans of voting age who move from State to State in an election year.

In addition, three States, to which over 150,000 adult citizens move each year, impose a 6-month waiting period as a precondition to voting for President.

Thirty-two other States require waiting periods for new residents ranging from 3 months down to zero. Even these shortened periods result in the disqualification of nearly half a million otherwise eligible voters.

Mr. President, the combined effect of the various State residence laws is the denial of the right to vote for President in the case of over 1,120,000 Americans. This total can be readily established on the basis of a table which I shall insert later in the RECORD.

LOCAL REQUIREMENTS

But this is only part of the story. Added to this obstruction to the free exercise of a citizen's franchise were numerous local rules that imposed a separate waiting period on persons who moved about inside a State. These laws affect both longtime residents of a State and newly arrived residents who may move after entering the State.

For example, if a citizen living in any one of 10 States changed his address to a different county or city in that same State as much as 6 months before the 1968 election, he would have lost his right to vote in that election. One might think that the cumulative effect of these strictly local rules would be small, but to the contrary they actually cause the disfranchisement of at least an additional 855,000 citizens.

CITIZENS DISQUALIFIED BY WAITING PERIODS

Mr. President, I have prepared a table which details the numbers of citizens who are disqualified from balloting in presidential elections and I request that it be inserted at the end of my remarks. It shows, State by State, a listing of the current residence periods applied by the several counties, cities, towns, precincts, and wards within each State, and identifies the number of citizens of voting age who moved to each State and within each State during the last election year.

Mr. President, it is clear from reading the table that no less than 2 million Americans are being denied a voice in the selection of their President solely because they have changed their residence. But let me emphasize that this figure is the bare bones minimum which can be proven.

Actually, the Gallup poll's in-depth analysis of the 1968 election claims that the true number of citizens who were disfranchised by restrictive residence laws exceeded 5 million persons. What is more, one estimate made by the Census Bureau indicates that 5.5 million Americans were caught by these restrictions.

Since there were more than 21 million citizens of voting age who in fact made a change of households during the year preceding the 1968 election, it is my feeling that 5 million is much closer to the truth.

ABSENTEE VOTING

But these are not all of the unfortunate citizens who find themselves without the

vote because of out-of-date legal technicalities. Approximately 3 to 5 million more fully qualified American citizens were denied the right to vote for President because they were away from home on election day and were not allowed to obtain absentee ballots.

This gap in the law is often overlooked because most States do permit some form of absentee voting. But the catch is that some of these same States impose unrealistic cutoff dates on the time when persons can apply for absentee ballots. This results in the disqualification of great numbers of citizens who do not know early enough that they will be away at the time of voting. Another burdensome feature about these laws is the fact that in 10 States a person's absentee ballot will not be counted unless it is returned to the voting officials before election day.

But this is not all. For in three out of every five States civilians cannot register absentee. Only 20 States now allow civilians generally to register to vote if they are away from home.

This means that millions of Americans are denied a voice in choosing their President and Vice President merely because they are exercising their constitutional right to travel in interstate commerce.

This category of citizens not only includes those Americans who travel within the United States for various reasons at election time, but it also encompasses a great many Americans who are temporarily outside the United States.

They may be serving overseas as Foreign Service officers or other governmental civil servants. They might be students who are attending foreign colleges. They include Americans who are working for U.S. businesses that have branches abroad. Or they may be plain tourists who are visiting friends or seeing new places overseas.

In any event, they are all fully qualified American citizens who find themselves without the right to vote solely because of outmoded legal technicalities.

UNFAIR LEGAL TECHNICALITIES

Mr. President, I want to state as firmly as I can that this hodgepodge of restrictive devices is unfair, outmoded, and unnecessary when applied to presidential elections.

In my opinion, every qualified citizen of the several States should be entitled to participate in the choice of his President. A citizen should be able to exercise this right regardless of where he is in the world on election day and regardless of how long he has been a resident of any particular State.

As Chief Justice Taney put it over a century ago:

> We are one people, with one common country *Passenger Cases*, 7 Howard 293; 492 (1849).

Being members of the same political community, it is my view that all citizens possess the same inherent right to have a voice in the selection of the leaders who will guide their Government.

Mr. President, I wish to emphasize that my comments are not aimed at the election of State and municipal officers. My amendment is specifically worded so as to apply only to the choosing of the President. Here there is no need to insure that new residents have had time to learn about local issues. Here the issues are national and cut across all areas and regions of our country.

It is true that all States limit the right to cast presidential ballots to bona fide residents or recent former residents. It is also true that most States require voters to register to vote within a few days before an election.

When these requirements are applied in a reasonable way, they can serve a valid purpose by protecting against fraudulent voting and allowing the election officials to carry out the paperwork and mechanics of holding an election.

But whatever the reasons for permitting a State to set a closeout date for registering to vote for President, there is no compelling reason for imposing a separate and additional requirement that voters also must have been residents of the State for a particular length of time. If a State can satisfy its logistical needs by keeping its voting lists open up to 30 days before an election—as 40 States now do—what is the justification for barring citizens from balloting for President unless they have been residents of that State for 6 months or 1 year?

So long as a citizen is a good-faith resident of a State and the State has adequate time to check on his qualifications, the duration of his residency should have no bearing on his right to participate in the election of the President.

REMEDIES PROVIDED

This is why my proposal provides for the complete abolishment of the durational residence requirement as a separate qualification for voting for President and Vice President. My amendment will, however, permit a State to require that its voters shall be bona fide residents who shall register or otherwise qualify for voting no later than 30 days preceding the election. Thereby the legitimate interests of the States will be protected at the same time that the fundamental right of citizens to vote will be given its broadest possible meaning.

This does not mean that most States will be left with rules which amount to the same thing as a 30-day waiting period. For example, 19 States now permit a new resident to apply for a presidential ballot as late as 2 weeks before the election. Fourteen States allow their new voters to register as late as 5 days before election day.

Now, under my amendment, new citizens who move into one of these States will be allowed to vote there with merely 2 weeks or 5 days of residence, as the case may be. But under the House-passed bill the same citizen will be denied the franchise in his new State unless he has more than 60 days' residence. So the terms of my proposal are really much more generous than a mere 30-day residency law would be.

Mr. President, the record should show that there is another important group of citizens who will benefit from the requirement that States shall keep their voting lists open until at least 30 days before a presidential election.

The point must be made absolutely clear that my amendment is intended to remove all the insidious effects which these archaic statutory limitations may have on a citizen's free exercise of his right to choose the President.

LONGTIME RESIDENTS

To this end, my proposal is expressly designed to help not only new residents of a State but also citizens who have lived for a long time in a State.

Mr. President, one of the most bizarre features now included in some State election laws is the fact that citizens who have just moved into a State may register to vote as late as 30 days or even 5 days before a presidential election, but longtime residents of that same State are required to apply for registration as much as 9 months before the election.

What nonsense. Nine months prior to the election few people may be thinking about that event. But by 30 days before the polls open, political interest will have reached a fever pitch.

So, I want to make it very clear that my proposal is intended to mean that all citizens, both new residents and longtime residents, shall be permitted to register or otherwise qualify to vote for their President at least until 30 days before the election.

Mr. President, returning to the problems of the new residents for a moment, I want to add that my amendment will completely close the gap for those persons among this group who would still be unable to qualify as voters because they have moved into a State after the voting rolls have closed. To do this, the amendment provides that former residents of a State who fail for this reason to become electors in their new State must be allowed to vote for President in their former State.

My proposal draws on the excellent example set by the States themselves. Ten States—including Arizona—now permit former residents to vote in presidential elections.

ABSENTEE VOTING

Next, in order to provide the greatest possible encouragement and meaning to the right to vote, my amendment will permit all categories of citizens, both civilian and military, to register absentee and to vote by absentee ballot.

Specifically, the amendment provides that citizens may apply for absentee ballots for President and Vice President up to 7 days before the election and may return their marked ballots as late as the close of the polls on election day. Once again, the features of my measure are drawn from the proven practice of the States themselves. At present 37 States allow certain voters to make application for absentee ballots up to a week before the election and 40 States provide that the marked ballots need not be returned until election day itself.

ABSENTEE REGISTRATION

My amendment will also allow citizens who are away from their homes to register absentee. Forty-nine States now permit servicemen to register absentee or do not even require them to register at all, and I believe this privilege should be

extended nationwide to all citizens, both civilians and servicemen.

Mr. President, allow me to describe the full scope of this provision. What I intend is that civilians should be granted the very same privileges of absentee registration and voting that are extended to members of our military services.

As I have indicated, absentee registration is nothing novel in the case of servicemen. The general rule is as follows:

> The domicile of a person is not affected or changed by the mere fact that he has entered the military or naval service of his country. He does not thereby lose or abandon the domicile he had when he entered the service, nor does he acquire one at the place where he serves, irrespective of the duration of his actual residence at such place. His residence or domicile is a question of intent. (American Jurisprudence 2nd, Elections, section 75)

Accordingly, it seems entirely appropriate to ask that the same rule shall be applied on behalf of civilian citizens who are temporarily living away from their regular homes, whether they are visiting relatives or friends abroad, attending college outside their own State, working for a U.S. firm overseas, or serving as Federal employees away from their normal homes.

Thus, it is my purpose that the same standards that are applied to servicemen shall be applied to civilians. A person's "home" or "domicile" should depend upon his true intent to return to that home.

Mr. President, I should note in connection with this feature that, if Congress should eventually lower the voting age to 18, my amendment would be available to assist all of these young Americans who may be attending college away from home.

SPECIAL BALLOTS

Mr. President, I would also like to mention that the basic practice that a State will have to establish once my amendment takes effect is one which most States already have put into operation. To date, 31 of our States have created a special method for voting in presidential elections in the case of new residents who cannot meet the usual residence requirements. These citizens are allowed to vote for presidential electors, but not for other offices.

This proves beyond any doubt that the States can set up the separate system for voting that is required under my amendment.

In short, every standard set forth in the amendment has been modeled after practices that are used by the States themselves and are proven to be workable. Therefore, I can safely say to those of my colleagues who share with me a special respect and concern for the strength and diversity of our State and local governments that their interests were fully taken into account in the preparation of this measure. Mr. President, I ask that tables identifying the States whose practices I have followed be inserted at the end of my statement.

OTHER FEATURES

Mr. President, there are two remaining features of my amendment that should be discussed. One is the provision which authorizes the Attorney General to institute court actions to enforce compliance with the law. There is no general authority that permits the United States to seek injunctive relief and I wanted to see this power spelled out in the bill. Otherwise, the only way the section could be enforced would be through individual, private law suits. This point is handled in section 203 of the substitute amendment.

Finally, it is my belief that we should not leave any doubt as to whether there are sanctions in the case of double voting and false registration. Therefore, I have expressly provided that such conduct will be a Federal offense. What I have done is to utilize the existing provisions of section 11(c) of the original voting rights law.

Mr. President, up to here I have sought to identify the problem and to describe the ways in which I believe we can solve it. Now it is my purpose to state the grounds on which I think Congress can act in this field.

CONSTITUTIONAL AMENDMENT

In doing so, I wish to note that I have also considered the route of a constitutional amendment. Early last year I introduced a joint resolution, on behalf of myself and 32 other Senators, proposing an amendment to the Constitution which would have carried out the same purposes as my present measure. But even though our resolution was joined in by a third of the Senate's membership, we were unable to get any action on it.

Now we are a year closer to the next presidential election. In view of the fact that the time left before that election is fast running out, I have decided to pursue the alternative path of seeking a Federal statute.

By passing a law before the end of this year, we can give the States a full 2-year period during which they can bring their local laws into conformity with the national standards. This opportunity is very important to many States because their legislative chambers meet only in alternate years.

LEGAL ARGUMENTS

Mr. President, once the policy decision is made to cure the problem by means of a statute, rather than an amendment to the Constitution, I have no difficulty in finding that it is well within the authority of Congress to pass such a statute.

There are at least four distinct grounds for the exercise of congressional authority in this field, and I shall discuss each of them in turn. First, there is the power of Congress to secure the rights guaranteed by the 14th amendment.

FOURTEENTH AMENDMENT

The question here is parallel to the one before the Supreme Court in the recent case of *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966). There the Court was faced with deciding whether Congress could prohibit the enforcement of New York's English language literacy test as applied to Puerto Rican residents of that State. The Court was also faced with its decision in *Lassiter* v. *Northampton Election Board*, 360 U.S. 45 (1959), in which it had rejected a challenge to the English literacy test of North Carolina.

Nevertheless the Court held that Congress could override the New York law. In writing the Court's opinion, Justice Brennan said that the true question was: "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 section 5 of the 14th amendment?"—384 U.S. 649.

Justice Brennan proceeded by saying:

> In answering this question, our task is limited to determining whether such legislation is, as required by section 5, appropriate legislation to enforce the Equal Protection Clause. (384 U.S. 649–650.)

The basic test of what constitutes "appropriate legislation," according to the Morgan decision, is the same as the one formulated by Chief Justice Marshall in *McCulloch* v. *Maryland*, 4 Wheaton 316, 420 (1819), when he defined the powers of Congress under the necessary and proper clause.

In applying this test to legislation passed under section 5, the Court held that three questions must be asked: First, is the statute designed to enforce the 14th amendment? second, is it "plainly adapted" to that end? and third, is it consistent with "the letter and spirit of the Constitution?"—384 U.S. 651.

In deciding the answers to these questions, the Court said "it is enough that we are able to perceive a basis upon which the Congress might predicate a judgment" for acting as it did—384 U.S. 653.

Thus the Court upheld the power of Congress to preclude the enforcement of the New York literacy requirement. And so, I believe it would uphold the power of Congress to preclude the enforcement of State voting requirements which fall short of the standards created in my proposal.

It may be granted that the States have broad powers to determine the conditions under which the right of suffrage may be exercised. *Carrington* v. *Rash*, 380 U.S. 89, 91 (1965).

It may also be noted that the Supreme Court has affirmed, without opinion, a district court decision which upheld a 1-year residence requirement Maryland had imposed for voting in presidential elections. *Drueding* v. *Devlin*, 380 U.S. 125 (1965).

But, is this not the same situation that the facts presented in the Morgan case? There, too, the issue involved the power of Congress to preclude the enforcement of a State voting requirement. There, too, the Court was faced with an earlier decision that the requirement was permissible.

In Morgan, one crucial factor was present that changed the whole issue before the Court. That same factor is present here. According to the rule of Morgan, where the case involves an enactment of Congress designed to enforce the guarantees of the 14th amendment, the question is not whether the judicial branch itself would decide that the State law is prohibited by that amendment. Rather the question is whether or not the congressional measure is appropriate legislation under section 5 of the 14th amendment.

The thrust of the Morgan decision is that section 5 is a positive grant of legis-

lative power authorizing Congress to use its discretion in determining what laws are needed to secure the guarantees of the 14th amendment. Under this doctrine, I have no difficulty in believing that the enactment of a uniform residence law is constitutional.

APPLYING TEST

First, there can be no doubt that the measure is intended to enforce the guarantees of the 14th amendment. It is designed to protect the right to vote for citizens who travel or move their households prior to a presidential election. The legislation clearly is meant to secure for this group of citizens freedom from a discriminatory classification in the imposition of voting qualifications that Congress has found to be unnecessary and unfair.

Second, the proposal is "plainly adapted" to furthering the purposes of the 14th amendment. By passing this law, Congress will effectively enhance the opportunities of millions of Americans to vote for President.

Third, the measure is not "prohibited by but is consistent with" the Constitution.

ELECTORAL VOTE

It may be argued that because the Constitution creates the electoral vote system of choosing the President, the Federal Government may not prevent a State from requiring that persons who vote for its electors shall be citizens of that State. This is true, in general, and my amendment will allow a State to provide that its voters be bona fide residents.

But this reasoning does not mean that a State can deprive citizens of their right to vote for electors merely because they are so newly arrived in the State that they might have a different outlook than longtime residents. This kind of effort at excluding a part of the population from the electorate because of the way they may vote is precisely the kind of thing the Supreme Court said was unconstitutional in *Carrington* v. *Rash*, 380 U.S. 89, 94 (1965).

STATE AUTHORITY NOT ABSOLUTE

It might also be argued that since the States possess authority to impose reasonable voting practices, a Federal statute that interferes with these local regulations is not consistent with "the letter and spirit of the Constitution." However, I believe that the rule of *United States* v. *State of Texas*, 252 Federal Supplement 234 (1966), settles the question.

In this case, a three-judge district court, convened under section 10 of the Voting Rights Act of 1965, sustained the power of Congress to prohibit the use of the poll tax as a prerequisite to voting in State elections.

While the court recognized that the poll tax system in Texas had the function of serving "as a substitute for a registration system," it held that payment of the tax as a precondition to voting must fall because it restricted "one of the fundamental rights included within the concept of liberty"—252 Federal Supplement 250.

In reaching its decision, the court said it was following the rule announced by the Supreme Court:

> Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling. *Bates* v. *City of Little Rock*, 361 U.S. 516, 524 (1959).

Also, the lower court cited the principle of *McLaughlin* v. *State of Florida*, 379 U.S. 184, 196 (1964), that such a State law "will be upheld only if it is necessary, and not merely rationally related, to the accomplishment of a permissible State policy."

Since the judgment of the district court was affirmed by the Supreme Court, 384 U.S. 155 (1966), I believe it offers the controlling principle which the courts will apply to other cases involving a conflict between the assertion of an individual's constitutional right and a State law that touches on that right but serves a permissible State objective.

Another recent case that follows the same rule is *Shapiro* v. *Thompson*, 394 U.S. 618 (1969). This case holds particular interest because it concerns the validity of waiting periods imposed by the States to deny welfare assistance to new residents of the States.

The Court specifically rejected the argument that a mere showing of a rational relationship between the waiting period and a permissible State purpose is enough to justify the denial of welfare benefits to otherwise eligible applicants.

The Court held that "in moving from State to State or to the District of Columbia appellees were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a compelling governmental interest, is unconstitutional"—394 U.S. 634.

Since the State regulations involved here also touch on the fundamental right to vote, and other rights which I shall discuss in a moment, it is my belief that the same rule will be applied. Congress may clearly limit the use of such requirements, in order to protect these rights, unless the State laws are shown to promote a "compelling" State interest.

Under this standard, I must conclude that Congress may, consistent with the Constitution, establish the uniform practices that I have suggested. There simply is no compelling reason why a State should condition the right to vote for President on the duration of a citizen's residence or his actual presence on election day. The mere fact that 40 States have been able to satisfy their administrative needs by providing for only a 15- to 30-day period between the close of their voting rolls and election day demonstrates that the legitimate interests of the States can be met by other means than a separate lengthy residence requirement. In similar fashion, the fact that 37 States permit some voters to apply for absentee ballots 7 days before an election and that 40 States allow the marked ballots to be returned as late as election day indicates that more restrictive rules are not necessary.

Mr. President, this completes my analysis of the authority conferred on Congress by section 5 of the 14th amendment. But it by no means exhausts the grounds upon which Congress may act. For the interesting thing about this field is that Congress is not limited to action under the 14th amendment.

RIGHTS OF NATIONAL CITIZENSHIP

This leads to my discussion of the second ground upon which Congress can act—its power to secure the rights inherent in national citizenship.

Mr. President, one of the most firmly embedded concepts of constitutional law is the premise that there are certain fundamental rights of citizenship which arise out of the very nature and existence of the Federal Government. Without these basic rights there would be no National Government and no meaning to U.S. citizenship.

Thus, in the case of *Ward* v. *Maryland*, 12 Wallace 418 (1870), the rights of national citizenship were held to embrace "nearly every civil right for the establishment and protection of which organized government is instituted."

The Supreme Court has consistently interpreted these rights as belonging to U.S. citizenship, as distinguished from citizenship of a State. In *Paul* v. *Virginia*, 8 Wallace 168, 180 (1868), Justice Field declared that the inherent rights secured to citizens of the several States are those which are common to the citizens "by virtue of their being citizens."

And in the *Slaughter-House Cases*, 16 Wallace 36, 79 (1872), the Court remarked that these fundamental rights "are dependent upon citizenship of the United States, and not citizenship of a State."

Perhaps the best exposition of the scope of national citizenship is found in the opinion written by Justice Frankfurter in *United States* v. *Williams*, 341 U.S. 70 (1951). At pages 79 and 80, the learned Justice presents a history of the broad recognition accorded to what he calls the "rights which arise from the relationship of the individual with the Federal Government."

Consequently, the existence of a separate category of implied rights that are based upon the nature and character of the National Government has been confirmed in case after case throughout the history of the Nation.

INHERENT RIGHT TO VOTE

Furthermore, it is well settled that these rights include the right to vote in Federal elections. *Ex parte Yarbrough*, 110 U.S. 651, 663 (1884), is one of many decisions by the Court in which the right to vote for Federal officers has been held to be a right granted or secured by the Constitution and not one that is dependent upon State law.

The rule has been expanded recently in the case of *Texas* v. *United States*, 384 U.S. 155 (1966), in which the Supreme Court affirmed the holding of a three-judge district court that the right to vote in all elections, State or Federal, "clearly constitutes one of the most basic elements of our freedom—the 'core of our constitutional system.'"

It is clear that Congress may act to protect a national right under the necessary and proper clause. As it was said by Chief Justice Waite in *United States* v. *Reese*, 92 U.S. 214, 217 (1875):

> Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress in the legitimate exercise of its legislative discretion shall provide.

The doctrine was also defined in *Strauder* v. *West Virginia*, 100 U.S. 303, 310 (1879), where the Court held that:

A right or an immunity, whether created by the Constitution or only guaranteed by it, even without any express delegation of power, may be protected by Congress.

RIGHT TO TRAVEL IN INTERSTATE COMMERCE

Mr. President, the third ground upon which I believe Congress may act is its power to protect the freedom of movement by citizens across State lines.

The right dates back to *Crandall* v. *Nevada*, 6 Wallace 35, 47 (1867), where the Court first held that "the right of passing through a State by a citizen of the United States is one guaranteed to him by the Constitution."

All decisions of the Supreme Court which are on point agree that the right exists. In delivering the opinion of the Court in *United States* v. *Guest*, 383 U.S. 745, 757 (1966), Justice Stewart wrote that the freedom to travel throughout the United States "occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized."

And in Shapiro against Thompson, cited above, the Court declared that it "long ago recognized that the nature of our Federal union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement"—394 U.S. 629.

The connection between the enjoyment of this right and the enactment of a uniform law on voting in presidential elections is immediately apparent when one looks at the date available for the 1968 election. According to the Census Bureau almost 4 million citizens of voting age moved from one State to another in 1968. An additional 3 to 4 million citizens of voting age were engaged in visits and travel across State borders at the time of the 1968 election.

It seems entirely legitimate for Congress to decide upon these facts that the lack of uniformity among residence requirements and absentee balloting imposes a substantial burden on the free movement in interstate commerce of millions of Americans who will be disqualified from voting in presidential elections solely because they move or travel during a year when such elections are held. Congress might well conclude that by framing uniform voting practices, it can effectively protect the right of these citizens to travel interstate without sacrificing the right to vote for their President.

RIGHT TO ENJOY PRIVILEGES AND IMMUNITIES

Mr. President, the fourth basis of the power of Congress to adopt legislation in this field is its authority to enforce the privileges and immunities guaranteed to citizens of all the States.

Here I refer to the basic concept underlying the entire privileges and immunities clause which, in the words of the Supreme Court, is "to place the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned." *Paul* v. *Virginia*, 8 Wallace 168, 180 (1868).

The doctrine was also followed by the Court in *Ward* v. *Maryland*, 12 Wallace 418, 431 (1870), where it was said that the supreme law of the land "requires equality of burden."

Applying this principle to the facts at hand, I believe it is reasonable for Congress to determine that the hodgepodge of State and local requirements applicable to presidential elections creates exactly that kind of unequal treatment among citizens that the privileges and immunities clause was designed to prevent. I further believe that, in order to enable the citizens of one State to better have the same opportunity to choose the President that is enjoyed by citizens of most States, Congress may properly act under the necessary and proper clause to set uniform voting standards for presidential elections.

Mr. President, this completes my analysis of the constitutional issues involved.

SUMMARY

In summary, I can only say that the entire thrust of my proposal is to provide for the widest possible participation by our citizens in the election of their President. All our talk and labors about reforming the method of selecting the President will be for naught if the American citizens themselves cannot participate in such elections.

For this reason, I invite all my colleagues to join with me in this effort to advance the freedom of many millions of Americans by giving them a voice in the selection of the officers who will govern their country.

Mr. President, I ask unanimous consent that the tables which I have prepared be printed at this point in the RECORD, which is the end of my statement.

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

I.—TABLE OF STATE AND LOCAL RESIDENCE REQUIREMENTS APPLICABLE TO VOTING IN PRESIDENTIAL ELECTIONS JANUARY, 1970 [1]

I.—RULES APPLICABLE ONLY TO NEW RESIDENTS OF A STATE

State	Length in State	Length in county, city or town	Length in precinct or ward	Interstate migration 1968	Minimum number of citizens disqualified [2]
Alabama	1 year	6 months	3 months	56,400	56,400
Alaska [3]	4 days	(4)	(4)	23,900	270
Arizona [3]	60 days	(4)	(4)	85,200	14,200
Arkansas	1 year	6 months	30 days	40,700	40,700
California [3]	54 days	(4)	(4)	527,600	87,933
Colorado [3]	2 months	2 months	15 days	74,200	12,367
Connecticut [3]	60 days	(4)	60 days	57,500	9,583
Delaware [3]	3 months	(4)	(4)	16,200	4,050
District of Columbia	1 year	(4)	1 year	33,100	33,100
Florida [3]	30 days	(4)	(4)	341,200	28,433
Georgia [3]	do	(4)	(4)	88,500	7,375
Hawaii [3]	5 days	(4)	(4)	26,700	366
Idaho [3]	60 days	(4)	(4)	22,200	3,700
Illinois [3]	do	(4)	60 days	167,000	26,833
Indiana	6 months	60 days	30 days	84,900	42,450
Iowa	do	do	(4)	40,500	20,250
Kansas [3]	45 days	45 days	45 days	60,100	7,410
Kentucky	1 year	6 months	60 days	54,600	54,600
Louisiana [3]	60 days	(4)	(4)	53,400	8,900
Maine [3]	30 days	(4)	(4)	18,500	1,542
Maryland [3]	45 days	(4)	45 days	95,400	11,762
Massachussetts [3]	31 days	31 days	(4)	75,000	6,250
Michigan [3]	30 days	30 days	(4)	93,300	7,775
Minnesota [3]	do	(4)	(4)	54,200	4,517
Mississippi	2 years	1 year	6 months	35,500	35,500
Missouri [3]	60 days	(4)	(4)	87,900	14,650
Montana	1 year	30 days	(4)	18,300	18,300
Nebraska [3]	2 days	(4)	(4)	30,000	164
Nevada	6 months	30 days	10 days	22,400	11,200
New Hampshire [3]	30 days	(4)	(4)	17,900	1,492
New Jersey [3]	40 days	40 days	(4)	142,900	15,660
New Mexico [5]	1 year	90 days	90 days	48,100	48,100
New York [3]	90 days	do	30 days	173,200	43,300
North Carolina [3]	60 days	(4)	(4)	70,800	11,800
North Dakota [3]	10 days	(4)	(4)	11,400	312
Ohio [3]	40 days	(4)	(4)	155,600	17,051
Oklahoma [3]	15 days	(4)	(4)	58,400	2,400
Oregon [3]	None	None	None	52,800	
Pennsylvania	90 days	(4)	(4)	109,800	27,450
Rhode Island	1 year	6 months	(4)	18,200	18,200
South Carolina	do	do	3 months	42,400	42,400
South Dakota	do	(4)	(4)	14,000	14,000
Tennessee	do	3 months	(4)	65,900	65,900
Texas [3]	60 days	(4)	(4)	179,500	29,917
Utah	1 year	4 months	60 days	23,000	23,000
Vermont	do	(4)	(4)	8,800	8,800
Virginia	do	6 months	30 days	121,400	121,400
Washington [3]	60 days	(4)	(4)	87,600	14,600
West Virginia	1 year	60 days	(4)	25,000	25,000
Wisconsin [3]	1 day	(4)	(4)	54,900	150
Wyoming	1 year	60 days	(4)	15,200	15,200
Total				3,881,300	1,116,712

[1] In States where length of residence is not specified, the term "residence requirement" means cut-off time by which citizens must apply for, or execute affidavit to obtain, a Presidential ballot.

[2] This column is incomplete. It only includes new residents who are disqualified by State residence laws. It does not include new residents who are disqualified by local requirements because there are no statistics available to identify number of newly arrived residents who move within a State after their removal to that State.

[3] These States have enacted special residence rules which allow new residents to vote for President and Vice President, but no other offices, with less than regular length of residence.

[4] Not applicable.

[5] The special provisions of law in New Mexico that had permitted new residents to vote for Presidential electors were repealed by sec. 451, Ch. 240, New Mexico Laws 1969.

Source: Original State election laws as compiled by American Law Division, Library of Congress, Jan. 21, 1970, in case of special provisions of law relating to new residents. Date relative to regular residency laws of States obtained from Legislative Reference Service publication 69-228A, dated Sept. 25, 1969. Interstate migration figures obtained from Bureau of Census 1968 annual national survey.

2. RULES APPLICABLE TO BOTH NEW AND LONG-TIME RESIDENTS WHO MOVE WITHIN SAME STATE

State	Length in county, city, or town	Length in precinct or ward	Intercounty migration	Intracounty migration	Citizens disqualified by local rules
Alabama	6 months	(1)	53,900	246,800	26,950
Alaska		(1)	3,800	11,400	
Arizona	30 days	(1)	15,600	83,400	1,300
Arkansas	6 months	30 days	35,700	128,200	23,192
California	(1)	(1)	440,000	1,302,100	
Colorado	15 days	(1)	52,400	107,400	2,153
Connecticut	(1)		23,300	197,700	
Delaware	3 months	30 days	1,800	32,600	1,808
District of Columbia				75,300	
Florida	6 months		82,300	324,700	41,150
Georgia	30 days		106,600	310,800	8,883
Hawaii	3 months	(1)	4,400	47,100	1,100
Idaho	30 days		15,200	40,600	1,267
Illinois	90 days	30 days	145,300	875,000	72,783
Indiana	60 days	do	85,500	339,500	28,396
Iowa	do		63,600	183,100	10,600
Kansas	30 days	30 days	51,600	140,300	10,146
Kentucky	6 months	60 days	56,900	256,600	49,823
Louisiana	(1)	(1)	64,800	220,300	
Maine	3 months		14,300	64,700	3,575
Maryland	6 months	(1)	62,000	192,400	31,000
Massachusetts	(1)		85,200	373,200	
Michigan	(1)		166,600	567,200	
Minnesota		(1)	84,100	215,900	
Mississippi	1 year	6 months	41,800	140,300	76,875
Missouri	60 days		117,700	322,900	19,617
Montana	30 days		17,900	43,000	1,500
Nebraska	40 days	10 days	32,100	91,400	3,768
Nevada	30 days	10 days	3,400	20,100	558
New Hampshire	(1)		6,300	39,800	
New Jersey	40 days		125,400	392,800	13,741
New Mexico	90 days	30 days	15,300	52,600	6,017
New York	3 months		439,500	1,135,400	109,875
North Carolina		(1)	85,300	325,000	
North Dakota	90 days	(1)	13,900	34,500	3,475
Ohio	(1)	(1)	169,000	806,900	
Oklahoma	2 months	20 days	58,800	166,400	13,860
Oregon			52,500	124,900	
Pennsylvania		(1)	174,400	805,000	
Rhode Island	6 months	(1)	7,900	61,800	3,950
South Carolina	do	3 months	34,600	163,100	37,937
South Dakota	(1)	(1)	16,600	38,100	
Tennessee	3 months		51,400	287,600	12,850
Texas	6 months		283,000	695,400	141,500
Utah	4 months	60 days	15,500	54,900	9,742
Vermont	(1)		5,200	26,200	
Virginia	6 months	(1)	109,100	223,600	54,550
Washington	90 days	30 days	65,700	208,300	25,105
West Virginia	60 days	(1)	29,300	129,000	4,883
Wisconsin		(1)	78,800	276,100	
Wyoming	60 days	(1)	6,600	21,200	1,100
Total			3,771,800	13,022,500	855,029

[1] These are jurisdictions of a State which waive their usual residence laws by allowing newly arrived residents to vote in their former election district of the same State when move was solely within that State.

Note: In computing the effect of precinct and ward residence requirements, it is assumed that one-half of citizens who moved intracounty had crossed precinct or ward boundary lines.

Source: Data relative to regular residence laws of States obtained from Legislative Reference Service publication 69-228A, dated Sept. 25, 1969. Intercounty and intracounty migration figures obtained from 1968 annual national survey by Bureau of Census.

TOTAL NUMBER OF CITIZENS DISQUALIFIED IN EACH STATE BY BOTH STATE AND LOCAL RESIDENCE REQUIREMENTS

State	Minimum number of citizens disqualified
Alabama	83,350
Alaska	270
Arizona	15,500
Arkansas	63,892
California	87,933
Colorado	14,520
Connecticut	9,583
Delaware	5,858
District of Columbia	33,100
Florida	69,583
Georgia	16,258
Hawaii	1,466
Idaho	4,967
Illinois	99,616
Indiana	70,846
Iowa	30,850
Kansas	17,556
Kentucky	104,423
Louisiana	8,900
Maine	5,117
Maryland	42,762
Massachusetts	6,250
Michigan	7,775
Minnesota	4,517
Mississippi	112,375
Missouri	34,267
Montana	19,800
Nebraska	3,932
Nevada	11,758
New Hampshire	1,492
New Jersey	29,401
New Mexico	54,117
New York	153,175
North Carolina	11,800
North Dakota	3,787
Ohio	17,051
Oklahoma	16,260
Oregon	
Pennsylvania	27,450
Rhode Island	22,150
South Carolina	80,337
South Dakota	14,000
Tennessee	78,750
Texas	171,417
Utah	32,742
Vermont	8,800
Virginia	175,950
Washington	39,705
West Virginia	29,883
Wisconsin	150
Wyoming	16,300
Total	1,971,741

II

REGISTRATION CLOSING DATES FOR VOTING FOR PRESIDENT AND VICE PRESIDENT

I. SUMMARY

Forty States keep their voting rolls open for registration for some of their voters until at least the thirtieth day preceding a Presidential election.

Thirty-one States have special registration or application close out dates which apply only to new residents. Eighteen of these States permit a voter to apply for a special Presidential ballot as late as 15 days before the election.

Thirty-six States allow a voter who is a long-time resident to register at least up to 30 days preceding the election under their regular laws.

TABLE SHOWING NUMBER OF DAYS PRECEDING ELECTION BY WHICH VOTER MUST REGISTER OR APPLY TO VOTE

State	Special rules for new residents	Regular rules applicable to long-time residents
Alabama		10
Alaska	4	(2)
Arizona	4	43
Arkansas		20
California	54	53
Colorado	3	25
Connecticut	1	28
Delaware	16	16
District of Columbia		45
Florida	30	30
Georgia	14	50
Hawaii	5	20
Idaho	10	3
Illinois	30	28
Indiana		29
Iowa		10
Kansas	1	10-20
Kentucky		59
Louisiana	60	30
Maine	30	0-10
Maryland	(1)	28
Massachusetts	31	28
Michigan	3	30
Minnesota	30	20
Mississippi		(4)
Missouri	(2)	24-28
Montana		40
Nebraska	2	10
Nevada		38
New Hampshire	[3] 30	5-10
New Jersey	40	40
New Mexico		30
New York	25	23
North Carolina	3	21-24
North Dakota	10	(5)
Ohio	40	40
Oklahoma	15	10
Oregon	(2)	30
Pennsylvania		50
Rhode Island		60
South Carolina		30
South Dakota		20
Tennessee		45
Texas	30-45	(6)
Utah		10
Vermont		2
Virginia		30
Washington	1	30
West Virginia		30
Wisconsin	1	12-19
Wyoming		15

[1] Election day.
[2] No closing date specified.
[3] 30 days or less.
[4] 4 months.
[5] Registration not required.
[6] 9 months, 3 days.

Source: Original State election laws in case of special provisions applicable to new residents, as compiled by American Law Division, Library of Congress, Jan. 21, 1970. Digest of State election laws compiled by Legislative Reference Service, Library of Congress, June 5, 1968, in case of regular requirements of State law. (A-243)

III. STATES WHICH ALLOW FORMER RESIDENTS TO VOTE IN PRESIDENTIAL ELECTIONS

Ten States permit recent, former residents to vote for President and Vice President: Alaska, Arizona, Connecticut, Michigan, New Jersey, Tennessee, Texas, Vermont, Wisconsin, and Wyoming.

In addition, the New York State Constitution (Article 2, section 9) authorizes the State legislature to allow former residents of that State to vote for President and Vice President.

Source: Alaska Statutes 1962, sec. 15.05.020 (7); Arizona Revised Statutes Annotated 1956, section 16-171; Connecticut General Statutes Annotated 1960, section 9-158; Michigan Compiled Laws Annotated 1967, section 168-758a(1)(b); New Jersey Statutes Anno-

tated 1952, section 19:58–3; Tennessee Code Annotated 1955, section 2–403; Civil Statutes of Texas Annotated (Vernon's 1968), Article 5.05b; Vermont Statutes Annotated 1958, title 17, section 67; Wisconsin Statutes Annotated (West's 1957), section 6.18; and Wyoming Statutes Annotated 1957, section 22–118.3(k)6.

IV. STATE REQUIREMENTS ON ABSENTEE BALLOTING

All States but three permit absentee voting by civilians generally. Alabama. Mississippi, and South Carolina allow only limited categories of civilians to vote absentee.

All States permit absentee balloting by servicemen.

The following 40 States[1] expressly permit absentee ballots of certain categories of their voters to be returned as late as the day of the election or even later:

Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri.

Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin.

The following 37 States[2] expressly permit certain categories of their voters to make application for absentee ballots up to seven days or less before an election:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Montana.

Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin.

Source: Legislative Reference Service, Library of Congress (1) Digest of major provisions of the laws of the States relative to absentee voting, dated September 24, 1969 (69–226A), and (2) Summary of Election Laws of the States, dated June 5, 1968 (A–243).

V. STATE REQUIREMENTS ON ABSENTEE REGISTRATION

1. Twenty-three States permit certain categories of their civilian voters to register absentee if they are away from home. One State, North Dakota, does not require civilian voters to register at all.

Twenty States allow civilians generally to register absentee: Alaska, Arizona, California, Hawaii, Idaho, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, New Mexico, New York, Oregon, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming.

Two States, Florida and Georgia, grant the privilege of absentee registration only to Federal employees who are outside the United States.

One State, Colorado, will permit voters to register members of their families who are away from home.

[1] This list includes only those States in which the statutory laws clearly satisfy this test. There may be additional States in which similar opportunities for return of absentee ballots are granted pursuant to rules or regulations issued under laws that are otherwise silent on this matter.

[2] This list includes only those States in which the statutory laws clearly permit certain voters to apply for absentee ballots within 7 days or less before an election. There may be additional States in which similar opportunities for absentee voting are granted pursuant to rules or regulations issued under laws that are otherwise silent on this matter.

2. Thirty-eight States permit servicemen to register absentee: Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

Thirteen of these States provide that a voter may apply for absentee registration at the same time he applies for an absentee ballot: California, Colorado, Connecticut, Delaware, Florida, Indiana, Massachusetts, Nevada, New Hampshire, New Mexico, New York, North Carolina, and South Dakota.

Nine of the thirty-eight States do not require registration by servicemen in advance of voting. These voters may register at the same time as they use their absentee ballot merely by completing an affidavit included with the ballot: Idaho, Iowa, Maryland, Nebraska, Oregon, Utah, Vermont, Washington, and Wyoming.

Eleven States do not require servicemen to register at all: Arkansas, Illinois, Kansas, Missouri, New Jersey, Ohio, Oklahoma, Rhode Island, Texas, Virginia, and Wisconsin.

Source: Legislative Reference Service, American Law Division, report dated September 24, 1969, as amended. (69–226A)

Mr. CANNON. Mr. President, in 1969, I introduced a bill, S. 654, to provide for voting by citizens who establish residence not later than the first day of September next prior to the date of a presidential election.

That bill also provides for voting by absentee procedures and prohibits denial of the voting privilege simply because of the absence of an absentee registration process.

During the year 1969, I cosponsored S. 2165, another bill to enfranchise citizens of the United States. This bill would permit citizens to vote for President and Vice President if they establish a residence in a State not later than 30 days next prior to the date of a presidential election.

Millions of Americans who move from one section of the Nation to another for reasons of health or economics or for any purpose are denied the right to vote even for national candidates because they are unable to meet lengthy and unreasonable residence requirements.

Pending before the Senate are measures to extend the Voting Rights Act of 1965 and to allow citizens to vote if they establish residence not later than the first day of September next prior to the date of a presidential election in a new State, or to vote in person or by absentee ballot in the State of former residence.

I approve of this provision of the bill and I will vote for it and hope that it will receive the support of every Member of this body.

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.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. Mr. President, I appreciate the kindness and the courtesy of the distinguished majority leader and the distinguished minority leader in agreeing to accept the amendment which I offered earlier today, which the Senate has seen fit to agree to.

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

Mr. ALLEN. I yield.

Mr. MANSFIELD. Mr. President, I understand the yeas and nays will be asked for on the pending amendment. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, this illustrates to my mind the desirability of and the constructive results that can be obtained from a full and thorough discussion of the matter under consideration by the Senate.

The amendment that we are discussing—the Mansfield amendment to the Scott substitute—does, of course, bear on the Voting Rights Act, since the Voting Rights Act is being used as a vehicle to secure the passage of this statutory method of amending the Constitution.

Yesterday, the Senate, after having rejected numerous amendments to the Voting Rights Act offered by the distinguished Senator from North Carolina, all of which had merit and all of which deserved adoption by the Senate, agreed to the amendment offered by the Senator from Kentucky (Mr. COOPER) which set up an additional classification to be covered by the trigger provisions of the Voting Rights Act. This was a class in addition to those brought under the act by use of the 1964 voter figures.

It looked for a time as if no amendment would be agreed to by the Senate. It looked as if no matter how meritorious an amendment was, the Senate would not accept it.

So, I am very much pleased that now we have come to an issue on which there is much greater unanimity of thought, much greater agreement on the end to be achieved—that is, to allow young people, 18 years of age and over, to vote.

The Mansfield amendment to the Scott substitute seeks to set the age requirement at 18 and to forbid the State from interfering with that limitation.

Since the Constitution gives the States the power to set the qualifications of voters, it would certainly seem to the junior Senator from Alabama that it would take a constitutional amendment to change that provision.

The senior Senator from West Virginia (Mr. RANDOLPH) has introduced a proposed constitutional amendment that is now in a subcommittee of the Judiciary Committee headed by the distinguished Senator from Indiana (Mr. BAYH). That proposed constitutional amendment has 71 or 72 cosponsors. Of course it would only take 67 to submit a constitutional amendment to the State. Upon such submission, of course, it would take a three-fourths vote of the States to obtain ratification.

I believe that this discussion here today on the age requirement has been constructive. I believe that it has highlighted and pointed out the fact that the required two-thirds majority of the Senate favors a constitutional amendment to accomplish this end.

The distinguished Senator from Indiana, favoring as he does the constitutional amendment, certainly would not be inclined to hold up the constitutional amendment in his subcommittee.

The chairman of the Senate Judiciary Committee, the distinguished Senator from Mississippi (Mr. EASTLAND), has stated that he is not going to hold up the reporting out of the proposed constitutional amendment. And we have seen how the Senate, when it decides to have a committee make a report, can do so.

On the Voting Rights Act, it was required that the chairman of that committee agree to report the bill out of his committee by March 1, before the bill was even allowed to go to his committee. So, the Senate does, in fact, have control of these situations. And there is no doubt that the amendment will be brought out of the Judiciary Committee. And with some 71 or 72 Senators as cosponsors of that proposed constitutional amendment, there seems to be little doubt that in the next few days, and if not in that time, certainly in the next few weeks, this constitutional amendment can be passed by the Senate.

So, I see no need of any haste in this matter. The only objection I have heard voiced on the floor of the Senate to reducing the voting age to 18 has been because the attempt is being made to do it by statute rather than by constitutional amendment.

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

Mr. ALLEN. I yield.

Mr. RANDOLPH. Mr. President, I realize, as does the able Senator from Alabama, the difference of opinion on the matter of constitutionality. Our approach is the time-honored avenue of the constitutional amendment, as was the case in women's suffrage. Although this rate may be slow at times it has the advantage of finality.

I wish to reemphasize for the RECORD that there are sufficient votes, and in fact a substantial majority of votes, within the Judiciary Committee to report Senate Joint Resolution 147. There are now 12 members of the 17 members of the committee who are committed as cosponsors of the resolution which is supported also by my colleague who continues to discuss this matter constructively and helpfully. But I think it is absolutely in error to indicate we are not now in a position in the Senate to move ahead rapidly with the legislative procedures necessary to approve a constitutional amendment. To say we will not be able to secure favorable committee action on the proposed constitutional amendment, I repeat, is an error. I continue to hope that the subcommittee will act promptly and that then the full committee will act promptly, so that we will be prepared to proceed expeditiously under any eventuality.

The Senator indicated this could be done in a few days or in a few weeks. Certainly I would want to believe, and I would state strongly from conversations with members of the subcommittee and the full committee, that we could expect affirmative action by the committee not later than May 15, or in that approximate bracket of time. As we consider these matters today, even those that cling to the constitutional amendment approach are not clinging to it as a delaying tactic. This must be clearly understood for the record. They are wedded to it in a sense because they believe that in a matter of this kind, as in women's suffrage, the States themselves should participate in its approval through adoption of a constitutional amendment. I think we must repeat and repeat this fact for the record.

The Senate has shown its interest in this matter not only by the vote of a few minutes ago, but also by the cosponsors of Senate Joint Resolution 147, and by the expressions of Senators here today such as a constitutional lawyer of the stature of the distinguished Senator from North Carolina (Mr. ERVIN). Although he is not a cosponsor of Senate Joint Resolution 147, he is a member of the Committee on the Judiciary, and he has said he would vote for the resolution so the Senate could work its will. Regardless of the timing, be it today or tomorrow, it is only a matter of a relatively few weeks. It is not in the 92d Congress; it is in the 91st Congress that I believe action will come regardless of what we do here today with reference to the pending amendment which has been introduced by the distinguished majority leader.

I have a feeling, and it is one that stays within me, that although we are expressing the sense of the Senate through the methodology of the statute rather than by the Constitution, we may be doing a disservice to our cause. I hope this will not be true, because we must not do that in any sense of the word. There is a fundamental issue involved here, one in which I have expressed myself since 1942, the constitutional amendment approach.

I say over and over again that there are periods when the tides come in in this country on many subjects; and whereas the atmosphere of the climate would not be conducive to the development of an idea at a certain time, it seems only a few hours later the time for that new concept to flower has come into being. So it is with this constitutional amendment; so it is with the approach by the statutory method.

We are moving now toward an action too long delayed. I compliment all Members of the Senate, regardless of the methods to be pursued, for giving thought and attention to this vital issue this afternoon. I wish to comment, as a matter of parliamentary procedure, without going to the substance of the amendment offered by our distinguished colleague from Alabama, that I think he well serves the Senate in permitting the opportunity, if Senators so desire to continue to debate and discuss this important amendment to the voting rights bill.

I believe there is no issue within that framework which has the importance of the issue now pending. It is a very sincere compliment that I extend to my colleague from Alabama.

Mr. ALLEN. I thank the distinguished senior Senator from West Virginia for his kind remarks. I appreciate, too, his statement that the opposition to this amendment is not opposition that comes from any opposition to the constitutional amendment or any opposition to the thought that it is in the best interests of this country that young men and young ladies of the age of 18 years and upward be allowed the right to vote.

I appreciate, too, his statements to the effect that the constitutional amendment that he so ably is sponsoring is in no danger of being held up, and that it will come to the floor of the Senate; that there is sufficient sentiment in the subcommittee, in the full committee, and on the floor of the Senate to pass the proper approach to this problem, a constitutional amendment. If the bill is reported out of the subcommittee, the full committee, and reaches the floor of the Senate, I am sure our distinguished and able majority leader would schedule that constitutional amendment for early action by the Senate.

So there is no rush. There is no need for rushing into this thing, going out on the thin ice of trying a statute, when all other proposals granting the franchise to groups that had not theretofore enjoyed the franchise have been by constitutional amendments.

There were the amendments after the War Between the States, there was the women's suffrage amendment and there was the abolition of the poll-tax amendment. There again the Congress, in submitting the poll-tax bar amendment for ratification by the States, confined that bar to Federal elections, whereas the amendment offered by the distinguished majority leader refers to voting age in every election throughout the country, from constable on up. It is an invasion of States rights. It is in violation of the interpretation of the Constitution which the junior Senator from Alabama makes.

Then, too, we are critical of our judiciary, and rightly so, for disregarding the Constitution, for usurping the power of the legislative and the executive departments. We are critical of them for writing laws, rather than interpreting them.

Yet the Constitution of the United States prescribes a method for amending the Constitution. It gives the right to set qualifications for electors in the respective States to vote in elections. The great State of Georgia, some 30 years ago, lowered the voting age to 18 in that State.

Either leave this to the States or submit a constitutional amendment which will leave the matter to the States collectively, in that it would take three-fourths of the States to ratify the constitutional amendment, and would not infringe upon the constitutional provisions that the States have the power to set the qualifications of the electors in their respective States.

Let us assume that the statutory method—which I say is needless, which acts in too much haste, which runs a grave risk of being declared unconstitutional—is accepted by the Senate and then is accepted by the House of Representatives, and goes into effect, according to the modification of the Mansfield

amendment, on January 1, 1971. The presidential election in 1972 is held. Shortly thereafter the Supreme Court rules that this statutory method of setting the voting age is unconstitutional. What sort of confusion would this country be in? Ten million boys and girls would have gone to the polls and voted under authority granted in this act.

Who are we to prejudge a decision of the Supreme Court? Indeed, whoever guesses at what the Supreme Court is going to hold is certainly taking a risk greater than the junior Senator from Alabama would care to take. The only thought the junior Senator from Alabama might advance would be that the Supreme Court would probably not decide a question in the same manner as the junior Senator from Alabama would decide it.

But suppose the Supreme Court, to the surprise of Senators who assure us that the Supreme Court would uphold this statute, had some changes in the Court—and we hope there will be some—and the Justices did not decide as Senators feel they would and they ruled this statutory method to be unconstitutional. There could be a near revolution in this country. Ten million voters would be disfranchised after having exercised the privilege of the franchise, nobody knowing how many had voted for which candidate or how many had voted for the other. There would be confusion compounded.

That is the risk, that is the danger, that we would run under this provision.

On the other hand, if a constitutional amendment is submitted to the States and a sufficient number ratify that amendment prior to the 1972 election, then the 18-year-old boys and girls would safely be within their rights in exercising the franchise. Yes, we want to give the young people the right of the franchise, the right to vote; but we want to do it in the right fashion. We want to do it in the manner prescribed by the Constitution.

Mr. President, one thing that has disappointed and disillusioned the junior Senator from Alabama in the short time that he has been a Member of the Senate is the tendency or the willingness on the part of a large number of elected representatives to feel that if the end, in their judgment, is meritorious and desirable, then they should adopt whatever means are necessary to accomplish that end.

The right to set the qualifications of electors or voters of the respective States is a right that is in the States, and it is not right, it is not proper, it is not constitutional, in the judgment of the junior Senator from Alabama, for the Senate, the House, or Congress itself to take that right away from the States. The junior Senator from Alabama will not vote to do this in the manner outlined in the amendment offered by the distinguished majority leader.

Yes, this is an important question. I do not know of any more important question that has come before the Senate during the time that I have served in the Senate than the main bill, House bill 4249; the Scott substitute therefor; and the Mansfield amendment to the Scott substitute. These are inherent, basic, fundamental questions. That is the reason why the junior Senator from Alabama has been unwilling to agree to a time limitation on amendments that he may desire to offer to the original bill and to the Scott substitute therefor, because the voting rights of the people are basic, fundamental, and highly important. The question of a congressional declaration that the people of my State and the people of other Southern States are, as a matter of law, discriminating against any of our citizens is a question that, I feel, deserves careful consideration.

As I suggested a moment ago, full debate on a question is good. But we have seen, although the indication was that no matter how good an amendment was, no matter how many Senators approached the sponsor and said, "I agree with you on this amendment, but I cannot vote for it—no matter how meritorious the amendments were at the outset, those amendments were voted down.

Now we have seen at least two amendments agreed to; and I believe that if this matter is discussed, if the need to perfect these amendments and these bills are pointed out, there may be hope that we can achieve a better bill on down the line.

So, Mr. President, I feel that the first step, then, is to offer such perfecting amendments as should be offered to the Mansfield amendment, get that amendment in as good shape as possible, with the Senate exercising its will on these amendments and, after getting it in as good shape as possible, then to get the Scott substitute in as good shape as possible with perfecting amendments. I see the distinguished Senator from Iowa in the Chamber; I believe he has an amendment to offer to the Scott amendment a little later. We need to get these amendments in the best possible shape before they come to a final vote.

Mr. President, as to this business of limiting time on amendments, and why the junior Senator from Alabama has been unwilling to limit the time on amendments, because of the basic and fundamental questions that are involved: Where you have an amendment, or a series of amendments, and you agree to limit time to an hour or 2 hours, and you add that time up, that means that, while you are not going to be executed today with this much time to discuss the amendments, at a time more or less certain, in the near future, you will have sentence executed against you. That is the reason I have felt that these amendments and these bills need careful and deliberate consideration.

Mr. President, I point out the fact that the Senate has used several hours here today in legitimate and constructive discussion with respect to the Mansfield amendment. Legitimate and constructive questions have been asked. I believe that the 2-hour limitation originally adopted was not sufficient to allow everyone to be heard. So the junior Senator from Alabama has offered amendments, and has been glad to share his time with any interested Senators, so that the matter can be fully heard and all avenues explored for a possible meeting of the minds with respect to this important legislation.

As I have stated, we criticize the Federal judiciary; and I suppose the junior Senator from Alabama has engaged in such criticism about as much as any other Senator, or perhaps any other citizen. But here we come along and, because everyone says, "Yes, we ought to allow the 18-year-olds to vote"—and the junior Senator from Alabama agrees with that thought—it is said, "A constitutional amendment takes too long; let us do it by statute. Let us show these young people how much we think of them. Let us show them that we are going to get them the right to vote by whatever means we deem appropriate."

But if we, the Senate, vote for the Mansfield amendment to the Scott substitute to H.R. 4249, we will be running roughshod over the Constitution of the United States.

I do not believe in breaking down State lines and making of this country one huge political entity, without giving some consideration, some respect, to the States. We have our federal system of Government. We have our 50 State governments. The Constitution of the United States placed certain powers, certain duties, certain responsibilities in those States, or in the people; and, of course, under the 10th amendment, all powers not granted to the Federal Government were reserved to the States or to the people.

We in Congress, in both the House of Representatives and the Senate, are gradually sweeping away any thought that we have got any unit of government except the monstrous bureaucratic Federal Government. I do not want to see the Constitution run over roughshod. I want to see the rights and the powers of the States protected. It is not right for us to ram anything, no matter how good we think it is, down the throats of the people, without giving them some voice in the matter. We give them voice in the matter by the constitutional amendment route. We deny them voice by going the statutory route; and that is contrary to the Constitution, in the judgment of the junior Senator from Alabama.

I was happy to ask unanimous consent today—I thought it had been granted, but on checking with the Senator from West Virginia, he advised me that while I had told him that I was in favor of his constitutional amendment, I had not asked to be named as a consponsor—to obtain unanimous consent to be named as a cosponsor of Senate Joint Resolution 147, the constitutional amendment setting the voting age at 18.

Mr. President, there is no doubt in the mind of the junior Senator from Alabama that the constitutional amendment proposed by the senior Senator from West Virginia setting the voting age at 18 will come back to the Senate, will be scheduled for early action by the majority leader, will be passed by the necessary two-thirds majority in the Senate, and that that action will take place this year.

What would be the status of this stat-

ute if we went ahead with the constitutional amendment? Would it just be in limbo? Would it occupy any type of position if the constitutional amendment is allowed to proceed and to be ratified? Which would control? This amendment has many extraneous provisions in it, as I shall point out in a moment.

That brings me at this time to the amendment I have offered. I appreciate the distinguished majority leader remaining in the Chamber, and I hope that he will agree that the amendment offered by the junior Senator from Alabama has merit and that he will accept it and urge all Senators to vote in favor of the amendment. What it does is to remove, to my mind, a vicious provision.

We are supposed to be enacting some type of civil provision of law. This amendment would allow 18-year-olds to vote. But let us look at the section we are seeking to strike. It sets up the requirement that no State can deny an 18-year-old the right to vote for that reason, and this is the language that the amendment seeks to strike:

> 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 5 years, or both.

We have here a proposed statute that would authorize the 18-year-olds to vote. Where in the world does this come from, to fine somebody $5,000 or imprison him for 5 years, or both, because he denies an 18-year-old the right to register? We have enough Federal registrars, Federal vote observers, Federal election officers, and Federal bureaucrats swarming over Alabama. They cover the State like locusts. We do not need somebody down there fining any of our citizens $5,000 or sending them to the penitentiary for not more than 5 years.

We are going to authorize by statute the voting at age 18. Let us go ahead and do that. But there is plenty of protection under the voting rights law.

I might add, with respect to the voting rights law, that last night I read a short article in a news magazine which stated in three different places that if this law is not extended by August 6 of this year, it will expire. That is absolutely incorrect and absolutely fallacious.

Not a single provision of the 19 provisions of the Voting Rights Act of 1965 expires. They are there, all 19 provisions, for all time, until repealed or changed in some way.

What the amendment offered by the distinguished Senator from Pennsylvania, the Republican leader, seeks to do is to change the measure or the degree of the amount of proof required by a State to come out from under the provisions, and they change that from 5 years' to 10 years' proof of nondiscrimination. So they say, "All we want to do is to extend the Voting Rights Act for another 5 years." That is not correct. What they are seeking to do is to change the measure of proof, change the length of the sentence, change the sentence from a 5-year sentence to a 10-year sentence.

It is as though a criminal convicted of an offense had been sentenced to the peniteniary for 5 years, and just when he gets near the end of his sentence, they come in and say, "Wait a minute. You're about ready to be turned loose here. We're changing that sentence from 5 years to 10 years." That is what the Scott amendment does.

Under the Voting Rights Act there are ample provisions in the law to protect any 18-year-old who desires to vote, if the Mansfield amendment to the Scott amendment is adopted, the Scott amendment to the House bill is then adopted, and then the bill is passed.

Mr. President, in connection with the injustice of a separate provision different from the general law with respect to rights conferred on those who are enfranchised under the provisions of this statute, as the junior Senator from Alabama has pointed out, he feels that a $5,000 fine and 5 years in a Federal penitentiary for denying or attempting to deny any person the right to vote is a special concession and provision that should not be given to 18-year-olds, any more than it should be given to 21-year-old citizens.

Why should a special section be set up?

So that is the purpose of the amendment offered by the junior Senator from Alabama, to eliminate that penal section and to put the 18-year-old boys and girls under the same general law as adults. We have enough already in the general law, and in the voting rights law, to send a man to the penitentiary for the rest of his life, so why do we need an added $5,000 fine and 5 years in the penitentiary?

So that is the effect of the amendment offered at this time by the junior Senator from Alabama.

Now, Mr. President, the Senator from Indiana (Mr. BAYH), who is chairman of the subcommittee on the Judiciary Committee that presently has this bill, and who is presently holding hearings on Senate Joint Resolution 147, the constitutional amendment authored by the Senator from West Virginia (Mr. RANDOLPH). I do not feel that it would be the thing to do to pass a statute in effect to take this issue, to take this grant of the franchise to 18-year-olds, away from the distinguished Senator from Indiana.

I know that he favors the constitutional amendment. I know that in a short while he will report out that amendment and that it will be reported, as promised, by the Senator from Mississippi (Mr. EASTLAND), chairman of the Judiciary Committee, at an early date, when it comes back to the full committee and, as he stated, I am sure that the distinguished majority leader would schedule the bill for early action. With 72 Senators cosponsors of the bill, I feel sure that there would be no difficulty in getting the required two-thirds vote. I do not believe, actually, that it would take 67. Senators will correct me if I am wrong. I do not believe it takes 67 votes, but only a two-thirds vote of those actually voting. So that if some few were missing, it would still be sufficient to pass the constitutional amendment.

Thus, Mr. President, I urge Members of the Senate to be patient with the committee system. The junior Senator from Alabama is very much impressed with the committee system of the Senate. He likes to see these measures considered by one of the able and outstanding Senate committees. The subcommittee headed by the Senator from Indiana (Mr. BAYH) is one of the ablest of our committees, as is the Judiciary Committee as a whole.

So that I feel sure that the constitutional amendment will be reported out in time to be voted on in the 91st Congress, and submitted to the States for such action as they might see fit. I do not believe—and here again, I am sure that if the junior Senator from Alabama is in error, he will be corrected—but I do not believe that this provision, important as it is, comes to the Senate with the recommendation of one of the Senate's standing committees. If I am wrong on that, I sincerely hope that I will be corrected. But this provision does not come to the Senate with the recommendation of a standing committee, whereas the constitutional amendment will come to the Senate with the recommendation of the Judiciary Committee.

I believe that, inexperienced as is the junior Senator from Alabama in the operation of the committee system, he believes in it implicitly and he would like to see one of the Senate's standing committees—I assume that the Judiciary Committee would have jurisdiction over that—consider and report this statute.

The PRESIDING OFFICER. All time of the Senator from Alabama has now expired.

Mr. ALLEN. Well, Mr. President, I hope, then, on a later amendment, that I will be able to conclude my remarks.

Mr. MANSFIELD. Mr. President, the amendment offered by the distinguished Senator from Alabama seeks to do away with the penalty provisions contained in the amendment which provisions coincide with the General Voting Rights Act of 1965 and which are also contained in the Scott-Hart amendment.

I think that what is contemplated is a defanging of the proposal to give 18-, 19-, and 20-year-olds the right to vote.

Mr. President, I yield back the remainder of my time and urge the defeat of the pending amendment.

The PRESIDING OFFICER. All time has been yielded back on this amendment.

The question is on agreeing to the amendment to the amendment of the Senator from Alabama.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), 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.

On this vote, the Senator from Georgia (Mr. RUSSELL) is paired with the Senator from Alaska (Mr. GRAVEL). If present and voting, the Senator from Georgia

would vote "yea" and the Senator from Alaska would vote "nay."

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

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 22, nays 66, as follows:

[No. 94 Leg.]

YEAS—22

Allen	Fannin	Sparkman
Bennett	Goldwater	Spong
Byrd, Va.	Holland	Stennis
Cotton	Hollings	Talmadge
Curtis	Hruska	Thurmond
Eastland	Jordan, N.C.	Tower
Ellender	Long	
Ervin	McClellan	

NAYS—66

Aiken	Gore	Moss
Allott	Griffin	Murphy
Anderson	Hansen	Muskie
Bayh	Harris	Packwood
Bellmon	Hart	Pastore
Bible	Hartke	Pearson
Boggs	Hatfield	Pell
Brooke	Hughes	Percy
Burdick	Inouye	Prouty
Byrd, W. Va.	Jackson	Proxmire
Cannon	Javits	Randolph
Case	Jordan, Idaho	Schweiker
Church	Kennedy	Scott
Cook	Magnuson	Smith, Maine
Cooper	Mansfield	Stevens
Cranston	Mathias	Symington
Dole	McGee	Tydings
Dominick	McGovern	Williams, Del.
Eagleton	McIntyre	Williams, N.J.
Fong	Miller	Yarborough
Fulbright	Mondale	Young, N. Dak.
Goodell	Montoya	Young, Ohio

NOT VOTING—12

Baker	McCarthy	Ribicoff
Dodd	Metcalf	Russell
Gravel	Mundt	Saxbe
Gurney	Nelson	Smith, Ill.

So Mr. ALLEN's amendment to Mr. MANSFIELD's amendment was rejected.

COSPONSORS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the names of the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. YARBOROUGH), the Senator from North Dakota (Mr. YOUNG), the Senator from New York (Mr. GOODELL), and the Senator from Rhode Island (Mr. PASTORE) be added as cosponsors of amendment No. 545.

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

Mr. ALLEN. Mr. President, I send to the desk a perfecting amendment to the Mansfield amendment and ask that it be stated.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The amendment will be stated.

The legislative clerk read as follows:

Amend section 305 to read as follows:

Section 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1973.

Mr. ALLEN. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ALLEN. Mr. President, this is another perfecting amendment, being offered in an effort to literally help improve the amendment offered by the distinguished Senator from Montana, the able and eminent majority leader. It would postpone the operation date, the effective date of the amendment until January 1, 1973, the thought being that the presidential election of 1972 will have been held——

The PRESIDING OFFICER (Mr. SCHWEIKER). The Chair will state that the pending amendment has not been drafted properly. At this point in the procedure it is not in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief quorum call so that the Senator from Alabama may straighten out the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I yield 3 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

ENERGY: RESEARCH AND DEVELOPMENT INCENTIVES

Mr. HANSEN. Mr. President, in the last several months, the Committee on Interior and Insular Affairs' Subcommittee on Minerals, Materials, and Fuels has conducted hearings into various methods of meeting our energy needs, both present and future.

Having attended these hearings of the subcommittee, I have become alarmed at the growing inability of the United States to meet its ever-increasing energy needs. The subcommittee has heard evidence of a potential natural gas shortage. The best available estimates are that today's electric generating capacity of 290 million kilowatts will at least double by 1980. It will be close to 1 billion kilowatts by 1990. While we recognize the need to increase generating capacity, we are now acutely aware of the need to prevent this increased capacity from adding to the pollution of our environment. Air and water pollution are no longer acceptable to our society, and we must pay the price necessary to protect our surroundings. Presently no one wants a powerplant built in his area. We must find a means of providing sufficient electric power to meet the growing demand in a manner that is consistent with the President's commitment to enhance the environment.

The answer is increased research and development to control the pollution aspects of power generating systems and to develop new systems which do not pollute the environment. This effort cannot be undertaken by government alone—industry must play its part.

I have read with great interest the comments of my good friend and colleague the distinguished junior Senator from Montana concerning the research efforts of the utility industry. Senator METCALF stated that utilities can include all research and development in their operating costs. First, I want to note with pride that Pacific Power & Light operating in my own State of Wyoming is one of the most progressive companies spending over $376,000 for research and development in 1968. But I do feel it necessary to point out that, far from encouraging research and development, some of the present Government-imposed accounting procedures for regulated utilities have hindered research and development efforts of utility companies.

The Federal Power Commission, under the able and farsighted leadership of its new Chairman, John Nassikas, has recently recognized that its accounting and ratemaking policies have created a misunderstanding regarding the treatment of unsuccessful research and development costs that may tend to inhibit activties. In addition, significant expenditures are deterred by uncertainty on the FPC's ratemaking and accounting policy. The general inability of utilities to earn a return on significant expenditures for special projects and the frequent inability of utilities to recover research expenditures when a project is abandoned or when the costs are not at the same level each year deter research and development efforts by the utility industry. The FPC has said that it believes a more flexible approach may meet the regulatory need to stimulate expenditures for research and development and yet remain within the boundaries of sound regulatory accounting. The Commission has published a rulemaking notice asking for comments on two alternative methods for the initial recording of research and development costs.

Mr. President, on Monday, February 23, 1970, the Minerals, Materials, and Fuels Subcommittee heard testimony from Hollis Dole, Assistant Secretary of the Interior for Mineral Resources regarding MHD, a revolutionary concept of power generation. During the course of the hearings, I asked Secretary Dole:

Would it be your recommendation, if you were called upon to recommend, that the accounting rules and the treatment by IRS and by regulatory agencies, both state and federal, be changed to permit the inclusion of a research program as a proper expense that should be reflected in consumer power rates if we are going to have the kind of program you think is necessary in order to assure the adequacy of our future power supply?

Secretary Dole replied:

Senator Hansen, this certainly would be my recommendation . . . We feel that there

must be a joint industry-government research effort that should be enlarged if we are going to meet the challenges of the environment of the producing of the materials that this increasing population demands, there has to be an increase in the amount of basic research being done by government and by industry. However the distinguished Chairman of the Subcommittee at this point stated: "It is my understanding this expenditure is an allowable expense applicable as part of the base rate. The Senator from Montana made a speech a while ago pointing out that this was a proper expense and properly treated it as such, and so it is available to utilities to do so. This is my understanding from his speech."

Mr. President, I am concerned that the statement of the junior Senator from Montana has left my colleagues with the mistaken impression that the accounting principles now set down by the Government should encourage research and development by utilities because utilities can include all research and development in the operating costs. This is not the same as including the expenditures as a rate base item and does not provide the same incentive.

I have here a release from the Federal Power Commission describing the FPC proposals to clarify accounting and ratemaking policies on research and development. I ask unanimous consent that this release be included in the RECORD at the close of my statement.

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

(See exhibit 1.)

Mr. HANSEN. Mr. President, I would like to point out that the money spent on research and development cannot presently be included in the rate base. The new proposal would permit the unamortized or undepreciated portion of the expenditures to be considered as a rate base item. Permitting the item to be included in the operating costs is misleading because expenditures for research and development fluctuate from year to year. The present ratemaking procedures do not take this fluctuation into account. The rates are set in a manner to permit a certain return on investment after expenses. The rate may be set to recognize a yearly expenditure by the utility for research and development of $100,000. But the rate is set to apply to a period of years. It is not changed from year to year because the actual expenditure for research and development varies. Therefore, if the utility spends $500,000 in 1 year for research, $400,000 of this expenditure must be paid for out of the regulated profit margin since only $100,000 per year was scheduled for research and development when the rates were established. This situation might continue for a number of years due to regulatory lag. Instead of passing the expense on to the user as is done by unregulated industries, the stockholders of the utility are forced to absorb the excess expenditure. Oftentimes, rather than cut profits, the decision is made not to make the expenditure at all.

Under the new FPC proposal, the $400,000 spent above the anticipated expenditure would be amortized over several years. The unamortized portion of the expenditure would be treated as a rate base item so that the utility can earn a fair return on the expenditure until it has been completely amortized.

Research and development costs are recognized as a legitimate expense of nonregulated companies. In addition, nonregulated companies can invest in research and development expecting it to increase their profits. However, the profits of a utility are set by the Government, and therefore an expenditure for research and development cannot be expected to increase the utility's profits.

I congratulate the FPC for its proposals to change the accounting methods and procedures presently used. All of our citizens are greatly concerned about environment control and the need to develop methods of pollution prevention. Our citizens are willing to pay the cost of controlling pollution. Up until now, we have deferred this cost for future generations to pay and have accepted pollution. We should now recognize that the rate charged to customers for electricity should contain a charge for pollution control. By permitting research and development to be accounted for in a manner which will be reflected in the rate base, the Federal Power Commission will stimulate greatly needed research and development by the regulated utility industry. In addition, we will be paying for the protection of our environment as we go, instead of deferring it for future generations to pay.

Mr. President, I hope that this statement will help set the record straight. It is important to recognize the contributions the utility industry has made to this Nation by providing adequate power to meet our energy needs.

It is important to recognize the fine work being done by the FPC to correct accounting and ratemaking policies which in the past have inhibited research and development activities.

I am sure that the FPC action will encourage and enable the utility industry to make a great contribution to the efforts to preserve and protect our environment.

EXHIBIT 1

FPC PROPOSES TO CLARIFY ACCOUNTING AND RATEMAKING POLICIES ON RESEARCH AND DEVELOPMENT

The Federal Power Commission announced today that it is proposing to clarify its accounting and ratemaking policies to encourage more extensive research and development activities by electric and gas utilities.

The FPC said it believes it would be beneficial to both the consumer and the industry if research and development expenditures were treated so that they are fully recoverable through charges to operating expenses either currently or over a period of years, and the utility can earn a return on unrecovered expenditures.

The Commission said its policy on accounting and ratemaking treatment of research and development expenditures should be consistent, provided it is consistent with evidence developed in individual cases. The FPC noted that under its regulations, utilities have the option of receiving a formal FPC ruling on their proposed accounting for research and development.

The Commission's rulemaking notice today proposes amendments to the FPC's Uniform Systems of Accounts for gas and electric utilities to aid in achieving a comprehensive research and development program. The FPC pointed out that the utilities' research and development activities have been at an "apparently low level" in recent years.

Technological advances must be made by the gas and power industries, the FPC said. The Commission said that clarification of its existing accounting and ratemaking policies "might well provide encouragement for more extensive research and development activities."

The FPC said it recognized that there is some misunderstanding in its present accounting treatment of unsuccessful research and development costs that may tend to inhibit activities. Primary research projects extending over a period of years involving significant expenditures are deterred by uncertainty on the FPC's ratemaking and accounting policies, the general inability of utilities to earn a return on significant expenditures for special projects, and the frequent inability of utilities to recover research expenditures when a project is abandoned or when the costs are not at the same level each year, the Commission said.

While strict accounting principles may dictate that research expenditures be charged off in the year incurred, the FPC said it believed a more flexible approach may meet the regulatory need to stimulate these expenditures and yet remain within the boundaries of sound regulatory accounting.

The Commission's rulemaking notice asks for comments on two alternative methods for the initial recording of research and development costs.

Under the first alternative the proposed accounting would treat these expenditures as deferred debits, recognizing that the account in this category is generally preferred under sound accounting principles. The remaining balance in the deferred debit account at the end of the accounting period would be given consideration as a rate base item in any rate proceeding before the FPC.

Another treatment proposed under the first alternative for the remaining balances in the deferred debit account at the end of the accounting period would be to allow the accumulation of "carrying charges" on these balances rather than allowing them to be considered as a rate base item. The accumulation of these carrying charges would cease when the research project is completed and the amounts have been transferred from this account.

The second alternative would place the proposed expenditures under a plant account category. While this is not a preferred accounting treatment, the FPC said, this method may give more assurance to utilities that these accounts will receive consideration as a rate base item.

In addition to the changes in the Uniform Systems of Accounts, the FPC is also proposing to revise the annual report forms used by electric and gas utilities to provide the new information on research and development activities.

Interested parties have until March 16 to submit their views and comments on the rulemaking proposal.

NOTICE OF PROPOSED AMENDMENTS OF THE UNIFORM SYSTEM OF ACCOUNTS UNDER THE FEDERAL POWER ACT AND THE NATURAL GAS ACT TO REFLECT CHANGES IN ACCOUNTING TREATMENT OF RESEARCH AND DEVELOPMENT EXPENDITURES

1. Notice is hereby given, pursuant to Section 553 of Title 5 of the United States Code and Sections 301, 302, 303, 304, 309 of the Federal Power Act, as amended, (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825a, 825b, 825c, 825h) and Sections 8, 9, 10, and 16 of the Natural Gas Act, as amended (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717i, 717o) that the Federal Power Commission proposes to designate in its Uniform System of Accounts (USA) a specific account entitled "Research

and Development Expenditures". The Proposed Account would include all costs falling within the definition of research and development contained in the Uniform System of Accounts for Natural Gas Companies and Public Utilities and Licensees.

2. This proposed rulemaking originates from a review by the Commission of its accounting and ratemaking treatment of expenditures made by natural gas and electric utility companies for research and development activities. The following tabulation highlights the apparently low level of such expenditures by showing the relationship between expenditures for research and development and total utility operating revenues for the respective industries as reported to the Commission:

Year	Tota operating revenues	Research and development expenditures	Percentage of operating revenues
Natural gas industry:			
1968	$6,686,982,000	$7,965,601	0.119
1967	6,193,960,000	7,012,603	.113
1966	5,880,954,000	5,729,319	.097

Year	Total operating revenues	Research and development expenditures	Percentage of operating revenues
Electric power industry:			
1968	$16,521,285,000	$38,389,361	0.232
1967	15,224,931,000	36,878,127	.242
1966	14,374,168,000	38,682,957	.269

The Commission believes that technological advances must be made by the respective industries and the Commission is considering adopting policies which will encourage a greater research commitment by industry. We believe that clarification of our existing accounting and rate-making policies might well provide encouragement for more extensive research and development activities.

3. At present, the Uniform Systems of Accounts have no requirement or provision for separate accounting treatment of research and development expenditures. The system contemplates such research and development expenditures will be charged in the year expended to Administrative and General Expenses, Account 930, Miscellaneous General Expense, an operating expense account. In the past the Uniform Systems of Accounts have specifically held "experimental and general research of the industry" properly chargeable to Miscellaneous General Expenses.

4. One exception to the above general rule that research and development expenditures are to be written off currently is found in the case of certain "preliminary survey and investigation charges" (Account 183). The cost of preliminary surveys and investigations that result in successful projects are presently capitalized by the Commission. The Commission's accounting and ratemaking procedures therefore provide for recovery of the costs of successful projects through periodic charges for depreciation and amortization. A reasonable rate of return on the investment represented by the remaining unrecovered costs is allowed in the company's rates. The costs of initial surveys and investigations that result in unsuccessful projects may be expensed and recovered in the cost of service. This policy was reiterated in the case of Northern States Power Company's "Pathfinder" Project. The Commission authorized the company to amortize a 9.5 million dollar loss resulting from termination of its experimental nuclear power plant, over a ten year period by charges to operating expenses. The Commission announced "utilities normally will be permitted to charge off as operating expenses for accounting purposes costs resulting from their research and development activities reasonably entered into for the benefit of their utility operations." The Commission indicated such expenditures would be given consideration as rate base items.

5. The Commission recognizes that there is some misunderstanding in its present accounting treatment of unsuccessful research and development costs that may tend to inhibit levels of research and development activity. Primary research projects extending over a period of years encompassing significant expenditures are deterred by (1) uncertainty of the Commission's ratemaking and accounting policies, (2) general inability of utilities to earn a return on significant expenditures for special research and development projects, and (3) the frequent inability of utilities to recover research and expenditures when a project is abandoned or when such expenditures are not at the same level each year.

6. The Commission is considering amendments to the Uniform Systems of Accounts to aid in achieving a comprehensive research and development program. While strict accounting principles may dictate that research expenditures be charged off in the year incurred, the Commission believes a more flexible approach may meet the regulatory need to stimulate such research and development expenditures, and yet remain within the boundaries of sound regulatory accounting. The Commission believes it to be beneficial to both the consumer and the industry that research and development expenditures should be treated whereby (1) the expenditures are fully recoverable through charges to operating expenses either currently or over a period of years, and (2) the utility will be able to earn a return on unrecovered expenditures. The utilities' research and development activities must be reasonably associated to the benefit of utility operations.

7. For the reasons above, the Commission is considering amending the Uniform Systems of Accounts for electric utility companies and licensees, and natural gas companies to designate a new account entitled "Research and Development Expenditures". The texts of proposed accounts are contained in Attachment A. In the proposals as set out in Attachment A there are two alternative methods for the initial recording of research and development costs. The Commission requests comments submitted by interested parties as to the most suitable method.

8a. Under the first alternative, the proposed accounting is to treat the expenditures as deferred debits (Account 188). This method recognizes that the account as a deferred debit category is generally preferred under sound accounting principles. The remaining balance in the deferred debit account at the end of any accounting period would be given consideration as a rate base item in any rate proceeding before the Commission.

8b. Another treatment that may be given to the remaining balances in the deferred debit account at the end of the accounting period is to allow the accumulation of "carrying charges" on such balances rather than allowing such balances to be considered as a rate base item. These carrying charges would be computed in the same manner as "interest during construction," as defined in gas (electric) plant instruction 3(17). The accumulation of carrying charges would cease when the research project is completed or the amounts have been transferred from this account.

9. The second alternative would place the proposed expenditures under a plant account category (Account 107.1). While this is not a preferred accounting treatment, this method may give more assurance to utilities that such amounts will receive consideration as a rate base item.

10. The present instructions in the Uniform System of Accounts limit the recording of research and development expenditures to account 930 which is an administrative and general expense category. However, the Commission believes that such charges should be made whenever possible to the functional operating classification related to such activity. Therefore, the Commission proposes the changes set forth in Attachment B that provide for such accounting.

11. In addition to the foregoing, the Commission will need additional reporting. Attachment C shows the modifications deemed necessary to the present reporting schedules for research and development activities that will provide such information.

12. It is the Commission's policy that the accounting and ratemaking treatment of research and development expenditures should be consistent, provided that such treatment is consistent with the evidence developed in the individual cases. Utilities do have the option, in a specific case, of receiving a formal Commission ruling on the utilities' proposed accounting for research and development in Part 41 of the Commission's Regulations under the Federal Power Act and Part 158 of the Regulations under the Natural Gas Act.

13. These amendments to the Commission's Uniform Systems of Accounts set out in Attachments A, B, and C are proposed to be issued under the authority granted by the Federal Power Act, as amended, particularly Sections 301, 302, 303, 304 and 309 thereof (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825a, 825b, 825c, 825h) and by the Natural Gas Act as amended, particularly Sections 8, 9, 10 and 16 thereof (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717i, 717o).

14. Any interested party may submit to the Federal Power Commission, Washington, D.C. 20426, on or before March 16, 1970, views and comments in writing concerning the amendments here proposed and the attachments thereto. Any such submittal should contain the name, title, and mailing address of the person or persons to whom communications concerning the matter should be addressed. An original and fourteen conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before issuing an order in the proceeding.

15. The Secretary shall cause prompt publication of this notice in the Federal Register.

By direction of the Commission.

GORDON M. GRANT,
Secretary.

NATURAL GAS COMPANIES

The proposed changes would amend the Balance Sheet Accounts in Part 201, Subchapter F, Accounts, Natural Gas Act, Chapter 1, Title 18 of the Code of Federal Regulations to add the following new account:

Research and development expenditures

A. This account shall include the cost of all expenditures coming within the meaning of Definition 24.B of the Uniform System of Accounts. (18 CFR Part 201, Definitions).

B. Costs that are minor or of a general or recurring nature shall be transferred from this account of the appropriate operating expense function or if such costs are common to the overall operations or cannot be feasibly allocated to the various operating ac-

counts, then such costs shall be recorded in Account 930, Miscellaneous General Expenses. (18 CFR Part 201, Operation and Maintenance Expense Accounts).

C. Expenditures on projects which the company believes will result in successful construction and are significant will be retained in this account until ready for service, at which time the total costs will be transferred to the appropriate plant account.

D. In certain instances a company may incur large and significant unsuccessful research expenditures which are nonrecurring and which would distort the annual research and development charges for the period. In such a case the portion of such amounts that cause the distortion may be amortized to the appropriate operating expense account over a period not to exceed five years.

E. The entries in this account must be so maintained as to show separately each project along with complete detail of the nature and purpose of the research and development project together with the related costs.

2. Additional note to be added to the above if "carrying charges" are allowed on successful projects as follows (applicable only to account 188):

Add: Note: Carrying charges may be accumulated on those projects which the company has good assurances will result in successful construction. The carrying charges will be computed in the same manner as "interest during construction" as defined in gas plant instruction 3(17). The accumulation of carrying charges must cease upon the completion of the construction and when it is ready to be placed in service. Detailed computations on the carrying charges must be maintained and readily available for Commission review.

Alternative 1. If this account is included in the group of Balance Sheet Accounts classified under "4. Deferred Debits" it will be given account number 188.

Alternative 2. If this account is included in the group of Balance Sheet Accounts classified under "1. Utility Plant" it will be given account number 107.1.

PUBLIC UTILITIES AND LICENSEES

The proposed changes would amend the Balance Sheet Accounts in Part 101, Subchapter C, Accounts, Federal Power Act, Chapter 1; Title 18 Of the Code of Federal Regulations to add the following new account.

Research and development expenditures

A. This account shall include the cost of all expenditures coming within the meaning of Definition 27.B of the Uniform System of Accounts. (18 CFR Part 101, Definitions).

B. Costs that are minor or of a general or recurring nature shall be transferred from this account to the appropriate operating expense function or if such costs are common to the overall operations or cannot be feasibly allocated to the various operating accounts, then such costs shall be recorded in Account 930, Miscellaneous General Expenses. (18 CFR Part 101, Operation and Maintenance Expense Accounts)

C. Expenditures on projects which the company believes will result in successful construction and are significant will be retained in this account until ready for service, at which time the total costs will be transferred to the appropriate plant account.

D. In certain instances a company may incur large and significant unsuccessful research expenditures which are nonrecurring and which would distort the annual research and development charges for the period. In such a case the portion of such amounts that cause the distortion may be amortized to the appropriate operating expense account over a period not to exceed five years.

E. The entries in this account must be so maintained as to show separately each project along with complete detail of the nature and purpose of the research and development project together with the related costs.

2. Additional note to be added to the above if "carrying charges" are allowed on successful projects as follows (applicable only to Account 188)

Add: Note: Carrying charges may be accumulated on those projects which the company has good assurances will result in successful construction. The carrying charges will be computed in the same manner as "interest during construction" as defined in electric plant instruction 3(17). The accumulation of carrying charges must cease upon the completion of the construction and when it is ready to be placed in service. Detailed computations on the carrying charges must be maintained and readily available for Commission review.

Alternative 1. If this account is included in the group of Balance Sheet Accounts classified under "4. Deferred Debits" it will be given account number 188.

Alternative 2. If this account is included in the group of Balance Sheet Accounts classified under "1. Utility Plant" it will be given account number 107.1.

The Commission proposes to make the following amendments to Part 101, Uniform System of Accounts prescribed for Class A and Class B Public Utilities and Licensees, Subchapter C, Account, Federal Power Act. Chapter 1, Title 18 of the Code of Federal Regulations:

Operation and maintenance expense accounts

* * * * *

506 Miscellaneous steam power expenses.
This account is amended by adding the following to the list of items:
14. Research and development expenses.

* * * * *

524 Miscellaneous nuclear power expenses.
This account is amended by adding the following to the list of items:
14. Research and development expenses.

* * * * *

539 Miscellaneous hydraulic power generation expenses.
This account is amended by adding the following to the list of items:
16. Research and development expenses.

* * * * *

549 Miscellaneous other power generation expenses.
This account is amended by adding the following to the list of accounts:
16. Research and development expenses.

* * * * *

566 Miscellaneous transmission expenses.
This account is amended by adding the following to the list of items:
14. Research and development expenses.

* * * * *

588 Miscellaneous distribution expenses.
This account is amended by adding the following to the list of items:
13. Research and development expenses.

* * * * *

930 Miscellaneous general expenses.
This account is amended by deleting item 4 from the list of items and substituting the following therefor:

4. Research and development expenses not charged to other operation and maintenance expense accounts on a functional basis.

The Commission proposes to make the following amendments to Part 201, Uniform System of Accounts for Natural Gas Companies, Subchapter F, Accounts, Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations.

Operation and maintenance expense accounts

* * * * *

703 Miscellaneous steam expenses.
This account is amended by adding the following to the list of items:
12. Research and development expenses.

* * * * *

735 Miscellaneous production expenses.
This account is amended by adding the following to the list of items:
32. Research and development expenses.

* * * * *

759 Other expenses.
This account is amended by adding the following to the list of items:
5. Research and development expenses.

* * * * *

776 Operations supplies and expenses.
This account is amended by adding the following to the list of items:
8. Research and development expenses.

* * * * *

813 Other gas supply expenses.
Amend text of account to read as follows:
This account shall include the cost of labor and materials used and expenses incurred in connection with gas supply functions not provided for in any of the above accounts, including research and development expenses.

* * * * *

824 Other expenses.
Amend text of account to read as follows:
This account shall include the cost of labor, materials used and expenses incurred in operating underground storage plant, and other underground storage operating expenses, not includible in any of the foregoing accounts, including research and development expenses.

* * * * *

840 Operation labor and expenses.
This account is amended by adding the following item to the list of items:
17. Research and development expenses.

* * * * *

859 Other expenses.
Amend text of account to read as follows:
This account shall include the cost of labor, material used and expenses incurred in operating transmission system equipment and other transmission system expenses not includible in any of the foregoing accounts, to include research and development expenses.

* * * * *

880 Other expenses.
Amend text of account to read as follows:
This account shall include the cost of distribution maps and records, distribution office expenses, and the cost of labor and materials used and expenses incurred in distribution system operations not provided for elsewhere, including the expenses of operating street lighting systems and research and development expenses.

* * * * *

930 Miscellaneous general expenses.
This account is amended by deleting item 4 from the list of items and substituting the following therefor:

4. Research and development expenses not charged to other operation and maintenance expense accounts on a functional basis.

RESEARCH AND DEVELOPMENT ACTIVITIES

1. Describe and show below costs incurred and accounts charged during the year for technological research and development projects initiated, continued or concluded during the year. Report also support to others during the year for jointly-sponsored projects. (Recipient must be identified if affiliated.) For any research and development work carried on by the respondent in which there is a sharing of costs with others, show separately the respondent's cost for the year and cost chargeable to others. (See definition of research and development in Uniform System of Accounts.)

2. Indicate in column (a) applicable clas-

sification, as shown below; list in column (b) projects costing $5,000 or more, briefly describing the specific area of research or development (such as for safety, automation, type of appliance, pollution, corrosion, insulation, etc.). Items under $5,000 may be grouped by classifications.

A. Electric Utility R & D Performed Within Company:

(1) Power Plants—

a. Hydro.

b. Fossil Fuel Steam.

c. Internal Combustion.

d. Atomic.

e. Direct Conversion.

(2) System Planning, Engineering and Operation.

(3) Transmission (indicate overhead and underground projects separately).

(4) Distribution.

(5) Other (including items in excess of $5,000).

(6) Total Cost Incurred.

B. Electric Utility R & D Performed Outside the Company.

(1) Research Support to the Electric Research Council.

(2) Research Support to Edison Electric Institute.

(3) Research Support to Nuclear Power Groups.

(4) Research Support to Others.

(5) Other (including items in excess of $5,000).

(6) Total Cost Incurred.

3. Show in column (c) all costs incurred during the current year.

Show in column (d) the account number charged with expenses during the year or the account to which amounts were capitalized during the year. Show in column (e) the amounts related to the account charged in column (d). Show in column (f) the total unamortized accumulation of costs of projects considered will be "successful." The total of column (f) will equal the balance in Account 188, Research and Development Expenditures,* outstanding at the end of the year.

4. If costs have not been segregated for research and development activities or projects, estimates may be submitted for columns (c) and (e), with such amounts identified by "Est.".

5. Report separately research and related testing facilities operated by the respondent.

1. Describe and show below costs incurred and accounts charged during the year for technological research and development projects initiated, continued or concluded during the year. Report also support to others during the year for jointly-sponsored projects. (Recipient must be identified if affiliated.) For any research and development work carried on by the respondent in which there is a sharing of costs with others, show separately the respondent's cost for the year and cost chargeable to others. (See definition of research and development in Uniform System of Accounts.)

2. Indicate in column (a) applicable classification, as shown below; list in column (b) projects costing $5,000 or more, briefly describing the specific area of research or development (such as for safety, corrosion control, automation, measurement, type of appliance, etc.). Items under $5,000 may be grouped by classifications.

A. Gas R & D Performed Within Company:

(1) Pipeline—

a. Design.

b. Efficiency.

(2) Compressor Station—

a. Design.

b. Efficiency.

(3) System Planning, Engineering and Operation.

(4) Transmission Control and Dispatching.

(5) Underground Storage.

(6) Other storage.

(7) New Appliances and New Uses.

(8) Other.

(9) Total Cost Incurred.

B. Gas R & D Performed Outside the Company:

(1) Research Support to American Gas Association.

(2) Research Support Others.

(3) Other.

(4) Total cost incurred.

3. Show in column (c) all costs incurred during the current year.

Show in column (d) the account number charged with expenses during the year or the account to which amounts are capitalized during the year. Show in column (e) the amounts related to the account charged in column (d). Show in column (f) the total amortized accumulation of costs of projects considered will be "successful." The total of column (f) will equal the balance in Account 188, Research and Development Expenditures, outstanding at the end of the year.

4. If costs have not been segregated for research and development activities or projects, estimates may be submitted for columns (c) and (e), with such amounts identified by "Est."

5. Report separately research and related testing facilities operated by the respondent.

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. ALLEN. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, strike out lines 19 and 20.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, the effect of this amendment is to strike out section (3), lines 19 and 20, on page 2 of the printed amendment.

This is a finding by the Congress that the setting of a voting age qualification throughout the country, in every single election, Federal, State, and local, from sheriff or constable on up to President of the United States, does not bear a reasonable relationship to any compelling State interest. If the States are not interested in setting the qualifications of their electors, they take no interest in a power and responsibility that is imposed upon them by the Constitution of the United States.

I do not believe that the Senate should go on record as making the finding that the setting of voter qualifications in the respective States does not bear a reasonable relationship to any compelling State interest.

It is a State interest that the States have had and enjoyed since 1789. It is a State interest that in every instance where a change was made by the National Government or initiated by Congress, a constitutional amendment was required and used. So if the States have no interest in this matter, they would be going contrary to the Constitution of the United States.

Since coming to the Senate, I have been somewhat disappointed and disillusioned by the willingness of many Members of Congress to use any means that they thought advisable in order to attain an end which to them seemed desirable.

Mr. KENNEDY. Mr. President, will the Senator yield for a request for the yeas and nays?

Mr. ALLEN. I yield for that purpose.

Mr. KENNEDY. Mr. President, without the Senator from Alabama (Mr. ALLEN) losing his right to the floor, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Alabama will proceed.

Mr. ALLEN. Mr. President, there are four sections of the U.S. Constitution that give to the States, or by necessary inference give to the States, the right to set the qualifications of voters within the boundaries of the respective States.

Article I, section 2, article II, section 1, the 17th amendment, and the 10th amendment—all of these provisions bear on the qualifications to be set by the respective States of the voters within the boundaries of their States.

This rule, this procedure, this policy, this constitutional requirement, has worked well under our Constitution since its adoption in 1789.

Some States have different qualifications. The State of Georgia has a provision that 18-year-olds may vote, and has had it for some 30 years. If the State of Georgia wants to provide an 18-age-voting requirement, it should have that right.

I favor setting the voting age at 18. I feel that boys and girls of that age are better informed, take a greater interest in government, in public affairs, in civic affairs, than many of us did when we were of that age.

Then, too, in my own State of Alabama, by act of Congress, our registrars, both State and Federal——

The PRESIDING OFFICER. Does the Senator from Alabama suggest the absence of a quorum?

Mr. ALLEN. Yes, 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. ALLEN. 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. ALLEN. Would the Presiding Officer give a ruling on the original amendment which the junior Senator from Alabama offered, and which was ruled out of order?

The PRESIDING OFFICER (Mr. SCHWEIKER). The Chair will state that, in reviewing the parliamentary situation and in looking at the RECORD, the amendment of the Senator from Montana had been modified, and by that modification, the first amendment of the Senator from Alabama is in fact in order. Therefore, the Senator may proceed on the first amendment if he so desires.

Mr. ALLEN. Mr. President, I do not want to lose either amendment. Will the

Chair give the Senator from Alabama the assurance that neither amendment will be lost if I proceed with the second amendment?

The PRESIDING OFFICER. The Senator may proceed with this amendment or offer the first amendment later. It is in his discretion.

Mr. ALLEN. Inasmuch as I have been proceeding with respect to the second amendment, I will proceed with the discussion of that and will leave the other amendment at the desk to be called up after this one has been either agreed to or not agreed to.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ALLEN. Mr. President, the second amendment offered within the last few minutes by the junior Senator from Alabama strikes out the strange finding by Congress, with which the junior Senator from Alabama cannot agree, that the imposition and application of the requirement that a citizen be 21 years of age as a precondition to voting in any primary or in any election does not bear a reasonable relationship to any compelling State interest.

The purpose of the amendment offered by the Senator from Montana is to set up a basis by which the Senate would find that Congress has the authority, by statute, to set the voting age. The Senator from Alabama was pointing out that since the adoption of the U.S. Constitution in 1789, the power to set the qualifications of electors within the respective States has always reposed in the States, and that that right is protected by four different sections of the U.S. Constitution.

The Senator from West Virginia (Mr. RANDOLPH) has offered Senate Joint Resolution 147. That resolution, which the distinguished Senator is so ably sponsoring, provides for submitting to the States for ratification an amendment to the Constitution which would set the voting age at 18. That would give the States, which have the power to set the voting requirements in their respective jurisdictions, the right to say whether or not they wanted the law changed. If three-fourths of them choose to ratify that amendment, then the change would be made. If three-fourths fail to ratify the proposed amendment, then the amendment would fail of ratification.

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

Mr. ALLEN. I am delighted to yield.

Mr. RANDOLPH. I think that the continuing comment of the Senator from Alabama, as I have said earlier, contributes very much to this discussion. In connection with the action of the States, I think it is important to point out that Senate Joint Resolution 147 would not ask the States to ratify the constitutional amendment referred to them from the Congress on the basis of just national elections, but also State and local elections. So in reality, we are going the full route here; are we not?

Mr. ALLEN. Yes.

Mr. RANDOLPH. And that is why I believe it is essential that the States must be brought into this picture, because it concerns not only the national officers, but the State and local officers upon which those bodies or persons within the respective States will make their judgments.

Mr. ALLEN. I thank the distinguished Senator for his comment that the States definitely do have an interest in this proposal, because it sets the qualifications for voting not only in Federal elections but in State and local elections as well.

Finally, then, is this amendment necessary? Why not wait on the constitutional amendment? The Senator from West Virginia feels that there is no substantial opposition in the Senate or in the Senate committee to his constitutional amendment. The subcommittee is headed by the distinguished Senator from Indiana (Mr. BAYH).

The PRESIDING OFFICER. The Chair will state that the Senator's 15 minutes have expired.

Mr. ALLEN. Mr. President, I yield myself such time, within the limits allotted me, as I may require.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ALLEN. The distinguished Senator from Indiana is chairman of the subcommittee, and he favors the approval of the constitutional amendment. The distinguished Senator from Mississippi (Mr. EASTLAND), the chairman of the Committee on the Judiciary, stated earlier in the day that he would report the amendment out of the Committee on the Judiciary, that he would not stand in its way.

That would seem to guarantee that the constitutional amendment proposal will come out of the Committee on the Judiciary, and that it will go on the Senate calendar; and we all know that the distinguished majority leader of the Senate (Mr. MANSFIELD) would certainly schedule that proposal for early action by the Senate. Some 72 Senators are cosponsors of the constitutional amendment proposal of the distinguished Senator from West Virginia. The junior Senator from Alabama is proud to be one of its cosponsors, and would this very day, if the constitutional amendment were before the Senate, be happy and proud to vote for that constitutional amendment.

But, Mr. President, I do not want to go contrary to the provisions of the Constitution. I do not want to see the provisions of the Constitution flouted by statutory provisions. I do not want to see us destroy the provisions of the Constitution that place these powers and these rights within the States.

Mr. President, we are gradually—and I am not even sure it is too gradually—chipping away at this Federal system that we have, which recognizes State governments and which recognizes that under the Constitution of the United States the powers not delegated to the Federal Government are reserved to the States, or to the people.

I think that is a bad trend. We are critical of the judiciary for usurping or taking over some of the rights and some of the powers both of the legislative branch of the Government and the executive branch. We charge, and I believe rightly so, that the Federal judiciary, headed, of course, by the Supreme Court of the United States, has been guilty and is guilty of legislating rather than interpreting laws—enacting them rather than construing them.

Mr. RANDOLPH. Mr. President, will the Senator yield further?

Mr. ALLEN. I am delighted to yield.

Mr. RANDOLPH. I hope that the Senator from Montana (Mr. MANSFIELD) will accept the pending amendment offered by the Senator from Alabama. He seeks to strike from section 301 that portion which is bracketed as (3), that the age requirement "does not bear a reasonable relationship to any compelling State interest"; is that the language involved?

Mr. ALLEN. That is correct.

Mr. RANDOLPH. I feel, as I have said in other words, that the States do have an interest in the ratification of any amendment that changes the groups that participate in the political balance in those States. The States had an intense interest, for example, in connection with the franchise for women, which they ratified.

I would remind the Senator from Alabama that there was a feeling that because the States were not acting on the so-called woman suffrage proposition, they were not interested in so doing. But under the impact of congressional action, the referral to the States, the focusing of attention, the zeroing in, as it were, on a vital subject, the 19th amendment, was ratified, within 15 months.

I reiterate what I said earlier in the debate: That if this matter is referred to the States through a constitutional procedure—although at the present time only two States, Georgia and Kentucky, allow 18-year-olds to vote—in my opinion, those who serve as members of legislative bodies in the States will move promptly, and citizens generally will move in concert, toward action, because they do have, I think, confidence in Congress in matters of this kind.

The two Senators from Alabama (Mr. SPARKMAN and Mr. ALLEN) are cosponsors of Senate Joint Resolution 147. I think the citizenry of the State of Alabama would, in a sense, wish to have their affirmative votes as an expression of confidence, really, in the fact that the Senators had referred this matter to them.

This is very important for us to realize. So without attempting to say that the legislators would be mowed down, as it were, by the intention of Congress, the attention of the legislators would very properly be focused on what Congress had done, with practically every Member of the Senate, with very few exceptions, favoring such action. Of course, I respect the convictions of those Senators who might vote against a constitutional amendment. But let us say that 85 or 90 Senators would vote for a constitutional amendment to refer the matter to the States. Thus we could expect, realistically, that the States would act promptly. We would have returned here for proclamation this additional voting franchise, which in a sense is a franchise

of freedom, not just a ballot—a franchise of freedom in which we want young people as well as older people to participate.

There is always a right way to do something. Although there may be those of us who will join in this because we want to have a sense of the Senate in this matter, I feel that we will be called on to have the constitutional amendment on the floor of the Senate.

The arguments presented by the able Senator during this debate have brought considerable strengthening, I think, to the Senate as we have gone into these matters. Form is something different from substance, but sometimes to do something in the form that it should be done contributes to the substance.

So I again commend the Senator from Alabama, as I have earlier—not in ways of pleasantry but in ways of truth—for the contributions he is making in this debate.

I reiterate that the Senator from Indiana (Mr. BAYH), the chairman of the Subcommittee on Constitutional Amendments, and the Senator from Mississippi (Mr. EASTLAND), the chairman of the Committee on the Judiciary, have made it abundantly clear in the Senate that they will proceed in this matter.

I see no reason why committee action should be delayed on the constitutional amendment, even though other action is taken in the statutory approach, because I think we are going to be called on to have it ready for Senate action. I hope it can be ready for the Senate within a very few weeks—certainly, as I have stated earlier, by the middle of May or approximately that date.

Mr. ALLEN. I appreciate very much the fine remarks of my distinguished colleague. His lofty ideals and high principles never fail to inspire me, and I am grateful to him for the contributions he has made to this discussion.

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

Mr. ALLEN. I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I agree with the Senator that the constitutional approach is the proper approach to this problem.

I commend both the Senator from Alabama and the Senator from West Virginia for suggesting that. It has been my view down through the years that if Congress does see fit to invade this area, it is a decision reserved to the States, and should be done by means of constitutional amendment, which, of course, the Federal Government has a right to do, by proposing an amendment to be ratified by the States.

Mr. ALLEN. I thank the distinguished Senator.

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

Mr. ALLEN. I yield to the Senator from Michigan.

Mr. HART. I wonder whether the Senator from Alabama, who seeks to strike the finding that the 21-year-age requirement does not bear a reasonable relationship to a compelling State interest, would describe the compelling State interest that would be invaded.

Mr. ALLEN. I will answer the distinguished Senator from Michigan by saying that the province of the States, the compelling interest of the State, that would be invaded would be the right guaranteed to it by the Constitution to set qualifications of voters in the respective States.

Mr. HART. So the argument in support of the amendment is based solely on the proposition that the Constitution, as understood by the Senator from Alabama, prohibits the action proposed.

Mr. ALLEN. That, plus the fact——

Mr. HART. That is the hard question.

Mr. ALLEN. I want to give the rest of the answer, if the Senator will allow me.

Plus the fact that the amendment seeks to build up a case for handling by statute what should be handled by a constitutional amendment.

Mr. HART. Are we to understand that the Senator from Alabama proposes the striking of this language for the reason that we lack authority to enact a change in age down to 18? Are there other compelling State reasons?

Mr. ALLEN. The fact that this is a State prerogative means that we are invading the rights of the States.

Mr. HART. In a way that the Constitution would prohibit us?

Mr. ALLEN. Yes. That is the opinion of the junior Senator from Alabama. The junior Senator from Alabama would point out that, were there not considerable question about it, the authors of the amendment would not have gone to all this trouble to build up a case for themselves in their preamble.

Mr. HART. I wonder whether the Senator from Alabama would argue that there would be no case that would justify, or that a case could be made that would justify, which has not been made. I am trying to understand whether the Senator from Alabama would say, flat out, that we cannot do that. Does the Constitution prohibit it, or is it perhaps, that we have not yet reviewed them all?

Mr. ALLEN. It is the opinion of the junior Senator from Alabama that we are invading the rights of the States by this effort, no matter what wording is used, that it would be impossible for the Congress, in stating the case, to amend the Constitution and that is what——

Mr. HART. I think the Senator from Alabama has answered everything now, if I understand him correctly, by saying that he does not care what is assigned as the reason, that this is an action which constitutionally the Senate is barred from taking.

Mr. ALLEN. That is exactly right. That is exactly the position of the junior Senator from Alabama, plus the fact that the junior Senator from Alabama feels that the proponents of this measure are skating on very thin ice when they go the statutory route.

Mr. HART. That is not quite the same as saying that there is a bar to our actions.

Mr. ALLEN. That is the opinion of the——

Mr. HART. If there is a bar, then there is no ice; it is just water.

Mr. ALLEN. That is the opinion of the junior Senator from Alabama, but he is quick to point out to the Senator from Michigan that he is not abiding by the judgment of the junior Senator from Alabama; that when the Senator from Michigan seeks to build up a case which would authorize Congress by statute to amend the Constitution, the junior Senator from Alabama would feel that the Senator was skating on thin ice, irrespective of what the junior Senator from Alabama thought about it.

Mr. HART. Let the Senator from Michigan explain. He would not argue, has not, and does not now argue, that by a statute Congress can amend the Constitution. That would not be a case of thin ice. That would be, as I say, an air pocket—water; but the Senator from Alabama takes the position that the Constitution establishes a flat bar, an absolute prohibition, against the Senate's constitutionally adopting this amendment—the amendment as offered by the Senator from Montana, not the Senator from Michigan. But so far as the constitutional question is concerned, the Senator from Michigan inclines to the view that constitutionally it is within our right to adopt the amendment.

Mr. ALLEN. It admits of——

Mr. HART. I agree that——

Mr. ALLEN. It admits of no doubt, in the Senator's judgment, as to constitutionality,

Mr. HART. I have listened to us telling each other that we are great constitutional experts around here for 11 years, but the hard truth is, until the court writes its opinions, we at least, under truth serum, must acknowledge that our judgment must be tentative and wholly personal.

I have been advocating civil rights bills beginning in 1959, and I got long lectures about their not being constitutional; but finally, when the Court across the street gets around to doing it, they say that they are constitutional. This does not lessen my respect for the persons who, in the past, have argued that everything we are approaching to do is constitutional, but the hard truth is that there has not been a single enactment since I have been permitted to sit in the Senate in this area that has been held to be unconstitutional on those cases which have been reviewed. I think that all of them that have been reviewed have been sustained as being within the reach of Congress under the Constitution. We are hearing the same idea on the proposal offered by the Senator from Montana, when the Senator from Alabama asked if I am absolutely sure that it is constitutional. I have to make the same reply I have been making since 1955, that until the Court itself rules, we have to admit that our judgments are those of legislators and not Supreme Court Justices. But heretofore those of us who had advocated the constitutionality of these successive enactments have been sustained when the Supreme Court gets around to giving us the absolute answer. That is the best way I can answer the Senator from Alabama.

Mr. ALLEN. Will the Senator from Michigan answer one short question?

Mr. HART. Surely. I shall do my best.

Mr. ALLEN. What is the hurry?

Mr. HART. What is the hurry? Perhaps if the Senator had eight children, as the Senator from Michigan does, many of whom have very strong opinions about the overdue delay of their opportunities to participate in decisions that affect intimately their lives, the Senator would feel as I do, that the sooner we do this, the better.

Mr. ALLEN. The Senator is certain that it would be constitutional.

Mr. HART. I responded to that at considerable length and to the best of my ability.

Mr. LONG. Mr. President, the section the Senator would strike provides that the 21-year-old voting requirement does not bear any reasonable relationship to any compelling State interest.

Mr. ALLEN. That is right.

Mr. LONG. That leaves in doubt as to what is the purpose——

Mr. ALLEN. To build up a case for constitutionality of a highly doubtful question.

Mr. LONG. That makes me ask, why the words "compelling State interest"? Is it not correct that the majority of States have, historically, and do today, select the age of 21, which I believe is regarded as the age of maturity, when a person makes a contract and it is regarded as binding, and when a person cannot plead that because he was too young fully to understand the total consequences of his conduct, he should be forgiven; also as the age where a person would be also qualified to vote. Is it not correct that most States have picked that age of 21?

Mr. ALLEN. Yes, I believe that 48 out of the 50 States have done that.

Mr. LONG. So that it is not necessary that the States fix some age, but it would be necessary that they fix an age.

Mr. ALLEN. That would be necessary.

Mr. LONG. If it requires judgment for someone to fix an age, that is fine. Is there any doubt about the constitutionality that that is a question for the States to decide for themselves and is something which the Federal Government has not yet seen fit to pass a law to tell the States, in contradistinction of the Constitution, what age limit to fix.

Mr. ALLEN. That is correct.

Mr. LONG. Can the Senator explain what the word "compelling" is doing in there? It seems to me that on this question, it is the State's business.

Mr. ALLEN. About all the Senator from Alabama could say on that is that if they make the language strong enough, compelling enough, they obviously feel that it might compel the Supreme Court to a holding that this violation of constitutional rights is constitutional.

Mr. LONG. Well, would the Senator not agree that it is the State's business to fix some age?

Mr. ALLEN. It has been that for about 182 years.

Mr. LONG. When the States set an age, is there anything magic about the age of 18 as compared to 21?

Mr. ALLEN. No, not that the Senator from Alabama understands.

Mr. LONG. It seems to me that one has to set an age and it is left to the States to do that. It is bad enough to try to tell the State, in violation of the Constitution, what the age has to be, but to tell them that it is none of their business, when the Constitution says it is their business, and has been since this Nation was established, seems to me to go a little too far.

Mr. ALLEN. There is no question that if this statute passes, the Senator from Louisiana, if he tried to interfere with the right of any 18-year-old to vote, could be fined $5,000 and sent to the penitentiary for 5 years under this statute.

Mr. LONG. Well, now, if one can be fined $5,000 and put in jail for 5 years, would that not seem like the States' business, what the age should be?

Mr. ALLEN. That would compel me to think that.

Mr. LONG. I thank the Senator.

Mr. ALLEN. Mr. President, I appreciate the Senator from Louisiana's going on to the discussion of the propriety or the advisability of going the statutory route as compared to going the constitutional route.

The Senator from Michigan said that he has eight children and he would like to get them registered to vote as quickly as possible. I appreciate the concern of the distinguished Senator from Michigan.

This thought occurs to the junior Senator from Alabama, that if this statutory route is followed and it is provided by statute that the States cannot prevent the 18-year-olds from registering and they do, in fact, come in and register by literally millions and participate in the 1972 presidential election, and if on the day following the presidential election, or soon thereafter, the Supreme Court were to have a justiciable controversy over the provisions of the act, the Court may hold that the statute is unconstitutional.

We do not know what the philosophy of the Supreme Court is going to be in 1972. I hope that it will be a lot more conservative than it is now. However, suppose the Supreme Court outlaws this measure and rules unconstitutional the statutory approach of the distinguished majority leader. The votes of some 10 million people would be invalidated. And we could have the biggest contest over the next presidential election that has been heard of or imagined.

If 10 million young people unconstitutionally qualify to vote in an election did actually vote and it was then found out that the right given them by this act was unconstitutional, where in the world would we be?

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

Mr. ALLEN. I yield.

Mr. LONG. Mr. President, I thank the Senator for mentioning a point I had never thought about before.

If I understand the Senator, he is saying that if this statute proves to be unconstitutional and if prior to the time the Supreme Court passed upon the measure, we were to hold a presidential election, we would not know whether in fact the man elected President was actually the President.

Mr. ALLEN. We say that one or the other of the candidates will get the young votes. We would not know where we would be.

Mr. LONG. Mr. President, no one would really know until the Supreme Court decided whether a man was President or not.

Mr. ALLEN. The Senator is correct.

Mr. LONG. So, we would be left in the impossible position then of letting the Supreme Court choose the President. It is bad enough to let them do some of the mischief they have done in recent years. But to let them pick the President would be really entrusting too much to them.

Mr. ALLEN. If that happened, it would make the Hayes-Tilden contest look like a Sunday school class election.

Mr. LONG. It never occurred to me before, but I would hate to see the Nation in the state of chaos that would result from no one knowing whether a major percentage of the votes had been illegally cast and no one being in a position to decide it.

It would be bad enough, would it not, if it happened during a congressional election? No one would know for sure who controlled Congress.

Mr. ALLEN. It certainly would. The situation is fraught with great peril for the existence of this Republic.

Mr. LONG. Mr. President, can the Senator tell me if it would not be true that if we would resolve this issue by constitutional amendment—and would the Senator agree with me—that would settle it and there would not be any doubt one way or the other.

Mr. ALLEN. That is the way to handle the matter. The Senator from Alabama agrees with the Senator from Louisiana. If a constitutional amendment is submitted and comes to a vote on the Senate floor, as I feel sure it will during the current year, the Senator from Alabama and the Senator from Louisiana will both vote for it.

Mr. LONG. I have not said I would vote for it. I have some doubts, even though the measure may have some popularity.

I always thought I was reasonably right for my age. I recall when I was 18 years old that my friends in college honored me by making me class president. And I can think of some foolish things I have done since I was 18 or, for that matter, since I have been 21. But they were not as childish or as immature as some of the things I did when I was 18.

Generally speaking, I think most young people gain by experience and maturity between the ages of 18 and 21.

Any young man that is bright by 18 is usually brighter and more mature when he reaches 21. And with respect to that age, I have signed some very ill-advised contracts after the age of 21 where, if I had talked with someone who had advised me about the decision I was making, I would have saved money. I lost quite a bit of money doing things of that sort until I learned better.

I do not see that it does anyone any harm to have these additional years of maturity when he is called upon to make a decision that might be fateful for the Nation.

Would the proposed amendment seek to change the requirement that one has to be 21 years of age in order to sign a binding contract?

Mr. ALLEN. No, it would not.

Mr. LONG. Does that not raise serious question? If one does not have the maturity to sign a binding contract, he certainly would not have the maturity to decide who the President should be.

Mr. ALLEN. I agree with the Senator from Louisiana. And if the Congress can tell a State at what age it ought to permit people to vote, it would be able to tell a State what age a person would have to be to enter into a binding contract.

Mr. LONG. Mr. President, once again, it seems to me that is none of our business. That is something that the States ought to be doing.

To begin with, I am perfectly content for the Legislature of the State of Louisiana to pass on the subject. They have to run for office more often than I do. They have to go and report to the people in every nook and cranny of Louisiana.

I have complete confidence in the members of my State Legislature to do what they think is right. If they are wrong, they are a lot closer to the people.

From my point of view, with all due deference to the people of the District of Columbia, I have very high regard for the people I represent.

Mr. ALLEN. Mr. President, I do not want to overwork the use of the word "compelling." However, one of the compelling reasons that causes me to be for the constitutional amendment to allow the 18-year-olds to vote is the fact that in the State of Louisiana and in the State of Alabama, by act of Congress, any illiterate person, any person who cannot read or write, any person who is bereft of reason, if he is 21 years of age can come in and register with the local or Federal registrars.

To say that people of 18 who do take an interest in government—and who are possibly more knowledgeable than we were at that age—are not capable of voting is more than the junior Senator from Alabama wants to say. But the junior Senator from Alabama wants to go the constitutional route.

And we can get this amendment submitted by Congress during the present year. The Senator from West Virginia pointed out a moment ago that in 15 months the 19th amendment to the Constitution was ratified. So if we could get anything like that speed with regard to the amendment permitting voting by the age of 18 years, they could vote in the next presidential election. That is what I would like to see them do.

Mr. LONG. Mr. President, if it took my vote to muster the necessary two-thirds so that the constitutional amendment could be submitted to the States to afford the States an opportunity to pass upon it, I suppose I would vote for it under those conditions, even though I have some doubt about the wisdom of it.

Would not the States be denied the opportunity to express themselves on it if it were done by statute? It is their responsibility. I say that as a lawyer who has read the Constitution several times and as a Senator who has participated in several of the voting rights debates in years gone by. It is clearly intended under the Constitution that the age at which one is regarded as having sufficient maturity to exercise the right of franchise is intended to be a State decision.

Mr. ALLEN. I thank the Senator. I certainly agree with his comments.

I would like to make this further suggestion with respect to the inadvisability of going the statutory route on this matter. I refer to the fact that in the sincere judgment, the considered judgment of the junior Senator from Alabama the enactment of this statute—and I say this to the distinguished Senator from Michigan—could be counterproductive because it has been stated here on the floor of the Senate that the constitutional amendment is going to be pushed, irrespective of whether or not the statute is adopted. Therefore, if the statute is adopted and the 18-year-olds come in and register and the constitutional amendment is submitted back to the people, what sort of attitude or opinion will the people of the respective States have about a constitutional amendment submitted to them by Congress when a statute is already on the books?

They would want to know what sort of charade this is. They would say, "Those fellows up there in Congress pass a statute saying the 18-year-olds are allowed to vote and then they come forward with a constitutional amendment and submit that." I can envision that the people of my State and the people of many States would resent the fact that we had little enough judgment, that we had the effrontery to submit to them something we said we had already accomplished. That would leave them in an unfavorable frame of mind with respect to the constitutional amendment; and the legislatures of the respective States, or the conventions called in connection with the constitutional amendment in the respective States, might well refuse to ratify that constitutional amendment. Then, if the Supreme Court in its great wisdom ruled this statute as being unconstitutional, as being an infringement of the powers given to the State governments, and that the statute was declared unconstitutional, we would end up with no provision whatever. The statute would have been knocked down and the constitutional amendment rejected by the people of the States on account of the charade conducted by Congress. Therefore, we would end up with nothing.

They talk about the 18-year-olds wanting some feeling of participation "in the action," as the Senator from Indiana called it. What sort of disillusionment do Senators think that would cause 18-year-olds when we pass a statute and say 18-year-olds can vote; and we pass a constitutional amendment for submission to the States and the States reject it, and the Supreme Court rejects the statute? You would give the young people the right to vote and then reach out and take it away from them. It would be much better, it would be much safer, and it would be much wiser to act in accordance with the Constitution and submit this matter by constitutional amendment.

The junior Senator from Alabama stands ready, willing, and anxious to support a constitutional amendment. I do not want to see the rights of the States interfered with, run roughshod over, or trampled upon by saying to the States, "You had this right for almost 200 years, to wit, the qualifications of your voters. Without submitting it back to you as called for in the Constitution we, in Congress, have passed this statute." I do not believe that is in the best interest of the country. I do not believe it is in the best interest of the young people. I believe that if we followed the constitutional amendment route we would have the safe method and a method that will not be dangerous and that will not be subject to the serious criticisms that the junior Senator from Alabama sought to make of this procedure.

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

Mr. ALLEN. I yield.

Mr. HOLLAND. Mr. President, first, I wish to say I completely agree with the argument of the Senator that the constitutional amendment approach is the proper one. But I want to talk about the Senator's pending amendment, if I may. I notice it is addressed to striking that part of the amendment offered by the distinguished Senator from Montana, which includes the words:

> 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—

Then, these are the words the Senator from Alabama would strike:

> (3) does not bear a reasonable relationship to any compelling State interest.

I am not prepared to make that declaration as to my own State. It seems to me that no one coming from a State which has the same provisions that we have in our State could make a declaration of that sort for these reasons.

The age of 21 is not only the age for voting purposes, but also it is the age for qualification for serving as a juror. It is the age of maturity for the purpose of making a binding agreement upon which a suit can be brought or against which a suit can be brought. The constitution of my State also requires that provisions for bonding in the State have to be submitted to qualified electors for their approval in certain fields.

Not long ago a constitutional amendment calling for the issuance of a $75 million bond for educational purposes was submitted and adopted.

Is it or is it not in the compelling interest of the State to have those persons who shall vote upon and determine a question of that kind, fixing or not fixing a solemn obligation upon a State in a large amount, to be persons who have reached, under the laws of the State, the age of business maturity? In my opinion it certainly is a matter of compelling interest to the people of Florida to have

those who shall determine that question at least persons who are able to determine smaller questions for themselves. I would particularly refer to whether they can create a binding bill at a grocery store, or sign a binding note at a bank, or make any other decision that is enforceable or defensible, as the case may be, in the courts of the State.

I would hesitate very greatly to vote for an amendment which says that is not a matter of compelling interest to the State of Florida to have people of legal maturity, as well as have other qualifications, which we all understand and approve, as those who shall vote upon and approve what the State shall obligate itself for, in a large amount, in a bond issue.

For that reason, I am wondering if the Senator has thought of that point—that it certainly is a matter of great State interest to have as voters, possibly in a matter which may involve a close election, and in a matter which will bind a State in a very expensive course of action, people who are not of such an age as to make a binding agreement with respect to their own property, but which they could assert against someone else in a successful way.

Mr. ALLEN. I agree.

Mr. HOLLAND. I thank the Senator for yielding, and I want to say I could not vote for such a declaration.

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

Mr. ALLEN. Mr. President, if the majority leader will yield to me very briefly, we have consumed all our time. I do have other remarks to make on the amendment, and possibly I will take occasion to do so on subsequent amendments.

Mr. MANSFIELD. Mr. President, I do not intend to take up too much of the time of the Senate, because the Senator from Michigan (Mr. HART) has stated the reasons why some of us, at least, would oppose the amendment by the distinguished junior Senator from Alabama.

One compelling reason I can think of is that the Federal Government can go down to any State, pick an 18-year-old up by the back of the neck, put him in uniform, send him overseas, and perhaps send him to his death.

I yield back my time.

Mr. GRIFFIN. Mr. President, will the Senator yield me 1 minute?

Mr. MANSFIELD. One minute, but then it is all gone.

Mr. GRIFFIN. Mr. President, I wonder if the Senator from Alabama could give us any idea as to how many more amendments he has and when we might be able to vote on the bill. Can he give us any idea on that?

Mr. ALLEN. Well, all the junior Senator from Alabama can say at this point is that all he can do is offer them one at a time.

Mr. GRIFFIN. I understand that is the procedure around here, that they are offered one at a time, but the Senator does not have any guidance as to how many more amendments he will have to offer?

Mr. ALLEN. A lot will depend, the junior Senator from Alabama will state respectfully, on the success we will have on amendments as we go along.

If we feel we can get the amendment in proper shape, we will be ready to vote.

The PRESIDING OFFICER. All time on the amendment of the Senator from Alabama to the Mansfield amendment has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), and the Senator from Missouri (Mr. SYMINGTON), 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 Missouri (Mr. SYMINGTON). If present and voting, the Senator from Georgia would vote "yea" and the Senator from Missouri would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 20, nays 64, as follows:

[No. 95 Leg.]

YEAS—20

Allen	Holland	Randolph
Byrd, Va.	Hollings	Sparkman
Byrd, W. Va.	Jordan, N.C.	Spong
Eastland	Long	Stennis
Ellender	McClellan	Talmadge
Ervin	Miller	Thurmond
Fannin	Murphy	

NAYS—64

Aiken	Goodell	Moss
Allott	Gore	Muskie
Anderson	Griffin	Packwood
Bayh	Hansen	Pastore
Bellmon	Harris	Pearson
Bennett	Hart	Pell
Bible	Hartke	Percy
Boggs	Hatfield	Prouty
Brooke	Hruska	Proxmire
Burdick	Hughes	Ribicoff
Cannon	Jackson	Schweiker
Case	Javits	Scott
Church	Jordan, Idaho	Smith, Maine
Cook	Kennedy	Stevens
Cooper	Magnuson	Tydings
Cotton	Mansfield	Williams, N.J.
Cranston	Mathias	Williams, Del.
Curtis	McGee	Yarborough
Dole	McGovern	Young, N. Dak.
Dominick	McIntyre	Young, Ohio
Eagleton	Mondale	
Fong	Montoya	

NOT VOTING—16

Baker	Inouye	Saxbe
Dodd	McCarthy	Smith, Ill.
Fulbright	Metcalf	Symington
Goldwater	Mundt	Tower
Gravel	Nelson	
Gurney	Russell	

So Mr. ALLEN's amendment was rejected.

Mr. LONG. Mr. President, I move that the amendment of the Senator from Montana (Mr. MANSFIELD) be laid on the table.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Montana (Mr. MANSFIELD). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON (when his name was called). On this vote I have a pair with the junior Senator from Illinois (Mr. SMITH). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. LONG (after having voted in the affirmative). On this vote I have a pair with the Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

The assistant legislative clerk concluded the call of the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), and the Senator from Missouri (Mr. SYMINGTON) 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 Montana (Mr. METCALF). If present and voting the Senator from Georgia would vote "yea" and the Senator from Montana would vote "nay."

I further announce that, if present and voting the Senator from Alaska (Mr. GRAVEL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from Florida (Mr. GURNEY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The pair of the Senator from Illinois (Mr. SMITH) has been previously announced.

The result was announced—yeas 21, nays 62, as follows:

[No. 96 Leg.]

YEAS—21

Allen	Ervin	Miller
Allott	Fannin	Murphy
Bennett	Griffin	Scott
Byrd, Va.	Holland	Sparkman
Curtis	Hruska	Stennis
Eastland	Jordan, N.C.	Talmadge
Ellender	McClellan	Thurmond

NAYS—62

Aiken	Gore	Muskie
Anderson	Hansen	Packwood
Bayh	Harris	Pastore
Bible	Hart	Pearson
Boggs	Hartke	Pell
Brooke	Hatfield	Percy
Burdick	Hollings	Prouty
Byrd, W. Va.	Hughes	Proxmire
Cannon	Jackson	Randolph
Case	Javits	Ribicoff
Church	Jordan, Idaho	Schweiker
Cook	Kennedy	Smith, Maine
Cooper	Magnuson	Spong
Cotton	Mansfield	Stevens
Cranston	Mathias	Tydings
Dole	McGee	Williams, N.J.
Dominick	McGovern	Williams, Del.
Eagleton	McIntyre	Yarborough
Fong	Mondale	Young, N. Dak.
Fulbright	Montoya	Young, Ohio
Goodell	Moss	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Bellmon, against.
Long, for.

NOT VOTING—15

Baker	Inouye	Russell
Dodd	McCarthy	Saxbe
Goldwater	Metcalf	Smith, Ill.
Gravel	Mundt	Symington
Gurney	Nelson	Tower

So Mr. LONG's motion to table Mr. MANSFIELD's amendment was rejected.

Mr. MANSFIELD. Mr. President, if I could have the attention of the Senate and the minority leader, is it my understanding that the distinguished Senator from Alabama (Mr. ALLEN) is prepared to offer another amendment to the pending amendment?

Mr. ALLEN. Yes, sir. That is correct.

Mr. MANSFIELD. I think that this has been a hard enough day for the Senate. There are other factors to be considered.

There will be no further votes tonight, but we do come in at 10 o'clock tomorrow morning, when the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) will proceed for not to exceed 30 minutes, to be followed by the distinguished Senator from Maine (Mrs. SMITH) to proceed for another 15 minutes.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

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

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

Mr. MANSFIELD. I ask unanimous consent that at the conclusion of the remarks by the distinguished Senator from Maine (Mrs. SMITH), there be a time limitation on the pending Allen amendment to the Mansfield amendment——

Mr. ALLEN. I have not asked that it be laid before the Senate as yet.

Mr. MANSFIELD. But we are going to?

Mr. ALLEN. Yes.

Mr. MANSFIELD. As to the time we start tomorrow.

Mr. GRIFFIN. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. First, there will be no morning hour tomorrow. There will be a period for the transaction of routine business tonight.

The PRESIDING OFFICER (Mr. HUGHES). The Chair would state that there will be no further debate tonight unless there is unanimous consent.

Mr. LONG. Mr. President, I ask the majority leader if he has any intention of withdrawing his amendment?

Mr. MANSFIELD. None whatsoever.

Mr. LONG. May I say to the Senator from Montana that the reason I made a motion to table his amendment is that I am not in favor of it. [Laughter.]

Mr. MANSFIELD. I understand that.

Mr. LONG. But if this amendment should be agreed to, I think we should get on with our business. The time we spend here debating on a preamble to a resolution——

The PRESIDING OFFICER. The Chair would state that the Senator from Louisiana is out of order. There is no further debate permitted unless there is unanimous consent.

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

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

Mr. LONG. Mr. President, I want to say that the time we spend here on arguing, debating, and voting on preambles to a resolution in March and April, will keep us here until November or December. It seems to me, in view of the fact that it is the will of the Senate that the pending amendment be agreed to, we should be getting on with our business and bring it to a vote. I am sure that all Senators will recognize that this is the will of the Senate. I am opposed to the amendment and I will vote against it, but we should all understand that it is the will of the Senate that the amendment should be agreed to.

Mr. MANSFIELD. I appreciate the Senator's remarks.

The PRESIDING OFFICER. The Chair would like to state that——

Mr. MANSFIELD. Mr. President, we are not operating under controlled time at the present time because there is no amendment pending——

The PRESIDING OFFICER. Time on the amendment is running. The question is on the pending amendment.

Mr. ALLEN. My amendment has not been offered.

The PRESIDING OFFICER. The question is pending.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time limitation be set aside temporarily for the purpose of making a few remarks.

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

Mr. MANSFIELD. Mr. President, again I want to say that I appreciate the usual candor and frankness of the distinguished Senator from Louisiana (Mr. LONG). I think his suggestion is a good one but, of course, as he knows, it will take 99 other Senators to agree with him. As of now, I am the only one I am sure of who is willing to do so.

But I would like to set some statements at rest. There has been much talk about chicanery, about charades, and about political expediency so far as the pending amendment is concerned. I want to assure my colleagues that I was never more serious in my life. So far as I am concerned, I am prepared to stay here until Christmas or New Year's to do a little in the way of justice toward these youngsters who have done so much, suffered so much, and who have contributed so much to our welfare. Thus, I want that thoroughly understood.

If we get out early this year, fine. If we are in session beyond Labor Day, that is all right with me. If necessary we will take a week or two off during the election period and come back again, because this is the place where we work.

I am pleased to note the attitude of the Senate, that there has been nothing in the way of dilatory tactics as yet. There has been a good deal of cooperation and understanding, and I hope that together we can keep this institution functioning as it should function, to the end that we can do the kind of work for the people of this country which they expect us to do, and that hopefully, regardless of party, we can achieve the best possible results for the Republic as a whole.

Mr. GRIFFIN. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I want to indicate that although I voted to table the amendment, and although I indicated that I am opposed to it, I believe that the Senator from Louisiana (Mr. LONG) is right when he says we should get on with the Senate's business, that the will of the Senate is evident with regard to this amendment.

Certainly I, as one Senator, do not for 1 minute question the motives or the intentions of the distinguished majority leader in offering his amendment. I do not know of any other Senator who would do that, either. I hope that would not be the case.

I know that the distinguished Senator from Montana is very sincere in offering his amendment.

I wonder whether there is any possibility, as we have done in other situations as we near the end of consideration of a bill, that we could constrict the time on further amendments? If there are further amendments to be offered, they should be considered, of course; but do we need 2 hours of time for each amendment that will follow?

I wonder if we might give consideration to having all future amendments limited to 30 minutes.

Mr. MANSFIELD. There is only one man who can answer that, and on the basis of what he has said previously, I would doubt very much that he would

change his mind at this time. Thus, I would assume that we had better go on as we are for the time being, and see what we can do to expedite the business of the Senate, keep our eyes on the calendar, and get ready for the nomination of Judge Carswell, which will follow immediately after disposal of the pending legislation.

Mr. President, if the distinguished Senator from Alabama will allow me to suggest it, I would appreciate his offering his amendment at this time. At the same time, I wish to assure Senators that there will be no further votes tonight.

AMENDMENT NO. 552

Mr. ALLEN. Mr. President, I offer my amendment, which is at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend section 305 to read as follows:

"SEC. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1973."

The PRESIDING OFFICER. Does the Senator from Alabama desire to have time run on his amendment tonight?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that time not run on the amendment of the Senator from Alabama tonight.

The PRESIDING OFFICER. Without objection, time will not be counted on the amendment tonight.

ORDER FOR RECOGNITION OF SENATOR MURPHY TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the remarks of the distinguished Senator from Maine (Mrs. SMITH) tomorrow, the distinguished Senator from California (Mr. MURPHY) be recognized for 5 minutes; and that after that the time limitation begin on the pending amendment.

The PRESIDING OFFICER. Without objection, the Senator from California will be recognized for 5 minutes following the conclusion of the remarks of the senior Senator from Maine; and without objection, the request of the Senator from Montana as to the time limitation on the pending amendment is agreed to.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. KENNEDY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine business, with statements therein limited to 3 minutes.

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

S. 3583—INTRODUCTION OF A BILL RELATING TO AMENDMENT OF LANDRUM-GRIFFIN ACT

Mr. JAVITS. Mr. President, the Attorney General has sent to the Vice President as presiding officer of the Senate a measure dealing with the Labor-Management Reporting and Disclosure Act of 1959—the so-called Landrum-Griffin Act—which will expand the definition of those who are ineligible for office as union officials, so as to exclude certain persons who are guilty of crimes or who have been convicted of crimes. which would therefore disqualify them from holding such offices for 5 years.

As the ranking member of the Committee on Labor and Public Welfare and of its Labor Subcommittee, I introduce this bill, and I ask unanimous consent that the Attorney General's message be printed at this point in the RECORD.

There being no objection, the Attorney General's message was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 11, 1970.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to broaden the scope of the prohibition against the holding of union office by persons convicted of crimes.

Section 504(a) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504(a)) lists certain offenses conviction of which will bar the person convicted from serving as an officer, agent or employee of a labor union for five years after his conviction or the end of his term of imprisonment, except that employees who perform exclusively clerical or custodial duties are not so banned.

Experience with the enforcement of this statute in the years since its enactment has demonstrated that the limited number of enumerated offenses, although broadly interpreted by the courts, is insufficient to insure that the unions are kept free from criminal influence. Accordingly, this bill would substantially expand the number and type of offenses presently included in Section 504(a). Of particular importance is the specific inclusion of offenses which relate to the conduct of union affairs and the management of union and benefit plan funds. In addition, the bill provides that the amendments will apply to convictions occurring before as well as after its enactment.

It is recommended that the Congress consider and enact this legislation.

The Bureau of the Budget has advised that there is no objection to the enactment of this legislation from the standpoint of the Administration's program.

Sincerely,

JOHN N. MITCHELL,
Attorney General.

Mr. JAVITS. Mr. President, I am introducing the measure because it is my duty to do so as the ranking member of the committee and the subcommittee. I have offered any member of the committee or subcommittee who wishes to cosponsor the measure an opportunity to do so. I reserve the right to deal with the bill and any amendments thereto as I may deem appropriate.

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

The bill (S. 3583) to amend section 504(a) of the Labor-Management Reporting and Disclosure Act of 1959 by adding to the list of offenses, conviction of which bars the person convicted from holding union office, introduced by Mr. JAVITS (for himself and Mr. DOMINICK), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

RECESS UNTIL 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 o'clock tomorrow morning.

Mr. JAVITS. Mr. President, would the Senator withdraw that request?

Mr. KENNEDY. Mr. President, I withdraw the request.

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

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

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 15 minutes p.m.) the Senate recessed until Thursday, March 12, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, March 11, 1970:

DEPARTMENT OF STATE

David M. Abshire, of Virginia, to be an Assistant Secretary of State.

U.S. DISTRICT JUDGE

Warren K. Urbom, of Nebraska, to be a U.S. district judge for the district of Nebraska, vice Robert Van Pelt, retiring.

Joseph F. Weis, Jr., of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania, vice Joseph P. Willson, retired.

U.S. ATTORNEY

Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi for the term of 4 years; reappointment.

U.S. PATENT OFFICE

Lutrelle F. Parker, of Virginia, to be an examiner in chief, U.S. Patent Office, vice James L. Brewrink, resigned.

CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

Martin G. Castillo, of California, to be Chairman of the Cabinet Committee on Opportunities for Spanish-Speaking People; new position.

DIPLOMATIC AND FOREIGN SERVICE

The following-named person for appointment as a Foreign Service officer of class 1, a consular officer, and a secretary in the diplomatic service of the United States of America:

Helmut Sonnenfeldt, of Maryland.

For appointment as Foreign Service information officers of class 1, consular officers, and secretaries in the diplomatic service of the United States of America:

W. Beverly Carter, Jr., of Pennsylvania;
William D. Miller, of Pennsylvania.
Walter R. Roberts, of New York.

For appointment as Foreign Service information officers of class 2, consular officers, and secretaries in the diplomatic service of the United States of America:

John S. Barker, of Maryland.
Holbrook Bradley, of Florida.

Miss Dorothy Dillon, of New York.
Ben L. Ellington, of Texas.
Stanley D. Moss, of Maryland.
McKinney H. Russell, Sr., of the District of Columbia.
Gordon Winkler, of the District of Columbia.

For reappointment in the Foreign Service as a Foreign Service officer of class 3, a consular officer, and a secretary in the diplomatic service of the United States of America:
Henry R. Mills, of Kansas.

For appointment as a Foreign Service officer of class 3, a consular officer, and a secretary in the diplomatic service of the United States of America:
Harry H. Pollak, of New Mexico.

For appointment as Foreign Service information officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:
Kenneth Bache, of New Jersey.
Ralph L. Boyce, of Virginia.
Joseph N. Braycich, of Washington.
William M. Childs, of Massachusetts.
F. Weston Fenhagen, of California.
Jules B. Grad, of Florida.
John E. Graves, of California.
Daniel J. Hafrey, of Minnesota.
Lloyd D. Hagen, of Virginia.
Sidney L. Hamolsky, of Maryland.
Hans Holzapfel, of Virginia.
Milton L. Iossi, of South Dakota.
Robert E. Kays, of the District of Columbia.
Martin Kushinsky, of New Jersey.
James L. Mack, of the District of Columbia.
James F. McKernan, of Massachusetts.
Ray E. Millette, Jr., of California.
Richard D. Moore, of Georgia.
George A. Naifeh, of Texas.
Douglas Pike, of North Dakota.
George W. Porter, of Florida.
Miss Dorothy B. Robins, of New Jersey.
John L. Sandstrom, of Minnesota.
Sol Schindler, of Pennsylvania.
Ronald Sher, of Minnesota.
Hakon D. Torjesen, of Minnesota.
Fitzhugh Turner, of Texas.
Robert B. Warner, of Michigan.
Hugh McL. Woodward, of Kentucky.

For promotion from a Foreign Service officer of class 5 to class 4:
Robert E. Day, Jr., of Virginia.

For appointment as Foreign Service information officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:
John F. Cannon, of Massachusetts.
Philip C. Cohan, of Maryland.
Mrs. Mary Frances Cowan, of the District of Columbia.
Charles H. Dawson, of Tennessee.
Roburt Andre Dumas, of Pennsylvania.
Henry W. Grady, of California.
George P. Havens, of Maryland.
James A. Jensen, of Illinois.
William E. Jones, of Ohio.
Robert F. Jordan, of Maryland.
Gerald J. Kallas, of Illinois.
Bernie T. Marquis, Jr., of Washington.
Charles R. Meyer, of Ohio.
Alvaro Perez, of the District of Columbia.
Paul Polakoff, of California.
Irving E. Rantanen, of Illinois.
Miss Deirdre Mead Ryan, of Connecticut.
Edward H. Schulick, of New Jersey.
Ronald W. Stewart, of Illinois.
John C. Twitty, of New York.

For promotion from Foreign Service Officers of class 6 to class 5:
Robert B. Lane, of the District of Columbia.
Philip C. Wilcox, Jr., of Colorado.

For appointment as a Foreign Service officer of class 5, a consular officer, and a secretary in the Diplomatic Service of the United States of America:
Miss Margaret Ann Murphy, of California.

For appointment as Foreign Service information officers of class 5, consular officers, and secretaries in the Diplomatic service of the United States of America:
Edward J. Donovan, of Florida.
Colburn B. Lovett, of Virginia.
Elton Stepherson, Jr., of the District of Columbia.

For promotion from a Foreign Service officer of class 7 to class 6:
Roger A. Long, of Ohio.

For promotion from a Foreign Service information officer of class 7 to class 6:
Miss Natalie W. Hull, of Georgia.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:
Wayne Thomas Adams, of Maine.
Miss Donna Jean Downard, of Washington.
Lloyd R. George, of Pennsylvania.
John Randle Hamilton, of North Carolina.
Paul Andrew Inskeep, of the District of Columbia.
Ira R. Kornbluth, of the District of Columbia.
John Kriendler, of New York.
William J. Kushlis, of Maryland.
Miss Amelia Ellen Shippy, of New Mexico.
Harry L. Stein, of New Jersey.
Michael P. Strutzel, of Louisiana.

For appointment as Foreign Service information officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:
Razvigor Bazala, of Virginia.
Robert Bemis, of the District of Columbia.
David F. Fitzgerald, of Massachusetts.
Bernard M. Hensgen, of the District of Columbia.
Miss Patricia M. Hogin, of California.
John A. Madigan, of Massachusetts.
Roy M. Payne, of Oklahoma.
Harry L. Ponder III, of Arkansas.
Roger C. Rasco, of Texas.
Richard C. Tyson, of California.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:
Alan Whittier Barr, of California.
George A. Kachmar, of New Jersey.
Jonathan E. Kranz, of New York.
Luciano Mangiafico, of Connecticut.
Clement Laurence Salvadori, of Massachusetts.

For appointment as Foreign Service information officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:
Miss Barbara Joan Allen, of Missouri.
Brian E. Carlson, of Virginia.
Miss Paul J. Causey, of Virginia.
J. Alison Grabell, of New Jersey.
Miss Judith R. Jamison, of the District of Columbia.
Charles C. Loveridge, of Utah.
Michael D. Zimmerman, of North Carolina.

Foreign Service reserve officers to be consular officers of the United States of America:
Eric M. Griffel, of California.
Frederick H. Sligh, of Virginia.
Dean S. Vanden Bos, of California.

Foreign Service reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:
Victor A. Abeyta, of New Mexico.
Norman Alexander, Jr., of Louisiana.
Michael J. Dubbs, of Virginia.
Marvin H. Francis, of Virginia.
James W. Gamble, of Virginia.
Claris R. Halliwell, of California.
F. William Hawley III, of Maryland.
C. Philip Liechty, of Maryland.
Miss Jean Dandridge Logan, of the District of Columbia.
Richard M. Long, of Maryland.
Edward H. Mattos, of Ohio.
Miss Carol Carter Moor, of Florida.
George Mu, of California.
Donald R. Newman, of New York.
David Nickerson, of Maryland.
David A. Phillips, of Texas.
Jacob Sloan, of Virginia.
Charles E. Taber, of Maryland.
Miss Alma Lucille Thomas, of North Carolina.

Foreign Service reserve officers to be secretaries in the diplomatic service of the United States of America:
Robert Elmore Culbertson, of Maryland.
Joyce R. Herrmann, of Maryland.
Howard E. Houston, of Connecticut.
Russell Schnee McClure, of Oregon.
John R. Mossler, of Indiana.
Joseph C. Wheeler, of Virginia.

Foreign Service staff officers to be consular officers of the United States of America:
Thomas R. Flesher, of Maryland.
Arthur E. Goodwin, Jr., of Florida.
Richard M. Maresca, of Massachusetts.
David E. O'Leary, of Massachusetts.
Paul L. Thibault, of Virginia.
James C. Thorpe, of Wyoming.
La Rue H. Velott, of California.

EXTENSIONS OF REMARKS

THE PROBLEMS OF HEALTH CARE—ADDRESS BY SENATOR PERCY

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 11, 1970

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to have printed in the RECORD an important speech that the Senator from Illinois (Mr. PERCY) delivered at the National Convention of Protestant Health Assemblies in Washington, D.C., on March 4, 1970.

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

THE PROBLEMS OF HEALTH CARE

(By Senator CHARLES PERCY)

I would like to discuss a topic of concern to everyone: security. We Americans are a security conscious people. We want to secure peace so we spend billions of dollars on weapons. We want safe streets, so we hire more police. We want financial security so we invest, save, insure. We want job security so we form unions. We lock our doors, avoid going out at night; in numerous ways our behavior is dominated by fear. In short, since we cannot see into the future we seek to protect ourselves now from possible misfortune.

Perhaps no fear is more universal than the fear of disease. Plague, stroke, heart attack or cancer evoke images of suffering, or unknown perils of death. Along with the suffering due to illness there is the pain of being dependent on others, of loss of income, and, increasingly, there is the fear of financial disaster due to huge medical bills.

Although these fears are probably common to all mankind, for some the threat is greater and there is less they can do about it. With illness, as with everything else, the poor have the worst of all possible worlds. The Public Health Service has shown that there is a direct correlation between low in-