FREE ADS FOR VIETNAM VETS

HON. WM. J. RANDALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1971

Mr. RANDALL. Mr. Speaker, as I have observed on the floor of this House on repeated instances within the past several months, one of the highest legislative priorities of this, the 92d Congress, is to enact whatever legislation may be necessary to make adequate provision for the employment of our jobless Vietnam veterans.

It is true the administration has tried to focus attention on the fact that unemployment among our returning veterans is running between 10 and 11 percent as distinguished between the average rate of all unemployment running between 6 and 7 percent. Very recently, within the last 2 or 3 weeks, there was a glimmer of good news in that the percentage of returning unemployed veterans has declined by a fraction of 1 percent.

The ultimate answer may have to be a revival of the old 52–20 plan following World War II. With inflation running rampant as it is, a realistic proposal would be at least 52–75, meaning $75 weekly benefits payable to Vietnam veterans until such time as they could secure employment, not to exceed 52 weeks. Of course, Congress should not wait any longer to liberalize training benefits for returning Vietnam veterans, but that is all the job of the Congress.

Mr. Speaker, I call attention to all my colleagues in the House to a most generous offer by the Kansas City Star, the largest newspaper in west central Missouri, an area which it is my honor to represent. Commencing way back on the Fourth of July, the Kansas City Star, in the morning edition, the Kansas City Times, has offered to run a situation wanted, 25-word want ad in both morning edition and evening edition for any 3 consecutive days. This offer is open to all men and women who have been members of military services during the Vietnam conflict. In other words, to guard against any imposters, all that is asked is that each applicant for this free service provide his military service number and date and place of his official discharge from the service. He is free to write his own ad message up to 25 words and mail or bring it to the newspaper office for publication.

Our great western Missouri newspaper describes this in its own words as a "free shortcut to valuable employment contracts." Of course, it is that. But it is much more than that. It is a substantial contribution to those hapless Vietnam veterans who in these times of recession cannot find work. Remember these veterans do not come back to their homelands as those from other wars. They are not treated as heroes. There is no confetti. There are no brass bands. They are not welcomed home. They just come home. It is one thing to give lipservice to the proposition that we must do something for our Vietnam veterans. It is quite another to actually make a real contribution to try to help these men and women secure employment.

The Kansas City Star may have written editorials urging the Congress to act to help these latest veterans as they return to civilian life. But that paper has also struck out on its own to do something constructive when it offers to any and all who have served in the Vietnam conflict to take advantage of a message published under "Situations Wanted" free of charge in a paper that has a circulation of over one-half million. All hats off to the Kansas City Star.

OUR POW'S IN VIETNAM

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1971

Mr. McCLURE. Mr. Speaker, today, August 2, marks 7 years and 129 days since Capt. Floyd Thompson became the first prisoner taken by the enemy in Vietnam.

I wonder what thoughts must be going through the minds of these men as the days drag on. Have they lost faith? Do they know that back home there are those in high office who dismiss their bravery as acts of aggression? I hope the answer in both cases is no.

I also hope that we have learned the lessons the Vietnam war has taught and that no American need ever again be detained in an Asian POW camp again.

HOUSE RESOLUTION 319

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1971

Mr. JACOBS. Mr. Speaker, the following is the language of House Resolution 319, which I introduced on March 17, 1971. I was hoping it might catch the attention of the administration:

H. RES. 319

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madam Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on September 17, 1970, that the policy of her government is "In case the United States Government declares it will withdraw from South Vietnam all its troops and those of the other foreign countries in the United States camp, and the parties will engage at once in discussion on:

"—the question of ensuring safety for the total withdrawal from South Vietnam of United States troops and those of the other foreign countries in the United States camp.

"—the question of releasing captured military men."

Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from Vietnam within sixty days following the signing of the agreement: Provided, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the National Liberation Front of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

SENATE—*Tuesday, August 3, 1971*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

O God, whose mysterious presence fills the universe, may the power of prayer, like the force of gravity, draw us close to Thee and hold us on the course of life. May the movement of history be the movement of Thy spirit in and through us.

Grant that our actions may be governed by our love of Thee and our love of man. We pray, O Lord, that we may never regard people as problems but only as persons, the highest beings in Thy creation and immortal souls for whom Thy Son died.

May we this day yield ourselves to Thee—body, mind, and spirit—and may we be kept by Thy grace.

"Be Thou our ruler, guardian, guide, and stay:
Thy word our law, Thy paths our chosen way."

Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, August 2, 1971, be dispensed with.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 331.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

ADDITIONAL AUTHORIZATIONS FOR THE CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

The bill (H.R. 7586) to amend the act of December 30, 1969, establishing the Cabinet Committee on Opportunities for Spanish-Speaking People, to authorize appropriations for 2 additional years, was considered, ordered to a third reading, read the third time, and passed.

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

ORDER FOR THE SENATE TO CONVENE AT 9:45 A.M. ON THURSDAY, AUGUST 5, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Thursday next, after the Senate adjourns on Wednesday, the Senate convene at 9:45 a.m. rather than 10 a.m.

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

ORDER FOR RECOGNITION OF SENATOR MATHIAS ON THURSDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on Thursday, August 5, 1971, immediately after the prayer and the recognition of the two leaders under the standing order, the distinguished Senator from Maryland (Mr. MATHIAS) be recognized for 15 minutes.

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

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield back my time under the standing order.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the transaction of routine morning business for a period not to exceed 30 minutes, with statements therein limited to 3 minutes.

The Senator from Missouri is recognized for 3 minutes.

LEADERSHIP REQUIRED TO PREVENT ECONOMIC DISASTER

Mr. SYMINGTON. Mr. President, recently, we learned that management and labor, in the steel industry had reached agreement on a new 3-year contract, providing for a 31-percent wage increase.

This increase follows close on the heels of other major increases in other industries; and can only further exacerbate an already disturbing economic climate.

Despite their mounting protests against increased steel imports, five of the largest steel companies promptly raised their prices 8 percent.

Where is it all going to stop?

Inflation is now running at 6 percent, unemployment about the same, the latter much higher in some localities.

The deficit in the Federal budget for the fiscal year ending June 30, was $23 billion—only $2 billion less than the largest deficit since the end of World War II.

A similar deficit is forecast for next year.

One of the most disturbing economic statistics of all is the current trade balance.

Last month, the Commerce Department was projecting a trade surplus of about $500 million, the lowest surplus since 1937. Now, according to Secretary Stans, there will be a deficit this year—the first deficit in 78 years—since 1893.

How much longer can our economy live with such grim statistics?

Is not the time long overdue for this administration to recognize that its so-called "game plan" is just not working?

What benefit is there to working people if their wage increase does not bring additional purchasing power and does bring more unemployment?

Why does not President Nixon level with the American people, with industry, and with labor, as to the dangers in the present economic trends, and follow the urging of his former Secretary of the Treasury, David Kennedy, as well as AFL–CIO head George Meany, by recommending meaningful wage and price controls?

Prompt action on his part is now vital if we are to prevent disintegration in the value of the dollar.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the New York Times today entitled "Inflation in Steel"; and an article published in the Wall Street Journal on the same subject, entitled "Contract Seen Hurting Steel Firms, Economy and Eventually Union—Big Price Rise Is Just First Result of Costly Accord; Some Mill Closings Likely—Joblessness and Profit Plunge."

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

INFLATION IN STEEL

No matter how little validity the domino theory may have in international relations, the bing-bang increase of steel wages and prices leaves no basis for doubt that it is working with chilling inexorability in labor relations.

The first domino toppled last February when the National Can Corporation, with only 4,000 employees, stole a march on its competitors by making a strike-free wage settlement on the inflationary terms demanded by the giant United Steelworkers of America. The dominant companies in the can industry—American Can, Continental and Crown Cork and Seal—took a four-week strike before bowing to roughly identical terms for their 33,000 unionized workers.

It required no vast prophetic talent to recognize that—in the absence of meaningful Federal action to curb the wage-price spiral—the can settlement of better than 30 per cent in pay increases over three years, plus the possibility of still larger increases through an unlimited cost-of-living escalator, would become the union's pattern in negotiations covering all its 1.2-million members in aluminum, copper, basic steel and metal fabricating plants.

Nearly a month after all the can companies had fallen into line, President Nixon's Council of Economic Advisers made plain its recognition of that pattern's contagious effect by issuing an "inflation alert" denouncing the can settlement as much too costly. It warned that a similar contract in steel would undermine the industry's competitive position and destroy jobs for its members.

Having delivered itself of these pieties, the Administration let nature take its course, a course already well defined by earlier settlements in automobiles, construction, newspapers and other key industries. When the steel union won can-type contracts from the aluminum industry at the end of May, the White House took recourse once again in hand-wringing ineffectuality. It deplored the inflationary pay boosts and the attendant 6 per cent increase in aluminum prices without doing anything about either.

The major copper producers made a brief stab at holding out when their contracts began expiring at the end of June, but virtually all have now tossed in the towel. Big Steel has given the coup de grace to whatever resistance spirit may still be alive by accepting the inevitable without a strike and immeditaely announcing an 8 per cent hike in its prices.

This starts the second round of 1971 price increases in the most basic of America's heavy industries, an industry that was already losing ground to lower-wage and lower-price steel makers in Japan and other foreign countries. When Bethlehem Steel initiated the first round of increases last January by boosting its prices 12 per cent, President Nixon forced a rollback to 6.8 per cent by hinting that the Administration would not move for renewal of the voluntary agreement with foreign producers setting limits on steel imports into the United States.

No such threat hung over the union-management negotiators in the current wage talks. On the contrary, there is every reason to expect that the industry and the union will now join in urging the President and Congress to erect mandatory barriers in the form of tight quotas or tariffs to "protect" them against the consequences of the worsened competitive position they have combined to create for themselves.

The White House has kept its own record of retroactive lamentation intact by its warning yesterday that the higher prices instituted by United States Steel will not be in the long-term best interests of either the industry or the workers. Incontestably, there will be less steel sold and less work for union members; even without the new price schedule, domestic demand for steel was so sluggish that many mills have been laying off employees. However, no useful purpose is served by Administration statements to that effect when the nutcracker squeezing leaders of both union and industry has been the Government's failure to take effective steps toward a fair national incomes policy.

The one constructive innovation in the steel pact is a clause calling for joint union-company activities at the plant level to bring down costs through increased productivity. But the demise of the Human Relations Committee, which grew out of the 116-day steel strike of 1959, underscores the need for something more than a Madison Avenue approach if such joint activities are to end the standstill in plant efficiency that has prevailed in the last half-decade.

In any event, it is delusive to expect that wage-price stability can ever come unless more potent Federal action to steady the purchasing power of the dollar ends a cycle in which pay increases in major industries outrun the long-haul gain in over-all national productivity by 300 to 400 per cent.

CONTRACT SEEN HURTING STEEL FIRMS, ECONOMY AND EVENTUALLY UNIONS BIG PRICE IS JUST FIRST RESULT OF COSTLY ACCORD; SOME MILL CLOSINGS LIKELY—JOBLESSNESS AND PROFIT PLUNGE

(By James P. Gannon)

PITTSBURGH.—The labor peace reached late Sunday in the steel industry will come at a high price to the economy, the troubled industry and perhaps even to the Steelworkers Union.

U.S. Steel and others yesterday wasted no time in presenting the economy with the first due-bill arising from the settlement: a price boost—probably the largest ever made in one move—averaging 8% on nearly all steel-mill products. If precedent prevails, the higher costs of steel will soon be translated into higher prices for cars, appliances and many other products.

But the quick price rise is only the first consequence of the labor pact. Other implications point toward another dose of unfavorable economic news in the short run and in the long run, serious economic pressures that may force a reshaping of the steel industry if it is to survive.

That's the consensus of economists, industry executives, financial analysts and union officials. The impact is hardly likely to cheer Nixon administration economists still struggling with the twin troubles of inflation and unemployment. (A White House spokesman yesterday said the administration felt it was "questionable whether this price increase is in the industry's long-run interest.") The price rise inflicts real and psychological damage to the administration's inflation fight. Other immediate consequences of the settlement will include a steep and prolonged slump in steel production, which will show the already-creeping economic recovery. Mill officials fear the worst slump in nearly a decade and expect thousands of steelworkers to be laid off. They also see a spectacular plunge in profits.

SOME RAMIFICATIONS

Over the longer run, the steelmakers are expected to try to offset the impact of the settlement with a variety of steps that may reshape the industry. The likely steps include:

The closedown of some old mills and a phasing out of the least-profitable product lines, resulting in increased efficiency for companies.

A spate of steel company mergers, especially if the government approves a pending consolidation of National Steel Corp. and Granite City Steel Co.

More serious consideration of establishing steel mills in nations where wages are low in an effort to meet competition from foreign steelmakers.

A long-term reduction, stemming from all these moves, in the industry's employment and thus in the ranks of the Steelworkers Union. "You are going to see one hell of a reduction in manpower over a period of time," predicts one man in the industry.

THE ECONOMICS OF THE PACT

These predictions are based on the economics of the industry in light of the new contract. The industry's chief negotiator, R. Heath Larry of U.S. Steel, estimates that the settlement will increase hourly employment costs by about 15% in the first year of the three-year pact. The industry's total employment costs for hourly workers last year was about $4.4 billion, so the first-year cost impact of about $650 million would actually exceed the total 1970 profits of all major steelmakers combined, which amounted to $513 million.

The short-term outlook for steel is gloomy indeed. Many furnaces that were banked in preparation for a strike will return to production very slowly—and some may never return at all. The industry's operations are expected to hover at less than half of capacity for at least a while; mill officials project August shipment at 4.5 million tons, lowest for any month since July 1962, and they put the current quarter's shipments at less than 18 million tons, an eight-year low.

While steel users are working down the big stockpiles built up in anticipation of a strike, incoming orders will be extremely depressed. "The industry is going to be practically dead" for the next few weeks, says one steel man. Example: General Motors, the world's largest steel user, "told us they would take their normal August orders and spread them over four months." That means GM orders, at least at this company, would be 25% of normal for most of the remainder of 1971 while the auto maker chews up its huge stockpile.

MANY LAYOFFS EXPECTED

As a result, many thousands of steelworkers can't expect to begin collecting newly fattened paychecks for some weeks, or even months. Many of these were laid off last month as the hedge-buying boom deflated early, and steelmakers indicate that thousands more will be idled over the next few days.

Bethlehem Steel Corp., for example, says its mills at Lackawana, N.Y., Johnstown and Bethlehem, Pa., Sparrows Point, Md., and Indiana Harbor, Ind., will be brought back up from their strike-shutdown conditions—but only as orders improve. That means, for instance, that some 6,200 workers at Johnstown and 5,000 at Bethlehem won't be scheduled to work this week. The story is much the same at other large steelmakers.

More threatening to workers than these short-term closings and layoffs is the real prospect of permanent mill closings. Steel executives privately concede, and union officials openly fear, that the least-efficient mills may be doomed.

"They're gonna say, 'Look pal, we gave you the raise, now we gotta shut down the obsolet plants to pay for it,'" predicts Al Lupini, Steel's Fairless Hills, Pa., Works (a fairly president of USW Local 4889 at U.S. modern plant not threatened). "They've been planning to close a lot of these plants for years," contends Mr. Lupini, "and now they're gonna close them and lay the blame on us."

Another USW local president, Morros Brummitt, who heads an 11,000-man local at Jones & Laughlin Steel Corp.'s Aliquippa, Pa., mill, says company negotiators warned of such closings. "They said that they had marginal operations and that an unacceptable contract would cause them to phase out some plants or departments," he says. Another J&L local chief quotes company bargainers as saying, "If you force us to put too much money in, it may force us to close down."

Industry officials don't dispute predictions of mill closings. "I know we have some openhearth capacity that will never come back on again," says one management man. Steel financial analysts agree. "More and more of the old mills are going to be phased out," says one Wall Street source.

Some industry men see a repeat of the cutbacks of the early 1960s, when steel demand slumped after the industry had taken a 116-day strike in 1959. In 1960, for instance, U.S. Steel announced "temporary" closedowns of steel-making facilities at Donora and Clairton, Pa. Those old Monongahela Valley facilities were "temporarily" idle for about two years—and then were permanently shuttered.

Albert T. Delsandro, who lost his mill job in Donora and now is the mayor there, remembers how it was. "It is a staggering blow to the economy of the town" to have about 1,700 jobs wiped out, he says. "I wish the other steel communities a lot of luck, because it is a tough blow."

In Youngstown, where U.S. Steel last month "temporarily" closed its 2,700-man Ohio Works due to lagging orders, USW local officials were so worried the plant would never reopen that they mobilized some political muscle against U.S. Steel. Responding to their appeals, their Congressman, Charles Carney, confirms that he persuaded Rep. Wilbur Mills, head of the House Ways and Means Committee, to extract a pledge from U.S. Steel chairman Edwin H. Gott that the closing would in fact be temporary. Says Al Wellington, a vice president of the USW local at the Ohio Works: "Now that we have the word of such honorable people (as Messrs. Mills and Gott) we feel we have a chance to start up again."

Besides closely scrutinizing their own operations for possible pruning, at least some steelmakers may begin eyeing each other as merger partners, financial analysts believe. They say that such consolidations may be the only way to save the industry's weakest companies.

"If the National-Granite City deal goes through, I think you are going to find other mergers occurring in the industry," says Ted Gerken, vice president at Laird Inc., a New York-based brokerage house. "It would be very good for the industry, because steel companies all over the world are doing it" and presenting a more formidable competitive threat, he asserts.

A top official of the Steelworkers Union agrees. "I think there may be too many steel companies," he says. "I think you'll see some mergers."

A prospect more threatening to the union, however, is the increased possibility that American steelmakers will try establishing mills abroad. One big steel company looking into the possibility of a foreign mill concedes that anticipation of a major labor cost increase here was one reason for exploring the idea.

Armco Steel Corp. is far along on an investigation of building a mill in Australia that would ship semifinished steel to the U.S. for final processing. "Armco is convinced that good management dictates a move overseas for the production of semi-finished steel," says an executive. This proposition has "passed the 'whether' stage—it's only a question of when such a move will be made," he adds. Though Armco isn't disclosing its timetable, observers believe the costly labor settlement will increase its interest, and that of other producers, in overseas producion. Such a move, of course, would take jobs from the U.S. and threaten losses in the ranks of the USW.

USW officials concede they face a declining membership in the basic steel industry. "There will be fewer steelworkers," says one top official. Mill employment has been dwindling for many years. The steel industry's average number of hourly workers dropped to 403,000 last year from 458,000 in 1965. The USW has been able to offset this drop in its major membership group by enrolling more members in non-steel industries and absorbing some smaller unions; currently, it has more than 1.2 million members.

THE DECLASSIFIED SUBCOMMITTEE STAFF REPORT ON LAOS

Mr. SYMINGTON. Mr. President, I ask unanimous consent that a statement released yesterday in connection with the publication of a report on Laos by the staff of the Subcommittee on U.S. Security Agreements and Commitments Abroad be printed in the RECORD.

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

THE DECLASSIFIED SUBCOMMITTEE STAFF REPORT ON LAOS

I am releasing today the sanitized text of a report, entitled "Laos: April 1971," prepared by the Staff of the Subcommittee on United States Security Agreements and Commitments Abroad. The report, originally classi-

fied Top Secret, was presented at an executive session of the Subcommittee on May 21.

Believing that the substance of said report should be brought to the attention of the entire Senate, I subsequently requested, with the concurrence of the Chairman of the Committee on Foreign Relations, a closed session of the Senate to discuss the situation in Laos. This session was held on June 7.

Acting in accordance with the orders of the Senate, the Staff of the Subcommittee then met with representatives of the Department of State, the Department of Defense and the Central Intelligence Agency in order to discuss what portions of the proceedings of this Senate session and the staff report should be deleted for reasons of national security prior to publication.

These discussions began on June 21 and were concluded July 29.

The deletions in the report and in the record of the closed session of the Senate, which I understand will appear in the RECORD of Tuesday, August 3, are those which the Executive Branch insists are necessary for reasons of national security.

It is an encouraging sign that the Executive Branch has finally agreed that much of what the United States Government has been doing in Laos may now be made public. The veil of secrecy which has long kept this "secret war" in Laos officially hidden from the American people has been partially lifted. We doubt, however, that this veil would have been even partially lifted if the Committee on Foreign Relations had not ascertained for itself the facts concerning American operations in Laos.

In this connection, I note that since the visit of the Subcommittee Staff to Laos in April, at which time they began submitting reports by cable from Vientiane, certain facts have been made public by the Executive Branch which facts were heretofore kept secret from the American people. These include the fact that since early 1970 the United States has been conducting B–52 raids in northern Laos on a regular basis; official confirmation that there are Thai forces in Laos; the fact the United States is paying for these Thai troops; also admission that, although the only previously publicly announced official expenditure in Laos for Fiscal Year 1971 was approximately $50 million in economic assistance, the cost of all United States operations in Laos in that Fiscal Year was about $350 million, exclusive of bombing costs.

Unfortunately there continue to be various facts which the Executive Branch insists must remain classified. In particular, that Branch continues to be unwilling to acknowledge certain truths concerning the nature, composition and command arrangements of the Thai forces in Laos, the costs of which forces are paid for with funds appropriated by the Congress and provided by the American people without their knowledge.

Furthermore, these facts which the Executive Branch continues to refuse to declassify bear on the question of whether past and present arrangements for United States support for Thai forces in Laos constitute a violation of amendments to the Fiscal Year 1971 defense authorization and appropriations acts.

The stated reason for this Executive Branch refusal to declassify these facts is so as to avoid making public what the Governments of Thailand and Laos do not wish to make public. But since the taxpayers of this country are paying the bills, why should the recipient foreign governments have the right to dictate what our citizens can and cannot be told about the way in which public funds are being spent?

If the Administration wishes to continue arguing that the Thai forces now in Laos are "local forces in Laos," it would seem they should produce proof of such an assertion; and at the same time explain their insistence upon suppressing facts which make that assertion highly questionable.

Let us hope that, despite the deletions on which the Executive Branch has insisted, the staff report on Laos will help the American public decide whether it is either wise or desirable for the United States to continue to do what we have been doing in Laos at ever-increasing cost to this nation in dollars, and to the Lao people in lives and territory.

In any case, such a fundamental decision should not be made by a small group of Government officials who operate behind closed doors on the basis of information available only to them—officials who thereupon are free to control what the public shall know of their decisions.

If this democracy is to continue to function with the consent of the governed, it would appear obvious that both the Congress and the public should have as much of the truth as possible about such policies and programs of this Government, especially as the programs in question require hundreds of millions of dollars annually in public money and even more important involve this country both directly and indirectly in armed conflict.

Mr. SCOTT. Mr. President, it is customary to blame whatever President we have for whatever is the state of the economy. I think it would not be amiss for us in Congress to accept a part of that responsibility.

Take the steel settlement. Everyone is talking about the fact that when we increase wages we have to increase the price of steel. We would not have to increase wages and we would not have to increase the price of steel if Congress had not been voting more money than the President asked for, if we had not been anxious to apply a "green poultice" to every ailment, believing that by throwing money up at it we can solve any problem.

Thus, Congress has participated in the inflationary rise.

Thereupon, union labor asks for an increase in living wages under their right of collective bargaining. Management accedes and then management increases the cost of its product. Then everyone gets up on the Senate and House floors and says, first, that it is the fault of the President and, second, that it is the fault of management.

I submit that is not so much the fault of anyone, but that the effect is due to the operation of labor unions and management and also to the fact that both are impelled to do what they do, because the Government has been increasing the cost of living.

Therefore, I believe that Congress should take a greater share of the blame. Congress should be willing to admit that it should not blame management alone at the expense of labor and exculpate labor; or blame labor and exculpate management. It is a three-legged stool, and we are responsible for the fashioning of the weakest of the three legs.

Mr. SYMINGTON. Mr. President, would the able minority leader yield?

Mr. SCOTT. I yield.

Mr. SYMINGTON. Mr. President, the minority leader knows of the great respect in which I hold him. If his remarks are the result of the short statement I made today, may I say that I do not blame labor primarily. The problem of their leaders is to get enough in the way of a working wage to insure a decent living for their people.

Nor do I blame management primarily. Management is interested in making as much profit as possible. Together they both realize or should realize, that these price increases and wage increases make us even less competitive in foreign markets.

The problem would now appear primarily one for the Government. As to whether it primarily is the problem of Congress or the executive branch, I personally feel it is a problem for the operating leadership of the Government, which is the executive branch.

May I say in this connection that since 1966 I have recommended more fiscal recognition of the problem.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SYMINGTON. And since 1967 more control over prices and wages.

TRIBUTE TO SENATOR STENNIS ON HIS 70TH BIRTHDAY

Mr. GAMBRELL. Mr. President, I take note that on this date in 1901, the distinguished junior Senator from Mississippi (Mr. STENNIS) was born. I know that we all want to extend to the Senator from Mississippi a happy birthday on his birthday today.

Mr. SCOTT. Mr. President, if the Senator would yield, I believe I have the privilege of having known the Senator from Mississippi longer than any other Member of the Senate. I was in school with him. I was next door to him. He is a very dear friend. I do not charge him with holding all of my views. We differ on many issues.

I join with the junior Senator from Georgia in wishing him happy birthday.

Mr. MANSFIELD. Mr. President, I, too, would like to join the distinguished junior Senator from Georgia and the distinguished minority leader in the remarks they have had to make today about the distinguished Senator from Mississippi (Mr. STENNIS).

We differ on many occasions about many issues. However, I have always found him to be a man of honor, integrity, and distinction.

May I say that his great attempt to maintain the Senate amendment in the draft bill was most responsible.

I commend the Senator from Mississippi. He worked hard and carried out the best traditions of the Senate. He tried to carry out the will of the Senate.

I do not always agree with his direction, but he is entitled to credit for what he attempted to do, and he did so with stubbornness and understanding.

The PRESIDENT pro tempore. Is there further morning business?

QUORUM CALL

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF DEPARTMENT OF DEFENSE PROCUREMENT

A letter from the Acting Assistant Secretary of Defense submitting, pursuant to law, the report of Department of Defense Procurement from Small and Other Business Firms for July 1970–May 1971 (with accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

INTERIM REPORT FROM THE U.S. METRIC STUDY

A letter from the Secretary of Commerce submitting the seventh in the series of interim reports stemming from the U.S. Metric Study, prepared by the National Bureau of Standards (with accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION RELATING TO BASIC PAY OF THE MASTER CHIEF PETTY OFFICER OF THE COAST GUARD

A letter from the Secretary of Transportation submitting proposed legislation to make the basic pay of the master chief petty officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other Armed Forces, and for other purposes (with accompanying papers); to the Committee on Commerce.

REPORT ON THE ACTIVITIES OF THE GEOLOGICAL SURVEY

A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the activities of the geological survey during the period January 1 through June 30, 1971; to the Committee on Interior and Insular Affairs.

ANNUAL WELFARE PROGRAM REPORT OF HEW

A letter from the Secretary of the Department of Health, Education, and Welfare transmitting, pursuant to law, a report on the efforts of State public welfare agencies to provide social services to families with dependent children (with accompanying report); to the Committee on Finance.

REPORT ON CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, reporting, pursuant to law, on certain bona fide defector aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT ON SUSPENSION OF DEPORTATION OF A CERTAIN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, reporting, pursuant to law, on the suspension of deportation of Vicente Aguilar-Munoz (with accompanying papers); to the Committee on the Judiciary.

REPORT ON ADJUSTMENT OF STATUS OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, reporting, pursuant to law, on the adjustment of status of certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT ON CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, reporting, pursuant to law, on orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California; to the Committee on Appropriations:

"SENATE JOINT RESOLUTION 21

"Resolution relative to unemployment insurance

"Whereas, In the San Francisco area alone, 300 postal employees have been laid off and the total is expected to reach 1,000 by May 1, 1971, when the layoff will be completed; and

"Whereas, Federal employees in other categories are also being laid off, and this severance program is being carried out in all California cities, and in all other states of the Union; and

"Whereas, Those federal employees already laid off have applied for their unemployment insurance, but they were refused because the budget item has not been considered yet so there is no money available; and

"Whereas, It requires the permission of the President to have this budget item considered out of order; and

"Whereas, The former federal employees have waited the necessary two weeks before applying for unemployment insurance, their funds are very low, and many of them cannot pay their rent and will have to apply for public assistance either to pay rent or to buy food; and

"Whereas, Federal employees in prior years have repeatedly been compelled to suffer delays in the payment of federal unemployment benefits due to the failure of the federal government to provide the necessary funds; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to allocate moneys to the federal unemployment insurance fund in order that former federal employees, recently laid off, can draw their unemployment insurance compensation; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to establish a permanent system of continuing appropriations and allocation of moneys to the federal unemployment insurance fund to guaranttee that federal employees shall not again suffer delays in the payment of federal unemployment benefits; and be it further

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

A joint resolution of the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION 17

"Resolution relative to firefighting

"Whereas, Recent fires in the brush-laden hills and canyons of this state have shown the need for a more efficient system of air-drop of fire-retardant chemicals or water, or both fire-retardant chemicals and water; and

"Whereas, While the existing chemicals or water, or both, seem to be effective, *their* usefulness is diminished because of the problems of accurate drops on, or deliveries in large quantities to, the target areas from the air; and

"Whereas, This is due, in part, to the fact that relatively small airplanes are used to deliver the fire-retardant chemicals or water, or both, to the target areas, and that the airplanes are required to fly dangerously low in order to insure a direct hit on the target area since the fire-retardant chemicals or water, or both, when released from airplanes, immediately disperse; and

"Whereas, It has been determined that large quantities of fire-retardant chemicals or water, or both, could be delivered to the target areas with more *safety and* accuracy, by the use of large airplanes equipped with devices for carrying and dropping self-bursting containers filled with such chemicals or water, or both; and

"Whereas, this could be accomplished by the use of existing airplanes equipped with devices for carrying such containers and trained personnel of the United States Air Force and the Air National Guard; and

"Whereas, such airplanes and trained personnel could be made available to local governments during emergency fire conditions; and

"Whereas, it would be in the best interest of this state and country to utilize existing federal and state airplanes and trained personnel to control forest fires efficiently; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States and the Secretary of Defense to study the feasibility of utilizing military airplanes and personnel based in this state to inaugurate programs of training personnel and active participation in fighting fires in mountains and canyons of this state by dropping fire-retardant chemicals and water or both fire-retardant chemicals and water in self-bursting containers from airplanes; and be it further

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

A joint resolution of the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION 32

"Resolution relative to federal-aid highway funds

"Whereas, The federal government now maintains a balance in excess of $3 billion in the Highway Trust Fund and this surplus is scheduled to reach nearly $5 billion by 1973; and

"Whereas, These funds are obtained by federal taxes on gasoline and other automobile-related taxes; and

"Whereas, The state highway system has serious deficiencies totaling $13 billion; and

"Whereas, The Construction industry in California is in a seriously depressed state with unemployment among construction workers recently reaching 17 percent; and

"Whereas, The release of federal highway funds would benefit California by relieving unemployment, aiding the construction industry and alleviating serious highway deficiencies; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to immediately release funds now held in the Federal Highway Trust Fund for highway construction; and be it further

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

A joint resolution of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"SENATE JOINT RESOLUTION 23

"Resolution relative to a regional park in the Santa Susana Mountains

"Whereas, Northern Los Angeles County and southern Ventura County in southern California have reached high population density and are continuing to grow at a rapid and steady rate; and

"Whereas, Natural recreation areas to serve these areas have already become scarce because of the demands of increasing population; and

"Whereas, The Santa Susana Mountains, situated in Los Angeles and Ventura Counties, from the Golden Freeway on the northeast to the foot of the mountains in the northeast Simi Valley, represent an area uniquely suited to dedication as a regional park because of diversity of plant and animal life, natural beauty, and historical significance; and

"Whereas, The Santa Susana Mountains could not, because of terrain and other factors, be developed economically for residential, commercial, or industrial purposes, unless such uses were established in conjunction with the use of the area for park purposes; and

"Whereas, Several local organizations, such as Chatsworth Beautiful, Santa Susana Mountain Park Association, and Simi Valley Beautiful, together with community-minded residents of southern California, have already begun work on the preservation of part of the proposed park area; and

"Whereas, The Federal Bureau of Outdoor Recreation is presently conducting a study of a proposed Santa Monica Mountain Park in Los Angeles and Ventura Counties; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to expand the existing Santa Monica Mountain Park Study to include a study of the establishment of a regional park in the Santa Susana Mountains; and be it further

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

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

"HOUSE JOINT RESOLUTION

"Whereas, The Ninety-second Congress of the United States of America, at its First Session, in both houses, by a constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America:

"'Joint resolution proposing an amendment to the Constitution of the United States, extending the right to vote to citizens of eighteen years of age or older.

"'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 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 within seven years from the date of its submission by the Congress:

"'"ARTICLE —

"'"SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

"'"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."'; therefore be it

"Resolved by the House of Representatives of the Seventy-Seventh General Assembly of the State of Illinois, the Senate concurring herein, that such proposed amendment to the Constitution of the United States of America be and the same is hereby ratified; and be it further

"Resolved, That a certified copy of this resolution be forwarded by the Secretary of State of Illinois, to the Administrator of General Services of the United States, to the President Pro Tempore of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Senator and Representative from Illinois in the Congress of the United States."

The petition of Andrew Harper, No. 63258, John Holmes, Jr., No. 63257, and Charles Dennis, No. 63259, Joliet, Ill., praying for a redress of grievances; to the Committee on the Judiciary.

The petition of M. E. Baldigo, Bloomington, Ind., praying for a redress of grievances; to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENNETT, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 2216. A bill to amend the Investment Company Act of 1940, as amended (Rept. No. 92-344).

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 7718. An act to exempt from taxation by the District of Columbia certain property in the District of Columbia which is owned by the Supreme Council (Mother Council of the World) of the Inspectors General Knights Commanders of the House of the Temple of Solomon of the Thirty-third Degree of the Ancient and Accepted Scottish Rite of Free Masonry of the Southern Jurisdiction of the United States of America (Rept. No. 92-348).

S. 2387. A bill to exempt from taxation by the District of Columbia certain property in the District of Columbia which is owned by the Supreme Council (Mother Council of the World) of the Inspectors General Knights Commanders of the House of the Temple of Solomon of the Thirty-third Degree of the Ancient and Accepted Scottish Rite of Free Masonry of the Southern Jurisdiction of the United States of America (Rept. No. 92-347).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 291. A bill to establish with the Department of the Interior the position of Assistant Secretary of the Interior for Indian Affairs (Rept. No. 92-338).

By Mr. ANDERSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 2248. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments (Rept. No. 92-339).

By Mr. MOSS, from the Committee on Interior and Insular Affairs, with amendments:

S. 1245. A bill to amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data (Rept. No. 92-340).

By Mr. BIBLE, for Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 1852. A bill to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes (Rept. No. 92-345).

GATEWAY NATIONAL RECREATION AREA

Mr. BIBLE. Mr. President, I have today reported from the Senate Interior Committee a bill which in my opinion deserves prompt and thoughtful consideration by every Member of this body. I refer to the Gateway National Recreation Area in the States of New York and New Jersey.

Gateway is a park for the millions of people not privileged enough to be able to afford long vacations or expensive trips. It is for the millions of disadvantaged, whose summer recreation resources are now limited to an open fire hydrant or, if they are lucky, a crowded neighborhood pool. We talk so much of preserving our wild lands and scenic vistas. But what is this but rhetoric to the ghetto child of Harlem, who only knows the hot summer streets of his neighborhood?

This area provides miles of ocean beaches for swimming, surfing, and fishing. It includes several square miles of inland areas, as well as Jamaica Bay, an ecological treasure which has survived despite the depradations of development and pollution thus far visited upon it.

Recreation areas are among our most precious assets, and, as the population of this country continues to grow, these areas of relaxation will become even more valuable to those who wish to escape, albeit for a short time, from our urban areas where 70 percent of the population now lives. Unfortunately, there are relatively few beaches near our great population centers, and those that are within reasonable distance are overcrowded. Anyone who has seen the beaches at Coney Island—or at Jones Beach—on a hot summer day will get a vivid picture of what it means for the millions who try to use limited facilities. This is why the Gateway National Recreation Area is so important to the New York metropolitan region and, indeed, for the whole country.

Our Subcommittee on Parks and Recreation has given this project prime consideration and, in addition to the 2 days of public hearings, we made a field trip to the region on June 25 and 26. Through the use of bus, boat, and helicopter, it was possible for us to inspect each and every part of the area and to observe the usage of other beaches in the vicinity. We soon discovered that even at that early date there was a surplus of people at these shores.

Because of the fact that many people living within reach of the Gateway do not have automobiles and because it is important not to encourage vehicular traffic in the recreation area, it will be vital to develop adequate mass transportation to carry people back and forth to Gateway. Without adequate transportation the area will not have meaning for many residents in the New York metropolitan region, especially those people living in the ghettos who should be encouraged to come out and enjoy the beaches. Maximum use should be made of the existing subways, and these should be augmented by added bus schedules and new ferry systems which can move large numbers

of people to the various attractions within the project. The most important feature of this mass transportation should be its low cost to the public so that large numbers of people, especially those with minimum incomes, will be able to enjoy the beaches and other areas.

Adequate facilities such as beach houses and rest areas need to be constructed in and around the gateway area to allow for maximum use of the region by large groups of people, especially children. It is also felt that adequate parking facilities should be provided at points outside the recreation area. This will mean that automobile traffic can be minimized to the greatest extent possible.

With regard to the Jamaica Bay area, which is a rare wildlife preserve in the middle of a metropolitan region, it is most important that any development or use of the area be done with the view of conserving the great natural resources and fish and wildlife located in Jamaica Bay. Concerning the other areas included in the gateway project, it is most important that all available beach conveniences be fully developed and that any existing natural areas be preserved so that those coming to the recreation area will also be allowed to enjoy the genuine scenic beauty in many of the enclaves to be included in the project.

The cost of the gateway project including land acquisition has been estimated to be $140 million over a 20-year period. Most of this cost will be incurred during the first 5 years of development.

Even though the costs involved seem large, they are actually minimal when we consider the tremendous number of people who will use the gateway facilities. On an annual basis, it has been projected that 50 million people from all over the Nation will visit the region when it is fully operational. This means that the cost per visitor will be much lower than for any other park, seashore, or recreational area.

This legislation offers us a unique opportunity to establish a recreation area that will serve more people than any other region that could be developed in the Nation. It will enable many who would have no chance to get near a beach and water to avail themselves of such an opportunity. It is important that gateway be approved and it is my sincere hope that the Members of this body will take affirmative action on the proposal.

By Mr. PELL, from the Committee on Labor and Public Welfare, with amendments:

S. 659. A bill to amend the Higher Education Act of 1965, the Vocational Educational Act of 1963, and related Acts, and for other purposes (together with supplemental and individual views) (Rept. No. 92–346).

By Mr. HOLLINGS, from the Committee on Post Office and Civil Service, without amendment:

H.R. 135. An act to provide for periodic pro rata distribution among the States and other jurisdictions of deposit of available amounts of unclaimed postal savings system deposits, and for other purposes (Rept. No. 92–341).

By Mr. HOLLINGS, from the Committee on Post Office and Civil Service, with an amendment:

S. 1989. A bill to amend title 39, United States Code, to provide for the renewal of certain star route contracts (Rept. No. 92–342).

By Mr. HOLLINGS, from the Committee on Post Office and Civil Service, with amendments:

S. 996. A bill for the relief of certain air taxi mail transportation operators (Rept. No. 92–343).

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore announced that on today, August 3, 1971, he signed the following enrolled bills which had previously been signed by the Speaker of the House of Representatives:

H.R. 943. An act to provide mortgage protection life insurance for service-connected disabled veterans who have received grants for specially adapted housing;

H.R. 3146. An act to authorize the Secretary of Agriculture to cooperate with the States and subdivisions thereof in the enforcement of States and local laws, rules, and regulations within the national forest system;

H.R. 6239. An act to amend the maritime lien provisions of the Ship Mortgage Act of 1920;

H.R. 9181. An act to amend the Northwest Atlantic Fisheries Act of 1950; and

H.R. 9382. An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, corporations, and offices for the fiscal year ending June 30, 1972, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. MANSFIELD (for Mr. LONG), from the Committee on Finance:

Johnnie M. Walters, of South Carolina, to be Commissioner of Internal Revenue.

By Mr. BYRD of West Virginia (for Mr. WILLIAMS) from the Committee on Labor and Public Welfare:

Peter G. Nash, of New York, to be General Counsel of the National Labor Relations Board;

John Dickson Baldeschwieler, of California, to be Deputy Director of the Office of Science and Technology; and

Peter C. Benedict, of Virginia, to be a member of the National Mediation Board.

Mr. DOMINICK. Mr. President, as in executive session, from the Committee on Armed Services I report favorably 21 nominations of flag and general officers in the Navy, Marine Corps, and Air Force. I ask that these nominations be placed on the executive calendar.

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

The nominations ordered to be placed on the executive calendar are as follows:

The following officer to be placed on the retired list, in the grade of lieutenant general, under the provisions of section 8962, title 10, of the United States Code:

Lt. Gen. Selmon W. Wells, [redacted] (major general, Regular Air Force), U.S. Air Force.

The following officer to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general, under the provisions of section 8066, title 10, of the United States Code:

Maj. Gen. Louis L. Wilson, Jr., [redacted] (major general, Regular Air Force), U.S. Air Force.

Vice Adm. Thomas F. Connolly, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general:

William L. McCulloch, Robert W. Taylor, Adolph G. Schwenk, William H. Lanagan, Jr., Francis W. Vaught, Robert L. Nichols, Clyde R. Mann, Albert C. Pommerenk, Herbert L. Wilkerson, Manning T. Jannell, and Ernest R. Reid, Jr.

The following-named officers of the Marine Corps for temporary appointment to the grade of major general:

Harry C. Olson, Ralph H. Spanjer, Fred E. Haynes, Jr., Lawrence F. Snoddy, Jr., Ross T. Dwyer, Jr., Joseph C. Fegan, Jr., and Leslie E. Brown.

Mr. DOMINICK. In addition, Mr. President, I report favorably 68 appointments in the Marine Corps in the grade of second lieutenant; 266 promotions in the Navy in the grade of commander and below; and 199 appointments in the Army in the grade of lieutenant colonel and below. Since these names have already been printed in the CONGRESSIONAL RECORD I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed at the end of the Senate proceedings of July 14, 1971.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2401. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BELLMON:

S. 2402. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to authorize loans and grants for gas facilities in rural areas. Referred to the Committee on Agriculture and Forestry.

By Mr. BENNETT:

S. 2403. A bill for the relief of Dan Thomas. Referred to the Committee on Armed Services.

By Mr. MAGNUSON (for himself, Mr. BENNETT, Mr. BENTSEN, Mr. BIBLE, Mr. CHURCH, Mr. FANNIN, Mr. GOLDWATER, Mr. HANSEN, Mr. HATFIELD, Mr. JORDAN of Idaho, Mr. MCGEE, and Mr. MONTOYA):

S. 2404. A bill to amend the Natural Gas Act to secure adequate and stable supplies of natural gas at the lowest possible cost to the consumer, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON:

S. 2405. A bill to amend section 14 of the Natural Gas Act. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 2406. A bill to provide for an equitable procedure for establishing congressional districts. Referred to the Committee on the Judiciary.

By Mr. McINTYRE:

S. 2407. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or ef-

ficacy becomes diminished. Referred to the Committee on Labor and Public Welfare.

By Mr. JACKSON (for himself, Mr. ALLOTT, and Mr. FANNIN) (by request):

S. 2408. A bill to extend the life of the Indian Claims Commission, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. Mr. MATHIAS:

S. 2409. A bill to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969. Referred to the Committee on the District of Columbia.

By Mr. DOMINICK (for himself, Mr. CURTIS, Mr. GOLDWATER, and Mr. THURMOND):

S.J. Res. 147. A joint resolution proposing an amendment to the Constitution of the United States with respect to the election of the President and the Vice President of the United States. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2401. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT) and myself, I send to the desk for appropriate reference a bill to provide for the management, protection, and development of the national resource lands, and for other purposes.

This proposal was submitted and recommended by the Department of the Interior and I ask unanimous consent that the executive communication from the Secretary of the Interior accompanying it be printed in the RECORD at this point in my remarks.

Mr. President, this proposed measure is similar to title I of S. 921, Public Domain Lands Organic Act of 1971, a bill which I introduced on February 23, 1971, and I wish to announce to the Members of the Senate that the Interior Committee will hold hearings on this new bill at the same time we hear S. 921. Hearings on this legislation have already been scheduled for September 21 and 22.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 20, 1971.

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

DEAR MR. PRESIDENT: Enclosed is a draft bill "to provide for the management, protection, and development of the national resource lands and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee and that it be enacted.

In his message to Congress on the environment early this year, President Nixon stated:

"The Federal public lands comprise approximately one-third of the Nation's land area. This vast domain contains land with spectacular scenery, mineral and timber resources, major wildlife habitat, ecological significance, and tremendous recreational importance. In a sense, it is the 'breathing space' of the Nation.

"The public lands belong to all Americans. They are part of the heritage and the birthright of every citizen. It is important, therefore, that these lands be managed wisely, that their environmental values be carefully safeguarded, and that we deal with these lands as trustees for the future. They have an important place in national land use considerations."

This bill represents an historic proposal. The Department is proposing legislation which, for the first time, would state the national policies governing the use and management of 450 million acres of the public domain and provides specific guidelines for the management of these vast lands.

Simply put the bill declares a national policy that these lands be managed under the principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the quality of the environment. It is also declared in the national interest that these lands be held in Federal ownership and that disposal be authorized only when the management of the public domain would be significantly improved, or when such disposal would serve important public objectives which cannot be prudently and feasibly achieved on non-Federal lands. This then sets a guiding principle for management in perpetuity.

In a very real sense the story of this country's growth and development is the story of the public domain. At one time the Federal government owned 80% of the present land mass of the United States. Thirty-one States were created out of public domain, railroads, schools, and other public works built, and much of the west was settled by grants of public land. For these and other purposes 1.1 billion acres of some of the richest land in this country was transferred out of Federal ownership.

Although the primary objective of Congress was to get Federal land into private ownership, it also recognized at an early date that certain natural resources should be preserved for the enjoyment of the Nation as a whole and generations to come. In 1872 Yellowstone National Park was created. In succeeding years, 18 million acres of public land became National Parks, 160 million acres became National Forests, and 2.3 million acres became wildlife refuges.

Today roughly 450 million acres of public domain remain without specific statutory designation. And while the Nation has come to regard this land as a permanent national asset to be, for the most part, retained and managed on a multiple use, sustained yield basis, the basic management tools available for this purpose remain those that were forged when Federal ownership was expected to be short-lived, and when the Federal role was that of a temporary custodian.

From 1812 to 1946 the principal custodian of the public land was the General Land Office. Its job was primarily to survey the land and convey it to successful applicants.

In 1934, the Taylor Grazing Act brought a measure of protection and management to the unreserved public domain. Among other things, this Act authorized the establishment of grazing districts to provide more orderly use of the public range lands. The Grazing Service was created to administer the grazing district management program. The General Land Office was given authority to classify public lands for disposal.

In 1946 by executive reorganization, the General Land Office and the Grazing Service were merged into the Bureau of Land Management.

Within the Department of the Interior the Bureau of Land Management has the responsibility to manage the 450 million acres of unreserved public land. In addition, BLM has some surface management responsibilities on millions of acres withdrawn for programs of other Federal agencies such as the Bureau of Reclamation, the Bureau of Sport Fisheries and Wildlife, and the Department of Defense. BLM and the Geological Survey have joint responsibilities for administration of the mineral laws on all public domain and acquired lands (including national forests and widlife refuges), reserved mineral interests—more than 800,000,000 acres in total—and on the Outer Continental Shelf. BLM also keeps the basic public land records and does land boundary surveys for most Federal lands. Lands administered by BLM amount to about 60% of all Federal lands.

Despite the enormous responsibilities of the BLM, the definition of its mission and the authority to accomplish it have never been comprehensively enunciated by Congress. Rather its mission and authority must be gleaned from some three thousand land laws which have accumulated over some 170 years and which are often at cross purposes.

In 1964 Congress passed three laws as a first step in the process of placing public land management on an up-to-date, rational basis. The Public Land Law Review Commission Act established a commission to review the entire body of the land laws and administrative practices and recommend modifications in them to best enable the public land to be retained and managed, or disposed of, all for the maximum benefit to the general public. The Classification and Multiple Use Act authorized BLM to classify the public lands for disposal or retention for multiple use management. The Public Land Sale Act allowed sale of public land which was chiefly valuable for certain specified uses. The latter two Acts expired on December 23, 1970.

The Classification and Multiple Use Act and the Public Land Sale Act were intended as interim measures, pending evaluation and possible implementation of the PLLRC recommendations. When they expired on December 23, 1970, the Bureau of Land Management returned to the Taylor Grazing Act of 1934 for its basic classification authority. Since the Taylor Grazing Act does not apply to public lands in Alaska, the Department is without that essential management authority in that State.

During the six year life of the Classification and Multiple Use Act, 177 million acres were classified for multiple use management while roughy 3.5 milion acres of land were classified for disposal. Two hundred and sixty two million acres remain unclassified, almost all of which is in Alaska.

The comprehensive management authority we are proposing for the public lands is in accord with many of the recommendations of the Public Land Law Review Commission, and would continue on a permanent basis the concepts approved by Congress in the two Acts which expired on December 23, 1970. It would provide for the first time a clear and comprehensive definition of the Department's mission with respect to these lands.

The proposed act would apply to all lands administered by the Department through the Bureau of Land Management including the revested Oregon and California Railroad lands and reconveyed Coos Bay Wagon Road lands in Oregon. It would adopt the name National Resource lands to designate adequately their importance.

The proposed act is designed to provide a broad framework for any legislative proposals dealing with specific uses or resources which may be made in the future. For this reason, it should be an initial step in any legislative program to reform the land laws.

It directs the Secretary of the Interior to inventory the national resource lands and to develop comprehensive land use plans for such lands giving priority to lands in critical environmental areas, which is defined to include among others flood plains, coastal

zones and scenic or historic areas. The inventory will give priority to such critical resources as clean burning fossil fuels to assist this Nation's efforts to combat pollution. The identification of the most critical environmental areas will be given a high priority by this Department so that those areas may be given the protection they so urgently need. A thorough knowledge of the resources we possess and purposeful plans for their use will greatly assist us to arrest the destruction we have too long and too carelessly inflicted on our natural resources. The national resource lands are in a real sense our last frontier. We cannot afford to squander their riches.

The proposed bill would repeal the hodgepodge of land disposal laws and replace them with a modern disposal law authorizing the Secretary to sell for fair market value those lands meeting the standards set forth in the proposed bill.

The Mining and Mineral Leasing Laws and certain special purpose land disposal laws, including the Recreation and Public Purpose Act, would not be repealed, although this Act would govern the exercise of Secretarial discretion under those and any other laws.

Equally important to land management is the authority to acquire lands necessary for authorized programs, or for blocking up existing land holdings. One traditional method of doing this, land exchanges, is retained with the modification that where the lands are not of equal value, the value may be equalized by cash payment. This acquisition authority is not intended to initiate a major acquisition program.

The proposed bill would significantly enhance the management of the national resource lands by making violation of laws or regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees.

The authority granted by the Act would pass to the Secretary of Natural Resources upon establishment of the Department of Natural Resources as proposed by President Nixon. The Act would not affect the present funding of operations on or the distribution of receipts from the national resource lands.

The national resource lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

Enclosure.

By Mr. MAGNUSON (for himself, Mr. BENNETT, Mr. BENTSEN, Mr. BIBLE, Mr. CHURCH, Mr. FANNIN, Mr. GOLDWATER, Mr. HANSEN, Mr. HATFIELD, Mr. JORDAN of Idaho, Mr. MCGEE, and Mr. MONTOYA):

S. 2404. A bill to amend the Natural Gas Act to secure adequate and stable supplies of natural gas at the lowest possible cost to the consumer, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON:

S. 2405. A bill to amend section 14 of the Natural Gas Act. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I send to the desk two bills and an amendment for appropriate reference. They involve the energy problems of the United States. The bills are to be considered one as a counterpart of the other.

I ask that one bill (S. 2404), which deals with the Natural Gas Act amendment and cosponsored by myself and Messrs. BENNETT, BENTSEN, BIBLE, CHURCH, FANNIN, GOLDWATER, HANSEN, HATFIELD, JORDAN of Idaho, MCGEE, and MONTOYA, lie on the desk for further cosponsorship.

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

TAMING THE ENERGY CRISIS

Mr. MAGNUSON. Mr. President, no single element has contributed more to the economic well-being of this country than the ever-expanding flow of abundant low-cost energy. Yet, today, no single activity generates greater fear for the continued viability of our environment than the production, transmission, conversion and use of energy. This, then, is our "energy crisis." A black cloud that glowers over every city and State, every industrial enterprise, every home.

This "energy crisis" is in reality two crises, interwoven but distinct: the crisis of supply and the crisis of environmental contamination. Thus, while environmentalists condemn the pockmarked landscapes, fouled streams, the air-choked byproducts of energy generation, industry and Government planners labor into the night frantically searching for the new sources of energy to meet the inexorably swelling demand of the seventies and beyond.

Mr. President, I send to the desk a package of proposals, designed to aid us in seeking hard-nosed, effective cures for both these energy crises:

First. A proposal in the form of an amendment to S. 1684 the administration's powerplant siting bill, now pending before our committee, which would levy a fee of 0.15 mills per kilowatt-hour of electrical energy generated throughout the country to be massed in a Federal power research and development fund administered by a new board, charged with the urgent mandate to seek out and develop low-polluting techniques for the fulfillment of our electric energy needs.

This proposal is grounded upon a simple yet fundamental principle: Pollution is essentially an involuntary byproduct of inefficiency in the utilization of fuels to generate energy. Any process which increases the efficiency of electricity generation necessarily contributes to the solution of both energy crises. Turning to a simple basic analogy: If we can increase the efficiency of present electric energy generating plans by 50 percent, we would need one-third less fuel, produce one-third less air pollutants and only about half the waste heat per kilowatt-hour of energy produced. In the pursuit of this objective the environmentalist and the supplier of energy share a common goal.

Second. A bill to authorize and direct the Federal Power Commission to determine once and for all the hard facts behind the threatened drying up of natural gas supplies. The producers of natural gas in this country have told us that they now lack sufficient reserves to assure an adequate supply of this favored, low-polluting fuel even into the early seventies. They insist they must be permitted to double, perhaps even triple, the price for new gas in order to stimulate their investment in research for new supplies.

At the same time they have refused to supply the Federal Power Commission with the basic facts, which only they possess, concerning the actual dimensions of their present proved reserves.

Industry cannot have it both ways. There are those who believe that the gas shortage has been deliberately exaggerated as a scare tactic by the industry to panic the Federal Power Commission into indiscriminate, excessive rate increases. If the industry is to set these fears to rest, then it must give up its obsession with secrecy and make available the facts upon which it bases its claim. The American public cannot be forced to swallow billions of dollars of rate increases without an adequate showing that these increases are totally justified.

Third. A bill to protect the natural gas system of the Pacific Northwest and to stimulate the search for new gas reserves. The prolonged and torturous court proceedings in the El Paso-Pacific Northwest divestiture case have raised grave fears among gas distributors and consumers that the resulting new company will be incapable of meeting the expanding gas needs of the Northwest. Moreover, there is no evidence that the divestiture will enhance competition for the California market, the theoretical objective of the divestiture. The bill will preserve the present system under conditions designed to protect the public interest and to insure the integrity of gas suppliers to meet the region's future needs.

Mr. President, I cannot, of course, promise that these bills in and of themselves will cure our energy crises. There are other, equally critical, facets of these crises.

The Senate has wisely authorized the Interior Committee under the leadership of its distinguished Chairman (Mr. JACKSON), who possesses enormous expertise in the supply and technology of production of the critical fuels to conduct a comprehensive energy study. We have joined in supporting that study and share Senator JACKSON's conviction that a national energy policy is vitally necessary.

Nevertheless, it is possible to address those aspects of the energy problem which I have dicussed now without waiting for the results of the overall energy study. I welcome the comments and suggestions of my colleagues, consumers, the affected industries, and of the concerned Government agencies.

We have already conducted 2 exhausting days of hearings on the gas supply situation in the Pacific Northwest. It is my intention that the Commerce Committee proceed deliberately, but with a sense of urgency, over the next several months to consider these measures.

THE EL PASO-PACIFIC NORTHWEST MERGER

Mr. President, this bill is of great importance to consumers in the Northwest and in the entire western part of the

United States. The purpose of this bill is to protect the interests of these consumers by finally bringing to an end the 14 years of fruitless, and now pointless, litigation arising from the 1959 merger of the pipeline systems owned by El Paso Natural Gas Co. and Pacific Northwest Pipeline Corp.

The problems that will be created by the breakup of the El Paso system have caused serious concern to the Governors and the utilities commissioners of the various States served by El Paso. The bill which I am introducing today has the strong support of these public officials from the States of Washington, Oregon, Idaho, Wyoming, New Mexico, Nevada, Texas, Arizona, and California. I am also pleased that my colleagues, Senators BIBLE, HATFIELD, CHURCH, JORDAN, MCGEE, HANSEN, BENNETT, TOWER, BENTSEN, MONTOYA, GOLDWATER, and FANNIN have joined with me in sponsoring this bill. I am also pleased that Congressman BROCK ADAMS is cosponsoring a similar bill in the House.

Many of these State officials, as well as chambers of commerce and industrial and individual users of gas have written to me over the last few months to express their concern that the divestiture by El Paso of the assets of the old Pacific Northwest Pipeline Corp. would jeopardize their chances of obtaining adequate gas supplies in the future, while at the same time imposing needless extra costs on gas consumers. Because of the many public interest issues raised by the divestiture, the Senate Commerce Committee held hearings in Seattle, Wash., on April 19 and 20 to examine all aspects of the problem. Over 20 individuals and groups appeared and many others filed statements expressing their views. At the beginning of the hearings I stated that the burden of proof lay with those who would urge Congress to act in this matter.

After a careful review of this record, I am convinced that this burden has been fully discharged and that divestiture will yield no competitive benefits to consumers in the States affected. It will, however, impose significant costs on them in return for a reduced probability that they will continue to enjoy adequate supplies of natural gas at low, stable prices. I believe that the bill I am cosponsoring today is the only solution which will protect the interest of these consumers.

A professor of antitrust law who appeared before the committee as an expert witness characterized the 14-year history of the El Paso litigation as "one that warrants a description by Charles Dickens." This is, perhaps, the most unique case in the history of our country; certainly the most unique case in antitrust history. For these reasons, I am enclosing for the record a memorandum detailing the facts behind the merger and a summary of the various decisions reached by the courts. I would, however, like to summarize briefly the highlights of this extraordinary case.

The litigation which will finally be brought to an end by this bill was first instituted in 1957 by the Department of Justice, which felt that the merger should be upset under section 7 of the Clayton Act because it would reduce competition in California. El Paso was serving California and the Southwest at that time, whereas Pacific Northwest, as its name indicates, was serving the Northwest States. It had never served the California market. The Federal Power Commission in 1959 examined the merger under its authority granted by Congress in section 7 of the Natural Gas Act and found that the total public interest would be served by the merger; that there were substantial benefits to the Northwest, the Southwest and even to California. The FPC recognized that there might be some anticompetitive effects in California but concluded that this was minimal at best and far outweighed by the advantages of the merger to consumers in all of the affected States.

The Supreme Court, however, determined that the FPC should have delayed its consideration of the total public interest until the courts had resolved the narrower question of whether there would be a reduction in competition in California. When the trial court failed to find any anticompetitive effect in California, the Supreme Court reversed this decision and ordered El Paso to divest the assets it had acquired. That was in 1964. El Paso and the Justice Department came up with a divestiture arrangement which was approved by the district court judge, but this too was reversed by the Supreme Court in 1967. A second divestiture arrangement was developed by a new district court judge after many months of hearings, but, at the urging of three private individuals who were not parties to the suit, the Supreme Court again reversed this arrangement.

A district court in Denver is presently working on a third arrangement and recently handed down its decision on that aspect of the case dealing with the gas reserves to be divested. The court rejected the proposals put forth by the Department of Justice which would have required El Paso to turn over to the new company a pipeline built by El Paso prior to the merger, together with gas reserves presently being utilized to serve California and contracts with customers presently receiving this very gas. Instead, the court decreed that in order to make it easier for the new company to enter California in the future, El Paso could not bring any additional gas into that State for 3 years after divestiture takes place or until certain conditions were met. The effect of the decision would be to remove El Paso as a competitor in California for at least 5 years—a result which the distributors and utilities in California are obviously distressed about.

Even William Bennett, a former California public utilities commissioner who has participated in this case from the very beginning and who appeared before the Commerce Committee as a "consumer spokesman" has described the district court's decision as a "massive blunder" and a decision "so grossly in error as to escape understanding." While Mr. Bennett is frequently given to hyperbole, it is reasonably certain that the decree will ultimately be appealed. No one can tell how many more arrangements will have to be worked out and how many more years will be consumed while we in the West wait to find out who will serve our area and whether we will continue to be able to secure needed gas supplies.

At the outset, let me stress that this litigation has proceeded on the basis of the facts known to the parties and to the courts in 1957—14 years ago—as to natural gas supplies and the effect of the merger on consumers in California at that time. A number of fundamental changes have taken place in these market conditions which radically alter the suppositions on which the lawsuit was originally brought and decided by the Supreme Court.

The most fundamental change has taken place in the last 2 years—we have moved from an era of abundant gas supply to a period of dangerous scarcity and recent findings by the district court have just confirmed this fact. The demand for natural gas because of its pollution free characteristics has so outstripped potential supply that in the words of one independent analyst of the gas industry, based upon current reserves and additional discoveries that can be expected as a result of a realistic projection of capital investment and exploration in the next 10 years, the maximum quantity of available gas by 1980 from all sources both within and without the United States will still be more than one-third less than market needs at that time.

The most knowledgeable people on this matter, those who are responsible for distributing gas to consumers in the western part of the United States testified at the hearings that the most fertile sources of new gas supplies will be found in the western Provinces of Canada. In the last year or two a number of different companies have each committed tens of millions of dollars in the search for Canadian gas supplies. These efforts will quicken in the coming years. These next few years will be absolutely crucial in determining whether the western part of the United States will be able to obtain its fair share of these reserves.

But during this time we cannot expect El Paso to make any significant expenditures in this effort since they will be forced to dispose of all of their interests in Canada because of the divestiture. Unfortunately, it will be many years before any company which were to acquire El Paso's Northwest Division would be able to engage in these expensive efforts in searching for Canadian gas. Not only is the recent court decision likely to be appealed and the litigation continued for many more years, but the assets cannot be transferred to the new company until the FPC has issued a certificate of public convenience and necessity covering such a transaction. That decision will take time as well and, of course, there is always the likelihood of a judicial review of that decision too. When all the cases have finally been decided it will still take some period of time for the new company to begin operation of the Northwest system and to "learn the ropes." What we are then faced with is a hiatus during which no company will be aggressively searching for new gas for our area and this hiatus will take place at the point in time when it is most important for us to have a strong, aggressive and able company representing our interests.

One of the most striking effects of the development of this gas shortage crisis is that it is now impossible for the purposes for which the lawsuit was initially instituted to be achieved any more. As you will recall, the lawsuit was instituted in order to restore "competition" in the California market. Competition, as the Supreme Court recognized, involves two or more companies competing for new incremental demands of gas consumers. But in view of the prospect that for the indefinite future we will have to live with gas shortages there can be no "competition" between suppliers to market their gas in California. Any and all new discoveries can be easily and readily sold.

Thus, California's concern is no longer for new gas suppliers, but for new gas supplies. It should also be noted that since the institution of this lawsuit, two major out-of-State suppliers have begun to serve the California market. With three strong out-of-State suppliers and over 100 intrastate suppliers, the creation of a fourth out-of-State supplier by dividing up the present El Paso system—and now, according to the recent court decision, removing El Paso as a competitor—cannot result in any competitive benefits for California.

In view of the fact that the sole benefit sought to be achieved by this lawsuit can realistically no longer be achieved, are there any other benefits which would result to gas consumers if divestiture took place? This question was asked frequently at the hearings in Seattle and no one was able to point to any real, tangible benefits. On the other hand, many of the witnesses, particularly those whose businesses are dependent upon the ability to secure adequate supplies of gas at low, stable prices, pointed out a number of ways in which substantial harm would result to gas consumers unless legislation were enacted as quickly as possible to preserve the merger.

To begin with, as I have already mentioned, the witnesses were greatly concerned that the next 5 years would be critical in the search for new sources of gas supplying and that during this period the western States would still be struggling with the problems of divestiture and with the problems of a new company gearing up its operations.

Second, millions of dollars in additional costs will have to be incurred as a result of divestiture. These costs would include duplication of facilities, higher interest costs on borrowings, and the duplication of personnel and administrative costs. All of these costs would be passed on to the consumer, and the heaviest burden would be passed on to the consumers in the Northwest. It appears certain that gas prices will be going up in the future as a result of changes in FPC policy and the fact that new gas discoveries will be made at even greater distances from our markets. But there is no reason why additional costs should be imposed which will not lead to more gas. Moreover, the governors, utility commissioners and distributors all testified that gas prices are more likely not to rise as much in the future if the present system is preserved.

Third, a new, inexperienced and unquestionably financially weaker company will be substituted in the Northwest for El Paso as the sole supplier of gas to our area. And this brings me to what I feel is the most troublesome point in this whole divestiture business. This substitution of companies in the Northwest will not take place because the Supreme Court or any other court analyzed our situation and concluded there were competitive benefits to our area from divestiture. The relative merits or evils to the Northwest arising from the merger or from divestiture have never been discussed in any of the Supreme Court's opinions. Divestiture was ordered because the Court in 1964 thought that in view of the abundance of gas supplies, the creation of a new competitor by divestiture would tend to provide future competition in California. The effects which divestiture might have on the Northwest were never even considered.

Although the FPC had found the merger to be in the total public interest, the Supreme Court felt that under section 7 of the Clayton Act, once it found some anticompetitive effects in any market, in this case California, that was the end of the issue and divestiture had to be ordered no matter what the benefits or detriments might be to the other areas of the country affected. It is tragically ironic for the Northwest that in 1971, consumers in this area may have to suffer the risks and consequences of a divestiture which no longer holds forth any possibility of even yielding any benefits to California.

While I have no particular brief for El Paso in this matter, I cannot be unmindful of certain facts which were brought out at the hearings; the fact that for 13 years after the merger there was not a single rate increase in the Northwest, and in 1967 there was even a rate decrease. Deliveries of gas by El Paso to the Northwest tripled during this same period, whereas throughout the nation it has only doubled. El Paso was the first importer of significant quantities of Canadian gas and has been a leader in such efforts as importing liquefied natural gas. I do not believe it is reasonable for consumers in the Northwest to be forced to accept as their single supplier a new, as yet unknown, quantity in the place of a company with a proven record such as this; to be forced to bear additional costs for a reduced probability that they will receive additional gas supplies—in order to carry out a court decision based on facts as they existed 14 years ago and which never took into account their needs or the damage which divestiture would impose on them.

I have no doubt that the Justice Department attack on the El Paso-Pacific Northwest merger was a well-intentioned effort to achieve the benefits of competition in California. This is a desirable end, and, were we limited to our knowledge of the situation to the known facts of 1957, this judicial contest might still seem to be of value.

In this case the courts are in a straitjacket, but we in Congress cannot wear blinders. We live in 1971, and we, unlike the courts, can take into account the events that have transpired during the last decade.

The testimony presented in Seattle is persuasive that if divestiture takes place it is likely to leave the Western states with two weak companies instead of one strong company; with two companies neither of which will be able to solve our gas shortage problems, instead of one company that has already proven it has the capability to do the work that has to be done.

This is what will happen if we allow ourselves in 1971 to be hostage to the facts as they existed in 1957. We could choose to do nothing, but we must then be prepared to face the gas consumers of our States and explain to them why we took no steps to prevent their being saddled with needless extra costs or inadequate supplies. Ultimately, we must be ready to explain why, in the very near future, they may have insufficient gas to heat their homes; why there may be brownouts on the west coast next year.

The bill we have submitted is the only alternative. It does not require the expenditure of any public moneys to benefit the consumers of a particular area. Moreover, the bill will not only provide the benefits of a unified pipeline system to western consumers and end the uncertainty arising from the many years of litigation, it will also make it considerably easier for any new supplier to enter the California market in the future should supply conditions so change as to make such entry possible. Sections 3 (b) and (c) of the bill impose certain conditions on El Paso designed to require El Paso to transport gas in its existing system on behalf of other suppliers or to construct pipelines and facilities for others who may have a source of supply but no way of getting it to the market. Thus, by virtue of this bill, El Paso would be required to help new entrants gain access to the markets presently served by it. In this regard, the preservation of the merger will significantly enhance the competitive situation in the Western U.S. gas markets in the future.

To insure that any other pipeline company that wishes to mount a new project to the West will not face unnecessary opposition, section 3(a) of the bill provides that for a period of 10 years El Paso will not intervene against an application filed with the FPC to provide new service to this area unless the FPC determines that such intervention is necessary to insure an adequate basis for decision on whether the new project is in the public interest.

Section 3(e) requires El Paso to report annually to the Congress on any rate changes approved by the Commission and the reasons for the changes. Thus, we will be able to exercise continuing oversight on El Paso's record in providing the lowest possible rates to consumers.

Finally, to insure that our expectations are fulfilled that a unified El Paso will make every effort in finding new solutions to our gas shortage, section 4 of the bill imposes an obligation on the company to commit at least $200,000,000 over the next 5 years to exploration and other activities designed to make additional gas supplies available to consumers in the United States.

I recognize that these are unique provisions. But I feel that with the addi-

tion of these provisions we will, so to speak, be able to have our cake and eat it. We will be able to avoid the many evils which divestiture holds for consumers in the West, and, at the same time, make it more likely that the purpose for which the lawsuit was originally brought—the realization of the benefits of competition—will be achieved.

Before I conclude, let me anticipate some areas of concern on the part of some of my colleagues by commenting briefly on what this bill is not intended to do.

First, it is not intended as an attack on, or confrontation with our judicial system. They have handled this controversy as they felt they were required to do under the overlapping provisions of the Clayton Act and the Natural Gas Act. The chickens have come home to roost in the Congress because of our failure to make clear in these two acts exactly how we thought a merger in the natural gasfield should be evaluated by the FPC and reviewed by the courts. Consequently, it is up to us to resolve the conflict in this unique case and our so doing is no reflection on the efforts of the courts to deal with this matter on the 1957 terms presented to them.

Second, this bill should not be viewed as against "competition," but for "the benefits of competition." After all, this is what this whole affair has been about—the realization of the benefits of competition, such as lower prices, better service and more efficient use of our resources. If, as in this case, the benefits of competition can only be achieved through the preservation of a viable system, to be "for competition" and against "lower prices or better service" would be to elevate form over substance.

Finally, this is in no way a "special interest bill." It is not even regional legislation, although it is the Western States—particularly the Pacific Northwest and California—that will bear the immediate consequences of a failure on our part to act. This is, in long range terms, legislation of national importance; the strength of our natural gas systems and the ability of gas suppliers to provide consumers with adequate fuel at reasonable costs should be of concern to every Member of this body.

I know that many of my colleagues are reluctant to take legislative action which in any way impinges on the application of our antitrust laws. I share this view. But we cannot be blind to the unintended consequences of the laws we have previously passed. Nor can we be indifferent to the consequences of a failure to legislate when the public interest requires it. As one whose principal interest is the protection of the consumer, I cannot remain idle in this matter.

The Federal Power Commission told us 11 years ago that it was in the public interest, when all aspects of that interest were considered, for El Paso to own the northwest system. I believe that we should heed that judgment before it is too late. The recent district court decision demonstrates that the longer we allow this case to drag on, the further away we are from finding a resolution which is in anyone's interest. I urge all Senators to support this legislative effort which will bring an end to this interminable litigation and to allow those who supply gas to consumers in the Western States to get back to the business of finding more gas.

I ask consent that the text of the bill and an article from the Wall Street Journal of Monday, July 26, be printed at this point in the RECORD.

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

S. 2404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 7 of the Natural Gas Act, as amended (56 Stat. 83; 15 U.S.C. § 717f) is amended by adding at the end thereof the following new subsections:

"(i) Any merger, consolidation, acquisition or other transaction by which the assets or stock of one natural gas company were acquired by another natural gas company prior to January 1, 1960, shall be conclusively presumed to have not been in violation of any antitrust laws if the assets or stock so acquired have not been divested and distributed pursuant to a final judgment under the antitrust laws prior to the date of the enactment of this Act; provided that any part of any such transaction or transactions was at the time thereof subject to the jurisdiction of the Commission and further provided that application for a certificate of public convenience and necessity for the jurisdictional part or parts of any such transaction or transactions was made to and approved by the Commission prior to January 1, 1960.

"(j) Any court having pending before it on or after the date of the enactment of this Act any litigation or proceeding arising from the initiation of litigation under the antitrust laws with respect to such merger, consolidation, acquisition or other transaction, shall apply the rule of law set forth in subsection (i).

"(k) Any order of the Commission, prior to January 1, 1960, issuing a certificate of public convenience and necessity for that portion of a transaction or transactions referred to in subsection (i) which is subject to the jurisdiction of the Commission shall be valid and in full force and effect in accordance with its original terms."

SEC. 2. As used in this Act the term "antitrust laws" means the Sherman Act (26 Stat. 209; 15 U.S.C. §§ 1–7 as amended), the Clayton Act (38 Stat. 730; 15 U.S.C. §§ 12–27 as amended), all amendments to such Acts, and such statutes and any other Acts in pari materia.

SEC. 3. Any natural gas company subject to the conclusive presumption of section 1 above shall, for a period of ten years from the date of enactment:

(a) Not intervene before the Federal Power Commission in opposition to an application for a certificate of public convenience and necessity to provide new service in the company's service area unless the Federal Power Commission determines that such intervention is necessary to assure an adequate basis for decision;

(b) Make available to others any excess capacity in its transmission facilities, upon a finding by the Federal Power Commission that such availability to others is in the public interest and, on such terms and conditions as may be approved by the Commission;

(c) Construct transmission facilities to transport gas for others, upon a finding by the Federal Power Commission that such construction and transportation is in the public interest and on such terms and conditions as may be approved by the Commission;

(d) Report annually to the Federal Power Commission and the Department of Justice on the measures it has taken to comply with the provisions of this section; and

(e) Report annually to the President of the Senate and the Speaker of the House on any rate changes approved by the Federal Power Commission during the previous year and the reasons therefor.

SEC. 4. Within five years from the date of enactment, any natural gas company subject to the conclusive presumption of section 1 above shall commit at least $200 million towards developing and making additional gas supplies available to consumers in the United States.

SEC. 5. The Attorney General, after consultation with the Chairman of the Federal Power Commission, is authorized to institute a proceeding in any court of competent jurisdiction to enforce the provisions of section 3 and 4 of this Act.

SEC. 6. Nothing in this Act shall affect:

(a) The jurisdiction of the Federal Power Commission or the way in which expenditures required by section 3 of this Act are treated by the Commission for rate-making purposes; or

(b) The rights of third parties to bring suit under the antitrust laws on the grounds that they have been injured in their business or property as a result of a merger, consolidation or acquisition covered by section 1.

SEC. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[From the Wall Street Journal, July 26, 1971]

U.S. vs. EL PASO: ANTITRUST GONE MAD

(By Roger W. Benedict)

Even in the murky field of antitrust law it's a bit unusual for a major case to drag on for 14 years, with no end in sight. It's even more unusual if the defendant has ever appealed and the man who takes credit for initiating the suit now wants Congress to wipe it out.

An almost complete turnabout in industry conditions during these seemingly interminable proceedings has become, in fact, the focus of a growing controversy over *U.S. vs. El Paso Natural Gas Co.* And that dispute has a significance that extends beyond its immediate economic importance to the wider issue of the relationship of antitrust law to the public interest.

In the view of a large majority of Western governors and regulatory commissions, most of the area's gas utilities and many gas customers, this antitrust action, far from promising benefits to consumers, has become instead a major threat to their best interests by endangering future gas supplies for the Western U.S.

JUSTICE DEPARTMENT ALARMED

Sen. Warren G. Magnuson (D. Wash.), chairman of the Senate Commerce Committee, after holding hearings, has drafted proposed legislation that would preserve El Paso's 1957 acquisition of Pacific Northwest Pipeline Co., ending what he terms "14 years of fruitless and now pointless litigation." Naturally enough, this has aroused alarm in the Justice Department, which fears that such legislative intervention could trigger increasing appeals to Congress to undo antitrust rulings won in the courts, as the lawmakers have recently done in cases involving bank and newspaper mergers.

But an examination of this complex case indicates that it is indeed a proper matter for congressional scrutiny.

From the beginning the case has hinged on whether relatively narrow and largely theoretical interpretations of antitrust law should take precedence over a much broader evaluation of what serves the public. This has in turn involved a classic dispute over the division of powers among the major branches of the federal government.

Proponents of legislative intervention in the case contend that the test of time has verified a conclusion by the Federal Power Commission that merger of the two pipelines would benefit consumers in the Pacific Northwest, California and the Southwest. By contrast, they assert, legal theories advanced by the Supreme Court that the merger would reduce competition in California make little sense in today's growing national gas shortage.

Edmund G. "Pat" Brown, who was attorney general of California at the time, says he convinced the Justice Department to file the antitrust suit. He told Sen. Magnuson's hearings that a court-ordered divestiture of Pacific Northwest by El Paso now "is likely to prove extremely damaging" to California consumers, by threatening their access to future supplies of gas and by raising its costs.

Concern is even greater in the Pacific Northwest. Gov. Cecil D. Andrus of Idaho testified at the hearings that energy reserves in the Northwest are "dangerously low," and he asserted that El Paso, with divestiture hanging over its head, can't pursue new supplies with "great vigor." Until the litigation is ended, he said, "there will be no successor company in position to undertake the responsibility."

El Paso contends that with full approval of the FPC, it rescued Pacific Northwest from the verge of bankruptcy, pumped $166 million into it, tripled its sales over a period when industry volume doubled and never raised prices to customers over the first 13 years of operating Pacific. El Paso says the merger also ended its own over-dependence on byproduct gas from Texas oil wells, helping keep gas rates in Los Angeles and San Francisco among the lowest in the nation.

Now El Paso is faced with the likelihood of divesting its holdings not only in Pacific Northwest, but in one of its own major California pipelines as well, plus a possible $50 million tax liability, an attempt to sequester some past earnings and a ban on competing in its biggest market, California, for seven years.

Howard Boyd, chairman and chief executive officer, says the divestiture "may turn one healthy company into two sick ones," to the detriment of consumers served by both.

Pacific Northwest was set up in 1954 to build the first interstate gas pipeline to that area of the country. But it ran up $23 million of operating losses in its first three years, had to sell some assets to meet preferred dividend payments and faced loss of valuable undeveloped leases in New Mexico's giant San Juan Basin gas field unless it could find the capital to meet contract drilling requirements.

Pacific proposed merger to El Paso, which had the financial resources to shore up the new company, and which was attracted by the opportunity to diversify its sources of gas supply. The FPC, which regulates gas pipelines, approved the consolidation. But the California Public Utilities Commission appealed, charging that the merger would decrease pipeline competition in the state by removing one company. The Circuit Court of Appeals in Washington, D.C., upheld the merger.

COMPLICATED MANEUVERS

But that was the last time that any court has considered the broad impact of the merger on the public interest. California appealed the ruling to the Supreme Court, thus setting off a complicated series of maneuvers that revolved on complex legal questions. The result to date is four controversial Supreme Court decisions, with more in sight.

The first Supreme Court ruling, in 1962, was that El Paso must stand trial in a lower court on antitrust charges. Although the Clayton Act contains language exempting from antitrust challenge any transactions approved by the FPC, the court held the act didn't give the FPC authority to rule on a stock acquisition that preceded actual consolidation of assets. El Paso argued in vain that the stock acquisition was merely a part of the merger process.

Justices John Harlan and Potter Stewart said, in the first of several blistering dissents, that the ruling created "a wholly artificial imbalance between antitrust law enforcement supported "by reason or authority."

After a district court acquitted El Paso of an antitrust violation, the Justice Department again appealed to the Supreme Court. The high court overturned the lower court, contending that if Pacific Northwest had remained independent it would have become a pipeline competitor in California. The Supreme Court directed the lower court to order divestiture, prompting Justice Harlan to assert that he knew of no previous case in which the high court had ordered a remedy not considered first by a lower one.

The divestiture plan drawn up by the district court was the "best in the history of the Clayton Act," according to a high Justice Department official. But the Supreme Court in 1967 rejected the plan and proceeded to outline its own directives for another lower court to carry out. This caused the dissenting justices to thunder, "The court roams at large, unconfined by anything so mundane as a factual record developed in adversary proceedings."

The second plan of divestiture was turned down by the Supreme Court in 1969, after it denied the lone appellant, the Utah Public Service Commission, permission to withdraw, which would have ended the case. The same dissenting justices declared this "dismaying to all who are accustomed to regard this institution as a court of law." They charged that the decision "to shatter centuries of judicial tradition" came from "completely erroneous factual premises born of superficial acquaintance with this 14,000-page record."

The district court in Salt Lake City is currently struggling with a third divestiture plan. But even the Justice Department is recommending that it ignore two of the Supreme Court's directives: that the sale be "all cash" (which would impose that $50 million tax on El Paso) and that it prohibit transfer of $170 million of El Paso's debt to Pacific (which likely would cost Pacific millions of dollars in added interest costs to raise new debt at today's rates). The new plan is expected to go back to the high court at least once more.

The Supreme Court's rulings have all related to pipeline competition in California. In 1946 El Paso built the first pipelines to bring out-of-state gas to that vast market, in competition with more than 100 suppliers hooked to California wells. Pacific Northwest never supplied the market, but had made an abortive pre-merger attempt to do so, failing to find sufficient buyers at its proposed prices, which were higher than El Paso's.

Since the case began, two more major interstate pipelines have been built to California.

What's more, the market has changed from one of strong competition to one of growing shortage; today anyone with gas to sell would have no trouble finding buyers. What the state needs now, says Mr. Brown, are "new gas supplies, not new gas suppliers."

The most likely direction for all the Western states to turn for new supplies, says Mr. Boyd, is northward, to Canada and Alaska. El Paso has pioneered U.S. use of Canadian gas, currently accounting for nearly one-third of total U.S. imports. This gas has helped El Paso keep prices low in the Pacific Northwest, while freeing San Juan gas for the much shorter haul to California, he asserts. But he says that the litigation is tying El Paso's hands and that no new company exists to compete against Midwest and Eastern pipelines that may sew up most of the available supplies before the court case ends.

CONCERN OVER COMPETITORS

There's also concern over how effective a new company would be. Of seven competitors for the Pacific Northwest properties, the only one with pipeline experience, Colorado Interstate Corp., was once before rejected by the court. Anaconda Co., the giant copper mining company; Husky Oil Ltd.; and Banister Continental Corp., a computer and pipeline construction firm, would be entering a new field.

Three exist only on paper: Western Sunset Transmission Co., Paradox Production Corp. and Copaso Inc. (Noting a Securities and Exchange Commission report that Paradox had $23 in fixed assets and owed its directors $557,000, Sen. Magnuson commented, "I hope this isn't typical of the applicants.")

At the request of Sen. Magnuson's committee, Stephen Breyer, professor of antitrust law at Harvard Law School and formerly a Justice Department attorney in the antitrust suit against El Paso, re-studied the case. While Professor Breyer opposes the principle of congressional action in court cases, he concluded that the Justice Department "guessed wrong" when it initiated the El Paso suit.

By Mr. HARTKE:

S. 2406. A bill to provide for an equitable procedure for establishing congressional districts. Referred to the Committee on the Judiciary.

CONGRESSIONAL REDISTRICTING

Mr. HARTKE. Mr. President, today I introduce legislation which will eliminate the possibility of gerrymandering in future congressional redistricting. The bill is identical to H.R. 6852, introduced in the House by Representative JAMES M. HANLEY of New York.

My proposal will remove the State legislature's present congressional redistricting power, and place it in the hands of a five-member commission in each State. These commissions will be mandated to take cognizance of existing communities of interest and to refrain from acting to minimize or cancel the voting strength of racial, economic, or political elements.

Each commission would also be required to strive for distinct representation for city, suburban, and rural areas and to follow existing political subdivision boundaries to the greatest extent possible. The districts must be compact and contiguous, and each must come within a 1-percent deviation from the average district population of the State.

The membership of the commissions would be composed of one appointment to be made by each of the majority and minority leaders in both houses of the State legislatures and a fifth appointment to be made by the highest court in the State. Thus, the commissions will have a bipartisan composition coupled with a representative of the judicial branch.

Mr. President, the subject of redistricting has confounded democratic societies throughout history. Many noble efforts have been made to provide equitable dis-

tricting procedures which nevertheless did not ignore such vital human factors as communities of interest and local political subdivisions. The proposal I introduce today is a new and bold approach which should help to bolster the confidence of the people in those who represent them in Washington. I ask that the full text of this bill, the Congressional Districting Act of 1971, be printed at this point in the RECORD.

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

S. 2406

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 "Congressional Districting Act of 1971".

SEC. 2. Section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929 (2 U.S.C. 2a), is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) (1) In the case of a State entitled to more than one Representative to the Ninety-third or any subsequent Congress, Representatives to such Congress shall be elected from congressional districts established in such State by the State redistricting commission appointed for such State in accordance with subsection (d) after each apportionment under subsection (b). The commission for a State shall establish a number of districts for such State equal to the number of Representatives apportioned to such State under subsection (b). No district so established shall contain a number of persons (determined under the decennial census under which such apportionment was made) which differs by more than 1 per centum from the quotient obtained by dividing the population of such State (under such census) by the number of Representatives to which such State is entitled under such apportionment.

"(2) Subject to paragraph (1), a commission, in establishing congressional districts in a State, to the extent possible—

"(A) shall provide for fair and effective representation for all individuals, peoples, and party interests to the maximum extent practicable,

"(B) shall take cognizance of such communities of interest as do exist and may not act to minimize or cancel out the voting strength of racial, economic, or political elements,

"(C) shall strive for distinct presentation for city, suburban, and rural areas, and

"(D) subject to the preceding subparagraphs of this paragraph, shall follow existing political subdivision boundaries, and shall provide that such districts shall be composed of a contiguous and as compact an area as possible.

"(d) (1) Within sixty days after the enactment of the Congressional Districting Act of 1971, and thereafter within sixty days after the receipt by the executive of a State of a certificate under subsection (b), there shall be established in each State a State redistricting commission. Such a commission shall consist of five members appointed as follows:

"(A) The majority and minority leaders of each house of the State legislature shall each appoint one member.

"(B) The highest court of the State shall appoint one member.

A vacancy in the commission shall be filled in the same manner as the original appointment was made.

"(2) In the case of a nonpartisan bicameral legislature, the leader of each house shall appoint two members of the commission after consultation with the leaders of political parties in the State. In the case of a unicameral nonpartisan legislature, the leader of such legislature shall appoint four members of the commission after consultation with leaders of political parties in such States.

"(3) The determination as to which official constitutes the minority or majority leader of a house of a State legislature for purposes of this subsection shall be made by such house.

"(e) (1) A State commission appointed under subsection (d) shall, after conducting public hearings, promulgate a plan which meets the requirements of subsection (c) within one hundred and eighty days of its appointment. Such plan shall be published in the Federal Register, shall take effect on the sixtieth day after such publication, and shall be applicable until the next apportionment following a decennial census. Any plan which takes effect shall have the force and effect of law (except to the extent that a court order issued under paragraph (2) otherwise provides).

"(2) Any person aggrieved by any action (or failure to act) of a commission under paragraph (1) may at any time before the expiration of sixty days after the publication under paragraph (1) of a plan promulgated by such commission file a petition in the United States district court sitting in the State. Upon the filing of such petition the court shall have jurisdiction to review such action (or failure to act) in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(3) Any person aggrieved by the failure of any State official referred to in subsection (d) (1) (A) or (B) to appoint a member of a commission may bring an action in a United States district court for appropriate relief. The court shall have jurisdiction to grant such relief.

"(f) (1) (A) Members of a commission appointed under subsection (d) shall each be entitled to receive $50 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the commission.

"(B) While away from their homes or regular places of business in the performance of services for the commission, members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Three members of such a commission shall constitute a quorum.

"(3) (A) A commission may appoint and fix the compensation of such personnel as it deems advisable.

"(B) The staff of the commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(4) A commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable.

"(5) A commission appointed under subsection (d) shall cease to exist sixty days after the publication of a plan under subsection (e) (1), except that, if an action is commenced under subsection (e) (2) for judicial review of such plan, the commission shall continue to exist during the pendency of such action."

SEC. 3. The second paragraph of the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting" (2 U.S.C. 2c) is repealed.

By Mr. McINTYRE:

S. 2407. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished. Referred to the Committee on Labor and Public Welfare.

DRUG DATING PROPOSAL TO AID CONSUMERS

Mr. McINTYRE. Mr. President, I am introducing for appropriate reference a bill, the Drug Dating Act of 1971.

For some time I have been concerned about the efficacy of drugs we use. Nearly every prescription and non-prescription drug loses its potency over a period of time, some in a few days, others in several weeks or months. The consumer has no way of knowing whether the drug in his medicine cabinet is effective unless he knows the date on which it loses its strength. A consumer may be taking cold pills he obtained for a previous illness. The pills may look exactly the same as they did at the earlier time, but they may be no more effective than sugar pills because the ingredients have lost their power.

One pharmacist recently told me that it is particularly important that the over-the-counter drugs be labeled with an expiration date because these drugs have not been prescribed by a physician and the consumer has not been told how long to use the drug. A consumer might continue taking the medication long after it has lost its potency or has undergone chemical changes. With a "beyond use" date is would be the consumer's responsibility to discard the drug.

Another pharmacist felt that the small amount of additional work in the dispensing of each affected prescription would be well worth it and that pharmacy in general would be glad to cooperate in this public service.

I know of one case in which nitroglycerine tablets were prescribed and dispensed without an expiration date. Nitroglycerine is used as a vasodilator and loses its potency after a couple of months. It would have been disastrous if this person would have relied on his old tablets.

These statements from members of the pharmaceutical industry have been most helpful to me in making my decision to proceed with this legislation. Much work remains to be done in this area before any final determination can be made on this or any other legislation. I intend to keep an open mind and to make changes in my proposal as the need for modification becomes evident.

Mr. President, I have a goal that I am seeking in this most important matter of drug dating. This goal is simply stated—protection for consumers who may not now have adequate knowledge of the dates of the drugs that they are taking. That is my goal, and I am mindful that there may be differences of opinion concerning the most effective way to achieve that goal.

If, after thorough deliberation in committee, it becomes clear that there is a better way to help the consumer in th'

area you can be assured that I will join in developing that new measure. The consumer deserves better protection from the possibility of taking outdated drugs and I pledge myself to that cause. I believe that my bill will be one of the moving forces that brings about the changes in drug dating that are needed to fully protect consumers everywhere.

By Mr. JACKSON (for himself, Mr. ALLOTT, and Mr. FANNIN) (by request):

S. 2408. A bill to extend the life of the Indian Claims Commission, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT), the senior Senator from the State of Arizona (Mr. FANNIN), and myself, I am today introducing legislation by request of the administration to extend the life of the Indian Claims Commission. Under the proposed bill, the Indian Claims Commission Act would be amended to accomplish the following purposes:

First. Change the date for dissolution of the Commission from April 10, 1972, to April 10, 1977.

Second. Provide that cases still pending when the Commission dissolves be transferred to the U.S. Court of Claims, which would be empowered to complete adjudication of such cases.

Third. Provide for the setting of a trial date for the next phase of each claim pending before the Commission. This trial date would be no later than 1 year from the Commission's final decision on a preceding phase.

Fourth. Provide that if a claimant fails to proceed with trial on a particular date, the Commission has discretion to order dismissal of the claim with prejudice or reset the trial at the end of the calendar.

Mr. President, I have long been vitally concerned with the obligation of the United States to provide its Indian citizens with a full and fair hearing on their claims against the Government. In 1945, in the 79th Congress, I introduced the bill (H.R. 4497) which ultimately became the Indian Claims Commission Act. Those of us who were instrumental in securing the passage of this legislation felt that a mechanism had been set up that would allow Indian groups to have their claims adjudicated at an early date. I have been disappointed, along with many other Members of Congress, at the length of time it has taken to resolve these claims.

I am sure that I am merely echoing the sense of frustration that must be felt by those tribes whose claims have not yet been concluded when I state that there has been undue delay in the completion of the Commission's work. Although the Commission has been in operation for over 25 years, many cases have not yet been concluded.

It is clear that the ones who have suffered as a result of this delay are the Indians who have not yet had their claims decided. They should have had their day in court as other tribes have had.

It is my hope that early hearings can be scheduled before the Senate Committee on Interior and Insular Affairs on this bill so the committee can once again try to determine the causes of the failure of the Commission to do its work in the time allotted to it.

I ask unanimous consent that the Executive communication from the Indian Claims Commission accompanying this proposal be printed in the RECORD at this point in my remarks.

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

INDIAN CLAIMS COMMISSION,
Washington, July 13, 1971.

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

DEAR MR. PRESIDENT: Enclosed is a proposed bill "To extend the life of the Indian Claims Commission, and for other purposes."

We recommend that the proposed bill be introduced and referred to the appropriate committee for consideration and that it be enacted.

It would amend the Indian Claims Commission Act to accomplish the following purposes:

1. Change the date for dissolution of the Commission from April 10, 1972, to April 10, 1977.

2. Provide for transfer to the United States Court of Claims of any cases still pending on April 10, 1977, and empower the Court of Claims to complete adjudication of such cases.

3. Provide that a trial date shall be set for the next phase of each claim which shall be no later than one year from the final decision on the preceding phase; and provide that if a claimant fails to proceed with a trial on the date set, the Commission may enter an order dismissing the claim with prejudice or it may reset such trial at the end of the calendar.

The Commission as now constituted, whose five members took office between December 1967 and May 1969, is firmly committed to completion of its work by April 10, 1977, and current progress is at a rate consistent with accomplishment of this goal.

Provision must be made for disposition of any residue of work that might remain at the time the Commission is dissolved. The bill provides for transfer of this work to the Court of Claims and the Commission believes that this is the best possible solution to this contingency. The Commission also believes, however, that its work will either be completed, or that very little work will remain to be transferred. The Court of Claims, therefore, will not be unduly burdened under any circumstances.

The present statutory provision that all cases should be set for trial not later than December 31, 1970, is obsolete; therefore, substitution of a requirement that trial of the next phase of a case be scheduled as soon as possible and not more than one year after the date when a final decision was reached on the preceding phase is proposed. The proposed new provision also substitutes a penalty in the form of a possible dismissal of the case or a possible delayed trial and loss of a right of appeal to the United States Court of Claims in lieu of the language in the present bill which makes dismissal of the case mandatory under certain conditions. This procedure furthers the basic goal of proceeding as rapidly as possible without defeating the basic purpose of giving every Indian Tribe its day in court.

The Office of Management and Budget advises that enactment of this proposal would be consistent with the program of the President.

Sincerely yours,
JEROME K. KUYKENDALL,
Chairman.

S. 2408

A bill to extend the life of the Indian Claims Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 23 of the Act entitled "An Act to create an Indian Claims Commission to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049, 1055), as amended (75 Stat. 92; 25 U.S.C. 70v), is hereby amended by striking said section and inserting in lieu thereof the following:

"DISSOLUTION OF THE COMMISSION AND DISPOSITION OF PENDING CLAIMS

"SEC. 23. The existence of the Commission shall terminate at the end of 15 years from and after April 10, 1962, or at such earlier time as the Commission shall have made its final report to the Congress on all claims filed with it. Upon its dissolution the records and files of the Commission in all cases in which a final determination has been entered shall be delivered to the Archivist of the United States. The records and files in all other pending cases, if any, including those on appeal shall be transferred to the United States Court of Claims, and jurisdiction is hereby conferred upon the United States Court of Claims to adjudicate all such cases under the provisions of Section 2 of the Indian Claims Commission Act; provided, that Section 2 of said Act shall not apply to any case filed originally in the Court of Claims under Title 28 U.S.C. § 1505."

SEC. 2. Section 27(a) of such Act of August 13, 1946, as amended (25 U.S.C. 70w), is amended by striking said section and inserting in lieu thereof the following:

"TRIAL CALENDAR

"SEC. 27. (a) The Commission from time to time shall prepare a trial calendar which shall set a date for the trial of the next phase of each claim as soon as practical after a decision of the Commission or the United States Court of Claims or the Supreme Court of the United States makes such setting possible, but such date shall not be later than one year from the date of such decision except on a clear showing by a party that irreparable harm would result unless longer preparation were allowed."

SEC. 3. Section 27(b) of such Act of August 13, 1946, as amended (25 U.S.C. 70w), is amended by striking said section and inserting in lieu thereof the following:

"SEC. 27. (b) If a claimant fails to proceed with the trial of its claim on the date set for that purpose, the Commission may enter an order dismissing the claim with prejudice or it may reset such trial at the end of the calendar."

By Mr. DOMINICK (for himself, Mr. CURTIS, Mr. GOLDWATER, and Mr. THURMOND):

S.J. Res. 147. A joint resolution proposing an amendment to the Constitution of the United States with respect to the election of the President and the Vice-President of the United States. Referred to the Committee on the Judiciary.

Mr. DOMINICK. Mr. President, on behalf of myself, Senator GOLDWATER, Senator CURTIS, and Senator THURMOND, I introduce for appropriate reference a resolution to amend the Constitution of the United States with respect to the election of the President and the Vice-President.

This resolution is similar to S.J. Res. 12, the "District Plan" sponsored by our distinguished colleague, Mr. MUNDT, and others. I have long supported the "district plan". It would make needed im-

provements in our electoral system without changing it radically.

The principal feature of the amendment I am proposing is its provision that electors who are apportioned with Representatives—under article II, section 1—would be elected in the same single-member districts in which Representatives are elected. The two electors assigned with Senators in each State would continue to be elected at large. Currently, the laws of every State but one—Maine—provide for the election of all Presidential and Vice-Presidential electors at large, on a "general ticket." Accordingly, in each of 49 States the Presidential ticket to whom the winning slate of electors is pledged receives all of that State's electoral votes. This is the socalled "unit" or "winner-take-all" rule.

This is in my view the most serious defect in our electoral system. It effectively disenfranchises all of those who did not vote for the winning slate of electors, and is largely responsible for the possibility of electing a President who did not receive the most popular votes. Under the district plan, the statewide popular vote winner would receive the two at-large electoral votes plus those of the districts he carried. Other candidates would receive an electoral vote for each district carried. While this would not completely eliminate the "winner-take-all" rule, it would minimize it.

In addition to making the electoral system more representative, and reducing the likelihood of electing minority Presidents, it would make the Presidency more responsive to local concerns. The closer coordination of presidential and congressional campaigns would strengthen the party system and could substantially reduce campaign costs. Election fraud would be discouraged, because except for the two at-large electors, it would have no impact beyond the district where it occurred. Certain key areas would no longer have the ability to "swing" a State's entire bloc of electoral votes.

The amendment I am proposing would make other relatively minor changes which would improve our electoral system. First, it would eliminate the "faithless elector" problem, which although it has arisen infrequently, has caused substantial concern. It would require candidates for the office of elector to pledge themselves to presidential and vice-presidential candidates, and if elected, to cast their votes in accordance with their pledges. Votes not so cast would nevertheless be counted for the candidates to whom they had been pledged. Electoral votes have been cast "against instructions" only six times in our history, and none has affected the outcome of an election. But it is almost universally agreed that there is no justification for continuing to allow that possibility to exist.

This amendment would make several changes in the contingent election in the event no candidate receives a majority of the electoral votes. First, it would move the election from the House, voting by States, to a joint session of Congress, each Member having one vote. This would be more democratic, and would diminish the invitation to third-party candidacies, thus strengthening the two-party system. Second, it provides for reducing the number of candidates from three to two in the event that the President is not elected on the first ballot. This would expedite the election and lessen the chances of deadlock. Finally, it provides that election of the President in a contingent election shall automatically elect as Vice President the candidate who ran on the same ticket with him. This would eliminate the possibility, however remote, that Congress might elect a President and Vice President from different political parties.

Mr. President, again I believe this amendment would perfect, rather than radically alter, our electoral system. I hope my colleagues will give it careful consideration when the issue of electoral reform is before the Senate again.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

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

S.J. RES. 147

Joint resolution proposing an amendment to the Constitution of the United States with respect to the election of the President and the Vice President of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is 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 if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Each State shall choose a number of electors of President and Vice President equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be chosen an elector.

"One elector shall be elected from each district within a State from which a Member of the House of Representatives is elected, and two electors shall be elected at large from each State.

"Each candidate for the office of elector of President and Vice President shall file, with the Secretary of State of the State in which he seeks such office, a declaration under oath of the identity of the persons for whom he will vote for President and Vice President, which declaration shall be binding upon him and any successor to his office. Any vote cast to the contrary shall be counted as a vote cast in accordance with such declaration.

"The electors shall meet in their respective States, fill any vacancies in their number as directed by the State legislature, and vote by signed ballot for President and Vice President, one of whom shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, the number of votes for each, and the name and district, if any, of each elector who voted for each such person, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates and the votes shall then be counted. The person receiving the greatest number of votes as President shall be the President, if such number be a majority of the whole number of electors chosen. If no person who is a candidate for President receives a majority of electoral votes, then the Senate and the House of Representatives shall choose immediately by joint ballot, each Senator and Representative having one vote, a President from among such persons receiving the three highest numbers of electoral votes. A quorum for this purpose shall be three-fourths of the whole number of Senators and Representatives, and a majority of the whole number shall be necessary to a choice.

"If no person receives such a majority, then on the second joint ballot the choice shall be between the two persons receiving the greatest numbers of votes on the first joint ballot. If the votes cast on the first joint ballot are cast so that there is a tie between the two persons who receive the greatest number of votes, the choice on the second joint ballot shall be between those two persons. If the votes cast on the first joint ballot are cast so that each person receives the same number of votes, then the Representatives alone shall choose from among those three persons the two persons between whom the choice will be made on the second joint ballot. If the votes cast on the first joint ballot are cast so that one person receives the greatest number of votes but less than a majority, and the other two persons receive the same number of votes, then the choice on the second joint ballot shall be between the person who received the greatest number of votes on the first ballot and one of the other two who shall be chosen by the Representatives alone. The person receiving a majority of the votes cast on such second joint ballot shall be President. If a third or subsequent joint ballot is necessary, the choice shall be between the two persons who were on the second joint ballot, and the person having a majority of the votes cast shall be the President.

"The person whose name was joined, as a candidate for the office of Vice President, with the name of the person who is chosen as President shall be the Vice President. No person ineligible to the Office of President shall be eligible to become Vice President.

"SEC. 2. Congress may provide by law for the case of the death of any of the persons from whom the Senate and House of Representatives jointly may choose the President or the Vice President whenever the choice shall have devolved upon them.

"SEC. 3. Electors chosen pursuant to article XXIII of amendment to this Constitution shall meet in the district constituting the seat of Government of the United States and perform the duties of electors required by this article.

"SEC. 4. This article supersedes the second and third paragraphs of section 1 of article II of this Constitution, the twelfth article of amendment, section 4 of the twentieth article of amendment, and the final clause of section 1 of the twenty-third article of amendment to this Constitution.

"SEC. 5. This article shall become effective on the first day of November following its ratification."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 555

At the request of Mr. KENNEDY, the Senator from Indiana (Mr. BAYH) was

added as a cosponsor of S. 555, the Older Americans Community Service Employment Act.

S. 659

At the request of Mr. PELL, the Senator from Florida (Mr. CHILES), was added as a cosponsor of S. 659, the Education Amendments of 1971.

S. 887

At the request of Mr. EAGLETON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 887, a bill to establish a National Institute of Gerontology.

S. 1163

At the request of Mr. KENNEDY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1163, the Nutrition Programs for the Elderly Act.

S. 1307

At the request of Mr. RANDOLPH, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1307, a bill to provide increased employment opportunities for middle-aged and older workers, and for other purposes.

S. 1553

At the request of Mr. HOLLINGS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1553, a bill to set new standards for judicial disqualification.

S. 1741

At the request of Mr. EAGLETON, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 1741, a bill to provide increased unemployment compensation benefits for Vietnam era veterans.

S. 2200

At the request of Mr. KENNEDY, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2200, the Administrative Ombudsman Experimentation Act of 1971.

S. 2344

At the request of Mr. RANDOLPH, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2344, to amend the Foreign Assistance Act of 1961 to provide for international drug control assistance and to prohibit foreign assistance from being provided to foreign countries which do not act to prevent the illegal production, processing, or distribution of narcotic drugs used or intended to be used in the United States or by U.S. Armed Forces outside the United States.

S. 2365

Mr. SCOTT. Mr. President, at the time the Senator from Indiana (Mr. HARTKE) and I introduced S. 2365, a bill to provide for orderly trade in iron and steel products, the name of the Senator from Maryland (Mr. MATHIAS) was inadvertently omitted as a cosponsor.

Mr. President, I ask unanimous consent that at the next printing the name of the Senator from Maryland (Mr. MATHIAS) be added as a cosponsor of S. 2365.

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

SENATE JOINT RESOLUTION 117

At the request of Mr. MCINTYRE, the Senator from Alaska (Mr. STEVENS), the Senator from Nevada (Mr. CANNON), the Senator from New Jersey (Mr. CASE), the Senator from Colorado (Mr. DOMINICK), the Senator from Rhode Island (Mr. PELL), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from New Jersey (Mr. WILLIAMS), were added as cosponsors of the Senate Joint Resolution 117, requesting the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day."

SENATE RESOLUTION 161—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING OF STATEMENTS RELATING TO INTERNATIONAL COOPERATION IN SPACE

(Referred to the Committee on Rules and Administration.)

Mr. ANDERSON submitted the following resolution:

S. RES. 161

Resolved, That the compilation entitled "Statements by Presidents of the United States on International Cooperation in Space—A Chronology: October 1957–July 1971" be printed with illustrations as a Senate document, and that there be printed three thousand additional copies of such document for the use of the Committee on Aeronautical and Space Sciences.

ADDITIONAL COSPONSOR OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. JACKSON, the Senator from Wisconsin (Mr. PROXMIRE) was added as a consponsor of Senate Concurrent Resolution 26, relating to National American Indian and Alaska Natives policy.

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. MATHIAS, the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Concurrent Resolution 27, establishing a joint congressional committee to study the termination of the state of national emergency.

FEDERAL ELECTION CAMPAIGN ACT OF 1971—AMENDMENTS

AMENDMENT NO. 362

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

AMENDMENT NO. 363

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to amendment No. 308, proposed by Mr. PASTORE (for himself and others) to the bill (S. 382), supra.

AMENDMENT NO. 365

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to amendment No. 308, proposed to the bill (S. 382), supra.

AMENDMENT NO. 366

(Ordered to be printed and to lie on the table.)

Mr. HARTKE, for himself and Mr. STEVENSON, submitted an amendment intended to be proposed by them, jointly, to amendment No. 308, intended to be proposed to the bill (S. 382), supra.

AMENDMENT NO. 367

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to amendment No. 315, intended to be proposed to the bill (S. 382), supra.

AMENDMENT NO. 369

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. ALLOTT, Mr. BENNETT, Mr. SCOTT, and Mr. WILLIAMS, I send to the desk for printing an amendment to S. 382, the "Federal Election Campaign Act of 1972."

It would provide that in national elections, all polls would remain open for at least 12 hours, and would close simultaneously.

By establishing a time for the simultaneous closing of all polls, this amendment would eliminate the possibility that predictions based on early returns from one area may affect election results in areas where the polls have not closed. There has been increasing concern that computer projections of election results by the electronic media influence the way many votes are cast, and cause people not to vote because they believe the outcome has already been decided.

Mr. President, solving this problem through a uniform closing time for all polls would be better than trying to restrict the flow of information about election returns. I do not think there is any constitutional question about the power of Congress to establish a uniform poll closing time. Article II, section 3, gives Congress the power to "determine the time or choosing the electors" for President and Vice President. Article I, section 4, gives Congress power to regulate the "time, place, and manner of holding" elections for Senators and Representatives, and the Supreme Court has indicated this may apply to presidential elections.

Under this amendment. in Federal elections all polls would close at the same Greenwich mean time across the Nation. They would close at 11 p.m. eastern standard time; 10 p.m. central standard time; 9 p.m. mountain standard time; 8 p.m. Pacific standard time; 7 p.m. Yukon standard time; 6 p.m. Alaska-Hawaii standard time; and 5 p.m. Bering standard time. Since this would require some polls to close earlier than they have in the past, all polls would be required to stay open at least 12 hours.

Mr. President, the idea of providing for a uniform poll closing time was endorsed by the National Governors Conference in 1968. I ask unanimous consent that a copy of the proposal and resolution of the Governors conference in that regard be included in the RECORD at this point.

Mr. President, I think this reform merits our consideration. It is relatively noncontroversial and would not be difficult to implement. I have chosen January 1, 1974, as the effective date for this legislation in order to give the States adequate time to enact implementing legislation.

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

A PROPOSAL—TO ESTABLISH A UNIFORM, SIMULTANEOUS, NATIONWIDE 24-HOUR VOTING DAY IN YEARS OF FEDERAL ELECTIONS

Voting is the most important function in a democracy. Yet, generally speaking, many of our election customs are a throwback to the days when it took hours and even days to get to the polling booth. By a determined avoidance of improvements we have done little to ease—and much to impede—the voting process.

Among our archaic election customs is adherence to Election Day itself, first designated in 1845, as "the Tuesday next after the first Monday in November." This day was chosen by Congress largely because public sentiment was against traveling on Sunday and it was necessary to allow an entire day and night for many voters to get to the polls.

A second anachronism in the electoral process is the system of widely divergent hours in which the polls are open across the country in federal elections. The polls in the West are open many hours after they are closed in the East. And opening and closing hours vary, not only within time zones, but also within individual states. The system grew without much design or direction as the nation expanded to the Pacific and through four time zones. In our own time we have seen the boundaries of electoral participation extended even further, from West Quoddy in Maine to Attu in Alaska, across six time zones.

In recent years technological progress—particularly in the area of computers and communications—has highlighted the archaic nature of our voting procedures. For example, polling places have traditionally closed early to allow time for counting the votes, but today ballots can be tabulated in a matter of seconds using computer systems. And modern communications permit speedy transmission of returns to collection centers.

Various proposals have been made to bring election day procedures into line with 20th century realities. One appears to meet the test of equity, and logic, and appears to present no constitutional problems: A common, simultaneous, nationwide, voting day of 24 hours length for federal elections. There is much to recommend that this day also be a national holiday.

The advantages of such a uniform voting period are many:

It would give every qualified voter in the nation the time and the opportunity to vote.

A uniform 24-hour voting day would provide all voters with the identical real-time hours in which to vote; and although the polls would open at different hours in different time zones, the voters of every community in the nation could vote at whatever local time of day or night that was most convenient for them.

It would relieve the pressure in urban and suburban voting districts where long, slow-moving waiting lines have discouraged many voters from casting ballots.

It would put an end to unsupported speculations that reports from one area of the country, with all its polls closed, can affect voting in another area where they are open.

Computers would enable a fast, accurate tally of the national vote immediately after the polls had closed, and thus do away with the confusion and uncertainty generated by delayed and partial returns.

No constitutional barrier exists to prevent the Congress from instituting a universal, 24-hour voting period. Indeed, Article I of the Constitution specifically gives the Congress the authority to make regulations concerning the holding of elections. Nor has anyone suggested that such a period would not be in the best interests of the voter himself. The only significant argument against it is made in terms of expense.

Against this argument, consider that the United States has the least impressive voting record in federal elections of any democracy in the world. In 1964, only 62 percent of eligible Americans cast a ballot for one of the Presidential candidates. In off-year congressional elections, the record is even worse—less than 50 percent of Americans over 21 vote. In Europe, on the other hand, where uniform, nationwide voting hours are common practice, the percentages range from 87 in Denmark to 72 in France. It is difficult to defend the position that the most affluent democracy with the sorriest voting record cannot afford to keep the polls open for a few additional hours every two years.

Principle aside, there is no real evidence to indicate that costs would rise unreasonably. In recent years election costs have been dramatically reduced in some states through the use of electronic voting systems. For example, Orange County in California spent $235,869 on the June 2, 1964 primary, at which 273,756 ballots were cast and tabulated without the electronic system. On General Election Day, 1964, Orange County used an electronic system encompassing both the voting and counting. The cost, with 416,136 votes cast, was $118,428. The saving here was $117,441—cutting the bill in half, even without allowing for the greatly increased number of votes cast. Actually, the cost per ballot cast declined by over two-thirds, from 90 cents to 28 cents.

Looking ahead, we can anticipate additional savings through the use of the instruments and techniques which science has made possible. In addition, urban polling places may be able to operate on a more efficient basis when voting is spread over a 24-hour period, while polling places in small communities can close after the last registered voter has cast his ballot.

The need for election reforms in many areas is urgent: the Presidential campaign period is too long; residency requirements prevent millions of citizens in our mobile population from casting a vote even in Presidential elections; much of the apparatus we use for registering and counting votes was contrived for another age.

But electoral procedures must be brought into line with the realities of the 20th century. A start must be made. It is the conviction of this conference that a logical and proper place to begin is with the most serious consideration of a biennial national voting holiday during which the polls would be open across the nation for a uniform period of 24 hours.

A RESOLUTION

Whereas it is the sense of the National Governors Conference that the most serious consideration should be given to the proposition that in federal elections the electorate would benefit from the establishment of a "national voting holiday" during which the polls would be open across the nation for a uniform period of 24 hours—that is, regardless of time zone the polls would open simultaneously, and close simultaneously 24 hours later;

Be it resolved that the National Governors Conference forward to the President of the United States the respectful suggestion that he initiate a study, by whatever means he deems appropriate, of the feasibility of instituting a uniform, nationwide, 24-hour voting period for federal elections, and its designation as a biennial national holiday.

AMENDMENTS NOS. 370 THROUGH 375

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD submitted six amendments intended to be proposed by him to amendment No. 308, proposed to the bill (S. 382), supra.

AMENDMENTS NOS. 376 AND 377

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted two amendments intended to be proposed by him to amendment No. 308, proposed to the bill (S. 382), supra.

POWERPLANT SITING ACT OF 1971—AMENDMENT

AMENDMENT NO. 364

(Ordered to be printed and referred to the Committee on Commerce.)

FEDERAL POWER RESEARCH AND DEVELOPMENT ACT

Mr. MAGNUSON. Mr. President, the Nation's appetite for electric power has been doubling every 10 years—five times the rate of population growth—and current projections are that it will continue to grow at nearly this rate. Electricity is the cleanest form of energy at the point of consumption, but its generation and transmission already raise serious environmental and resource problems. These problems will get worse as electric consumption grows unless new technologies and new sources of energy are used.

Coal, our most abundant fossil fuel, is currently used to generate about half of our electric energy and even with the growth of nuclear power, coal will continue to be a major source of power. Unfortunately, its production and use raise serious problems. Coal production scars the landscape through heedless strip mining and subjects thousands of miners to both sudden and cumulative disaster through tragic accidents and the long-term ravages of black lung. Its use in generating electric power produces vast quantities of debilitating air pollutants—sulfur oxides, nitrogen oxides, particulates, and other pollutants such as traces of mercury—as well as mountains of solid waste—ash.

Oil used to generate electric power also generates air pollutants, although in lesser quantities. A key problem is that natural gas, our cleanest energy source, is in short supply. In some areas its use for electric power generation is being curtailed to conserve it for other uses.

As we learn more about the effects of various products of combustion new pollutants will undoubtedly be added to the list. Currently there is a debate among scientists as to whether the combustion of fossil fuels will heat up the earth due to increased carbon dioxide or cool it due to fine particulates.

Nuclear power, the result of large R. & D. expenditures by the Federal Government over the past 25 years, eliminates most of these air pollution problems, but it raises serious problems of its own. There is always a risk, however small, that a serious accident will result in the release of significant amounts of radioactivity to a large segment of the public. In addition, the day-to-day releases of radioactive wastes as well as the transportation and storage of high level radioactive wastes will pose increasing problems as more reactors are built and operated.

Waste heat is another unhappy by-product of both fossil fuel and nuclear generating processes using the steam cycle. To protect our lakes, rivers, and estuaries many new powerplants will have to use alternate means of cooling ponds and towers. These consume more water and cause environmental problems of their own.

In short, unless we develop new technology for electric power generation we are faced with a variety of environmental problems no matter whether we use nuclear power or fossil fuels.

And yet the blueprint for survival is not obscure. A number of new technologies now in the laboratories and in the field offer the promise of controlling harmful pollutants, increasing the efficiency of generation and transmitting electric power and tapping new clean sources of energy. Among them:

First. Fusion machines, using various processes, theoretically could supply an abundant supply of clean energy for hundreds of thousands of years. There are researchers who feel we are very close today to the demonstration of feasibility.

Second. Solar energy, which is the only real "income" energy available on spaceship earth, could fuel many important energy processes indefinitely into the future. This process appears especially attractive since it consumes no natural resources and produces no pollution.

Third. Magneto hydrodynamics, or MHD as it is known, could be used as a "topping cycle" for present-day technologies and increase thermal efficiencies as much as 50 percent.

Fourth. Extra-high-voltage transmission lines, high voltage direct current transmission lines, underground transmission and cryogenic transmission systems all need serious effort to help reduce the present 10 to 15 percent loss of energy to the transmission process.

Fifth. Fuel cells which could cleanly burn gas and/or hydrogen to produce electricity, have the particular advantage of efficiency in small units. This process could facilitate the decentralization of American society and at the same time eliminate high environmental and economic transmission costs.

Sixth. Geothermal energy, which is being used economically in many places of the world today, requires more R. & D. to facilitate better energy extraction techniques from thermal sources in our planet.

Seventh. There exist still other untapped potential sources of energy to meet at least part of our energy requirements, among them: tidal, wind, ocean current and ocean thermal gradients. Each could be a potential source of a small but significant portion of a clean energy supply.

Yet these opportunities remain largely unexplored. The record of electric utility investment in research and development is hardy impressive—at present levels no more than one quarter of 1 percent of utility gross revenues. Moreover, since 1945, 87 percent of our national investment in energy R. & D.—both Government and private—has been narrowly focused on the development of nuclear fission processes.

To their credit, both public and private utility organizations are now seeking joint efforts in R. & D. But purely voluntary efforts are doomed to frustration.

As the chairman of the Edison Electric Institute observed in a recent speech:

> In our enterprise system, the profit motive normally stimulates investment in research and development. In the case of regulated utilities, which must pass along to the customer such benefits in the form of reduced rates, not only does the incentive not exist but the system actually works in a counter-productive fashion.

Ironically, the most adventurous and far-sighted utility engaging in a vigorous R. & D. program runs the risk that an unsympathetic utility commission will refuse to include such expenditures in the rate base. Moreover, it would be inequitable to force the consumers of a few utilities to pay the lion's share of R. & D. which will benefit all electric energy consumers. Equitable cost sharing can only be achieved by a uniform, mandatory system of pooled research and development funding.

The energy R. & D. fund which I propose today will accomplish this objective. It will also place the full costs of electric energy production squarely where they belong: on those who benefit most from the production of electric energy—especially the massive industrial users.

U.S. industry spends an average of 3 percent of its gross revenues on R. & D. This bill will raise the utility industries R. & D. investment to only about 1 percent of its gross revenues, a modest enough surcharge.

In May 1970 the American Public Power Association, which is comprised of publicly owned electric utilities, adopted a policy statement recommending the establishment of a Federal research program with assessments to be made "on a kilowatt hour sales basis with the resultant funds to be expended on projects selected by a cooperative government-industry management group."

The chairman of the New York State Public Service Commission, Mr. Joseph C. Swidler, former chairman of the Federal Power Commission, in a speech delivered during February of this year, expressed his support for a "Federal tax on energy use," and urged that the funds from such a tax "be earmarked for research and . . . be administered by a joint Federal-industry council. Mr. Swidler also described the neglectful attitude taken thus far by the Federal Government in pursuing energy research when he stated:

> The government agencies in Washington deliver severe lectures on the need for improved technology for reliability and environmental protection, but the research budget in the energy area, except for nuclear systems, is miniscule in relation to the importance of the problems. There is no reason why research in the energy area should need to compete in the budget with welfare, national defense, education, the Mexican Boundary Commission and other expenditures in non-commercial areas. It would be easy for the Congress to earmark a special source of revenue to support a program of research which bore a realistic relationship to the urgency and importance of the reliability and environmental problems presented by the electric power industry.

As Charles Luce, chairman of the board of New York's Consolidated Edison has said:

> [I]f we are serious when we say that *all* costs of producing energy, including environmental costs, must be included in the price of the energy, this sort of tax makes a great deal of sense.

SECTION-BY-SECTION SUMMARY

Section 401 creates the Federal Power Research and Development Board, consisting of five members drawn from among those with experience in environmental protection, electric power production and distribution, and technological research and development. The members are to be appointed by the President for 5 years in staggered terms with the advice and consent of the Senate. After 10 years, the Board will cease to exist, unless, of course, Congress renews its mandate.

Section 402 directs the Federal Power Commission to assess a fee of .15 mills per kilowatt hour consumed. The consumers of electric entities, including Federal, State, and municipal cooperatives, are subject to the fee, as are those who generate more than 1 million kilowatt hours per year.

Section 403 establishes the Federal power research and development trust fund. It is anticipated that the charges levied by this act will generate a fund of approximately $300 million during its first years of operation. The funds collected while limited to use by the Board will be subject to the appropriation process so that Congress will be able to assure that funds allocated to the Board serve the objectives of the act.

Section 404 sets out the authority and the priorities of funding for the Board and requires that the Board develop an overall annual program for its research and development activities. It makes clear that funds allocated by the Board are to be utilized to augment—not to replace—existing research and development efforts, both public and private. The Board is directed specifically to seek means to first, increase the efficiencies of electricity generation, transmission, distribution, and consumption processes; second, decrease the adverse environmental impact of electricity generation and transmission processes; third, encourage and stimulate basic innovations in the production of environmentally compatible electricity generation; fourth, make increased efficiencies and improved technology directly available to all electric utilities, regardless of size or nature of ownership.

Section 404 contains a provision requiring that at least 5 percent of the funds spent shall be allocated to research into the adverse social, environmental, or economic effects of proposed or present energy-related technology and that the results of such research shall be compiled and published yearly. This provision is designed to assure that Congress and the public will have the necessary information to balance both the benefits and the risks of new technologies as they are developed.

Section 405 grants the Board standard operating powers to hire employees, utilize consultants, to prescribe regulations, rent office space, et cetera.

Section 406 provides for a detailed annual report which is to include a thorough description and appraisal of research and development activities funded during the preceding year, an evaluation of future funding needs, and an assessment of the impact of emerging technologies on the supply and demand of electricity, the economy and the environment.

Section 407 provides for the publication of a newsletter at least twice a month to provide basic and continuing information on the Board's activities to the scientific community, Congress, industry and to the general public. The newsletter will include abstracts of all approved projects comprehensible to informed laymen, the announcement of hearings and summaries of proposed developments, and other information required under the act.

Section 408 provides that at least 60 days before approval of any projects for more than $5 million, an abstract of the proposed grant be published in the Federal Register and the newsletter, to permit comment by interested parties. This section also provides for an annual public hearing on the Board's proposed appropriations request for the following year to be held at least 45 days after publication in the newsletter and 60 days after notification: The Board is to receive testimony from any interested party denying a request to testify only for good cause publishing its reasons for the denial. The Board's principal investigators shall be present to help resolve reasonable and germane questions raised by any party, which must be responded to on the record.

It is anticipated that the annual hearing process will enable the Board to benefit from the counsel and advice of environmentalists, consumers, public interest advocates, members of the scientific and technical community, and the affected industries.

Section 409 provides that patents developed all or in part with funds allocated by the Board shall remain in the public domain.

Section 410 provides for civil penalties of up to $10,000 for each violation of regulations promulgated under the authority of the act.

Mr. President, I ask unanimous consent that the text of the Federal Power Research and Development Act amendment and the text of the bill to amend section 14 of the Natural Gas Act along with a letter to Dr. Lee DuBridge from Charles F. Luce, an address by John R. Kelly, president, American Public Power Association, at annual conference, in San Juan, Puerto Rico, May 3, 1971, a statement by Joseph C. Swidler, chairman of New York State Public Service Commission at a meeting of the Institute of Electrical and Electronics Engineers, Inc., in New York City, February 2, 1971, and the text of an advertisement entitled "The Energy Problem," be printed in the RECORD at this point.

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

JULY 24, 1970.

Dr. LEE A. DUBRIDGE,
Science Advisor to the President,
The White House,
Washington, D.C.

DEAR MR. DUBRIDGE: On June 22, 1970, I proposed at a seminar in New York City on Business and the Environment that federal legislation be enacted to create a trust fund for research to find better ways of reconciling power production with environmental protection.

The source of funds for such a trust fund, initially $200,000,000–$250,000,000 per year, would be a federal excise tax on all users of electricity from whatever source. Administration of the trust fund would be under a national director, drawing upon the research capabilities of private and public laboratories, and assisted by national and regional advisory panels drawn from the utility industry, manufacturers, environmentalists, consumers, etc. Allocations of trust fund monies could be made for regional as well as national research and development. Although I did not mention it at the symposium, I believe that a similar tax on the use of natural gas, coal and oil for purposes other than the generation of electricity might well be considered to establish other trust funds for R & D work in improving and supplementing those sources of energy to the benefit of the environment.

I am convinced that far more money must be spent on research and development if the electric energy needs of society are to be supplied with due regard for the natural environment. High on any list of needed * * * of pollutants from smokestacks of fossil-burning boilers, better methods of condensor cooling, and improved high voltage underground transmission. Each of these extremely important projects, and others that might be mentioned, would be too costly for individual utility companies to undertake in proper and timely fashion, and the profit prospects to manufacturers seem insufficient to stimulate the necessary investment by them. The industry's trade association, E.E.I., is doing a credible job of raising funds for research by soliciting voluntary contributions from its members. But the diverse research interests of the individual companies, and the inevitable reluctance of companies to contribute to programs not supported by all segments of the industry, are severe handicaps to EEI's success in raising enough money. Nor, judging from the experience of the past decade, can Congressional appropriations from general funds be counted upon.

To propose a new tax is not a popular thing. Yet if we are serious when we say that *all* costs of producing energy, including environmnetal costs, must be included in the price of the energy, this sort of tax makes a great deal of sense. There are precedents in the highway and the airport trust funds established by the Congress and supported by user taxes.

It is difficult to conceive another mechanism that would be as fair and as effective. Conceivably the utility regulatory commissions in the 50 states could require each of the regulated utilities to include as an operating expense a certain sum per unit of electricity supplied to customers, which assessments could be pooled on a state, regional, or national basis. But the administration of such a scheme would be awkward to the point of infeasibility. Uniformity among the states would be hard to achieve, and since many public sellers of electric energy (including TVA and Bonneville) and many private producers of electrictiy are not subject to state regulation, not all users would share in the cost of such a program.

My thoughts on this subject are not altogether original. Others have expressed similar thoughts and with more complete documentation. And I am aware that the definition of the proposed tax, and the administration of the proposed trust fund, are subjects on which thoughtful men can hold wide divergency of opinion.

I hope that your office will give serious consideration to exploring this trust fund concept further within and without the Administration and, hopefully, to recommending its inclusion in the President's program for energy and the environment. It might be helpful if your office, separately or in concert with the Federal Power Commission and other interested agencies, were to sponsor a high-level conference of scientific and business leaders to pursue the subject in greater detail.

Sincerely,

CHARLES F. LUCE.

PUBLIC POWER: MEETING CONSUMER NEEDS

(Address by John R. Kelly)

Perhaps every APPA president feels as I do that his year in office has been an unusually exciting one marked by great changes in our industry. Just a short year ago at our annual Conference in Memphis, we were telling ourselves that we ought to be listening to what environmentalists were telling us about our operations. Now, a year later, we must listen. There are Federal water and air pollution laws, and our states and communities are developing new pollution standards. We may—we must—work with Federal, state and local officials and concerned citizens to see that the new environmental standards are realistic, but in the end, we must obey them because they are the law.

All of us in the electric industry are aware of the importance of electric energy in our civilization. It is likely to be of equal if not greater importance in the future, and we must make sure that the public understands the role of electric energy in our society, and the problems we face in providing an adequate supply of electric energy to meet the needs of consumers. In so doing, however, we must recognize that the environmental impact of our facilities is a real and legitimate issue. Our objective is not to "defeat" the environmentalists but to make our facilities conform to reasonable standards, environmentally as well as electrically. We, no less than any environment-oriented group, want clean air and water and attractive communities. And we recognize, as some others seem to ignore, that improving our environment, is likely to require, among other things, vast quantities of electric energy.

The problems of electric utilities today are the greatest since the beginning of central station service nearly nine decades ago. For most of that time, the electric utility industry's business consisted of buildings and plants and extending lines and expanding capacity as loads grew. Usually plants and lines were welcomed, and the job of the utility was to provide reliable service at the lowest possible cost. Today, as loads continue to grow in their historic pattern and to ever greater orders of magnitude, we are suddenly confronted with new ground rules and new public attitudes. In some cases, permission is denied to build new plants or plant exten-

sions where the utility can most feasibly build them; fuels for both existing and new thermal plants must be selected not for economy but on the basis of sulfur content; and the public does not understand why we cannot build high and extra-high voltage transmission lines underground, the way we increasingly are providing distribution service. Unless we move promptly to accommodate our programs to the new restrictions on expansion, the blackouts and brownouts that have plagued New York City and certain other areas in the Northeast may spread like a disease throughout the country.

If this picture seems grim, it is because we face the threat of a power supply crisis. At the same time, I find hopeful signs. One of them is that many consumer-owned electric utilities are working together exploring ways to take advantage of the economies of scale in developing large sources of bulk power supply. Regional and state groups of consumer-owned electric systems are embarked on joint power supply programs which promise economical power supply to the participating systems.

These joint power supply planning programs are based on the "G&T" concept pioneered many years ago by some of the Federal programs such as TVA, by the rural electric systems and by provincial systems in Canada. These programs recognize the advantage of separating the generation and transmission function from the distribution of electric energy. Working together, groups of small consumer-owned utilities can construct and operate economical, large scale generating plants and deliver the output to the distribution systems at great savings to these utilities and their consumers. At the same time, these programs maintain all of the benefits of local consumer-ownership of electric distribution in which there is no significant economy of scale and no premium on bigness.

Separation of the functions of generation and transmission from distribution has long been advocated by such students of the industry as the late Leland Olds, a former chairman of the Federal Power Commission and a far-sighted prophet of our industry. More recently, separation of functions has been proposed by S. David Freeman, assistant director for energy and the environment White House Office of Science and Technology.

REGIONAL "G&T" SYSTEMS PROPOSED

Although the joint action groups I have mentioned are composed of consumer-owned systems, Mr. Freeman has suggested that regional "G&T's" that had a public utility responsibility to meet all the power needs of the region with uniform wholesale rates available to all distributors on equal terms, there would be no need for any small company to engage in the generating business.

Late last year, a specific proposal for a regional generation and transmission agency for all of New England was made in a report to the New England Regional Commission. The report, entitled "A Study of the Electric Power Situation in New England, 1970–1990," is an historic document which deserves serious attention, not only in the six New England states but throughout the country. It was prepared by the firms of H. Zinder and Associates, Inc., and Acres American Inc. Former Federal Power Commission chairman Joseph C. Swidler participated in the preparation of the report until his appointment as Chairman of the New York State Public Service Commission, when he was succeeded by Washington attorney Charles J. McCarthy.

The report concludes that "the best ultimate answer for New England is a single bulk power supply agency with full responsibility for the generation and transmission of electric power."

Why? Here are some reasons as set forth in the report:

"With full responsibility and authority, (the proposed regional agency) would be able to install the most economical units available without incurring undue expense for reserve capacity.

"In locating units, it could balance such factors as nearness to load and environmental considerations so as to obtain the lowest cost power consistent with such values.

"It could schedule operations in such manner as to obtain maximum efficiency."

There would be other advantages to the single regional "G&T," the report notes, such as in financing, in promoting industrial development and, in the particular case of New England, arranging for interchanges of power with Canada.

The report emphasizes that the agency's functions would be limited to generation and transmission, and points out that "the distribution functions is one that touches the individual consumers and hence is inherently local."

The regional "G&T" could be organized in several ways. The report recommends a multistate agency created under an interstate compact, but the agency could be a Federal agency or a private corporation or even some mixture of the two, such as the Comsat corporation established to operate the communications satellite program.

The recommendations of the report offer great hope for our friends in New England who have traditionally experienced high power costs, but they also may offer much to those of us outside that region. I believe all of us should seriously explore the regional "G&T" concept.

EAST COAST INTERTIE NEEDS STUDY

A series of regional "G&T's" would logically lead to more and stronger regional interconnections to take advantage of seasonal and other regional variations. In my view, we are not fully utilizing our present capacity because we have not exploited the opportunities that exist for regional interchange. While the dramatic diversity between the power resources of the Pacific Northwest and Pacific Southwest do not exist on the East Coast, there are seasonal diversities between the Northeast and Southeast which we should explore.

During the periodic blackouts and brownouts in New York City, it has been reported that substantial blocks of power could not be moved into the city because of inadequate transmission capacity. The success of the Pacific Northwest-Pacific Southwest intertie suggests the need for studies of possible interregional ties on the East Coast and between other major power regions.

The extra-high voltage transmission facilities required to move sufficient blocks of power between regions involve major environmental considerations, but the impact may be less than the construction of new generating capacity of comparable capacity. At the same time, we should be moving ahead with the development of utility corridors into our major load centers. These corridors are useful today, but they will become essential in the future. They should be designed to meet power, fuel and communications loads for many years into the future.

Early designation of utility corridors is urgently needed for future planning, not only by the utilities but also by rural and urban land planners in the areas involved. With each passing day, the opportunities for future conflict over the routing of utility facilities mount as development extends farther and farther out from our cities. Some of today's problems in routing transmission lines would have been avoided if we had had greater foresight 10 or 20 years ago. Looking ahead, we know that the need for land for transmission facilities will grow in an era of larger and larger generating stations, generally at remote locations. Even if we succeed in developing the technology to put extra high voltage transmission lines underground, we shall need substantial land areas. The time to begin laying out our future utility corridors is now.

MORE HYDRO SHOULD BE DEVELOPED

More and stronger regional transmission interconnections represent an opportunity which we are not fully realizing. There are others. For example, I believe we should be taking a new and closer look at our undeveloped hydro resources. Perhaps my own enthusiasm for hydroelectric generation stems from our recent experiences with escalating fossil fuel costs, and the problems we have had with fuel costs and supply in the past months do make hydro look more attractive.

Certainly, we should get on with building the Dickey-Lincoln School project. With the Northeast's power supply problems, it is tragic that the opposition of the private power companies has succeeded in delaying this needed project. And we should be seeking other opportunities to support development of hydroelectric resources as a part of Federal multi-purpose projects.

Another source of new hydro capacity is at existing Federal dams. The expansion of the capacity of Grand Coulee is a dramatic example, but it appears that there are others. I am told that as much as a million kilowatts of new hydro capacity might be added to existing dams on the Missouri River. There may be other projects where additional hydro can be added and it seems to me that the effort to secure greater benefits from existing projects should be supported by conservationists as well as those concerned with securing additional power supply.

Pumped storage projects are being developed which can provide large blocks of needed peaking power. These are generally large-scale projects, and there also may be opportunities for developing hydro capacity at the other end of the size scale in generally small units. Run-of-river, low-head hydro installations utilizing bulb-type turbines can in some situations provide useful amounts of power at attractively low costs and with a minimum of environmental impact.

It seems to me that in a state such as ours (and it could be applicable in yours as well) with a great distance between major load centers, that a large number of widely dispersed smaller stations feeding into a high voltage grid would offer distinct advantages. Loss probability of a large block of capacity at one time would be materially reduced, and the gains in reliability would perhaps offset the small increase in efficiency of the 1,000 megawatt size or larger.

I am convinced that we have over the last few years in our head-long rush to ever larger and larger machines, with the emphasis being toward economies of scale, completely ignored the reliability offered through the smaller size machines, which the industry knows well indeed how to build with a long time guaranteed reliability. In reviewing the matter and talking with others in the industry, I have reached the conclusion that we should take whatever measures we can to encourage others to listen and perhaps take a fresh look at the size of machines we demand, and rather than continue down the road of ever larger and larger machines, we might ask the manufacturing industry to concentrate on building a range of smaller machines on a production line basis, at least until such time as we can produce enough power to satisfy the needs of our consumers. Think back with me if you will—when was the last time you heard anyone mention supercritical pressures and temperatures? This concept was also born out of the desire to improve efficiencies. The idea has now been shelved for economic reasons as well as others. I believe you will agree with me that we pride ourselves (in fact the sole reason we

are still in business) is that we have demonstrated our ability to provide reliable, and I emphasize the word reliable, electric service—something we are about to fail in if we continue to fall behind in our endeavor to achieve economies of scale through ever increasing size of machines with ever lengthening time of delivery which obviously affects the date full scale production is reached.

As an argument, we could in many cities generate at a given voltage and distribute all over the city through one circuit—but we don't do it. Why? Because we choose to diminish the exposure with the consequent loss of load by providing a multiplicity of circuits for many reasons, but reliability is a major concern because we want the customer happy with his service and we want to keep the meters running to bring in the revenues to support the system and its improvements, expansions, etc. I don't think anyone in this room seriously entertains the idea that we should return to the days of 100 years ago.

I do not wish to minimize the importance of economies of scale. But at the same time I feel that in the recent past, in order to achieve economies, we have worshipped too much at the shrine of bigness, and have not given sufficient weight to other factors which are equally if not more improtant, such as reliability, continuity of service, and consideration of the environment. It is now long past time we returned to the basic concept of providing reliable, dependable electric service through systems which protect, and if possible, enhance our environment. To do so may at times require that we sacrifice economies of scale in order to achieve these other important objectives.

NEEDED: MORE RESEARCH

The concepts and ideas which I have been discussing are based on our present situation and our existing technology. We can, if we will, move ahead with them. But there are other types of problems for which we do not have the answers—and for which we need answers promptly.

We do not today have the know-how or the technology to control sulfur emissions from coal-fired stations down to the levels now being required by law in some jurisdictions, and there is not enough low-sulfur fuel available to permit some utilities to comply with these laws. Although coal-fired plants represent the largest single type of generation, devices and procedures have not been perfected at this time to remove the sulfur from the coal or to remove the sulfur after combustion. Research also must be accelerated in controlling nitrous oxide emissions, and we also need to know more about controlling other potentially harmful air pollutants in stack gases.

Looking ahead we see more unsolved problems. We must learn more about thermal pollution from major new generating stations. Perhaps, as some have suggested, the excess heat can be harnessed for useful purposes. We must develop some type of closed-cycle cooling—or the day may come when most of our surface water will have to run through electric generating stations. Some new types of generation might offer promise of solving these problems, but, again, we don't know.

We need to learn more about the technology of extra high voltage transmission, both to reduce costs and assure reliability. And the public already is telling us we had better find some way to put it underground.

The sad thing is not the size nor complexity of these problems; rather, it is the inadequate level at which we are supporting the research and development necessary to solve them. Most observers agree that present research programs are too small to give us the answers we need to our many questions. These programs are, it appears, too little, and, as in the case of sulfur stack emissions, too late.

At present, atomic power research and development programs are directed by the Atomic Energy Commission. AEC has given top priority to the development of the fast breeder reactor and also is carrying on a long-range program to develop fusion power, which many view as the best bet for electric generation in the Twenty-first Century. Beyond AEC's program, Federal research in the electric power field is scattered and limited. Traditionally, electric utilities have left research and development largely to the manufacturers. While they have historically made commendable progress, their research is product rather than problem-oriented.

The electric utility industry's research efforts are coordinated through the Electric Research Council. As you know, the American Public Power Association solicits funds for support of research from its member systems. The APPA Advisory Committee on Electrical Research, headed by Dr. E. L. Kanouse, general manager and chief engineer of the Los Angeles Department of Water and Power, reviews Electric Research Council projects and allocates the funds received by APPA to those projects which it feels are most promising in terms of the Association's membership.

I have been gratified to note the support given our research program by APPA member utilities in this strictly voluntary program, and I believe it demonstrates a recognition by many of our systems of the urgent need for research and development. At the same time, we must note that this is not a major portion of the Electric Research Council's program and that there is evidence that the total program is inadequate to our needs.

Some critics, such as former Federal Power Commission Chairman Swidler, have pointed out that electric utility support of research, as measured by the industry's revenues, is only about a tenth that of the average for all industries. Mr. Swidler and others have suggested that a 1% tax on electric utility revenues would produce about $300 million to support a major research and development program. Another approach would be for Congress to fund a Federal electric research program, an activity well justified by the vital relationship of electric energy to the nation's welfare.

At our annual conference last year in Memphis, APPA adopted a national power policy statement which advocates that the Federal government should finance an adequate research and development program in the electric field by reasonable annual assessments on all electric utilities, based on kilowatt-hour sales.

I believe all of us would prefer a voluntary approach to raising the amount of money needed for research, but the facts of life are such that I don't believe that the amount of money required can be raised by passing the hat. At the present time, the electric industry is spending roughly about $40 million a year for research; yet, I have heard responsible leaders estimate that perhaps as much as 10 times this amount is needed. Frankly, I seriously doubt whether such a sum can be raised voluntarily, particularly in the public sector, where funds of local public agencies must compete with demands for many other public services.

It therefore seems to me that APPA's proposal represents the fairest and most equitable approach, and spreads the costs among those that would benefit from such research. Even a small assessment would result in substantial sums. For example, an assessment of only 1/10 of a mill per kilowatt-hour would provide a fund of about $150 million a year, and if the assessment were ½ mill per kilowatt hour the amount available would be more than $750 million a year.

For the average homeowner, the cost of such an assessment would represent a very small price to pay for potentially large gains. An assessment of 1/10 mill (or 1/100 of a cent) per kilowatt hour would only add about 50 cents per year to the electric bill of the average homeowner.

The funds that would be accumulated by such a program could be administered by a cooperative government-industry management group which could view research needs in a much broader context than has been the case in the past. To guard against imposing a charge that would be continued indefinitely, and to provide assurance that the funds were being spent with good results, Congress could enact such a charge for a limited period of time, after which the program could be reappraised to determine whether it should be continued, and if so, at what level.

I am pleased to say that our proposal has been receiving increasing attention, and is being given serious consideration by a number of individuals and organizations. Without such a program, it appears to us that the No. 1 problem of electric research and development is searching out the funds and developing a program capable of meeting the needs of our industry and its consumers.

ENVIRONMENT: CHALLENGE AND OPPORTUNITY

Much if not most of what I have been saying about the problems of the electric utility industry apply equally to private power companies and our consumer-owned systems. But I believe that many of these problems pose a special challenge—and a special opportunity—to the consumer-owned systems.

Environmental problems are a case in point. Our special problem, of course, is that our consumer-owners can make us conform to their environmental standards, or even their mere desires, far more effectively than they could with a remotely-controlled and even more remotely-owned private company. The other side of the coin is that environmental problems provide us with an opportunity to demonstrate the benefits of consumer-ownership. In working with local citizens to resolve environmental problems, we can show them that we are a vital part of the community we serve—not just the commercial agent for a distant entrepreneur. (I'll admit that there are times when one is tempted to write-off some local environmental concerns as "Excedrin Headache No. Whathaveyou," but then anyone who doesn't want to meet people and accept responsibility isn't likely to last long in the consumer-owned electric field.)

In short, our role in meeting the environmental demands of our consumers is both more demanding and more rewarding than that of the privately owned power companies. With the growing emphasis on our surroundings, responsiveness to local environmental concerns is a major benefit of local consumer-ownership.

TELLING THE PUBLIC POWER STORY

Too many of our municipal and other local publicly owned electric systems do an inadequate job of telling their own consumers about the benefits they receive, yet their story needs to be told beyond their city limits and their service areas. Specifically, I think we need to tell people in communities served by private power companies about the benefits of municipal ownership. After all, the private companies do not hesitate to come into cities served by municipal systems with claims about the benefits of their service. If institutional competition in eletcric service is to be effective, we need to do a better job of telling our story.

And let me assure you that competition does exist and that it does benefit the nation's electric consumers. Within the past year or so, in two cities in the West, power company franchises came up for renewal

and groups of local citizens started calling for studies of municipal ownership. Local public power did not win in these communities—but the electric users did win. In both cases, the threat of municipal ownership led the companies to tear up their original franchise proposals and write new ones offering vastly greater benefits to the cities and their residents.

In the past, we have tended to write the story of local public power in figures: rate savings—substantially lower average rates than the power companies, which coupled with high usage gave us the motto, "More Power at Lower Cost"; contributions to our communities in lieu of taxes—and usually considerably higher than the taxes which would be paid by a private company; and other economic benefits such as payrolls and local purchases. The figures are still valid, but I think we must begin to spell out the role of local public power in terms of values other than dollars.

PUBLIC SYSTEMS HAVE "SOCIAL AUDITS"

Recently, the president of one of the nation's largest research and management consulting firms suggested that large private business concerns will institute what he called "social audits," accounting for the social impact of their operations and their products, as well as the normal fiscal audits. Dr. Howard McMahon, president of Arthur D. Little, Inc., said that this would make management vastly more complex than it has been when the basic objective was merely profitability. Interestingly, Dr. McMahon went on to point out that the simple goal of profitability is "a luxury public institutions do not have." I think that's true of our local public power systems. We must account to the people we serve in ways that do not show up in balance sheets or as financial contributions to our local governments.

Because our systems are consumer-owned, they must be responsive to their consumers. To the extent that we make this responsiveness real to our consumers, we can put our "social audit" beside our fiscal audit as a measure of our contribution to our communities and a benefit of local consumer-ownership.

The theme of our Conference is "Public Power: Meeting Consumer Needs." By truly meeting the needs of our consumers, I am confident that in the future, as in the past, we shall point with pride to our audits—both fiscal and social.

RELEASED RELIABILITY AND THE ENVIRONMENT IN THE POWER INDUSTRY, JOSEPH C. SWIDLER, CHAIRMAN, NEW YORK STATE PUBLIC SERVICE COMMISSIONS

My specific assignment on this panel is to provide a state regulatory viewpoint on priorities, financing and administration of research into the problems of reliability and environmental protection of the power industry. The other panelists have been asked to speak on these problems from other viewpoints. The Program Committee was prudent in attempting thus to insure that all the panelists would not be covering the same ground. On more than one occasion when I have been on a panel, by the time my turn came there was very little that I could say that had not already been well covered. I doubt, however, that the effort of the Program Committee to parcel out assignments will outwit the panelists, because speakers have an irresponsible way of talking about what interests them. Most panelists have some other source of support than their income as panelists, so that it is hard to discipline them.

Let me start by describing the responsibilities of the New York Public Service Commission with respect to reliability and environmental protection. I presume that most public service commissions, even without special legislation on the subject, carry a degree of authority over these matters, arising out of their general surveillance of public utility service. Some have broad authority over the certification of all major utility facilities, which I presume implies the need to consider reliability and environmental factors as well as engineering and economic considerations. In the case of the New York Public Service Commission, our authority is explicit, but not unlimited.

As a result of legislation passed by the 1970 Legislature on the initiative of Governor Rockefeller, the Commission must certificate all new high voltage transmission lines before construction can begin. In order to secure a certificate, which is suggestively called "a certificate of environmental compatibility and public need," the utility must demonstrate that any such line "represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations" and also "that such facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, which will serve the interests of electric system economy and reliability."

The determination of the compatibility of a transmission line with long range expansion plans obviously raises a question as to soundness of plans for generating sources, but there is no requirement for certification of generation as such. Whether and how to make provision for certification of thermal plants are questions confided by the Legislature to a Temporary Commission which is required to report its recommendations to the Governor and the Legislature. Governor Rockefeller has announced his intention to sponsor legislation on this subject in the current session, and his proposal may or may not be based on the recommendations of the Temporary Commission. It seems likely, therefore, that these questions will be resolved in the current legislative session, but I cannot say in what way.

A paragraph on power system planning was added to the Public Service Law last year which may prove of even more far-reaching importance than the certificating jurisdiction. I shall read it to you.

"The Public Service Commission shall encourage all persons and corporations subject to its jurisdiction to formulate and carry out long range programs, individually or cooperatively, for the performance of their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources."

The Commission has construed this language as mandating an effort to work with the power companies of the State, all of which are members of the New York Power Pool, in developing long range plans for new transmission and generation which will meet the statutory standards for adequacy, reliability, and environmental compatibility. The Commission is now in the process of working with the members of the New York Power Pool on the details of the arrangement, about which I shall say no more than that they will not relieve the companies of their planning responsibilities but will, I hope, provide an opportunity at each stage of the planning process for the Commission staff to review and appraise the status of the plans and to comment on their probable conformity with the statutory tests.

All this is by way of explaining that the Public Service Commission does indeed have an interest in the reliability and environmental impact of the power company systems in the State of New York, and necessarily in the improvement of those systems by bringing to bear the resources of the research community.

The essence of the Commission's interest can perhaps best be exemplified by the dilemma presented in many, if not most, certification and licensing proceedings. The proposed project may clearly threaten an adverse environmental impact either in terms of air pollution or because of the thermal effect on surface waters, or in some other way. The project may nevertheless be the best available answer to an urgent power need, within the limits of present-day technology. The choice is therefore between environmental damage on the one hand, and energy shortage on the other. This is the kind of a Hobson's choice which is destructive both of the prestige of the industry and the credibility of the licensing authority, not to mention the public well-being. It seems to me that this kind of dilemma could and should be resolved by the development through research of options which will make it possible to provide for the nation's energy needs without large-scale environmental damage.

Sometimes the environmental offense can be greatly mitigated, but only at vast additional cost, for example by purchase of low sulphur fuel, or by building the project at a great distance from the load. Whatever may be said by partisans in licensing cases about the great willingness of the public to pay much higher rates for a higher degree of environmental protection, their voices are not heard in the rate cases. Here, too, the dilemma of high cost or shortage is severe, and either horn may impale the regulatory agency, the utility and the public alike.

Two of the industry problems of highest priority are cleaning up stack gases and reducing the thermal load on surface waters. If it were clear that the technological difficulties standing in the way of progress on these problems were beyond the ready help of science and research, the regulatory agencies and the public might be willing to accept environmental impairment as the price for adequacy of energy supply. This is not the case, as I am led to believe. I am sure that the agenda of this conference will have made clear the enormous opportunities which lie before us to improve the technology of the power industry in these respects. It is frustrating to us as regulators, and infuriating to the public, that neither on the industry nor on the governmental level has there been a dedication of the money and scientific resources required to solve these and similar problems which have major impact on the reliability and environmental consequences of power generation and transmission.

The electric power industry is the largest in the country by far. Its revenues are now running at the rate of some 30 billion dollars a year. It burns more than half the nation's coal, 5% of the oil and 17% of the natural gas. It is not the only, nor the worst, environmental offender, yet its impact on the quality of the nation's environment is a crucial one. The public has made clear in the most forceful terms that it is not satisfied with the industry's level of performance insofar as environmental impact is concerned. The leaders of the industry themselves are far from satisfied with their own performance. Yet this great and vital industry, led by so many able and dedicated people, spends less than ¼ of 1% of its revenues on research to improve the quality of its performance. The all industry average in the United States is over 4%, about half funded by government. The power industry spends only a tenth of the all-industry average even if the government share of the latter is disregarded in the comparison.

In recent years the various segments of the industry have joined to create the Electric Research Council, which serves an important coordinating role in administering the industry's research program, but its means are too limited for the task ahead. A far more ambitious program is essential if the industry is to move ahead in solving its

environmental and reliability problems at the pace which their urgency requires.

The government agencies in Washington deliver severe lectures on the need for improved technology for reliability and environmental protection, but the research budget in the energy area, except for nuclear systems, is miniscule in relation to the importance of the problems. There are many claims on the federal budget, we all know, but this does not explain so distorted a sense of priorities as to place research for improved energy technology at the bottom of the federal spending schedule. Considering the scale of energy use and national expenditures for energy, there is no reason why research in the energy area should need to compete in the budget with welfare, national defense, education, the Mexican Boundary Commission and other expenditures in noncommercial areas. It would be easy for the Congress to earmark a special source of revenue to support a program of research which bore a realistic relationship to the urgency and importance of the reliability and environmental problems presented by the electric power industry.

It must seem strange to visitors from abroad to learn that the electric power industry of the United States, unlike most great electric power industries in the rest of the world—France, Great Britain and the U.S.S.R., to take three examples—does not maintain a single major research laboratory or testing facility, but relies entirely on the facilities of manufacturers, who are necessarily governed by their own proprietary interests and resulting sense of priorities, not to mention limitation of resources. I know it seems strange to me, and all the more so when I consider that the lack of testing facilities in this country makes it necessary for some utilities and manufacturers to seek the use of facilities abroad in testing high voltage equipment.

We are all familiar with the peculiarities of the institutional framework of the industry in the United States which inhibits an organized and massive effort to provide adequate research capability. There are over 3,000 industry units, no one accounting for as much as 10% of power output. They are divided among four institutional groups, federal systems, state and local public systems, cooperatives, and the private companies which constitute some three-fourths of the industry. This dispersion of service responsibility has many operating advantages, but it has also resulted in a diffusion of responsibility for the technological improvements essential for the welfare of the industry and the well-being of the consumers of this country.

The difficulty of the organizational problem is understandable, but what is difficult to understand is the failure of any adequate effort to cope with it. Where are the industry leaders who should be attempting to transcend these institutional limitations and to organize a research effort commensurate with the nation's needs? Where is the boldness required to determine the extent of needed research facilities and to create the plans for building and operating them? Where are the men of vision who will determine research needs and priorities and who will attempt to enlist nationwide participation in meeting the financial goals suggested in such an appraisal?

Hydro Quebec is now in the process of constructing its own $40 million research center near Montreal. There will be nothing comparable to it in the United States, and there is little question that American utilities and manufacturers will soon be applying for access to its use. I find nothing wrong with the cooperative use of this major test facility. Hydro Quebec is entitled to warm congratulations for building it. However, this one facility will not serve all the research needs on the North American continent, and it is a matter for concern that the inaction of the utilities of this country has created a research gap which is being filled by a neighbor in another country no larger than a number of single companies in the United States. I might add that there are manufacturers in Canada, too, which carry on research, and that U.S. manufacturers bid for Canadian business. Nevertheless, Hydro Quebec is mounting its own research effort, while U.S. power companies sit on the sidelines.

One of the best reasons for direct power industry participation in research is that only in this way can it obtain the services of research scientists qualified to appraise the quality and pace of the research conducted by manufacturers, universities and research institutes. I do not suggest that the power industry should carry out all or most of its research program with its own people and facilities, but it seems to me it cannot effectively determine research priorities or set research goals without at least a nucleus research staff of its own, of the very highest caliber.

The research needs of the industry are as endless as they are urgent. We need to learn to take sulphur out of the coal or the stack gases or both. We need to minimize nitrous oxide pollution in the burning of all fuels. We need to learn what other pollutants in stack gases may be doing harm now, or are likely to do so as fuel volumes grow, and deal with them before and not after a public alarm. We need to develop the technology of closed cycle cooling so that our industry will not remain a major threat to the ecology of surface waters. We need to develop new generating sources, as well as to improve existing ones, in order to make more efficient use of fuels both as a conservation measure and to bring down costs. We need a great deal of advanced work on metallurgy and on quality control in order to move to higher unit temperatures and pressures and to increase unit reliability. We need to accelerate development work on EHV and DC technology to reduce costs, improve reliability and avoid unnecessary drain on land resources for transmission line rights-of-way. We should be mounting an adequate research program in undergrounding of transmission lines, in response to the demand of the increasing number of people who find overhead lines aesthetically offensive.

It would be Utopian to think that enough money could be found to pursue all of these lines of research with equal vigor, and if the money were available there are probably not enough trained people to carry it on. The question, therefore, is how large a research effort is practical and feasible, and how is it to be financed and carried on. A number of people, myself among them, have advocated a federal tax on energy use in the amount of 1% of gross revenues, which produce something in the order of $300,000,000 at present levels of use if the tax is limited to the electric power industry, and much more if it is extended to other energy industries. The money would be earmarked for research and would be administered by a joint federal-industry council. Perhaps some of this money could be used to fund the creation of several national energy laboratories. Patterned after Argonne or Brookhaven, such laboratories would be geared to research and development in all areas of energy production and transmission. Such laboratories would complement the research done by private industry.

There is opposition to this plan on the ground, among others, that government participation would somehow distort the research program. I do not see why this should happen if the fund is properly established. Another objection, based on the history of the Highway Trust Fund, is that such funds tend to be self-perpetuating, even after the justification has disappeared. I cannot believe energy research is likely to be of only short-term importance, but I should see no objection to limiting the life of the fund to a reasonable period of years.

The tax proposal has the merit of providing a response to an urgent problem which has baffled the power industry for many years. It solves the institutional difficulty I have mentioned, that there are so many entities and varieties in the electric power industry, and such a resultant diffusion of responsibility, that the industry has almost totally renounced a research role. A federal tax would raise funds on a scale reasonably commensurate with needs, on the basis of nationwide participation and an equitable distribution of the costs. I do not argue this is the only possible road to research progress or necessarily the best one, but it is better than the present situation of almost total industry default in the research area. I should gladly support, and I believe most of the others who have suggested the tax device would support, any other realistic plan which achieved the same goals, and behind which the industry would unite. It seems to me that the challenge to the leaders of the industry is to come up with an alternative plan on an adequate scale, or to support this one.

CAN SOLVE THE ENERGY PROBLEM

Today our country is plunging headlong into a critical energy crisis.

Right now our nation's electric power system is hard put to meet the needs of consumers in several parts of the country. Brownouts are a fact . . . and there's grave likelihood of blackouts.

As a small but integral part of the power industry, we of America's consumer-owned rural electric systems believe our nation can no longer afford the luxury of piecemeal, too-little, too-late planning. We believe we must move now to develop a national resources and energy policy based on a comprehensive national research and development program.

We believe we, as a nation, must:

Work out methods to eliminate pollutants resulting from coal and oil combustion.

Get on with the development of the liquid metal fast breeder reactor.

Accelerate the exploration of yet undeveloped techniques for power generation, such as magnetohydrodynamics, nuclear fusion, geothermal steam.

Reassess our hydroelectric potential.

Develop better means of transmitting power across our country . . . fully exploring the practicalities of cryogenic systems, extra high voltage, utility corridors.

Surely a nation that can now split the atom and bounce television pictures off orbiting satellites can find ways to generate the needed kilowatts for consumers without poisoning our world.

We of America's rural electric systems believe that through a national energy policy and research program we can use our great technological capability in the best interest of all Americans.

AMENDMENT NO. 364

At the end of the bill, add the following new section:

SEC. 18. The Federal Power Act is amended by adding at the end thereof the following new title:

"TITLE IV—FEDERAL POWER RESEARCH AND DEVELOPMENT BOARD ESTABLISHED

"SEC. 401. (a) there is hereby established the Federal Power Research and Development Board, (hereinafter referred to as the 'Board'). The Board shall consist of five members appointed by the President, by and with the advise and consent of the Senate,

one of whom shall be so appointed as Chairman of the Board. The members first appointed under this section, as amended, shall continue in office for terms of one, two, three, four, and five years, respectively, from the date this section, as amended, takes effect, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term for which his predecessor was appointed and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term. Not more than three of the members shall be appointed from the same political party. No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation engaged in the generation, transmission, distribution, or sale of power, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold the office of member. Said member shall not engage in any other business, vocation, or employment. No vacancy in the Board shall impair the right of the remaining members to exercise all the powers of the Board. Three member of the Board shall constitute a quorum for the transaction of business, and the Board shall have an official seal of which judicial notice shall be taken. The Board shall annually elect a vice chairman to act in case of the absence of disability of the chairman or in case of a vacancy in the office of chairman. The members shall be appointed from among those persons with experience and competence in the following areas: the environment and its protection; electric power reliability; and scientific and technical research and development. The chairman shall be compensated at the rate provided for by level III of the Executive Salary Schedule under secion 5316 of title 5, United States Code. The remaining members shall be compensated at the rate provided for G.S. 18 under section 5332 of such title.

"(b) The authority under this title shall terminate ten years from the date of enactment of this Act.

"FEE ASSESSED

"SEC. 402. Every person purchasing electric energy for consumption, and every person generating more than 1,000,000 kilowatt hours per year of electric energy for his own consumption, shall pay a fee of .15 mills per kilowatt hour for all such electric energy purchased and consumed, or generated by any person for his own consumption.

"All persons distributing electric energy affecting interstate commerce including private companies, cooperatives, and agencies of local, State and the Federal Government shall include as part of the normal bill or invoice issued to any person purchasing electric energy for consumption an amount equal to .15 mills per kilowatt hour for all electric energy purchased and consumed. Such persons distributing electric power affecting interstate commerce are required to collect the fee imposed by this section and to pay an amount equal to all such fees collected to the Federal Power Commission.

Any person generating more than 1,000,000 kilowatt hours per year of electric energy for his own consumption affecting interstate commerce is hereby required to pay a fee of .15 mills per kilowatt hour for all electric energy generated to the Federal Power Commission.

The fees imposed by this section shall be paid by the person purchasing and consuming electric energy.

The fees imposed by this section shall not apply to sales of electric energy for resale.

TRUST FUND ESTABLISHED

"SEC. 403. Revenues collected by the Commission from such fees and interest on such revenues shall be deposited in a trust fund, to be known as the Federal Power Research and Development Trust Fund (hereinafter referred to as the 'Fund') which is in the Treasury of the United States to be available through the appropriation process only to the Board for use in carrying out all the provisions including administrative expenses of section 404 and other provisions of this title. Separate appropriations requests shall be submitted by the Board to the President for transmittal to Congress.

RESEARCH PROGRAM AUTHORIZED

"SEC. 404. (a) The Board is authorized to conduct either directly or by way of contract, grant, or other arrangement, a program of research and development for the improved means of production, transmission, distribution and consumption electric energy with minimum impact on the environment. Payments under this section shall not exceed the amount of the fees collected pursuant to this Act. Such program shall be coordinated with and shall supplement research and development programs conducted or assisted by other Federal agencies, universities, electric power companies or other companies or individuals. Funds appropriated pursuant to this Act shall be allocated on the basis of their contribution to the attainment of the following goals—

"(1) increasing the efficiencies of energy generation, transmission, distribution and consumption processes;

"(2) decreasing the adverse environmental impact of present and future energy generation, transmission, and distribution processes;

"(3) achieving basic innovations for new means of reliably generating energy while protecting the environment;

"(4) making increased efficiencies and improved technology directly available to all electric utilities, regardless of size or nature of ownership.

"(5) other areas which the Board deems to be within the broad objectives of this title; and

"(6) in allocating the sums of the Fund under this title, the Board shall reserve not less than 5 per cent of such sums for projects which make a deliberate effort to search for adverse social, environmental, or economic effects of proposed or present technologies. Reports on such projects by the principal investigators shall be compiled and furnished to the Congress and the public annually.

"ADMINISTRATIVE PROVISIONS

"SEC. 405. (a) In carrying out its functions under this title, the Board is authorized to—

"(1) prescribe such regulations as it deems necessary governing the manner in which such functions shall be carried out;

"(2) appoint such officers and employees as may be necessary, and supervise and direct their activities;

"(3) utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title V of the United States Code;

"(4) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law for persons in the government service employed without compensation;

"(5) rent office space; and

"(6) make other necessary expenditures.

"(b) If, in carrying out its functions under this section, the Board from time to time should require the services of personnel engaged in the generation, transmission and distribution of electric energy, it should seek such personnel from all segments of the electric power industry including investor owned, State and local public agencies, cooperatives, and Federal agencies.

"REPORT

"SEC. 406. The Board shall prepare and submit to the President for transmittal to the Congress not more than six months after the passage of this Act and on the same day annually after that, a comprehensive report on the administration of this title for the preceding calendar year. Wherever possible, judgments contained in the report shall include a clear statement of the assumptions and data used. Such report shall include—

"(1) a thorough analysis and evaluation of research and development activities funded under this title;

"(2) a comprehensive evaluation of the areas most in need of research and development funding in the future;

"(3) an analysis of the possible and probable impact of emerging technologies on the present and future aspects of the following:

"(A) both the supply of and the demand for electrical energy;

"(B) the economy; and

"(C) the environment; and

"(4) the extent of cooperation with other Federal agencies and public and private institutions, indicating the difficulties and the Board's plans for improvement, including proposals for legislation if needed.

NEWSLETTER

"SEC. 407. (a) Not less than twice each month, the Board shall publish a newsletter (hereinafter referred to as the 'Newsletter'), which shall be made available to all interested persons and include—

"(1) abstracts of all approved grants, including a statement on the general nature of the work;

"(2) announcements of hearings;

"(3) summaries of promising developments; and

"(4) the information required elsewhere in this title.

"(b) The Board shall give notice by publication in the Federal Register and in the Newsletter at least 90 days before approval of any grant of $5,000,000 or more and shall provide an opportunity for any interested party to comment on any such grant prior to approval. No grants may be approved until thirty days after completion of the time allowed for the comment of interested persons.

PROCEDURE

"SEC. 408. At least once each year the Board shall conduct a hearing on its proposed budget for the following fiscal year. Notice shall be given by publication in the Federal Register and in the Newsletter at least 60 days prior to its occurrence, the scheduled date, time, and place of said hearing. In addition, at least 45 days before the hearing date, the Board shall publish in the Newsletter a complete statement of proposed programs in the next fiscal year. All interested parties should be granted an opportunity to testify. The Board can deny the request to testify only on the basis of good cause publishing the reasons therefor. A record shall be made of all hearings, and said record shall be available for public inspection. All reasonable and germane inquiries made at the hearing of the Board, or of the principal investigators where possible, must be fairly responded to on the record. The Board shall wait at least 20 days after the completion of the hearings to allow for the comment of interested parties before submitting its budget to the President.

PATENTS

"SEC. 409. Each contract, grant or other arrangement for any research or development activity supported by this title shall contain provisions effective to insure that all information, uses, processes, patents, and other

developments resulting from that activity will be made freely and fully available to the general public. Nothing herein shall be construed to deprive the owner of any background patent of any right which he may have thereunder.

CIVIL PENALTY

"SEC. 410. Any person who violates any regulation established pursuant to this title shall be subject to a civil penalty of not more than $10,000 for each violation or for each day of a continuing violation. The penalty shall be recoverable in a civil suit brought by the Attorney General on behalf of the United States in the United States District Court for the district in which the defendant is located or for 'The District of Columbia.'"

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14 of the Natural Gas Act, as amended (15 U.S.C. 717m), is amended by adding three new subsections as follows:

"(i) The Commission is further authorized and directed to conduct studies of the production, gathering, storage, transportation, distribution, and sale of natural or artificial gas, however produced, throughout the United States and its posessions whether or not otherwise subject to the jurisdiction of the Commission, including the production, gathering, storage, transportation, distribution, and sale of natural or artificial gas by any agency, authority, or instrumentality of the United States, or of any State or municipality or political subdivision of a State. The Commission shall make an independent evaluation of the proven natural gas reserves of the United States identifying volumes in production and volumes not being produced and the reasons for such non-production and to update such evaluation annually. The evaluation of proven natural gas reserves shall be based on individual company data obtained directly by the Commission and independently evaluated by government experts. It shall, so far as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for such production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, commercial, and industrial consumers, and other purchasers by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense. The Commission shall report to Congress and may publish and make available as provided by subsection (a) the results of studies made under authority of this subsection.

"(j) The Commission in making studies, investigations, and reports under this section shall have authority to obtain reserve information from natural gas companies whether or not otherwise subject to the Commission's jurisdiction and shall publish the information annually in the form of an estimate of the nation's natural gas reserves, both proven and potential, with breakdowns by producing areas, identifying the volumes in each area not being produced. The Commission shall utilize, insofar as practicable, the services, studies, reports, information, and continuing investigational programs of existing departments, bureaus, offices, agencies, and other entities of the United States, and of the respective States. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigating and reporting activities, duties, powers, and functions of any other department, bureau, office, or agency in the Federal Government."

"(k) Any natural gas company which fails to reveal its gas reserves to the Commission shall in addition to any other penalties which may be assesesd, be automatically ineligible to bid on any leases on any federal lands until such information is supplied to the satisfaction of the Commission."

THE MILITARY CONSTRUCTION AUTHORIZATIONS, 1972—AMENDMENT

AMENDMENT NO. 368

(Ordered to be printed and to lie on the table.)

Mr. JAVITS, for himself, Mr. BAYH, Mr. HATFIELD, Mr. HUMPHREY, Mr. KENNEDY, Mr. MATHIAS, Mr. MCGOVERN, Mr. MOSS, Mr. PEARSON, Mr. PERCY, Mr. PROXMIRE, Mr. RANDOLPH, Mr. TAFT, Mr. TOWER, Mr. TUNNEY, Mr. SCHWEIKER, and Mr. WEICKER, submitted an amendment intended to be proposed to the bill (H.R. 9844) to authorize certain construction at military installations, and for other purposes.

AMENDMENT NO. 378

(Ordered to be printed and to lie on the table.)

Mr. CASE submitted an amendment intended to be proposed by him to the bill (H.R. 9844), supra.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I announce for the information of the Senate and the public that on Wednesday, August 18, 1971, the Subcommittee on Minerals, Materials, and Fuels of the Senate Committee on Interior and Insular Affairs, will hold a public hearing in Billings, Mont., to obtain information on problems involving access and mineral exploration activities in the Custer and Gallatin National Forests of Montana. The hearing will be held at the Eastern Montana College, Billings, Mont., at 9 a.m.

Any Member of the Senate or of the general public who wishes to testify at this hearing should so advise the committee.

OPENINGS OF HEARINGS ON DEPARTMENT OF NATURAL RESOURCES

Mr. PERCY. Mr. President, I am very much pleased that the distinguished chairman of the Government Operations Committee, the Senator from Arkansas (Mr. MCCLELLAN) has called for opening hearings on Thursday, August 5, on the bill creating a new Department of Natural Resources, S. 1431. As principal Senate sponsor of this proposed legislation on behalf of the administration, I am delighted that the Senator from Washington (Mr. JACKSON) is taking time, at Chairman MCCLELLAN's request, from his work as chairman of the Committee on Interior and Insular Affairs to preside over these hearings in the full Government Operations Committee, of which he is also a member.

Senator JACKSON brings a wealth of experience in natural resource issues and programs, a dedication to conservation and environmental protection, and very great ability to this subject. He will be able to apply his first hand experience in all of the substantive aspects of natural resource programs and policies to create an ideal new structural framework for existing natural resource programs. The result, I am confident, will be a very sound bill.

The creation of such a new Department could make major improvements by coordinating planning of resource development projects. An article published in the Wall Street Journal of July 19, entitled "Waterway Wrangle," demonstrated again the waste and confusion resulting from the conflicting aims of the Agriculture Department's Soil Conservation Service, Interior Department agencies, and conservation groups. The issue is not whether stream channelization is good or bad in principle; the issue is more clearly one of better defining our objectives, planning without duplication and waste for measured land reclamation where necessary, and for maintaining natural habitats where desirable and where channelization is not clearly necessary.

The public has every reason to be frustrated with continued poor Government performance and every right to demand change.

I fully subscribe to the President's comments in discussing his top-priority programs with media executives in Rochester, New York, on June 18:

> I simply would summarize the attitude of most people toward government in this way: most people are fed up with it. They are fed up with it at all levels. They are fed up with it because they think it costs too much, they think it doesn't work, and also they think they don't have anything to say about it.
>
> Government reorganization, combined with revenue sharing, answers that fundamental concern of the American people. It will reduce the cost of government by making it more efficient. It will make it work better.

Thus I am pleased that Senator MCCLELLAN has called for hearings on the proposed Department of Natural Resources. The witnesses now planned will be the Senator from Utah (Mr. Moss), who has over a period of years led in proposing new structures for natural resources programs; Secretaries Morton and Hardin; the Under Secretary of Commerce, Mr. James Lynn; Atomic Energy Commissioners Larson and Lancy; the Under Secretary of the Army, Mr. Beal; the Chief of the Army Corps of Engineers, General Clarke; and the Associate director of the Office of Management and Budget, Mr. Weber.

AMERICAN INDIANS MUST NOT STOP RUNNING

Mr. MCGOVERN. Mr. President, American Indians are the poorest of the poor. Our national policy toward the American Indian has been a disgrace. The pattern has been the same with few exceptions. We took their land and confined them to reservations which often could not sustain them. With attention focusing on the problems of the Indians as never be-

fore, there is some hope this Nation may recognize at long last the folly of its course and give American Indians and Alaskan Natives what is rightfully theirs, both from a moral and legal standpoint.

At the present time, Indians are not optimistic about the future. They have heard many promises from Washington but know only too well from past experience to give these promises much credence. One area where we have utterly failed the Indian is in education. We have refused to recognize the special insight and culture which the Indian wishes to maintain. We have attempted to make Indian youth over in our own image rather than recognize the special cultural heritage that could enable the Indian youth to maintain his own unique values and at the same time come to grips with the challenges posed by the dominant society.

The results of failing to take these distinctions into consideration are staggering. In addition to the awesome problems posed by the Indians' poverty, it is time to consider educational reform to give Indian youth pride in their heritage and a sense of hope.

This sense of hope is now lacking. The Indian youth is only too well aware that statistics tell him he does not have a chance. He has scant opportunity for a job. He has a much better chance of becoming a social dropout. He has little chance of finishing high school, not to mention receiving a higher education. Suicide is three times more prevalent among Indian teenagers than the national average.

Mona McCormick, who teaches Indians at St. Francis Mission on the Rosebud Reservation in South Dakota, has written a moving account of the problems of Indian youth in the July 29 New York Times. Because it is so pertinent to an understanding of the problems Indian young people face, I ask unanimous consent that it be inserted in the RECORD at this point.

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

AMERICAN INDIANS MUST NOT STOP RUNNING

(By Mona McCormick)

ST. FRANCIS, S. DAK.—Whenever there is a break in the weather, the teen-agers start running on the Rosebud Sioux Reservation. Indian boys are racing through South Dakota pastures with atavistic dignity and ease, never landing on a cow chip but never seeming to avoid them, speeding but somehow not seeming to hurry. There is an unreal, Fellini-like quality to the silent scene when they reach a distant field and sail around a turn, visible but unheard. The girls are running too, down the Spring Creek road, and charting their mileage on a high school poster. They are special young people with special surnames like Black Spotted Horse, Eagleman, Owns The Fire and Crow Good Voice.

They'd better keep on running because life on a reservation requires what the Queen in "Alice Through the Looking Glass" describes: "Now, *here*, you see, it takes all the running you can do to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that."

When an Indian teen-ager stops running he stands in a row of terrible statistics which show him to be a dropout and an alcoholic. The suicide rate among Indian teen-agers is three times the national rate and much higher on some reservations. Deaths from automobile accidents as a result of drunken driving are frequently a form of suicide.

A teen-age alcoholic is not only following an example set by his parents, he is experiencing the same reality that drove them to drink. The Indian's average yearly income, $1,500, is less than half the national poverty level. His average age at death is 44 years. Indian infant mortality after the first month of life is three times the national average. Forty-two per cent of Indian schoolchildren—almost double the national average—drop out before finishing school.

Why should he finish school when he sees no apparent need for it and there is no job which might require it; why shouldn't he drink when there's nothing else to do? Unemployment on Indian reservations ranges from 40 to 70 per cent. He is free to leave the reservation (now) but his home and his culture are here. Though many Indians have become successful off the reservation, most are unprepared and insufficiently educated and become lost in an urban ghetto. There is also a communication problem because many speak an Indian language (on the Rosebud it is Lakota) and English is a second language. Indian boys and girls fully recognize the truth of their situation by the time they're in the fifth or sixth grade.

The Rosebud Sioux have newer housing than some reservations (though there are no paved streets in most communities and the mud is winning). But poverty, unemployment and alcoholism are continuing problems.

Spending time in jail for drinking is a common experience for Rosebud youth. A tenth-grade boy here was recently arrested again for drunkenness and resisting arrest and must now serve several weekends in jail. He is permitted to attend school during the week but returns voluntarily to jail on the weekends. Even much younger, elementary school children have spent the night in jail when arrested for drunkenness. The jail in the area houses all ages, men and women, for all offenses.

Most of the young people here are not militant and their parents certainly do not encourage militancy. Most are not occupying Alcatraz or even nearby Mount Rushmore; they are, in fact, superpatriotic.

An Indian twelfth grader has a poorer self-concept than other minority groups and his expectation of failure becomes self-fulfilling. This crippling self-image is the wound of a long history of being outnumbered and denied civil rights. It is also the result of deformed history. Most of their own textbooks, consciously or unconsciously, actually teach them that they are ruthless savages and "unpersons." As if it were not enough that the real facts of their history are psychologically disturbing—their final efforts to defend their homes, loss of important land like the Black Hills, and white attempts to annihilate and then fence off an entire nation of Sioux.

In my high school reading classes, the juniors and seniors found Thoreau's personal life interesting but not his writing. Their own brand of patriotism seems to prevent them from understanding his "Civil Disobedience," and "Walden" was "boring."

To a question on a general book report—Would you want to have any of the experiences in this book?—the common reaction was one boy's: "No. I have too many troubles of my own that need help." They are in that way realists and not pretenders.

The students at St. Francis High School, in spite of all their troubles, like to laugh and have highly developed senses of humor. The Indians remind me of the Irish—the troubles, the laughter, the drinking, and their land occupied.

SOLICITOR GENERAL GRISWOLD DEFENDS PRESIDENT'S WAR POWERS

Mr. GOLDWATER. Mr. President, on many occasions recently I have taken the floor of the Senate to explain the reasons for my considerable concern about legislative proposals which would shackle the President's powers in the field of foreign and military affairs. I have sought to explain to Senators just how unwise these proposals are from the standpoint of our true national security interests. Also, I have questioned whether the authors of these bills and amendments have considered adequately the very solid foundation in the Constitution upon which the President's powers rest in this field and how his exercise of these powers has been upheld by the test of history.

Recently, I came across a brilliant discussion of the Presidential powers regarding military activities which repeats many of the same points I have been making on the subject. This legal analysis comes from none other than one of the top legal authorities in the country, Erwin N. Griswold, former dean of Harvard Law School, who is now serving as Solicitor General of the United States.

In examining the issue of the legality of the Vietnam war, which is something the doves among us challenge with almost the same regularity that the sun rises, the Solicitor General arrives at the unqualified conclusion the war is "legal." For one thing, he points out Presidents have been doing this kind of thing ever since the Nation began. In fact, the Solicitor General reveals "one can count 161 separate instances in which this Nation was engaged in hostilities against a foreign power, between 1798 and 1945, including the Civil War; and only six of these involved a formal declaration of war."

Moving from historical practice to the provisions of the Constitution itself, the Solicitor General identifies at least three different grants of powers expressly vested in the President by that document from which he can act to lead our Nation, marshal its forces, and meet emergencies.

Furthermore, the Solicitor General shows that if ever any supporting action was required on the part of Congress regarding the use of troops in Vietnam, Congress has acted time after time through the means of authorization and appropriation laws favorably backing the Government's policies in Southeast Asia—the Gulf of Tonkin resolution merely being one among some 30 or more laws which visibly indicate congressional participation in those policies.

According to the Solicitor General:

The hang-up on this question comes from the assumption that there must be a declaration of war before military action is "legal."

The sponsors of these restrictive proposals assume this is so, but the truth is no court has ever decided it. No court, in all our history, has ever announced that the only way in which our country can enter military hostilities is through a declaration enacted by Congress.

In the words of the Solicitor General, who is as good a constitutional scholar

as one can get, "there is no basis for such an assumption." He adds:

Indeed, all our history and practice has been to the contrary.

Mr. President, we could look through the news media on this Eastern seaboard far and wide and seldom learn that anyone of distinction has given a documented, textual defense of the President's war powers. Because of this and because the statement by the Solicitor General is a valuable contribution to the subject, I ask unanimous consent that it be printed in the RECORD.

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

THE INDOCHINA WAR—IS IT LEGAL?

(Remarks of Erwin N. Griswold, Solicitor General of the United States)

The question we are discussing this morning is surely an important one, and is worthy of serious consideration. I welcome the participation here of Attorney General Quinn, of my home state, and of Professor Rutledge, of the Duke University Law School; and of course I am glad to have the support here of Senator Gurney, who has had to consider these questions in connection with his official duties. I cannot refrain from making the observation that both Attorney General Quinn and Senator Gurney were students of mine at the Harvard Law School.

One essential in the discussion of the question with which we are concerned is to mark it out, and to make clear what is not the subject of our consideration today. The overall problem is inevitably engulfed in much emotion. As lawyers, though, we are trained to consider legal questions on their merits, and to separate out the emotional factors which are not relevant to the legal questions.

First, then, we must bear in mind that we are not here discussing the morality of the Vietnam war. That is obviously a difficult question, with respect to which most of us here probably have no special qualifications. Nor are we discussing the wisdom of the Vietnam war. We may have views as to whether we should ever have gone into Vietnam, or have gone into Vietnam as extensively as we did. That is a decision for which four Presidents share responsibility—Presidents Truman, Eisenhower, Kennedy and Johnson, over a period of more than twenty years. I am sure that nothing would have pleased President Nixon more—politically, and personally—than to have been able to start his presidency without the great care and desperate concern of the Vietnam problem, which existed full-blown when his administration began.

Finally, we are not concerned here today with how or when to get out of Vietnam, or under what circumstances and conditions. As to that, I will only say that President Nixon has done more to taper off the war than any other person. When he became President, we had 550,000 Americans in Vietnam. Now we have 350,000, a reduction of close to 40%. And the reductions are continuing constantly.

Lest there be any misunderstanding, let me make it plain that I do not minimize the importance of these problems. But they have nothing to do with the legality of the Vietnam war, which is our topic for discussion here today.

A little clearing away should be done, too, on the legal side. We are not concerned here with any legal question of what we lawyers call "standing," as Attorney General Quinn and I were concerned when he filed an original suit in the Supreme Court of the United States on behalf of his client, and my state of citizenship, the Commonwealth of Massachusetts. And to complete the picture of what we are not considering today, we are not concerned with any question of justiciability, that is, of whether the legal questions involved are suitable for consideration and determination by a court. We are not subject to any such limitation. We will make no adjudication, no final determination, except in our own minds, as citizens and lawyers, trained to consider legal questions.

Having thus observed what we are not considering today, I turn to the question we are considering—what might be called the "pure question" of the legality of the Vietnam war. When the question of legality is thus isolated—as it should be, I think, if we are going to base arguments on the legality of the war—there can be no doubt, I believe, that the war is "legal." This conclusion is based on four lines of legal reasoning, which I shall summarize in the remainder of my talk.

1. There is first the standard or test of history, which is of great importance when we are dealing with this sort of constitutional argument. For history shows us that military actions, often of substantial consequence, have been carried out by the President of the United States, on his own constitutional authority, throughout our history, and beginning in the earliest days of the Republic. Indeed, if the record is closely examined, one can count one hundred sixty-one separate instances in which this nation was engaged in hostilities against a foreign power, between 1798 and 1945, including the Civil War; and only six of these involved a formal declaration of war. Moreover, only twice in all our history has Congress authorized war by formal declaration prior to the commencement of actual hostilities. These were the War of 1812, and the Spanish-American War of 1898.

The notion of a war authorized by Congress in a fashion less dramatic than a formal declaration of war has been accepted since the earliest years of our national existence. There were the Barbary Pirates; there was Korea; and President Eisenhower sent a force to Lebanon in 1958. Coming closer to the place where we are now gathered, there were active affirmative military operations here in Florida against Spain in 1811, quite without any formal declaration by Congress. It would be tedious to go through all of these instances here. But they are numerous, and continued throughout our history. Some are better liked than others. There have been occupations of Nicaragua and the Dominican Republic. There was an occupation of Vera Cruz. General Pershing made his reputation not on the Mexican border, but in Mexico.

Congress has on more than one occasion authorized the President to use military force without making a declaration of war. An instance of this within the memory of most of us is the Formosa Resolution of 1955, by which Congress provided:

"That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores."

Thus, by early and long continued practice, we have established the constitutional rule that military actions may be carried out without a declaraion of war by Congress, that there are many intermediate situations short of formally declared war, and that the President does have wide powers to deal with international problems as they arise, including the disposition and use of the nation's military force. This is true generally, but it is particularly true when groundwork and backing for such actions have been laid by Congress.

2. Moving from the conclusion based on historical practice, we may consider next the provisions of the Constitution itself, simply as a legal instrument, allocating functions among the various organs of the government. Our Constitution, as is well known, sets up a system of checks and balances. But it also grants powers, for without those powers, there is no occasion to be concerned about checks and balances. There is no need to check a powerless President; and ours would be a sad governmental system indeed if we had a powerless President—or a powerless Congress, or a powerless Judiciary.

Specifically, the Constitution provides explicitly that "The Executive power shall be vested in a President of the United States of America." Obviously this means something; and it is not a merely passive grant. The grant of Executive power is broad and general. It is made more concrete by the further provision that "The President shall be Commander-in-Chief of the Army and Navy of the United States," and the provision that "he shall take care that the laws be faithfully executed." Our President is not, and never has been thought to be, from the time of Washington on to the present, a mere automaton, doing only what he is told; nor is he a mere moderator, standing by to carry out the directives of other officers and branches of the government. Of course, the President acts under the law. He is subject to numerous checks and balances. He can be widely controlled by Congress, through the appropriation power and otherwise and like all other officers, he is subject to impeachment. But as President, he has great powers—great executive power because he is the Chief Executive—and we would not want to have it otherwise. Any political organism needs a spokesman, someone to lead, and marshal its forces, someone to meet emergencies, someone with the capacity to act, someone to speak, and in proper situations, to make decisions. That is what we mean by Executive power; and the Constitution expressly grants "The Executive power" to the President.

We have established so far, I think, the proposition that a formal declaration of war is not, and never has been, regarded as a prerequisite to the use of military force by the President of the United States. On the contrary, as I have indicated, there have been only six declarations of war in all our history—including the action of Congress at the time of the Civil War—and there have been well over a hundred commitments of military force, by nearly every President, with varying degrees or action by Congress, short of a declaration of war.

We come, then, to a consideration of the specifications with respect to Vietnam, and Southeast Asia.

3. For present purposes, we can begin with the Gulf of Tonkin Resolution, which was passed by both Houses of Congress, and approved by the President on August 10, 1964. It is printed at 78 Stat. 384, and has always been well known—never in any sense a secret document. Indeed, it was passed by Congress for the purpose of making it known in other quarters that the President had the backing and support of Congress.

What does the Tonkin Gulf Resolution say? After recitals, it contains two principal sections, which read as follows:

"That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression."

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with

the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, 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.

It is true that early this year the Tonkin Gulf Resolution was "terminated" by Act of Congress, including Presidential approval. That, however, has nothing to do with its effect on the legality of actions taken while it was in force, nor on the propriety of actions taken to deal with the situaiton which arose while it was in force. As the State Department said, in a letter printed in a Senate Report, the Formosa and Tonkin Gulf Resolutions along with others were "a highly visible means of executive-legislative consultation . . . indicating congressional approval for the possible employment of United States military forces." S. Rep. No. 91-872, p. 20.

4. Perhaps even more important than the Tonkin Gulf Resolution is the fact that Congress has consistently backed and supported the actions of the President in all the intervening years. Early in 1965, President Johnson asked for and obtained a special appropriation of seven hundred million dollars, for the express purpose of carrying on military action in southeast Asia. This was granted by an Act of Congress approved on May 7, 1965. The vote in Congress was 408 to 7 in the House, and 83 to 3 in the Senate. This is an unusual appropriations act, in that it consists of a single item. Thus, there is no possibility that it passed through Congress by inadvertence, or that the report for it may have been coerced, as in the case of a rider. Here is the entire and complete effective text of that appropriation act:

"The following is appropriated, out of any money in the Treasury not otherwise appropriated, for the period ending June 30, 1965, namely:

"Department of Defense-Emergency Fund, Southeast Asia

"For transfer by the Secretary of Defense, upon determination by the President that such action is necessary in connection with military activities in southeast Asia, to any appropriation available to the Department of Defense for military functions, to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred, $700,000,000, to remain available until expended: * * *"

After this, there were many legislative acts by Congress, taken in full knowledge of the situation in Southeast Asia, and in support of the President's actions. On September 29, 1965, Congress passed the Defense Appropriations Act of 1966 which contained a separate Title worded "Emergency Fund, Southeast Asia." This appropriated $1,700,000,000 to be used for—and I quote the language of the statute—"military activities in Southeast Asia."

In 1966, Congress passed the Military Construction Act of 1966 which contained a specific authorization that the funds appropriated could be used—and again I quote "for their stated purposes in connection with support of Vietnamese and other free world forces in Vietnam . . ."

I will not consume further time by reading the language of all of the subsequent appropriation acts. It is enough, I think, to say that they were numerous, and made explicit reference to "the war in Vietnam," or in other terms of equivalent effect. Altogether, there have been at least 10 such subsequent appropriations acts.

In addition, during this period, Congress extended and amended the Selective Service Act, thus making available the manpower used in combat, as Congress well knew and fully understood. In addition, Congress authorized the President to call up the Reserves for use in the war, until June 1969.

Thus, as Judge Wyzanski said in his interesting opinion in the Sisson case (United States v. Sission, 294 F. Supp. 511), the situation is one 'in which there has been joint action by the President and Congress, even if the joint action has not taken the form of a declaration of war."

We are gathered here as lawyers. We are speaking about the legality of the Vietnam war. The hang-up on this question comes, it seems clear to me, from the assumption that there must be a declaration of war before military action is "legal." Of course, if you assume that to be true, then the conclusion will follow that the Vietnam war is not legal.

As I have indicated, however, there is no basis for such an assumption. Indeed, all of our history and practice has been to the contrary. And this has clearly been the history and practice over the past six years or more on this important question. The fact is that the President and Congress have consistently and continously worked together on this matter, each supporting the other. The fact is, too, that President Nixon, under circumstances of great difficulty, has consistently taken steps to deescalate the war; and, with the full knowledge and support of Congress, he has already removed more than 200,000 of the troops who were, with the full knowledge and support of Congress, committed in Vietnam at the time he took office.

The problems of Vietnam are enormous, and extremely complicated and difficult—and important. But the essence of these problems is not one of legality. The President and Congress have worked together, and there can be no doubt, in my mind, about the legality of what has been done. It is only confusing in my view, and not at all constructive, or helpful in finding an ultimate solution, to approach the question in terms of legality. The problems of getting out of Vietnam are difficult, and complicated—and exceedingly important. They are worthy of the greatest thought, and the most thorough discussion. That thought and discussion will be aided, as I see it, if we do not mislead ourselves by excursions on questions of "legality" which are really without foundation. I have no doubt that the President and Congress will continue to work together in bringing this matter to a conclusion, and that their actions will continue to be "legal" as they have been in the past. Let us do everything we can to help them in that task.

OUR COMMERCIAL LINKS WITH EUROPE SHOULD BE STRENGTHENED

Mr. RIBICOFF. Mr. President, reports on the outcome of the meeting held last week in Bucharest, Rumania, of the Council for Mutual Economic Assistance—COMECON—reinforced my views that our own commercial links with Eastern Europe should be strengthened.

Soviet attempts to mold COMECON into a closely knit, highly centralized economic bloc have apparently suffered another setback. The desire for economic independence by bloc members, notably Rumania, was reflected by the vaguely worded final communique. The meeting also underscored the diversity of methods being used by Eastern European countries in their efforts to modernize their economies, including increased trade and investment ties with the West.

My own recent visit to Rumania and Hungary convinced me that the United States should be doing more business with these countries. I will have more to say about this subject later this week.

I ask unanimous consent that the accounts of the COMECON meeting, published in the Washington Post and the New York Times of July 31, be printed in the RECORD.

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

[From the Washington Post, July 31, 1971]

SOVIET BID FOR ECONOMIC UNION SEEN SLOWED BY EAST EUROPEANS

(By Dan Morgan)

BELGRADE.—The Communist bloc's prime ministers agreed yesterday in Bucharest to work for closer cooperation and integration over a 20-year period, but along lines that were left noticeably vague in their final communique.

After meeting for three full days in the flag-festooned Romanian government building, the governmental leaders of the eight countries of Comecon, the Soviet bloc economic organization, said that "Socialist integration is not equitable with the foundation of supranational" organization.

This phrase, which incorporated a basic policy premise of independent-minded Romania, appeared to rule out at least for the immediate future any dramatic impetus toward an East European version of the Common Market.

This also suggested to Western analysts that there had been no basic change in the preference of the East Europeans for bilateral rather than multilateral solutions to their economic problems, which are now being highlighted by shortages of investment capital and modern machinery.

Diplomatic and Romanian observers in Bucharest said this week that whatever enthusiasm may have existed for a strong, centralized grouping in the East had probably already been dampened by the prospect that the West European unit may soon be expanded to include Britain and its partners.

This is because the East European countries, particularly Romania, are trying to expand links with the West. Most of them think this trend would only be made more difficult by transforming Comecon from a loosely knit organization into a rival economic bloc.

Details of the program worked out and adopted this week will not be fully known until publication of an 80-page document later. But the wording of the communique suggested a disappointment for the Soviet Union which has led the movement for integration.

Though this movement has received support from some countries, such as Poland, which feels it would gain from specialization in industrially-advanced branches, it has met opposition from Romania and to some degree, from Hungary and East Germany.

Any thought that Romania was preparing to relax its insistence on sovereignty guarantees for Comecon countries, under Soviet pressure, appeared to be removed by an agreement to respect the sovereignty, independence and national interests of members.

OUTSIDE LINKS

The prime ministers agreed that the further consolidation of the East European economies would increase the "political unity and cohesion of the Socialist countries."

But the eight leaders also left the door open to links from the outside with Comecon, and vice versa. They agreed that outsiders could "take part totally or partially" in carrying out the program and, conversely, pledged to expand links both with underdeveloped and with capitalist countries.

The Bucharest meeting culminated two

years of work on a long range program. This has been beset from the beginning by such basic questions as how to coordinate planning among countries that take different views on the relative importance of the market and the planning process in the economy.

Hungary, for instance, has been experimenting with decentralizing and allowing some prices to find their own level on the market, while the Soviet Union, Bulgaria and Romania all retain rigid centralized planning systems.

While Poland and Hungary favor moving by stages away from the present financial system, the Soviet Union has opposed this. Yesterday's communique made only a general reference to "improving commodity-monetary relations."

East Europe and the Soviet Union lack a convertible currency of their own, a fact which has political significance because it has impeded efforts of smaller countries to establish links with the West and complicated both trade and financial cooperation.

Poland and Hungary favor moving away from the present system of clearing debts by commodity deliveries and towards a monetary system.

MUTUAL DEPENDENCY

Despite these problems, the Comecon countries last year took an initial step toward closer cooperation by establishing an investment bank on which countries can draw for hard currency to finance Western purchases.

The "unanimous" agreement of the Comecon prime ministers to support the general principle of closer links expressed the recognition by each country that they are deeply dependent on each other at this stage of development.

Even Romania, whose natural resources make it the most self-sufficient next to the Soviet Union, depends on Moscow for iron ore supplies for its vast steel works.

However, each country is seeking to expand trade and other links with the West.

Steps are under way in both Hungary and Romania to lure foreign firms into joint ventures in which the outside company would provide working capital.

[From the New York Times, July 31, 1971]

REDS' TRADE BLOC SETS INTEGRATION—REPORTED ACCORD AT MEETING IN BUCHAREST INCLUDES CONVERTIBLE CURRENCY

(By James Feron)

PRAGUE.—Eastern Europe's trade bloc, the Council for Mutual Economic Assistance, has reportedly agreed on a complex plan for economic integration, including a convertible currency.

Czech sources said today that the agreement came at a three-day meeting of Premiers and economic ministers from the eight member countries. The meeting of the council, which is known as Comecon, ended yesterday in Bucharest.

Heading the Soviet delegation was Premier Aleksei N. Kosygin. The other countries represented were East Germany, Poland, Czechoslovakia, Bulgaria, Hungary, Rumania and Mongolia.

DESCRIBED AS "MILESTONE"

Although some officials, both Czechs and others, were skeptical over the reported achievements at the meeting, the agreement was described by one economist as a "milestone" in Eastern European efforts to seek meaningful integration.

One of the agreement's goals, he said, is a convertible currency, possibly a special ruble, to facilitate multinational trading within the bloc.

Most of Eastern Europe's trade is bilateral, and the complexity of currencies offers little opportunity to settle accounts between partners and to make trading arrangements with third parties.

The agreement is expected to be published within a week. Informants here said that the program was two years in preparation and that it would take "several five-year plans to implement."

A communiqué issued last night at the close of the meeting in Bucharest spoke of "gradual implementation within 15 to 20 years."

The communiqué appeared to contain a gain for Rumania in its reference to Comecon's goals as including "respect for state sovereignty, independence and national interests and noninterference in the internal affairs of other states."

Rumania's President and Communist party leader, Nicolae Ceausescu, has long resisted Soviet efforts to turn Comecon into an instrument for planning the entire economy of Eastern Europe.

But a Czech economist said the new integration program was intended to harmonize national economies into an efficient trade bloc rather than to force them to adhere to unrealistic programs as part of an over-all plan.

The plan is said to include a multiplicity of subjects, from tourism to scientific-technical agreements. According to experts here, it seems to represent a practical effort to overcome the problems that have plagued Comecon since its inception two decades ago.

The organization is a loose regional association within executive powers. It was founded to counter Marshal Plan aid to Western efforts to isolate the Communist bloc.

It has been beset by conflicting national interests within Eastern Europe, great diversities in local economies, lack of incentives in the more tightly controlled economic systems and heavily bureaucratic procedures. Attempts by Soviet leaders to use Comecon as an instrument for supranational economic direction have failed.

One official here said that conditions in Eastern Europe apparently had changed sufficiently for the new plan to receive unanimous agreement among Comecon members.

The passage of time, one Czech economist said, had helped close the gap between Bulgaria and the more industrialized countries such as East Germany and Czechoslovakia.

Other factors, it was said, included the present political tranquility in Eastern Europe and the continuing growth and probable expansion of the rival trading block, the European Common Market.

Officials here said the new program was intended to coordinate national plans rather than direct them centrally. Supranational interests would ostensibly not be placed above national interests.

But Moscow's long-range plan for Comecon is seen by some experts to be as much political as economic. Mr. Brezhnev, they note, has spoken several times of the paramount regional interests.

SETTLEMENT OF THE RAIL STRIKE

Mr. DOLE. Mr. President, I am relieved that an expanded rail strike has been avoided and that full rail service will soon be restored throughout the Nation.

The end of this strike is especially important for the agricultural sector of the economy, which relies heavily on the railroads to move its products to distant markets and processing centers. A crisis situation was rapidly being approached with perishable summer produce and other foodstuffs unable to reach consumers and a record wheat harvest being dumped on the ground for storage in many Plains States.

I am hopeful that the potential inflationary effects of the 42-percent increase contained in the settlement will be offset by increases in productivity growing out of the work rules changes which were agreed to by the parties.

It is fortunate that this strike is over, but it is regrettable that it occurred in the first place. If Congress had enacted the legislation to deal with labor disputes in the transportation industry requested 18 months ago by President Nixon, these issues would have been settled without the disruption of a strike and the rail companies, union members, and the American public would have been spared the inconvenience and economic hardship caused by this strike. I am hopeful that Congress will soon act to end the threat of recurring strikes in the Nation's vital transportation industry. The President has presented a sound, workable proposal which Congress has a vital obligation to consider and improve upon if possible.

THE RAIL STRIKE SETTLEMENT

Mr. CRANSTON. Mr. President, I could not be more delighted at news of a settlement reached by management and labor on the protracted dispute that halted so many of our Nation's railroads and so dangerously chipped away at California's economy.

Though we are enormously relieved at the end of this strike, we are not finished with the problem. As I warned in my Senate speech of July 27, the past week has brought days of devastation to California. We are left with a deadly legacy. Tons upon tons of crops have been plowed into the ground, and millions of dollars with them. Thousands of workers have been idled at the peak of their employment opportunity. Hundreds of growers and shippers have been hurt economically beyond recompense. Millions of consumers across the Nation have been deprived of essential foods and face increased prices.

The lesson is clear: Congress, in concert with the administration, must renew its determination to write a final chapter to rail disputes that wound our economy and leave it forever scarred. A permanent solution to these crippling tieups must be found. I believe it can and will be found in the several proposals we have before us.

The legislation we produce must have several ingredients. It must be long range. It must be flexible enough to meet the changing needs of a dynamic society. It must be equitable to both labor and management. It must allow alternative routes to arbitration and settlement. And, while firmly blocking the kind of national crisis we have just experienced, it must allow the range of collective bargaining mechanisms that are essential to effective resolution of labor-management disputes.

At this moment, full details of the rail strike settlement have not been made public, nor have they reached Congress. We do know, however, that the agreement follows generally the recommendations made by Presidential Emergency Board No. 178, with a number of work rule changes that apply to specific, re-

gional conditions. Smaller, less obstructive issues will be resolved in further negotiations at another level.

Mr. President, I believe that when Congress reconvenes in September we must move with speed and intensity to build a new bargaining framework for the rail industry and the millions of Americans it serves. The interests of all parties must be dealt with in a manner sensitive to individual group needs, but most importantly, sensitive to the larger needs of all our Nation's people.

WARMAKING AND WAR-CONDUCTING POWERS—ADDRESS BY LUCIUS AEMILIUS PAULUS

Mr. GOLDWATER. Mr. President, as the Foreign Relations Committee of the Senate and other Members of this body seem determined to take over the warmaking and war-conducting powers of the President conferred on him alone by the Constitution, I am reminded of a statement made over 2,000 years ago by Lucius Aemilius Paulus, a Roman consul, who had been selected to conduct the war with the Macedonians. He appeared before the Senate-House and went out from into the assembly of the people and addressed them as follows:

In every circle, and, truly, at every table, there are people who lead armies into Macedonia; who know where the camp ought to be placed; what posts ought to be occupied by troops, when and through what pass that territory should be entered; where magazines should be formed; how provisions should be conveyed by land and sea; and when it is proper to engage the enemy, when to lie quiet. And they not only determine what is best to be done, but if anything is done in any other manner than what they have pointed out, they arraign the consul, as if he were on trial before them. These are great impediments to those who have the management of affairs; for everyone cannot encounter injurious reports with the same constancy and firmness of mind as Fabius did, who chose to let his own ability be questioned through the folly of the people, rather than to mismanage the public business with a high reputation. I am not one of those who think that commanders ought at no time to receive advice; on the contrary, I should deem that man more proud than wise, who regulated every proceeding by the standard of his own single judgment. What then is my opinion? That commanders should be counselled, chiefly, by persons of known talent, by those who have made the art of war their particular study, and whose knowledge is derived from experience; from those who are present at the scene of action, who see the country, who see the enemy, who see the advantages that occasions offer, and who, like people embarked in the same ship, are sharers of the danger. If, therefore, anyone thinks himself qualified to give advice respecting the war which I am to conduct, which may prove advantageous to the public, let him not refuse his assistance to the state, but let him come with me into Macedonia. He shall be furnished with a ship, a horse, a tent; even his travelling charges shall be defrayed. But if he thinks this too much trouble, and prefers the repose of a city life to the toils of war, let him not, on land, assume the office of a pilot. The city, in itself, furnishes abundant topics for conversation; let it confine its passion for talking within its own precincts, and rest assured that we shall pay no attention to any councils but such as shall be framed within our camp.

What the distinguished consul had to say in 168 B.C. would be very apropos if made at this time; so, not having been chosen to conduct a war, I will use the RECORD as my audience.

AMERICAN PRISONERS IN CHINA

Mr. KENNEDY. Mr. President, in light of the continuing developments this year toward the improvement of relations between the United States and the People's Republic of China. I believe that the time is now ripe for the President and the Secretary of State to take a new initiative to obtain the release of American prisoners in China.

So far as I am aware, there are four American prisoners now held in China—two civilians and two servicemen. One of the civilians, Richard Fecteau, is a constituent of mine from Lynn, Mass., who was convicted of espionage in China in November 1952. He was sentenced to a 20-year prison term, which is due, therefore, to expire in November 1972. The other civilian is John Downey of New Britain, Conn., who was associated with Fecteau, and who was convicted at the same time and sentenced to life imprisonment.

The servicemen now held in China are two American flyers captured during the Vietnam war. One, Maj. Philip E. Smith, of Victorville, Calif., is an Air Force officer whose plane was forced down in 1965 on Hainan Island. The other, Lt. Robert J. Flynn, of Oak Harbor, Wash., is a Navy officer who was shot down over Southwest China in 1967, while apparently maneuvering to escape from North Vietnamese jets.

In the wake of the new atmosphere of reconciliation brought about by the visit of the American ping pong team to Peking last April and the announcement by President Nixon of his forthcoming visit to China, there could be no more appropriate representation of the developing good will between our two nations than for the administration to secure the release of these four prisoners. In the case of Smith and Flynn, the fliers whose detention arises out of the Vietnam conflict, it seems likely that their release will be determined by developments in connection with the release of the American prisoners now held in Vietnam, Laos, and Cambodia as a result of the war, and I am hopeful that the current negotiations in Paris will accomplish their early release.

In the case of Fecteau and Downey, however, the situation is different. Both men, now in their early 40's, have spent nearly half their lives in a Chinese prison. Sporadic contacts through public and private channels over two decades have made no apparent progress toward securing their release.

Throughout their imprisonment, Fecteau and Downey have stood as symbols of the generation of hostility that has grown up between the United States and the People's Republic of China. When their convictions were first announced by Peking in 1954, both nations exchanged bitter charges over the circumstances surrounding their capture. Peking accused Fecteau and Downey of being agents of the CIA who were air dropping Chinese Nationalist spies onto the mainland and providing them with supplies. According to Peking, at the time Downey and Fecteau were apprehended, the two Americans were captured along with nine Chinese.

At the beginning, the State Department maintained that Downey and Fecteau were "civilian personnel employed by the Department of the Army in Japan." According to the State Department, the men were "believed to have been lost on a flight from Korea to Japan in November 1952." Simultaneously, the Defense Department stated that the men had been lost on a routine flight from Seoul to Japan. Secretary of State John Foster Dulles described the charges against the men as "trumped up" and called the sentences "a most flagrant violation of justice." For years, this pattern of recrimination and countercharges was maintained.

In recent months, however the administration has quietly moderated the official U.S. position on the imprisonment of Fecteau and Downey. The charges are significant in at least two respects.

No longer do we maintain that the men were civilian employees of the Army. Instead, they are now described merely as "civilian employees of the U.S. Government."

And, no longer do we maintain that their mission was a flight from Korea to Japan. Instead, it is described merely as an "official flight during the Korean conflict."

Subtle as these shifts in the administration's position may seem, their implications are important. Obviously, the administration's explanation is currently ambiguous enough to be read as consistent either with Peking's assertion that Downey and Fecteau were engaged in espionage, or with our Government's original insistence that the flight was innocent.

Public interest in the plight of Fecteau and Downey has increased recently as a result of the China hearings held by the Senate Foreign Relations Committee last June. Prof. Jerome A. Cohen of Harvard Law School raised the issue clearly in his testimony on June 25 before Senator J. WILLIAM FULBRIGHT, the chairman of the committee, and suggested that a resolution of the matter could be facilitated if, by analogy to the *Pueblo* case, the administration were to formulate an appropriate apology to Peking if the facts of the case so warrant.

I have today written a letter to the Secretary of State, urging him to make a prompt review of all the issues in the case, including Professor Cohen's proposals, and to take whatever steps may be suitable to secure the release of both Fecteau and Downey at the earliest possible date.

President Nixon himself has declared, in connection with his newly evolving China policy, that he is not a "prisoner of history." It is my hope that Downey and Fecteau, who are so clearly prisoners of history and of the passions of the Korean war, may become real beneficiaries of the President's new policy. Simple justice and humanity cry out for their quick release.

Undoubtedly, the optimism generated by the visit of the ping-pong team and

the announcement of the President's trip has been dimmed somewhat as a result of yesterday's decision by the administration to pursue a two-China policy on the question of United Nations representation for Peking. If Fecteau and Downey are to be released, therefore, it becomes all the more important for the administration to take realistic steps on their behalf. Surely, we value the freedom of these men more highly than blind adherence to the rhetoric of the past. If all that stands between them and their freedom is the requirement of a candid acknowledgement of the circumstances surrounding their capture so long ago, the acknowledgement should be forthcoming without any further delay.

Indeed, it is not too much to hope that, with appropriate steps by the administration now, Richard Fecteau may return to America and to his family well before his prison term expires in November 1972, and that John Downey will return with him.

Mr. President, I ask unanimous consent that a series of recent articles on the issue of American prisoners in China, including an article from the Boston Globe last Friday, revealing the extraordinary courage and spirit of the Fecteau family, be printed in the RECORD.

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

[From the Washington Star, July 3, 1971]

TWO SINCE 1952—U.S. IS REVIVING ISSUE OF 4 HELD BY CHINA

(By Kenneth J. Freed)

With attention still fixed on the plight of American prisoners in North Vietnam, an older problem of U.S. citizens held on mainland China is resurfacing, although its focus is slightly fuzzy.

Four Americans are in Peking's hands, including two civilians arrested in 1952 when their plane went down on a flight from Korea to Japan. The others are military pilots shot down in separate incidents in 1965 and 1967.

The situation of the four came up again last week during Senate Foreign Relations Committee hearings on U.S.-China policy. Sen. J. W. Fulbright, committee chairman, asked Harvard University law professor Jerome Cohen his thinking on the prisoners.

Cohen indicated not enough was being done regarding the two civilians, John Thomas Downey and Richard Fecteau, and new efforts should be made to secure their release.

Downey, of New Britain, Conn., and Fecteau, of Lynn, Mass., were civilian employes of the Army when taken prisoner in November 1952 during what the United States said was an official flight.

THOUGHT DEAD

At first thought dead, the Chinese disclosed two years later the two were alive and in prison; Fecteau for a 20-year term and Downey for life. They were charged with espionage—dropping Nationalist Chinese agents on the mainland.

Cohen suggested a possible answer to freeing Downey and Fecteau might be in a new investigation of the charges made by the Chinese.

He said John Foster Dulles, secretary of state when the two were captured, took the position the charges were trumped up. "But this is a different era," Cohen told the committee, "and it might be appropriate for the United States to make another inquiry into the case."

If the facts justify it, he added, the United States should admit the Chinese charges and "pay whatever price to secure their release."

The United States also should suggest to the Chinese that Downey and Fecteau be released early for good behavior, particularly since Fecteau reportedly will be freed next fall, Cohen said.

He said the State Department should do more than bring up the prisoner issue periodically when the Chinese and American ambassadors to Poland meet in Warsaw.

The servicemen held are Air Force Capt. Philip E. Smith of Victorville, Calif., shot down in 1965 near the island of Haiman, and Navy Lt. Robert Flynn of Oak Harbor, Wash. He was lost in 1967 while flying along the North Vietnamese-China border.

Cohen suggested these two probably will be freed when North Vietnam agrees to release their American prisoners.

The Foreign Relations Committee says it is preparing a letter to the State Department suggesting the United States consider action along the lines suggested by Cohen.

STATE DEPARTMENT LETTER

When asked its current position, the State Department provided a copy of a letter it sends to those inquiring about the prisoners.

"The imprisonment of these Americans is a source of continuing sadness and frustrations," the letter said. "Over a period of years this government has sought by every feasible means to obtain their release. . . .

"We will continue to be concerned for the welfare of Mr. Fecteau and Mr. Downey, as well as that of the other American prisoners, and to explore all avenues which might lead to their release."

However, the department letter said, "attempting to obtain the release of these men is a very difficult matter and the average available to us is limited."

[From the New York Times, July 7, 1971]

WILL JACK MAKE HIS 25TH REUNION?

(By Jerome Alan Cohen)

NEW HAVEN.—The class of 1951 has just held its twentieth reunion at Yale but Jack Downey wasn't there. Jack and an assistant, Richard Fecteau, have been in prison in China since Nov. 29, 1952.

In late 1954 the Supreme People's Court in Peking announced that the two Americans had been convicted of espionage for secretly air-dropping supplies and agents into China as part of a C.I.A. effort to foment rebellion. Four of the Chinese agents were executed. Downey was sentenced to life, and Fecteau got twenty years.

The U.S. called the convictions "a most flagrant violation of justice" based upon "trumped-up charges." The men, it was said, were actually "civilians employed by the Department of the Army," who had never invaded China's airspace but had been lost on a routine flight from Korea to Japan.

Sino-American negotiations in 1955 led to the release of most other Americans held in China. Early in 1957 China offered to release Downey and Fecteau if the U.S. would allow American newsmen to visit China. Secretary Dulles refused to approve the arrangement because it would constitute yielding to Chinese "blackmail."

Since then, for almost fifteen years, the U.S. has quietly sought the release of Downey and Fecteau. But it has never admitted the truth of China's assertions. Yet many members of the class of '51 recall the day, several months before graduation, when a representative of the then newly formed C.I.A. visited New Haven to recruit Yale seniors who were concerned about what the Korean conflict had in store for them. The man was very vague about the kind of work the recruits would enter. Finally he indicated, "purely as a hypothetical," that "the agency" might want to organize resistance in China. Jack Downey and some others ended up doing exactly what the "hypothetical" mission called for.

None of this is news to China, of course. In this country our Government's persistent denials have occasionally been challenged by scholars and journalists. Yet the U.S. has thus far refused to repudiate Mr. Dulles' posturing about international law.

Perhaps one can understand the reluctance to confess error in the case of Fecteau, who is scheduled for release in little more than a year. But Downey is serving a life sentence. The suicide last year of Hugh Redmont, another American serving a life term for espionage in China, should remind us that even the bravest souls can endure only so much.

We should not assume that China is insensitive to either political or humanitarian considerations in this last case of Americans detained since the 1950's. Shortly after Redmond's death, Peking released the elderly Bishop James Walsh before his sentence had run its course. But Peking remains sensitive about American attacks that slander the administration of justice in China as uncivilized and deny China the same right to self-defense that other states enjoy.

Now that table tennis has introduced "people to people" diplomacy, the prospects for Downey's release may well brighten if the U.S. will admit that it violated China's territorial integrity during a bygone wartime era, apologize for having done so and recognize China's sovereign right to punish offenders against its security.

If the U.S. opposes making individuals the pawns of power politics, it should abandon its preoccupation with "face," as it did in the much more ambiguous case of the Pueblo, and set the record straight. Otherwise Jack Downey may not make our twenty-fifth reunion.

(Jerome Alan Cohen is a professor at Harvard Law School and the author and editor of books on China. He is a member of Yale's class of '51.)

[From the Washington Post, July 22, 1971]

PROFESSOR SAYS HIS PLAN MAY FREE 2 HELD IN CHINA

(By Ronald Koven)

The Nixon administration has under consideration a proposal to obtain the release of two of the four remaining U.S. prisoners on mainland China by conceding, in effect, that the pair was flying for the Central Intelligence Agency when they were shot down in late 1952, according to a top U.S. expert on Chinese law.

Prof. Jerome A. Cohen of the Harvard Law School said he had made the suggestion after discussing it with Chinese Communist diplomats in Ottawa last month and that the idea had received "working-level" endorsement inside the government.

Cohen said the Chinese did not indicate what their government would do if Washington were to drop its standing story that the two men strayed over China by mistake. But the diplomats told Cohen that his suggestion was worth considering.

Following Secretary of State William P. Rogers' orders not to discuss China policy now that President Nixon is in delicate negotiations about his projected visit to China, State Department officials refused to comment.

After testimony by Prof. Cohen before the Senate Foreign Relations Committee, Chairman J. Fulbright (D-Ark.) wrote to Rogers expressing interest in the professor's suggestion.

The letter was dated July 6, three days before a secret visit to Peking by presidential adviser Henry Kissinger to set up Mr. Nixon's visit.

Any internal recommendation to alter the

U.S. government's standard version of the 1952 overflight would presumably have come in the form of a recommendation to reply favorably upon Cohen's suggestion in an answer to Fulbright.

The two prisoners are John Thomas Downey and Richard Fecteau. Downey was sentenced to life imprisonment and Fecteau to 20 years in jail. Fecteau is due for release next year.

The two were shot down during the Korean War. The Chinese alleged that they were dropping supplies to U.S. agents in Manchuria.

Prof. Cohen and Downey were classmates at Yale University (class of 1951). Cohen has been active in an informal alumni write-to-your-congressman campaign to pressure the administration to obtain his release.

Cohen said in a telephone interview from his New England summer home that he has recently detected as subtle shift in the government's standard reply to such letters. He said that it has been shortened up and no longer involves "an absolute untruth" about the pair's mission and status, Cohen said.

The professor said he would not be surprised if Fecteau were to be released in the fall and if President Nixon subsequently brought Downey home with him on his plane from Peking.

Cohen said he has discussed the matter with State Department officials. He said that his last contact with Chinese diplomats in Ottawa was on June 26 and that it was only the most recent of three meetings he has had with them there.

The other two Americans known to be in Chinese prisons are two Air Force officers, Capt. Philip Smith and Lt. Robert J. Fynn. Just a year ago, the Chinese released a fifth man, the aged Bishop James E. Walsh. That release was seen primarily as a gesture to the Vatican, which had been making overtures to Peking.

[From the Boston Globe, July 30, 1971]

PEKING PRISON CONFINES DAD FOR 19TH YEAR

(By Bruce McCabe)

On Nov. 29, 1952, a 25-year-old Lynn man named Richard G. Fecteau was shot down in a plane in northeast China and captured. Within a matter of days, the Communist Chinese government sentenced him to 20 years in prison for criminal espionage.

The Chinese did not disclose Fecteau's fate until two years later, after he had been declared legally dead, his death certificate issued and his estate settled.

Fecteau's unusual story has been recounted a number of times in the 19 years that have transpired—the story of a man separated by circumstances from time and from the passage of time. The best guess today is that he sits in the same 12- by 15-foot cell he has inhabited for 19 years at No. 13 Ts-ae Lan Tze Ht'ung. ("The Lane of the Grass Green Mist") in Peking, known to its inhabitants as "the Green Basket Prison."

Nineteen years may not seem an especially long time until one considers what has happened—and what has happened that has been forgotten—in that time.

Stalin died, Dien Bien Phu "fell" and racial segregation in US public schools was ruled unconstitutional; Sputnik was launched, Castro assumed power and Mount Everest was scaled for the first time; Eichmann was captured, the Berlin Wall went up and John F. Kennedy was assassinated; the Cuban missile crisis peaked and dissolved, the Six-Day War occurred and the first human heart was successfully transplanted; the Russians crushed a revolt in Czechoslovakia and Neil Armstrong became the first man to set foot on the moon.

Time has played its tricks in this interval, too, in some instances coming full circle. On Nov. 29, 1952, for instance, the night Fecteau's plane was shot down, Richard Nixon was a Vice President-elect. Even the most prescient could not anticipate the ebb and flow of his political career in the 19 years that would follow, or the subtle and unexpected way in which he would affect Fecteau's destiny in July of 1971.

But cataclysmic events and the fortunes of public men are not always the best gauges for measuring time lost. It can be suggested in lesser known, less dramatic events in quieter lives.

Fecteau's twin daughters, for example, whom he has not seen in 19½ years, have led a rather special kind of existence due to their father's circumstances. (Although Fecteau and the girls' mother, Mrs. Margaret Fecteau, were divorced in 1951, the year prior to his capture, they have remained friends and have corresponded whenever possible. Fecteau's second wife, Joanna, perished in a 1953 fire at Avalon Shores, Md.—a fact Fecteau learned when his mother visited him in 1958.

Perhaps the most fascinating thing about Fecteau's relationship with his daughters—a relationship sustained solely by intermittent and sometimes maddeningly cryptic postal correspondence—is its vitality.

The girls, whose names are Suzon and Sidnice and who now are 21, managed, until four years ago, to keep their father pretty well posted on the details of growing up in Lynn, a process which took them from the Little Theatre Nursery and Kindergarten through Sisson Elementary and Pickering Junior High into Lynn English High School.

The girls' letters to their father stopped four years ago because the Chinese government objected to an inadvertent address Sidnice wrote on one of her letters, "The Peoples Republic of Red China." That letter was returned unopened, with "Red China" pointedly underlined in red, and none of the girls' letters from then on was ever acknowledged.

For his part, Fecteau has performed an almost unbelievable feat in maintaining his existence in his daughters' minds over the years, in spite of the fact that, as Suzon says, "I wouldn't know him if I were to pass him on the street tomorrow."

"But we always felt his presence whenever we got a letter," she adds. "I've never had the sense I didn't have a father."

In his letters, some of which were written to his parents and relayed to the girls, Fecteau has offered everything from advice on dating (he was dismayed that Suzon was going to a school dance in the eighth grade) to predictions on what he will do when he gets home ("I will lie on the beach eating hot dogs and looking at my family.")

When the girls and their mother moved to Marblehead, they attempted to explain their new location to Fecteau, but found themselves hampered by his lack of knowledge about landmarks that had materialized in the interval he had been away. "Just tell me how far it is from Dill's Restaurant," Fecteau wrote finally, referring to one of the area's most widely-known spots.

Fecteau has also informed his daughters' mother that if her dress-designing career slacks off for any reason, "I can send you some fig leaves to wear from the fig tree I keep in my vegetable garden over here."

Fecteau has even managed to buy gifts for his daughters on such special occasions as birthdays and Christmas. Although his captors describe him as a CIA agent, his own government calls him "a civilian employee of the Dept. of Defense" and he remains on the government payroll. With government checks, the girls have purchased such gifts as English racing bicycles, transistor radios, typewriters, hair driers, manicuring sets and a television set.

Fecteau has 17 months remaining on his 20-year sentence, and there is hope that, with the apparent thaw in relations between the US and mainland China, he will be released soon.

If he is, he will be given another dramatic example of timelessness—of how the more things change, the more they remain the same.

"When Dick left, hems were nine inches from the floor," says Mrs. Fecteau. "The same as they are now."

KIDDIE KAMP WEEK

Mr. BROOKE. Mr. President, it is my privilege today to announce that the Governor of the Commonwealth of Massachusetts has declared this week, August 1–7, 1971, as "Horizons for Youth—Kiddie Kamp Week." This is a noteworthy occasion, for the Massachusetts Kiddie Kamp Corp., has been in existence for 33 years and has made an outstanding contribution to the enrichment of many culturally deprived children.

The original concept for the camp was to present "Democracy in Action" through a summer recreation program. It was designed to draw children from all ethnic backgrounds into a rural setting where they could live, work and learn together.

Located in the lovely town of Sharon 25 miles south of Boston, the 3 camp sites are situated on 327 acres of wooded area with 1 mile of beach on Lake Massapoag. Swimming, boating, hiking, crafts, archery, and an extensive dramatics program are some of the activities available. A capable staff of 85 college-age youths, many from the same background as the campers, are hired each year. The staff is instructed to emphasize unity in the group and to administer individual attention to each camper. One significant goal is to provide the child with the personal support which he may not get in an inner city lower economic environment.

Twelve hundred young people are served during the summer. They come for 2-week periods and are primarily from the city of Boston. This year, for the first time, 35 children from New Hampshire and 35 children from Connecticut have been included as well. The Kiddie Kamp section accommodates 200 boys, ages eight-and-a-half to fourteen-and-a-half. Pioneer Village is geared to meet the needs of 50 teenage boys from ages fourteen-and-a-half to sixteen-and-a-half. A new addition this year is the inclusion of a girls section which presently has 50 participants but soon will be able to accommodate 150.

All funds for the camps come from private contributions. Fund raising activities continue throughout the year, and attract both large and small donations. The support of the press has been particularly positive and most helpful. Pioneer Village, which began last year under an HEW grant is now being funded privately as well.

Thursday is Governor's Day at the camp. The Governor will be in attendance and has planned a program for the children which will include sports events conducted by celebrities in the various fields. Contributors have been invited to view the events, and it is expected that from 400 to 500 persons will be in attendance.

I commend all the efforts of Kiddie Kamp Corp. and its able executors and

look forward to seeing even greater expansion and success in the years to come.

TRIBUTE TO MR. HERMAN DOWNEY

Mr. BYRD of West Virginia. Mr. President, I should like to say a few words in tribute to Mr. Herman Downey, who died on June 26, 1971, having only recently retired after completing approximately 25 years of service on the Senate Committee on Appropriations as a professional staff member.

Mr. Downey was born and raised in Tennessee, coming to Washington at the instance of the late chairman of the committee, the Honorable Kenneth McKellar. Before associating himself with the committee, Mr. Downey served with the Senate Committee Post Office and Civil Service.

When I was appointed to the Appropriations Committee in 1959, Mr. Downey had already been clerk to the Subcommittee on Labor, and Health, Education, and Welfare for a number of years under the direction of its then chairman, the Honorable Lister Hill. I soon discovered that Mr. Downey possessed a broad knowledge of the workings of the executive department and agencies with which he dealt, as well as a thorough understanding of the legislative processes.

Through the years, I always found him to be honest, sincere, and hard-working. He possessed courage as well as principle and was forthright in his counsel. These characteristics made his advice of inestimable help to the committee members.

From my own observation and from what I learned about him from others, I came to respect Herman Downey, not only as a valuable clerk but also as a man of deep moral principles. He did not carry his religion on his sleeve, but he practiced the Golden Rule daily. Our greatest tribute to him would be to emulate his willingness to give a helping hand to those in need.

My deepest sympathy is extended to his wife and family.

NEW CONTRACT FOR STEELWORKERS

Mr. FANNIN. Mr. President, the new steel industry contract gives us fresh evidence of the irresponsibility of union leaders. The Steelworkers Union has won a victory, but it is destined to be a very shortlived victory. Indeed, many members of the Steelworkers Union may never gain a cent out of the new contracts.

The exorbitant wage increases granted in the contract will force some of our steel plants to close because they no longer will be able to compete.

An increase in steel prices already has been announced, adding to the inflation that is plaguing our Nation.

This contract is bad for the Nation, for the steel industry, and for the steelworkers.

The situation was summed up in this morning's Wall Street Journal. 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:

PACT IMPACT: CONTRACT SEEN HURTING STEEL FIRMS, ECONOMY AND EVENTUALLY UNION

BIG PRICE RISE IS JUST FIRST RESULT OF COSTLY ACCORD; SOME MILL CLOSINGS LIKELY—JOBLESSNESS AND PROFIT PLUNGE

(By James P. Gannon)

PITTSBURGH.—The labor peace reached late Sunday in the steel industry will come at a high price to the economy, the troubled industry and perhaps even to the Steelworkers Union.

U.S. Steel and others yesterday wasted no time in presenting the economy with the first due-bill arising from the settlement: a price boost—probably the largest ever made in one move—averaging 8% on nearly all steel-mill products. (See story on page 3.) If precedent prevails, the higher costs of steel will soon be translated into higher prices for cars, appliances and many other products.

But the quick price rise is only the first consequence of the labor pact. Other implications point toward another dose of unfavorable economic news in the short run and in the long run, serious economic pressures that may force a reshaping of the steel industry if it is to survive.

That's the consensus of economists, industry executives, financial analysts and union officials. The impact is hardly likely to cheer Nixon administration economists still struggling with the twin troubles of inflation and unemployment. (A White House spokesman yesterday said the administration felt it was "questionable whether this price increase is in the industry's long-run interest.") The price rise inflicts real and psychological damage to the administration's inflation fight. Other immediate consequences of the settlement will include a steep and prolonged slump in steel production, which will slow the already-creeping economic recovery. Mill officials fear the worst slump in nearly a decade and expect thousands of steelworkers to be laid off. They also see a spectacular plunge in profits.

SOME RAMIFICATIONS

Over the longer run, the steelmakers are expected to try to offset the impact of the settlement with a variety of steps that may reshape the industry. The likely steps include:

—The closedown of some old mills and a phasing out of the least-profitable product lines, resulting in increased efficiency for companies.

A spate of steel company mergers, especially if the government approves a pending consolidation of National Steel Corp. and Granite City Steel Co.

More serious consideration of establishing steel mills in nations where wages are low in an effort to meet competition from foreign steelmakers.

A long-term reduction, stemming from all these moves, in the industry's employment and thus in the ranks of the Steelworkers Union. "You are going to see one hell of a reduction in manpower over a period of time," predicts one man in the industry.

THE ECONOMICS OF THE PACT

These predictions are based on the economics of the industry in light of the new contract. The industry's chief negotiator, R. Heath Larry of U.S. Steel, estimates that the settlement will increase hourly employment costs by about 15% in the first year of the three-year pact. The industry's total employment costs for hourly workers last year was about $4.4 billion, so the first-year cost impact of about $650 million would actually exceed the total 1970 profits of all major steelmakers combined, which amounted to $513 million.

The short-term outlook for steel is gloomy indeed. Many furnaces that were banked in preparation for a strike will return to production very slowly—and some may never return at all. The industry's operations are expected to hover at less than half of capacity for at least a while; mill officials project August shipment at 4.5 million tons, lowest for any month since July 1962, and they put the current quarter's shipments at less than 18 million tons, an eight-year low.

While steel users are working down the big stockpiles built up in anticipation of a strike, incoming orders will be extremely depressed. "This industry is going to be practically dead" for the next few weeks, says one steel man. Example: General Motors, the world's largest steel user, "told us they would take their normal August orders and spread them over four months." That means GM orders, at least at this company, would be 25% of normal for most of the remainder of 1971 while the auto maker chews up its huge stockpile.

MANY LAYOFFS EXPECTED

As a result, many thousands of steelworkers can't expect to begin collecting newly fattened paychecks for some weeks, or even months. Many of these were laid off last month as the hedge-buying boom deflated early, and steelmakers indicate that thousands more will be idled over the next few days.

Bethlehem Steel Corp., for example, says its mills at Lackawanna, N.Y., Johnstown and Bethlehem, Pa., Sparrows Point, Md., and Indiana Harbor, Ind., will be brought back up from their strike-shutdown conditions—but only as orders improve. That means, for instance, that some 6,200 workers at Johnstown and 5,000 at Bethlehem won't be scheduled to work this week. The story is much the same as other large steelmakers.

More threatening to workers than these short-term closings and layoffs is the real prospect of permanent mill closings. Steel executives privately concede, and union officials openly fear, that the least-efficient mills may be doomed.

"They're gonna say, 'Look pal, we gave you the raise, now we gotta shut down the obsolete plants to pay for it,'" predicts Al Lupini, president of USW Local 4889 at U.S. Steel's Fairless Hills, Pa., Works (a fairly modern plant not threatened). "They've been planning to close a lot of these plants for years," contends Mr. Lupini, "and now they're gonna close them and lay the blame on us."

Another USW local president, Morros Brummitt, who heads an 11,000-man local at Jones & Laughlin Steel Corp.'s Aliquippa, Pa., mill, says company negotiators warned of such closings. "They said that they had marginal operations and that an unacceptahis contract would cause them to phase out some plants or departments," he says. Another J&L local chief quotes company bargainers as saying, "If you force us to put too much money in, it may force us to close down."

Industry officials don't dispute predictions of mill closings. "I know we have some open-hearth capacity that will never come back on again," says one management man. Steel financial analysts agree. "More and more of the old mills are going to be phased out," says one Wall Street source.

Some industry men see a repeat of the cutbacks of the early 1960s, when steel demand slumped after the industry had taken a 116-day strike in 1959. In 1960, for instance, U.S. Steel announced "temporary" closedowns of steel-making facilities at Donora and Clairton, Pa. Those old Monongahela Valley facilities were "temporarily" idle for about two years—and then were permanently shuttered.

Albert T. Delsandro, who lost his mill job

in Donora and now is the mayor there, remembers how it was. "It is a staggering blow to the economy of the town" to have about 1,700 jobs wiped out, he says. "I wish the other steel communities a lot of luck, because it is a tough blow."

In Youngstown, where U.S. Steel last month "temporarily" closed its 2,700-man Ohio Works due to lagging orders, USW local officials were so worried the plant would never reopen that they mobilized some political muscle against U.S. Steel. Responding to their appeals, their Congressman, Charles Carney, confirms that he persuaded Rep. Wilbur Mills, head of the House Ways and Means Committee, to extract a pledge from U.S. Steel chairman Edwin H. Gott that the closing would in fact be temporary. Says Al Wellington, a vice president of the USW local at the Ohio Works: "Now that we have the word of such honorable people (as Messrs. Mills and Gott) we feel we have a chance to start up again."

Besides closely scrutinizing their own operations for possible pruning, at least some steelmakers may begin eyeing each other as merger partners, financial analysts believe. They say that such consolidations may be the only way to save the industry's weakest companies.

"If the National-Granite City deal goes through, I think you are going to find other mergers occurring in the industry," says Ted Gerken, vice president at Laird Inc., a New York-based brokerage house. "It would be very good for the industry, because steel companies all over the world are doing it" and presenting a more formidable competitive threat, he asserts.

A top official of the Steelworkers Union agrees. "I think there may be too many steel companies," he says. "I think you'll see some mergers."

A prospect more threatening to the union, however, is the increased possibility that American steelmakers will try establishing mills abroad. One big steel company looking into the possibility of a foreign mill concedes that anticipation of a major labor cost increase here was one reason for exploring the idea.

Armco Steel Corp. is far along on an investigation of building a mill in Australia that would ship semifinished steel to the U.S. for final processing. "Armco is convinced that good management dictates a move overseas for the production of semifinished steel," says an executive. This proposition has "passed the 'whether' stage—it's only a question of when such a move will be made," he adds. Though Armco isn't disclosing its timetable, observers believe the costly labor settlement will increase its interest, and that of other producers, in overseas production. Such a move, of course, would take jobs from the U.S. and threaten losses in the ranks of the USW.

USW officials concede they face a declining membership in the basic steel industry. "There will be fewer steelworkers," says one top official. Mill employment has been dwindling for many years. The steel industry's average number of hourly workers dropped to 403,000 last year from 458,500 in 1965. The USW has been able to offset this drop in its major membership group by enrolling more members in nonsteel industries and absorbing some smaller unions; currently, it has more than 1.2 million members.

THE FARM CREDIT ACT OF 1971

Mr. HART. Mr. President, these days we hear a great deal about the pressures of overpopulation and urbanization. Perhaps, part of the solution to those problems rests in new definitions, new uses, and an improved quality of life in our rural areas.

We can hope that with the Senate passage of the Farm Credit Act of 1971 on Thursday a step may now be taken toward that solution.

Looking at an ideal rural America, we would see lands and communities which would be able to accommodate a range of occupations and life styles. We would see a healthy balance between the economics of land and the wise and thoughtful use of it. We would see, in short, a balance between rural and urban areas with each contributing the best of its particular life style to meet human needs.

That is the ideal with the real at the opposite end. In between, it will take money. That is where the Farm Credit Act begins. By making credit more readily available, we can hope that housing needs may be more easily met. And we can hope that new people, young people, may once again become attracted to rural America.

A Farm Credit Administration report shows that during 1970, the system loaned Michigan farmers and farmer-owned cooperatives $191,623,466. Thus, many Michigan member-borrowers have already participated in the system. And many are family farmers who recall the system's stability during the depression while other credit sources failed.

The system's loss-sharing provisions not only seem to reduce some of the risk involved with the nature of the industry, but also seem to instill a sense of pride and unity. And now Michigan farmers and those in other States with more easily available credit can begin the job of diversifying agriculture and head for the ideal.

EXPLANATION OF VOTE ON LOCKHEED LOAN-GUARANTEE BILL

Mr. PACKWOOD. Mr. President, I would like to enter in the RECORD a few remarks to illuminate the reasons for my favorable vote yesterday on the Lockheed loan-guarantee bill.

First of all, I want to stress the fact that this new law provides for a guarantee of a private loan. We will not be lending Federal tax money to Lockheed. The Congress spent 2 months studying the proposal quite thoroughly. During the course of this study I made a series of observations that led, finally, to my voting in favor of the loan-guarantee. First, while Lockheed is not entirely blameless in this situation, a considerable part of the fault can rightly be laid at the seat of the U.S. Government, largely in the sphere of unworkable defense procurement policies and generally poor economic conditions.

Second, the final blow in a long series of misfortunes to befall Lockheed, came as a result of the failure of Rolls-Royce, the company that makes the engines for Lockheed's L–1011. This was an event over which Lockheed had neither control nor advance notice so as to order its affairs accordingly. Rolls-Royce's failure resulted in significantly increased costs to Lockheed.

Third, and most significant, there were the very serious economic consequences that would have accrued to the entire Nation had Lockheed been allowed to fail. The failure of Lockheed would have meant a long-term increase in unemployment of more than 60,000 workers. It would have meant severe economic hardship for untold hundreds of the thousands of small businesses that serve as suppliers to Lockheed. It would have caused additional serious difficulties for an already disastrously stricken airline industry. It would have meant the absolute waste of nearly $1.4 billion in investment on the L–1011 project. It would most probably have resulted in substantially increased costs to the U.S. Government in the form of renegotiated defense contracts. It would have meant a probable loss in Federal revenues of between $500 million and $1 billion. It would likely have meant a loss in revenues to State and local governments of a similar, if not larger, magnitude. At the same time revenues were falling, expenditures of all levels of government would have to rise to pay for the increased costs of unemployment compensation that would be paid to the newly unemployed.

Finally, the evidence indicates that the Federal Government will incur little, if any, loss in its guarantee of a loan to Lockheed. If Lockheed should fail to repay the guaranteed loan in spite of this final assist, the Federal Government will be first in line to secure its $250 million from the sale of Lockheed's considerable assets.

My decision to vote in favor of this loan guarantee was not reached lightly. I gave very serious consideration to the sincere advice I received from many Oregonians who counseled me to oppose this bill. On the basis of the evidence, however, I concluded that it was in the best interests of the Nation as a whole to approve the measure.

SMALL RECLAMATION PROJECTS ACT AMENDMENT

Mr. MOSS. Mr. President, on Saturday, July 31, the Senate passed the bill (S. 1026) to modernize the Small Reclamation Projects Act. This bill removes the requirement that irrigation be the primary purpose of a project, which will help solve some of the problems of irrigated areas that are in transition to urban and industrial uses of water. The bill also raises the total amount of money authorized for loans and increases both the size of the projects eligible and the ceiling on individual loans.

The bill touches the environmental impact of small reclamation projects and illustrates vividly the changing role of water development in the West. Its enactment will reduce waste and pollution of water, lower safety hazards in open or unlined ditches; aid in the conversion of row irrigation to a sprinkler irrigation system; share costs for fish and wildlife functions of small water developments projects, and develop additional water.

The bill has the strong support of the National Water Resources Association, and its small projects committee, which is headed by Doyle Boen of Hemet, Calif. Mr. Boen, together with Mr. Carl Bronn, executive director of NWRA, spent long and productive hours working on the legislation, and I take this opportunity to

commend and thank them. Their long-time dedication to the Small Reclamation Projects Act is well known.

HUMAN WASTE DISCHARGES ONTO RAILROAD TRACKS

Mr. PERCY. Mr. President, it is unfortunate that all too often the justifiable clamor attending yesterday's very real problems fades for lack of continuing concern. I invite attention for the moment to the indignation and upset 2 years ago caused by revelations of a potentially serious health problem caused by the discharge of human wastes from railroad conveyances onto railroad tracks and surrounding areas.

After extensive newspaper concern and hearings conducted before the Subcommittee on Conservation and Natural Resources of the House Government Operations Committee, headed by Chairman HENRY REUSS, the Food and Drug Administration determined that action was warranted. On June 1, 1971, the Commissioner issued an order regulating such discharges from existing as well as new railroad conveyances. Regretfully, FDA apparently feels that the problem is not as serious as in fact the hearings showed it to be. Indeed, the FDA has proposed that carriers be given, in effect, more than 6 years—until December 31, 1977—to comply with its order.

My own view is that when the health and well-being of literally hundreds of thousands of railroad employees are concerned and when the health of the public generally may be vitally affected, this kind of delay is repugnant to the public interest. I note that this feeling is shared by consumer advocate Ralph Nader, who publicized this practice of indiscriminate dumping of wastes, as well as by former chairman of the National Commission on Product Safety, Arnold B. Elkind, who has championed through the years the right to safe working conditions for railroad workers. Corroboration also comes from the United Transportation Union which in a letter to Commissioner Edwards dated June 10, 1971, stated:

> It is not at all impractical to require that all new equipment placed in service after January 1, 1972, be equipped with the pollution prevention devices, nor is it necessary to grant an extension of time beyond December 31, 1974, for equipping existing equipment with these devices.

I have communicated these views to the Food and Drug Administration and in return have received a reply that I find unsatisfactory, indicating, among other things, that the "potential of this practice presenting a major health problem is slight."

Mr. President, I ask unanimous consent that my letter to Commissioner Edwards and that of the United Transportation Union, both requesting reconsideration of the FDA's earlier order, be printed in the RECORD, and that the response from the Food and Drug Administration also be printed in its entirety.

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

JUNE 17, 1971.

Hon. CHARLES C. EDWARDS,
Commissioner of Food and Drugs,
Food and Drug Administration,
Rockville, Md.

DEAR DR. EDWARDS: I have just received a copy of your Order of June 1, 1971, prohibiting the discharge of wastes from railroad conveyances, pursuant to the Public Health Service Act.

On the positive side, I am pleased to see that the proposed regulation has been changed to include *existing* railroad conveyances as well as new railroad conveyances.

I am, however, very much distressed to see that the compliance date for preventing discharges from existing railroad conveyances is set at December 31, 1974, with provision for an all-too-possible extension to December 31, 1977. Having spent most of my life in the business world, I am acutely aware of the need to set realistic lead times for the conversion of facilities and equipment. Notwithstanding that, my business insight confirms my commonsense judgment that the 3½ year stay, extendable to 6½ years, permitted by your Order is manifestly unreasonable in view of the imminent health and safety factors involved. I note that your own agency findings which preface the Order state that "The need for regulating such waste discharging has been clearly established." I would add that *clearly* the health and well-being of railroad employees and of the public generally cry out for more immediate implementation of this Order. Last year's hearings before the Subcommittee on Conservation and Natural Resources of the House Government Operations Committee corroborate that need.

I urge you to reconsider this matter and take whatever steps are deemed appropriate to correct the inordinate time lag between the date of this Order and its effective implementation.

As a footnote, one of the factors that led me to be the chief co-sponsor of the President's major proposals for executive reorganization was the persistent and justifiable outcry that I have heard over the years from my constituents in Illinois over the delay and untimely procedures of Federal agencies. The delay reflected in the Order of June 1, 1971, exemplifies what is wrong in government today. I can't help but regard this lack of timely action as being contrary to the public interest. As acting ranking minority member of the Senate Government Operations Committee, I intend to follow this matter closely.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

JUNE 10, 1971.

Hon. CHARLES C. EDWARDS,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER EDWARDS: The June 8, 1971 issue of *The Wall Street Journal* contained an article on page 14 beginning "The Food and Drug Administration adopted a regulation to rid the rails of most discharges of human wastes, garbage and other polluting materials from railroad trains."

Although we have not had the benefit of reviewing a copy of this regulation, the United Transportation Union would like to go on record in stating that we have supported, fought for, and will be in complete agreement with this and all regulations which will prevent disgusting and disease spreading pollution along the tracks of this Nation's railroads—the amount of which was estimated by the U.S. House of Representatives Committee on Government Operations to be equivalent to the sewage discharge of a city populated by 50,000 persons.

We agree, too, with Ralph Nader that this pollution should be stopped immediately, but we realize that as a practical matter, some time is required to equip cabooses, passenger cars and locomotives, or any other equipment used by rail and other personnel for waste retention or waste destruction devices. However, we believe the time limits provided for compliance by the railroads as reported in *The Wall Street Journal* are far too long. It is not at all impractical to require that all new equipment placed in service after January 1, 1972 be equipped with pollution prevention devices, nor is it necessary to grant an extension of time beyond December 31, 1974 for equipping existing equipment with these devices.

The United Transportation Union respectfully and urgently requests the Food and Drug Administration reconsider its regulations and issue new rules effective as set forth herein. This Country need not suffer from pollution which can be prevented easily by rules which your Administration has the power to place into effect and which are not impractical.

Respectfully yours,

AL H. CHESSER,
National Legislative Director,
United Transportation Union.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., July 9, 1971.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Commissioner Edwards has asked us to thank you for your letter of June 17 expressing your disappointment in the compliance dates for the prohibition of the discharge of wastes from existing railroad conveyances. Your attention and concern about this matter is greatly appreciated.

Several factors were considered in establishing the compliance dates including the recommendations of the House Committee on Government Operations. Below, for your information is an excerpt from the Committee's recommendations:

"The Committee therefore recommends as follows:

"1. The Commissioner of FDA should promptly publish a proposed regulation, and take appropriate steps to adopt it requiring that . . .

"(c) After December 31, 1974, no locomotive, caboose, passenger, or other car having toilet facilities shall be operated without effective equipment to prevent the discharge of untreated or inadequately treated human or other wastes therefrom, unless FDA authorizes extension of time to a railroad which clearly shows to the satisfaction of the FDA that it needs additional time to accomplish such retrofitting in order to prevent substantial disruption of its operations . . ."

Another factor that influenced the compliance dates is the formation of the National Rail Passenger Service Corporation. As you know, one of the major objectives of this Government Corporation is to revitalize the rail passenger industry. The Federal Railroad Administration, in speaking for the Corporation, stated that by Fiscal Year 1974 it is contemplated that the Corporation would be profitable and will have initiated an equipment renewal program. FRA consequently recommended the date of December 31, 1977, for full compliance in order to avoid refurbishing expenses on cars scheduled for replacement because the addition of such costs to a struggling operation would cause critical economic problems. And, if FDA did not accept the December 31, 1977 date, FRA recommended that consideration should be given to granting extension.

Admittedly, the health hazard of discharging raw human wastes will remain until full compliance with the Order. But, the potential of this practice presenting a major

health problem is slight and this point has been made repeatedly in testimony by responsible health authorities.

Therefore, with all the factors of health, economic impact, and technological development being considered and weighed, it is our opinion that the dates established for compliance with this Order for existing rail conveyances is in the best public interest.

Please let us know if we can be of any further assistance.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

PAN AM MOVES TO PROTECT ENDANGERED WILDLIFE

Mr. HART. Mr. President, I am sure that many Senators share my alarm at the decimation of many species of wild animals. The problem is accentuated by the availability of increasingly rapid air transportation to remote parts of the world. It is my pleasure to bring to the attention of the Senate an announcement by Najeeb E. Halaby, president of Pan American World Airways, that Pan Am has joined with the World Wildlife Fund to help protect those animals now in danger of extinction.

Pan Am, according to Mr. Halaby's announcement, will not in the future offer or book any tours or in any way sponsor travel involving the killing of animals classified as "endangered species" by the World Wildlife Fund. This conservation effort by Pan Am is a welcome example of corporate awareness of the public interest. It is consistent with the sensitive qualities which marked Jeeb Halaby's years of public service.

Mr. President, I ask unanimous consent that Pan Am's press release announcing its new policy of helping to protect endangered species of wildlife throughout the world, be printed in the RECORD.

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

PAN AM ENDORSES WORLD WILDLIFE FUND PROGRAM

Pan American World Airways has initiated a new corporate policy whereby no tour programs involving killing of animals classified by the World Wildlife Fund as "endangered species" will be offered after August 31, 1971, Najeeb E. Halaby, President of the airline, announced.

"Pan Am's support of the World Wildlife Fund," Mr. Halaby declared, "is in keeping with corporate efforts to improve the environment and advance the cause of conservation." Pan Am is the first major travel organization to enter into this type of agreement with the World Wildlife Fund.

The World Wildlife Fund, Mr. Halaby noted, has designated more than 900 animals as being in danger of extinction, among which include alligator, cheetah, ocelot, kangaroo, Great Indian one-horned rhino, tiger, snow-leopard and Asiatic lion. Pan Am will not book any land arrangements or sponsor any brochures which would encourage the killing of these animals.

The airline will continue to sponsor tours featuring hunting or fishing of species not listed as endangered or near extinction throughout the world. In addition, Pan Am is actively promoting the growth of photographic safari tours in Africa and other parts of the world in cooperation with the Fund and major tour operators.

Mr. Halaby noted that in addition to those species designated as endangered by the World Wildlife Fund, Pan Am and the tour operators it works with strictly observe local laws protecting its species. Pan Am realizes that carefully managed hunting is considered in some cases an important part of conservation.

The World Wildlife Fund, an international nonprofit organization, founded in 1961, is committed to a global program of conservation. The Fund has focused attention to the need to safeguard wildlife and has succeeded in setting aside 400,000 acres for conservation.

JAPANESE STUDENT VISITORS

Mr. MOSS. Mr. President, yesterday it was my privilege to welcome 13 outstanding young Japanese students to my Senate office for an enjoyable and warm discussion and exchange of ideas. I was especially impressed by the response of my intelligent young guests.

This is the 9th year my home State of Utah has cordially received Japanese students participating in a travel program jointly sponsored by the Nagoya Broadcasting Network and the University of Utah. In 1963, former University of Utah President, Dr. A. Ray Olpin, one of Utah's foremost educators and citizens, learned of the Nagoya Broadcasting Network's desire to sponsor a travel program to the United States for outstanding Japanese students. Dr. Olpin's vision and grasp of detail in cooperation with the university and the NBN, have produced an unusual exercise in international goodwill.

Many Utah families participate with the University of Utah in introducing our Japanese visitors to American customs and culture. During their stay in Utah, these young men have engaged in informal seminars conducted by the University of Utah on American customs, language, politics, and social institutions. They have also admired Utah's unequaled scenic grandeur, visited historic Temple Square, listened to the world-famous Tabernacle Choir, toured the world's largest open-pit copper mine in Bingham Canyon, and enjoyed the warmth and association of living with Utah families.

Utahans gain much from hosting such well-educated students. These young men grant freely of their knowledge and experience of Japanese culture and heritage. On their last evening in Salt Lake City, it is traditional for the students to perform skits illustrating Japanese life and humor, demonstrate Japanese skills in judo and karate, show colorful films of their homeland, and delight their hosts with the singing of Japanese folk songs.

Mr. President, I extend a warm welcome to these outstanding students from Japan to the United States, and wish them a continued enjoyable and profitable visit. I also commend the sponsors of this outstanding program that is so successfully promoting understanding and fellowship between the Japanese and American peoples.

FEDERAL YOUTH CENTER

Mr. COOK. Mr. President, as ranking Republican on the National Penitentiaries Subcommittee of the Judiciary Committee, I am always interested in learning of innovative techniques in the field of criminal rehabilitation.

The rehabilitation and counseling of the young people in our juvenile institutions is especially important since oftentimes, without such guidance, the young man or woman will embark upon a lifetime of criminal activity. We desperately need realistic programs of rehabilitation coupled with dedicated, conscientious administrators if the lives of these young people are to be successfully reshaped. In this vein, I invite the attention of Senators to the health services training program under the direction of Mrs. Jane Light at the Federal Youth Center in Ashland, Ky. Mrs. Light epitomizes the type of concerned, compassionate correctional worker that we must have in the Nation if our correctional systems are to succeed.

Mrs. Light recently submitted a most perceptive paper to the U.S. Public Health Service Clinical Society in Galveston, Tex. The paper outlines the significant work in which Mrs. Light and others are engaged at the Federal Youth Center. I ask unanimous consent that the text of her paper be printed in the RECORD.

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

PREPARING YOUTHFUL OFFENDERS FOR THE PARA-MEDICAL PROFESSIONS

(By Jane Light)

This program has been conducted at the Federal Youth Center, Ashland, Kentucky, where the all male population averages 19.9 years of age. Because public offenders as a group experience difficulty in finding employment, this pilot para-medical training program may provide a partial solution to the youthful offenders' dilemma and concurrently deliver needed health services.

BROAD BEHAVIORAL OBJECTIVES

1. Given 10 weeks of nursing assistant's training, releases living in metropolitan areas can secure related employment.

2. Given two interviews (one prior to entry and a second at termination of training) the trainee will indicate higher levels of aspiration and self-concept at the completion of course.

3. A 10 week term of intensive training is sufficient to provide an entry level skill as a para-medical.

4. Incarcerated individuals will demonstrate empathy towards confined patients.

Minority group members are disproportionately represented in the offender population; however, of the total number of trainees, 35% were from minority groups. An innovative effort was made to create a learning environment for persons indigenous to the inner-city. Devious methods, e.g., manipulating the variables via role playing and built-in cheating (mechanisms), provided a milieu for subsequent learning media.

SOCIALIZATION

Realizing that the youthful inmate is living in an unnaturally structured, artificial environment, it is felt that the stimulus of a more natural situation will help the student to relax and respond in a normal manner, thereby allowing the instructor to observe his personal, emotional and behavioral needs.

Social gatherings are held intermittently. The table is decoratively set with napkins, table cloth, and refreshments are served. Music appropriate to the age group is always provided.

Because interaction with all types of individuals is an important component in para-

medical work, especially within a demanding hospital setting, it is felt necessary to stress training in interpersonal relationships. The youthful inmate is normally inadequate in this role because of earlier environmental inadequacies.

Character traits become more obvious within the relaxed atmosphere. Evidence of shyness, aggressiveness, bravado, hostility, passivity, naivete, and situational acceptance are noted. Previously developed undesirable relationships which are problems are ameliorated by these socializing efforts.

The socializing experiences enable the instructor to establish a frame of reference, within which to teach on a more individual basis and to help in assessing readiness for pupil pairing.

PAIRING

A student who becomes proficient in a skill is paired with one who shows a weakness in the same area, thereby improving the skill of the weaker as well as increasing the interest and demonstrable ability of the more proficient.

If a student displays discomfort working with fellow inmates, he is assigned to work with Simon (a life-like mannequin) until he can become more objective. Later, he is encouraged to work with an inmate with a stronger self-image than his own. This kind of experience enables the trainee to develop more objectivity in acquiring the skill, reporting the results, and achieving desired behavioral objective.

Early behavior shows hesitancy toward class participation, particularly when personalities conflict as a result of problems on the compound.[1] Fear of ridicule by peers as well as teacher disapproval of slowness and awkwardness of performances are also disturbing issues.

Pupils are encouraged to test and demonstrate skills in which they have acquired proficiency until sufficient self-confidence is developed to enable them to accept constructive criticism and practice in weaker areas of their skills.

They become noticeably less agitated as they see peers perform poorly in areas in which they show more proficiency, and become less critical of others when they find areas in which their own skill weaknesses are more obvious.

As the students acquire minor skills, they become motivated to practice behavior techniques requiring a higher degree of learning, such as vital signs,[2] assisting in surgery, catheterizations, etc.

ROLE PLAYING

Students are assigned roles which are described in writing and distributed with no warning or time for preparation. Each is asked to assume the described role (character) and improvise a suitable dialogue.

Characters are chosen to represent the individuals one might encounter in a hospital setting. The characters represent the doctor, head nurse, experienced nursing assistant, untrained assistant, demanding patient, members of the patient's family, unruly visitor, etc. Only the nurse and doctor are told the nature of the patient's illness.

This affords the student an opportunity for self-expression and self-knowledge as well as providing a media for the use of medical knowledge, terminology, and techniques; it is also effective in reducing discomfort and fostering self-confidence in making rapid decisions frequently required in demanding hospital activity.

The role-playing sessions are video-taped and played back to the class. The group responds by finding errors in skill techniques and recognizing self-deficiencies in areas of appearance, speech and affect.

As both competency and inefficiency become evident as a result of viewing the sessions, there is freer discussion with interjected interest and humor; a sense of shared-meaning develops.

Limitations of practice are spelled out to the student. His status and hospital role are pointed out verbally and graphically in order to prevent misinterpretation either of the program or of future job placement goals and expectations.

Expectations and responsibilities are also clarified regarding the patient as well as hospital staff in order to place the role of a Nursing Assistant in its proper perspective for the trainees.

Members of the student body characteristically mistrust each other. This behavior might be explained by the abnormally large body-buffer zone.[3] This must always be considered by the instructor in the correctional setting as she establishes educational goals. Learning opportunities, or vehicles which are used to reach the goals desired, must of necessity, be determined with this mistrust in mind.

The goal being sought in the following exercise is to impress the student with the need to inform patients of the processes in which the patient is involved. This explanation is one way of allaying the confined individual's fear and anxiety.

Role-playing is the teaching technique utilized to achieve this educational goal. The role to be acted out is as follows: (1) one student is to play the part of a blind patient in a wheel chair being moved from one point of the hospital to another part for purposes of medical procedures; (2) another student is to fulfill the nursing role; not only aiding in the transportation of the patient but also providing verbal assurances by sharing knowledge of what is going to happen and occasional sensory (touch) assurances.

This is somewhat simple a procedure in conventional nursing training. With a minimum of apprehension the patient's role can be performed; there is more apprehension on the part of the person playing the nurse's role because her work is subject to scrutiny and constructive criticism.

Within the correctional setting the apprehension aroused in students portraying the blind patient is often more than they can tolerate. This is particularly true when they are the patients, and their peers assume the nurse's role. Their reactions in fulfilling the patient's role when the civilian instructor plays the role of the nurse approximates that of nursing students learning their technical tasks in the normal community.

Some of the manifestations of mistrust exhibited by the youthful inmate playing the role of the patient when fellow students fulfilled the nurse's role are as follows:

1. Obvious uneasiness when blindfolded. This is expressed in forms of excessive talking, perspiring and complaints of the degree of tightness of the blindfold.

2. Objections to having the wheel chair touched by another student.

3. Requesting, by name, the person he wishes to play the nursing role.

4. Objections to an unknown nurse pushing the chair unless accompanied by a third party whom he can name.

5. Refusal to be moved without the accompaniment of the instructor.

6. General, obvious relief when the blindfold is removed.

In general discussion following the group experience, emphasis is placed on the need for visual and sensory reinforcement of patients who display mistrust and who perhaps have developed these attitudes because of inability to see or adjust to unfamiliar surrounding which might be prevalent in any institutional atmosphere. Due to the student reaction to these roles and the instructor's observations, the class becomes cognizant of the patient's needs and displays genuine empathy toward the hospitalized patient.

Tests provided in the H.R.E.T. Training Manual are administered and informal teacher-type tests and situations are created to evaluate the acquisition and retention of skills. 94% of the students attain the desired performance level.

CONCLUSIONS

1. Given 10 weeks of nursing assistant's training, releasees living in metropolitan areas can secure related employment.

Analysis: Fifty-one (51) students have completed the 10 weeks of nursing assistant's training, and twelve (12) students are presently enrolled. On the basis of their ten (10) weeks training, six (6) releasees are now employed as nursing assistants in six (6) cities in six (6) different states. Five (5) former students have applied for employment to hospitals in metropolitan areas and have received applications for positions upon release.

2. Given two interviews (one prior to entry and a second at termination of training) the trainee will indicate higher levels of aspiration and self-concept at completion of class.

Analysis: Both interviews are similar in that specific questions as to educational background and future goals are employed. Initially the aspirations are confined to a day-to-day existence with no meaningful plans for the future. Often personal appearance is neglected. Communicative skills are noticeably lacking and self-concept is often polarized in that the inmate is not realistic in his ability to achieve.

Either the student's introspective attitude is blown out of proportion or he feels totally inadequate. Gradual changes are observable throughout the ten (10) week program. Terminal counseling reveals a better groomed young man whose verbal skills are improved both with his peers and with professionals. In the area of their training many display a more realistic attitude toward their capabilities and limitations. At the end of training, several students who exaggerated their abilities remained at entry level proficiency, while others exceeded their former levels of aspiration.

Some students requested special training and were accepted in the M.D.T.A. training program at the Springfield Medical Center as O.R. Technicians, Prosthetic Appliance technicians, and Medical Housekeepers. One trainee entered a school of X-Ray technology in Ohio. G.E.D.'s were obtained by 43 students.

Five (5) students were motivated to enter Project Newgate (a college preparatory program offered at this institution).

3. A ten (10) week term of intensive training is sufficient to provide an entry level skill as a para-medical.

Analysis: Sixteen (16) students have been assigned to the F.Y.C. hospital as nursing or dental assistants upon completion of their training. The medical staff feels these employees perform adequately. Six (6) releasees have been employed as nursing assistants.

4. Incarcerated individuals will demonstrate empathy towards confined patients.

Analysis: Physical limitations of confinement are indigenous to all types of institutions. An individual who has experienced this trauma naturally displays rapport with those in similar situations because his freedoms have been limited, he can identify with a hospitalized patient whose physical disabilities prevent normal activities. During this period his role becomes reversed and he becomes the protector of those patients using his understanding of the anguish of confinement. Sympathetic behavior is evident particularly when nursing assistants work with emotionally disturbed patients in locked rooms and with immobile post-operative patients. Often self-centered trainees display altruistic tendencies in routine nursing procedures. Special small favors (e.g., carrying milk and juices) and giving moral support which they themselves have often been de-

Footnotes at end of article.

nied, seem to be a more important part of considerate nursing care.

This program has been conducted at the Federal Youth Center, Ashland, Kentucky, where the all male population averages 19.9 years of age. This pilot program appears to provide effective vocational training for youthful offenders. Those who participated were trained in needed health services and now have marketable entry level skills which can be utilized by hospitals and other areas of community medicine.

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FOOTNOTES

[1] Examples of such problems include homosexuality or fear of being accused of feminity. (e.g., using the proper method of body mechanics to pick up a coin, or choosing a partner for bed baths).

[2] Temperature, pulse, respiration, and blood pressure.

[3] Augustus Kinzel, M.D., *Body Buffer Zone in Violent Prisoners,* cited in American Journal of Psychiatry, Vol. 127: 1. July 1970.

GENOCIDE: THE WORLD AS STAGE

Mr. PROXMIRE. Mr. President, the distinguished actor Richard Burton once remarked that he had discovered a faultless way of gaining the audience's attention while he was standing on stage amidst a moving crowd. Mr. Burton found that if he stood absolutely motionless and silent, the eyes of the audience would inevitably pick him out of the crowd and dwell at length upon his presence.

It is my contention that this condition is true not only of individual actors, but also in regard to nations and governments. Seventy-five sovereign nations have ratified the Genocide Convention, but unfortunately the United States is not one of them. As a result of this situation, we are the most prominent member of the United Nations which has not yet agreed to join in the international agreement, which declares genocide a despicable crime in the opinion of mankind.

But what of mankind's opinion? What should other nations think of the lone superpower in the U.N. which declines to commit itself publicly against the crime of mass murder?

I do not wish to leave the impression that I suspect the United States of hiding anything from the eyes of the world. In spite of irresponsible charges to the contrary, the United States is not guilty of the horrendous crimes which would be punishable under the Genocide Convention. But our official silence leaves us suspect in the eyes of the world. As the Honorable Arthur Goldberg has eloquently stated:

Our failure to adhere to this Convention is an unnecessary diplomatic embarrassment . . . When I was United States Ambassador to the United Nations, I was often asked to explain our failure to ratify the Genocide Convention. Frankly I never found a convincing answer. I doubt that anyone can. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose. A continuing dedication and reaffirmation of the humane principles of our Bill of Rights and Constitution is very much in order.

Mr. President, it has often been said that actions speak louder than words. But I would add that there are also occasions when nonaction speaks louder than action. The United States is conspicuously silent on the issue of the Genocide Convention; I therefore submit that it is time for the Senate to shout a loud assent and join the other nations on the world stage.

EXECUTIVE SECRECY

Mr. FULBRIGHT. Mr. President, Miss Mary McGrory is one of the most knowledgeable observers of the American Government. Her column of July 30 in the Washington Star is an exceptionally penetrating analysis of a complex and important problem facing Congress.

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:

A UNITED FRONT FOR EXECUTIVE SECRECY

(By Mary McGrory)

The only way Congress is going to get a peek at the secret papers of the Executive department, it seems, is for Daniel Ellsberg to capture another batch and publish them in the New York Times.

Two unrepentant veterans of the Kennedy-Johnson State Department stoutly defended the president's right to keep Congress in the dark before Sen. Sam Ervin's subcommittee on the Separation of Powers, which is engaged in what looks like a futile effort to persuade the White House to tell Capitol Hill what is going on before bombs are dropped and nations invaded.

Former Undersecretary William P. Bundy and former Secretary of State Dean Rusk presented a united front for executive secrecy, past and present. If either of them has read the Pentagon papers—Bundy is a conspicuous contributor—he gave not the slightest sign. If either of them has changed his mind about the war or his part in it, he chose to make no public confession.

In fact, Bundy, brother of McGeorge, son-in-law of Dean Acheson, an ex-secretary of State whose contempt for Congress is celebrated, made it plain he had not come to apologize, but to patronize. It was a rather breathtaking exhibition of figure-skating on ice that has so recently fallen through.

NO PROSPECT

The committee made no protest as Bundy informed Congress that if it wanted more information—and he graciously conceded it does get enough—it had better straighten up.

If Congress were to establish some procedure whereby it would promise not to tell, if Congress would "focus on the end actions rather than on the process and the personalities," it might deserve to have some better idea of what is going on.

Nobody questioned him about his most striking entry in the Pentagon papers, No. 84, written on November 5, 1964 at the time of Lyndon Johnson's triumph as the "peace" candidate. In it he outlined "a maximum use of the Gulf of Tonkin rationale for action that would show toughness and hold the line 'til we can decide the big issue, or as a basis for starting a clear course of action under the broad options."

In it Bundy demonstrates the disposition to manipulate the Congress like Play-Do, which the subcommittee is supposedly trying to correct.

"Congress should be consulted before any major action, perhaps only by notification . . . or preferably by careful talks. . . . Query: If it should be combined with other topics (budget?) to lessen the heat"

"Only by notification" was the course decided upon, in secret, and "only by notification" is the tradition followed by the Nixon administration.

Not being called upon to explain anything, Bundy boldly pressed on to suggest "in all bluntness," as he said before every bureaucratic remedy, that Congress would do well to cultivate assistant secretaries.

"Senators might considerably benefit if they were able to establish relations at the assistant-secretary level," he observed. One wonders what would have happened if Sen. Fulbright had sought out Bundy, during those years when Bundy was writing the grand momoes about "getting solid performance out of the government of South Vietnam."? Would Bundy have assigned an assistant to brief him?

The trouble in the Nixon State Department is that even the secretary does not know what is going on. All great affairs, especially "Journeys for Peace," are in the hands of Henry Kissinger. So the advice seemed as irrelevant as the rest of his testimony.

Dean Rusk, who followed Bundy to the stand, suggested that senators go ask the Secretary of State about the China trip if they are so curious.

The only mention of the undeclared unpleasantness in which the pair had been so deeply involved was made by Sen. Charles Mathias, R-Md., who politely inquired of Rusk if he felt that "Congress was advised as fully as it should have been with respect to the circumstances involving the episode and the intention of the Executive branch to utilize the powers in that resolution?"

RUSK DEFENDS LBJ

The imperturbable Rusk, now a teacher at the University of Georgia, put his broad shoulder to the familiar wheel of defending Lyndon Johnson and all his works.

There were "hundreds and hundreds of contingency plans," and the President had "no plans to widen the war in August 1964." And as proof, Rusk said Johnson "had not done so with ground troops until nearly a year later—and the air war, a month later."

"I would say sir," he concluded contentedly, "there was no deception at that time."

Rusk had nothing to blush for in the Pentagon papers. He is not a writing man. Not a syllable with his name appears except on a joint report with Robert S. McNamara. As for Bundy, his style and substance, are being amply recognized by the foreign-policy establishment. He is slated to become editor of the Foreign Affairs Quarterly, where presumably Congress can read how to make itself worthy to find out what assistant secretaries of State see fit to tell them.

UTAH'S STAKE IN REVENUE SHARING

Mr. MOSS. Mr. President, in a recent speech, I warned that the Nixon administration's general revenue sharing program could cost the State of Utah some $5 million in lost revenue. Proponents of the administration's program have since predicted that the adoption of the Nixon

proposal would result in a $20 million bonus for Utah. After a careful analysis of the mathematics behind this predicted bonus, I am convinced that it is a financially accurate as President Nixon's prediction of a balanced budget in fiscal 1971.

Proponents of general revenue sharing have produced a "bogus" bonus by means of deceptive calculation in order to encourage Utahans into accepting the Nixon package.

First, proponents based their calculations on only "20 major social programs" supported by Federal money. Of the remaining 78 grant-in-aid programs, Utah receives a percentage share which is much greater than the share it would receive from general revenue sharing. My previous Senate statement on this subject cited fiscal 1969 figures to the effect that Utah received 0.68 percent of all Federal grants in aid. The latest available figures for fiscal 1970 reveal that Utah's percentage share of all Federal grants-in-aid has increased to 0.72 percent. This significant increase means that the State of Utah could now lose $2 million more than my earlier prediction. Assuming that future increases in categorical grants would be replaced by a general revenue program, the Nixon's revenue sharing package could cost the State $7.5 million in the first year of operation alone.

Finally, proponents of general revenue sharing grossly overexaggerated the amount of money the administration plans to provide for revenue sharing. The base figure of $14.6 billion which is used in calculating this supposed $20 million Utah dividend is grossly inflated. President Nixon's proposal calls for an allocation of $5 billion to be channeled into general revenue sharing. The administration has never suggested that $14.6 billion would be available for revenue sharing. According to long-range projections, $10 billion is slated to be appropriated for general revenue sharing in 1980, but even this is far short of $14.6 billion.

Mr. President, I should like to stress that I favor the concept of revenue sharing. I am opposed, however, to a formula currently proposed by the administration that has the potential of depriving my State of $7.5 million in its first year of operation. I also am opposed to the deceptive maneuvering used by proponents to sell the administration's package to the people of Utah.

TRIBUTE TO KING CONSTANTINE OF GREECE

Mr. PELL. Mr. President, at this time as the tragedy and anguish of Greece tends to be moving off the front pages, I believe it is in order to pay tribute to King Constantine, a sovereign who refused to become a gilded prisoner in his palace, who refused to serve as a front for a regime which he knew was against the wishes and interests of his people. There are not many sovereigns who would have the forthrightness and bravery to lead an effort to return the power to the people of his country. But King Constantine had that courage and sought to take this initiative.

He has been in exile in Italy for several years, now. He has sought to make good use of his time. He has completed his education at Cambridge and followed closely the affairs of his beloved country and of the world around him.

On a BBC television interview on January 19, 1968, he told what his father had said to him, that—

> The King of Greece has to represent what is highest in his people, what is the best in his people, and by doing that, he can really do his job well.

I am glad that our own Ambassador to Greece, Henry Tasca, has finally called upon the King in Rome. I only wish that our administration had instructed him to do so earlier. Actually, at the time of his visit, I believe that he was the only Ambassador of the North Atlantic Treaty Organization member nations who had not called on the King.

In the future, I would hope that the administration would refurbish its ties with King Constantine and that there would be more close and official relations between him and our Government.

What King Constantine wishes to achieve is self-determination for the Greek people. I would hope that we would work hard toward that end.

THE FLOOD OF TEXTILE IMPORTS

Mr. TALMADGE. Mr. President, I invite the attention of the Senate to an excellent editorial published in the Macon Telegraph of July 30, 1971. The editorial deals with the laying off of 400 employees by J. P. Stevens & Co. at its Milledgeville, Ga., plant.

This is a matter of great concern to me. Only last Friday I brought this matter to the attention of the Senate, calling for positive, concrete action.

The flood of textile imports has added more people to the ranks of the unemployed. Last year 100,000 American jobs were lost as a result of foreign textile imports. When are we going to act to prevent this tragedy to American workers and the American economy?

I believe the time has come to put America and American industries first. Congress must act to draw the line on textile imports and give our people a fair chance to work and compete.

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:

CONGRESS SHOULD GIVE PROTECTION TO TEXTILES

The decision of J. P. Stevens and Co. to lay off 400 employes of its Milledgeville plant is, of course, bad news, but it is hardly surprising, viewing the current plight of the textile industry.

The company said the cutback was due to "consistently weak market conditions directly attributable to imports of foreign fabrics and apparel."

The textile industry is a major one in Middle Georgia. J. P. Stevens, Bibb Manufacturing Co., and smaller operations employ thousands of persons. When personnel must be released, the effect is felt not only by those directly affected but by the whole area. There is less money to spend, merchants sell fewer goods, and so on.

Other textile plants have had to curtail operations in recent months and some have reduced manpower, but the Stevens announcement is the most dramatic example so far of the industry's tribulations.

An overall economics slump that is felt across the nation must take part of the blame for the textile industry's troubles. But a more specific problem, and one we are more capable of solving, is the imports of woolen and man-made textiles from Japan.

President Nixon has rejected a Japanese textile industry offer to limit voluntarily exports to this country, viewing the offer as unsatisfactory. The same view of the Japanese offer was taken by Sen. Herman Talmadge, who called it "a sham." The Textile Workers Union of America at the same time said the Japanese proposal, invoking a 1970 base period, actually would allow the permissible level of exports to the U.S. to rise by 40 percent.

At the same time he rightly turned down the Japanese offer, the President said he would propose new legislation to roll back imports to their 1965 level. A similar measure passed the House last year but died in the Senate.

The need for the legislation has been demonstrated. Congress ought to waste no time passing it.

EXECUTIVE PRIVILEGE

Mr. ERVIN. Mr. President, on July 27, 1971, the Judiciary Subcommittee on Separation of Powers began a series of hearings upon the controversial subject of executive privilege. At the beginning of the hearings, I made an opening statement relating to this matter.

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

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

OPENING STATEMENT OF SENATOR SAM J. ERVIN, JR., CHAIRMAN, SUBCOMMITTEE ON SEPARATION OF POWERS OF THE COMMITTEE ON THE JUDICIARY, AT HEARINGS ON EXECUTIVE PRIVILEGE

The hearings the Subcommittee on Separation of Powers begin today concern the exercise of so-called "executive privilege"—a practice which touches the heart of the separation of powers doctrine.

The term "executive privilege" is most commonly used to refer to a situation where the executive branch of the government refuses to divulge information requested by the Congress. It is a term used more often by members of the legislative branch and by scholars than by the members of the executive branch who willfully withhold information. As I use the term, it refers to the withholding of any kind of information from any persons, be they members of the Congress, or members of the taxpaying public.

The Subcommittee has studied the subject of executive privilege for the past four years. However, the current in depth inquiry has attained special significance because of the recent controversy surrounding the publication of the so-called "Pentagon Papers" and the subsequent Supreme Court decision in the *New York Times* and *Washington Post* cases; that controversy brought the issue sharply into focus in the public mind, but did not trigger these hearings, which were scheduled well in advance of the furor arising out of the publication of the Pentagon study.

At issue in these hearings are conflicting principles: the alleged power of the president to withhold information, the disclosure of which he feels would impede the performance of his constitutional responsibilities; the power of the legislative branch to obtain information in order to legislate wisely and effectively; and the basic right of the tax-

paying public to know what the government is doing.

These opposing principles have clashed in virtually every administration since the legislative branch undertook an investigation of the St. Clair Expedition during George Washington's first term as President. Without questioning the propriety of the investigation, President Washington asserted:

First, that the House was an inquest, and therefore might institute inquiries. Second, that it might call for papers generally. Third, that the Executive ought to communicate such papers as the public good would permit and ought to refuse those, the disclosure of which would injure the public: consequently were to exercise a discretion. Fourth, that neither the committee nor House had a right to call on the Head of a Department, who and whose papers were under the President alone; but that the committee should instruct their chairman to move the House to address the President.

In spite of his contention that the Executive possessed the discretionary power—or duty—to refuse to communicate any information "the disclosure of which would injure the public," all of the St. Clair documents were turned over to the Congress.

There is ample precedent for the contention that Congress has the power to institute inquiries and exact evidence. "The power to legislate carries with it by implication ample authority to obtain information needed in the rightful exercise of that power and to employ compulsory process for the purpose . . ." *McGrain* v. *Daugherty* 278 U.S. 165 (1927).

Although the Constitution is silent with regard to the existence of executive privilege, its exercise is asserted to be an inherent power of the President. Its constitutional basis allegedly derives from the duty imposed upon the President under Article 2, § 3 to see that the laws are faithfully executed. The President claims the power on the ground that it is necessary in order to provide the Executive branch with the autonomy needed to discharge its duties properly. Inasmuch as the "President alone and unaided could not execute the laws . . ." but requires "the assistance of subordinates" (*Myers* v. *U.S.* 272 U.S. 117 (1926)), the alleged authority to exercise executive privilege has thereby been extended in practice to the entire Executive branch.

In theory, the release of information within the Executive branch is governed in part by Executive Order No. 10501, issued by President Eisenhower, and amended by him in Executive Order No. 10816, and by President Kennedy's Executive Order No. 10964. Essentially, these orders establish a system of security classifications which would restrict the release of information of defense matters that might cause injury or embarrassment to our National defense or our relations with foreign nations. Such orders are not authority to assert executive privilege, but they simply forbid or restrict disclosure of classified material.

President Kennedy attempted to end the practice of delegating to employees of the Executive branch the authority to claim executive privilege. In a letter to the House Foreign Operations and Government Information Subcommittee in 1962, he stated that the basic policy of his administration would be that "Executive privilege can be invoked only by the President and will not be used without specific Presidential approval." Presidents Johnson and Nixon have reaffirmed this policy of limiting the exercise of executive privilege to the sole discretion of the President. Thus, theoretically, procedures have been instituted in the Executive branch which would place the ultimate decision and responsibility for the exercise of the practice with the President. However, throughout my years in the Senate, I have learned that there is a great discrepancy between theory and practice.

The asserted doctrine of executive privilege has developed unrestrained. In the absence of any Congressional statutory authority or constitutional grant of the power, the will of the Executive has been substituted for legislation in the field, and Congress has been powerless in its attempts to compel the release of information from the Executive branch. Nor have the courts given any definite guidance on the issue, although the *Reynolds* [1] and *Curtiss-Wright* [2] cases do contain some dicta relating to the problem.

The assertion of "executive privilege", or the power to withhold information, written and spoken, from Congress and the public under the assumed "inherent executive power," must, I think, be viewed in the context of the slow but steady aggrandizement of power in the presidency throughout our history, a phenomenon which has been seriously and sensitively treated by numerous political and legal scholars. During recent years, the Subcommittee has focused its attention on several examples of this trend—the so-called "Philadelphia Plan," instituting quota hiring requirements on Federal contractors in clear contravention of the 1964 Civil Rights Act; the misuse of the pocket-veto power by the President; and Presidential impoundment of appropriated funds, to mention only three instances. The consequence of the increased potency of the Executive branch is that it is able to make the most crucial and portentous decisions without any system of formal "accountability" for the exercise of such powers. The net result has been a progressive erosion of the principle of the separation of governmental powers.

In all candor, we in the legislative branch must confess that the shifting of power to the Executive has resulted from our failure to assert our constitutional powers. Other than sporadic complaints by some Members and Committees of the Congress, we have done little to prevent the Executive from withholding information when, in its sole discretion, it determined that it was necessary—or politically desirable—to do so. Moreover, through the almost unlimited delegation of the power to the bureaucracy, Congress has actively encouraged the aggrandizement of Executive power. Finally the Executive branch has access to and availability to information which the Congress cannot possibly match, and further has asserted the discretionary authority to employ that data in performing its myriad tasks. The result is that, as Charles A. Horsky said in 1952, we have developed a "government of men, not of laws."

There is no express language in the Constitution permitting the exercise of executive privilege. Its development, as I have noted, must be ascribed to the practical truth that vacuums, be they in nature or in the governmental structure, will be filled. Where the Congress has failed to assert its rightful power, the Executive has stepped in and filled the vacuum.

However, the practice of executive privilege, it seems to me, is clearly in contravention of the basic principle that the free flow of ideas and information, and open and full disclosure of the governing process is essential to the operation of a free society. Throughout history rulers have invoked secrecy regarding their actions in order to enslave the citizenry. A government whose actions are completely visible to all of its citizens is a government which best protects the freedoms which the Founding Fathers attempted to embody in the Constitution.

Moreover, it is clear that the invocation of executive privilege is contrary to the spirit, if not the letter, of the Freedom of Information Act (5USC 552), which was passed by the Congress with the express purpose of expanding to the fullest practical extent the full disclosure to the public of the actions of the government. It also can be argued with some cogency that the practice contravenes the philosophical thrust of the 1952 Supreme Court case of *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 US 579 (1952), where the court invalidated President Truman's seizure of the steel mills by Executive Order. The several majority opinions in that case clearly indicate that Congress is a co-equal branch of the Government, and that its prerogatives may not be usurped or impeded by actions of the Executive branch. The refusal to make information available to the Congress when needed for its legislative functions is inimical to the power of the Congress to fulfill its legislative duties.

Beyond the penchant for maintaining secrecy through the invocation of executive privilege, there is a more generalized attempt to withhold information through the classification system, the infirmities of which were so clearly reflected in the recent furor over the Pentagon papers, and through the simple failure or refusal to disclose data which is of potential use or interest to the public in general. Through the use of the devices of secrecy, the government attains the power to "manage" the news and use it to manipulate public opinion. Such governmental power is not consonant with a nation of free man, and must be curtailed.

Additionally, when the people do not know what their government is doing, those who govern are not accountable for their actions—and accountability is basic to the democratic system. In effect, those who govern are insulated from the effects of their actions, and the populace is precluded from obtaining the knowledge that is necessary to control the actions of the government in the manner envisioned by the Founding Fathers.

Thus the exercise of the assumed power of executive privilege is of basic importance to our governmental system, and the ramifications of a growing policy of governmental secrecy is extremely dangerous to our freedoms.

The Subcommittee was mindful of these dangers when it initiated its study on the subject. We have found that our nation's history is replete with examples of congressional demands for information which have been countered with the invocation of executive privilege or some other bureaucratic excuse for withholding information. These examples have been amply documented in a number of excellent law review articles and in certain congressional publications; I shall not review them at this time. During the past month, however, I have requested every member of the Senate to supply the Subcommittee with examples of recent instances of executive withholding of information. The responses indicate that withholding is widespread and extends to the control of unclassified information as well as information withheld in the name of national security.

One such glaring example was submitted by Senator William V. Roth, who during his first term as a member of the House, conducted a survey of all Federal domestic assistance programs and compiled the information into an excellent compendium of simplified and consolidated guidelines, access requirements, and programs available for Federal assistance. Even though most departments and agencies responded quickly to his request for data, Senator Roth stated that he "met with much unexpected resistance . . . from the Departments of Agriculture and Health, Education, and Welfare." Although HEW never formally invoked executive privilege, the Department refused to comply with parts of his requests on the grounds, inter alia, that:

[1] 345 U.S. 1 (1953).

[2] 299 U.S. 304 (1936).

It would take too long to process the request.

That HEW programs and personnel change so rapidly that the information would be obsolete.

The Department of HEW has such vast broad authority in the implementation and evolution of its program that it is difficult to describe precisely each and every one.

After being frustrated in his efforts for nearly a year, Senator Roth was able to pry the information from HEW only after he received the assistance of the Bureau of the Budget.

As Chairman of the Subcommittee on Constitutional Rights, I have for some time attempted to secure information pertinent to our study of army surveillance and data bank programs which infringe on the privacy and First Amendment rights of citizens. While some of my requests for information and for the appearance of certain witnesses have been granted, the most important have been denied for the following reasons:

". . . we are precluded by consistent Executive branch policy from releasing to the public." (J. Fred Buzhardt, General Counsel, Department of Defense).

"Inappropriate to authorize the release of these documents." (Melvin Laird, Secretary of Defense).

"This information is solely for your use in conducting your inquiry." (R. Kenly Webster, Acting General Counsel, Department of Army).

"The records . . . cannot be obtained without an inordinate expenditure of time and effort." (R. Kenly Webster, Acting General Counsel, Department of Army).

"No useful purpose would be served by a public report on the materials . . ." (J. Fred Buzhardt, General Counsel, Department of Defense).

"*I* do not believe it appropriate that the general officers in question appear before your Subcommittee, but that any 'desired testimony' . . . should be furnished by *my* designated representative." (Emphasis added.) (Melvin Laird, Secretary of Defense).

Other indirect means of denying information consist of delaying tactics which continue for so long that the information, when submitted, is no longer pertinent, and of placing security classifications upon information supplied, thereby precluding any meaningful use of the data.

These practices reflect a certain contempt for congressional requests for information and an apparent disdain for the right of the American people to be informed fully about the operations of their government.

While the Executive branch must function in a manner assuring the candid participation of all those involved in the decision-making process, the elected representatives of the American people likewise must be fully informed in order to legislate intelligently.

Our system of government, in effect, is not a government of strictly separated powers, but a government based upon a concept of separate but balanced powers, divided along functional lines. For obvious reasons, such a system could not and does not operate in strict conformity to the underlying principle.

The Founding Fathers fully understood that governmental responsibility must be shared in order to make the whole fabric of government viable. Yet they knew that each branch must maintain a basic respect for the duties and prerogatives of the other branches and that such divisions are mandatory in order to avoid the undue accretion of power in any one branch of the Federal government.

As Madison, in the *Federalist No. 48* observed: "After discriminating, therefore, in theory, the several classes of power, as they may in their nature be legislative, executive, or judiciary, the next and most difficult task is to provide some practical security for each . . ."

However overlapping the functions of the three branches may be, and however imprecisely the system may seem to work the doctrine of separation of powers itself is based upon good and sound grounds and the ends it was designed to serve two hundred years ago are as important, if not more so, today as then.

Our discussion during these hearings will center on S. 1125, a bill introduced by Senator Fulbright which would amend title 5 of the United States Code with regard to executive privilege. The bill provides that an employee of the Executive branch "summoned or requested to testify or produce documents before Congress . . . who intends to exercise executive privilege as to the whole or any portion of the matter about which he was summoned, requested to testify, or produce documents, shall not refuse to appear on the grounds that he intends to assert executive privilege." The bill seeks to limit the assertion of Executive privilege and place the responsibility for invoking it directly on the President by stipulating that "[i]n no case shall an employee of the executive branch appearing before the Congress . . . assert executive privilege unless the employee presents . . . a statement signed personally by the President requiring that the employee assert executive privilege as to the testimony or document sought."

This bill offers a vehicle by which the Congress can examine the entire concept of executive privilege. We are fortunate to have Senator Fulbright with us today to give us the benefit of his views and insights into the provisions of S. 1125 and the scope of executive privilege in general. His testimony is drawn from his vast experience during many years of distinguished service in the Senate.

Perhaps this investigation of the implications of S. 1125 will afford the legislative and executive branches an opportunity to come together and find some common ground that will more clearly define the powers, duties, and prerogatives of the two branches in this sensitive area. We must be ever mindful of the necessity for cooperation between the Congress and the Executive if the government is to operate efficiently. That pressing requirement makes it mandatory that we seek and find an amicable settlement of the problems involved in the invocation of executive privilege to prevent Congress and the American people from knowing the details of executive actions. As Professor Arthur S. Miller, a consultant to the Subcommittee who is out of the country for the summer, wrote to remind me, Woodrow Wilson once observed that warfare between the legislative and the executive branches can be fatal. Hopefully these hearings can contribute to a satisfactory peace.

We are delighted to have the assistance of the Subcommittee's professional consultants, who have rendered great service to the Subcommittee during the past several years. I welcome Professors Philip B. Kurland, of the University of Chicago Law School, and Ralph K. Winter, Jr., of Yale Law School. Professors Arthur S. Miller, of the George Washington University National Law Center, and Alexander M. Bickel of Yale Law School, express their regrets that they cannot be present at these hearings.

The witnesses scheduled to participate are drawn from varied segments of public and private life, in order to provide a balance of opposing opinions.

"THE GI'S GENERAL" FROM MOBERLY, MO.

Mr. EAGLETON. Mr. President, with its June 30, 1971, issue, Farmland magazine began a series of articles on great Americans. This series of features will culminate with the observance of the Nation's bicentennial celebration in 1976. It is with pleasure and pride that I note that the first article in this series was devoted to the great 5-star general from Moberly, Mo., Omar Bradley.

In World War II, General Bradley served in Africa and later, under Generals Patton and Eisenhower, in Europe. In the closing period of the European war, General Bradley was ground commander of the largest force of troops ever amassed under the American flag. Throughout his distinguished life, General Bradley has manifested admirable qualities of leadership, courage, self-confidence, and compassion. As the Farmland article notes, General Bradley was popular among his men because of his "human quality and lack of put-on," because he truly tried to take care of and show interest in those serving under him.

In his book, "Crusade in Europe," General Eisenhower commended General Bradley for his "qualities of steadfastness, drive, professional skill, and a capacity for human understanding which became so obvious to his subordinates and his superiors alike that the American teamwork forged on the many battlefields of the Normandy beachhead was never thereafter seriously threatened."

Despite attaining the exalted position of being one of only nine 5-star generals in American history, General Bradley has never lost his compassionate respect for others and his sense of responsibility to his family, his community, and his country. As a Moberly, Mo., seventh grader wrote of him in 1962:

His plainness and his human touch have protected him from enemies that often destroy good men.

Mr. President, I ask unanimous consent that "The GI's General" as printed in the June 30 edition of Farmland magazine be inserted in the RECORD.

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

THE GI'S GENERAL

A man's destiny with greatness can hinge on little things—such as the price of a railroad ticket from Moberly, Mo., to St. Louis.

Back in 1911 this was an obstacle to young Omar Nelson Bradley's going to West Point. He felt the chances of passing the entrance test at St. Louis and being accepted at the academy were too slim to justify the expense. Though bright in high school, he had been out a year and was a bit rusty.

Had not the Wabash Railroad provided him a pass, Bradley probably would have gone on saving his money to go to the University of Missouri and study law. But he made it to St. Louis and joined another midwesterner at West Point by the name of Dwight Eisenhower.

Born Feb. 12, 1893 on a farm near Clark, Mo., (just 55 miles from the Laclede birthplace of another great American general, John J. Pershing) Bradley's fondest memories of childhood are of hunting and fishing with his father, described as a happy, if underpaid, schoolteacher who imparted to Omar his love of the outdoors.

John Bradley died when Omar was 14 and he and his mother moved to Moberly so he could go to high school and she could take in sewing. After graduation in 1910, he went to work in the Wabash shops to help his mother and save for college.

Omar was encouraged to consider West Point by his Campbellite Sunday School teacher who felt an Army career would sustain the young man's love of the outdoors.

At the Point, Bradley ranked 44th in the 1915 class of 164 that produced several World War II generals. He played football, hit .385 on the baseball team and rated sixth in conduct. The West Point yearbook's summation of Bradley's chief characteristic—"getting there"—was prophetic as German armies later would vouchsafe. The high school annual, too, had hit the mark with its one-word description of him: "Calculative."

Bradley spent most of World War I commanding a guard company in the copper mines of Butte, Mont. When the war ended, Bradley predicted another would erupt in 20 years or so and began preparing for it. Interview by Jules Loh of the Associated Press on his 78th birthday anniversary, the 5-star general had this to say on what World War II had meant to him.

"I certainly did not welcome war. That goes without saying. I would have preferred to have served out my years in a peacetime army and retired quietly as a colonel. Once war came, I welcomed the opportunity to do what I was trained to do and paid to do."

Bradley draws this distinction between military men and militarists: "Those who serve their country professionally, under civilian control, as opposed to those who put themselves in a separate caste above their government with a code of their own."

Bradley saw little glory in war. Shortly after World War II he spoke at a Memorial Day ceremony at the grave of a Medal of Honor winner. The script called for bravado, but Bradley said: "For every man in whom war has inspired sacrifice, courage and love, there are many more whom it has degraded, with brutality, callousness and greed."

In his book, "A Soldier's Story," he wrote: "War has neither the time nor the heart to concern itself with the dignity of man. Men must be subordinated to the effort that comes with fighting a war and as a consequence men must die that objectives be taken. For a commander the agony of war is not its dangers, deprivations or the fear of defeat but in the knowledge that with each new day men's lives must be spent to pay the costs of the day's objectives.

"Because war is as much a conflict of passion as it is of force, no commander can become a strategist until first he knows his men. Far from being a handicap to command, compassion is the measure of it. For unless one values the lives of soldiers and is tormented by their ordeals, he is unfit to command."

Before the invasion of France, despondency was sweeping American troops infected by talks that few would survive D-Day. In an off-the-cuff talk to them, Bradley called such fears "tommy-rot" and predicted casualties would be far less than expected. (They ranged to 10% of the attacking force.) Bradley's words got out, to his chagrin, and he considered firing the censor. But after the war Bradley met a GI's mother who told him how much his "tommyrot" speech had meant to her and others. "Let this be a footnote of justice to the censor," Bradley said.

His career is sprinkled with incidents that suggest why the GI's called him their general. He was least affected by position. While Ike had his jacket, Patton his jodphurs and MacArthur his hat, Bradley was content with GI issue. Later, when he headed the Veterans Administration, he forbade use of military titles in correspondence to discharged soldiers.

Those close to Bradley seldom knew him to raise his voice. "When your position is such that no one can answer back," he has said, "why shout."

Bradley's first combat action came in North Africa when he commanded a corps of four divisions and helped draw the noose on Axis forces at Bizerte and Tunis. Of this first experience in combat command, he later wrote:

"To command a corps toughness alone isn't enough. You must know your division commanders, thoroughly understand their problems, respect their judgment and be tolerant of their limitations. There are few distinguishing characteristics of a successful division commander. Success comes from a well-balanced combination of good judgment, self-confidence, leadership and boldness."

After Africa, Bradley served under Gen. George S. Patton in Sicily. While his philosophy of war differed sharply from Patton's, Bradley's respect for the storybook general was great.

"To George," Bradley wrote in his book, "the war was not so much an ordeal as it was fulfillment of a destiny to which he shaped his life. He believed war to be a chronic ailment of mankind, destined to pursue civilization to its grave . . . Since conflict was to be the inevitable lot of all mankind, George reasoned that man should resign himself to it and indeed welcome it as a manly challenge. Exhilarated by conflict, he found it inconceivable that men, other than cowards, should want no part of war."

Such a philosophy explains the "slapping incident" when Patton struck a soldier hospitalized with "nerves" in Sicily, accused him of cowardice and sent him back to the front.

The chief reason Bradley was popular with the troops was his human quality and lack of put-on. In contrast to Patton's glory view of war, Bradley considered it a "wretched debasement of all the thin pretensions of civilization. In the rear areas war may sometime assume the mask of an adventure. On the front it seldom lapses far from what General Sherman declared it to be."

Bradley's favorite soldier was the rifleman. "The rifleman," he said "trudges into battle knowing the statistics are stacked against his survival. He fights without promise of either reward or relief. Behind every river, there's another hill—and behind that hill, another river. After weeks or months in the line only a wound can offer him the comfort of safety, shelter and a bed. Those who are left to fight, fight on, evading death but knowing that with each day of evasion they have exhausted one more chance of survival. Sooner or later, unless victory comes, the chase must end on the litter or in the grave."

When the Allies got bogged down on the Western Front after the Normandy breakout, Bradley saw his casualties in a 5-week period reach 64,000. Obtaining replacements became difficult as the War in the Pacific demanded its share of America's young men.

An underling proposed to Bradley that the term "replacement" be changed to specialist to avoid the cannon fodder connotation and improve morale among those waiting to go to the front. Bradley would have no part of the word game.

"The remedy for improving morale among replacements," he said, "lies not in changing the name but in taking every possible step to see that they are properly taken care of and that they get the feeling someone is interested in their welfare."

There was a time, however, when the slow-to-anger Bradley was ready to quit and go home. It came after the German counter-attack that developed into the Battle of the Bulge. For tactical reasons Eisenhower shifted two American armies from Bradley's command to the British General Montgomery. Bradley and Monty had had equal billing under Ike, Monty commanding British and Canadian forces on the northern prong and Bradley the American on the southern thrust.

When Monty exploited the situation to flatter his ego at Bradley's expense, the Missourian told Ike that unless the American troops were returned to his command, once the German drive was blunted, that he would resign. Bradley believed that if he were to become subordinate to Monty—when the Americans had far more troops in the field than the British—his effectiveness would be impaired. The troops of General Hodges and Simpson were returned to Bradley by Ike with the bitter comment: "Well—I thought you were the one person I could count on for doing anything I asked you to."

But of his choice of Bradley to lead the American armies in Europe, Ike would later say in his book, "Crusade in Europe":

"General Bradley displayed qualities of steadfastness, drive, professional skill, and a capacity for human understanding which became so obvious to his subordinates and his superiors alike that the American teamwork forged on the many battlefields of the Normandy beachhead was never thereafter seriously threatened."

In the closing days of the European war, the allies had to decide whether to go for Berlin or choose other targets. The nature of Berlin's occupation already had been decided by the Four Powers and Bradley advised Ike against racing the Russians for the capital. He predicted it would mean an additional 100,000 casualties, a price too great for a prize they could not keep.

With the allies to be dependent on Russian good will for access to Berlin, Bradley had misgivings. He had learned as a farm boy in Missouri that "dependence did not make for good neighbors."

America honors its 5-star officers (there have been only nine) with active duty status while permitting them to pursue their own interests. Bradley is chairman of the Bulova Watch Company, highly interested in a North Dakota Indian work project financed by Bulova, and now lives in Beverly Hills, Calif., with his second wife. His first wife died in 1965. A daughter lives in the Washington area.

In the Jules Loh interview, Bradley expressed thoughts on youth today and the problems of modern living.

"My boyhood experience gave me a sense of responsibility," he said. "If I didn't cut firewood we didn't have firewood. If I didn't clean the lamps, we didn't have clean lamps. One trouble with modern living is that children don't have the opportunity. The furnace goes on automatically and you flip a switch to get light. If a child doesn't learn responsibility by having responsibility, first of all to his own family, how will he ever develop a sense of responsibility to his community and country?"

But Bradley doesn't brand technology as a villain. Machines, he says, have expanded human opportunities and he sees "no reason people should worry about losing their individuality."

Bradley returned to Moberly in May of 1971 to visit the wooded hills where he once hunted with his father and to commemorate a Boy Scout trail named for him.

Farmland visited him there and asked if it worried him that the shrinking number of farms meant fewer boys were getting the chance to experience an outdoors upbringing such as he had enjoyed. Standing under the trees and appearing fit enough to hike the 15-mile Scout trail, Bradley spoke of machinery and technology. They've got equipment now, he noted, that eliminates the need for a lot of people on farms, and this is a fact we must accept. Then, too, others have gone to cities as a matter of choice, "and this is their right."

As for the rash of criticism of the Army today, Bradley said this was nothing new. "The only time the Army is appreciated," he said, is when it is called on to correct the mistake made by our diplomats and politicians."

Those who know him best say Bradley's success represents the triumph of simple, absolute honesty and good will. He has never

lost faith in his belief in America's qualities or in the teachings of that Sunday School teacher, John Crewson, who set him the course to West Point.

Of all that's been said and written of Omar Nielson Bradley, perhaps a paragraph from an essay penned in 1962 by a Moberly seventh grader, Debbie Shirvin, sums it up best:

"He was a Missouri boy from our very own community. His rise to military fame was spectacular, even in our country of great opportunities. His plainness and his human touch have protected him from enemies that often destroy good men."

MILITARY ASSISTANCE FOR ISRAEL

Mr. MUSKIE. Mr. President, last week Assistant Secretary of State Joseph Sisco arrived in Israel for consultations with the Israeli Government on the Middle East situation. The political stalemate in that part of the world has now reached a critical stage. Frustrations are growing on both sides, and in a situation of such great tension there is always the possibility of another tragic conflict.

Since the founding of Israel, our foreign policy with respect to the Arab-Israeli conflict has rested on two fundamental positions: First, there is our commitment to Israel's survival. We have stood unalterably opposed to the position that the Arabs took for many years that Israel has no right to exist. This position persists even today in the political rhetoric of the Arab world—despite three costly wars which have served only to divert the efforts of the Middle Eastern peoples from more urgent tasks of national development.

Second—and partly as a means of implementing our basic goal of protecting Israel's security—we have attempted to preserve a balance of power in the Middle East. We have hoped thereby to deter the war in the area and preserve stability in a situation of high tension and great emotion. At the same time, we have also tried to do everything possible to prevent a senseless and dangerous arms race between Israel and her Arab neighbors.

For some time, Israel has been requesting from the United States additional shipments of Phantom jet fighter-bombers. Our Government has not fulfilled this latest request, apparently on the assumption that such actions might render a political settlement more difficult.

In view of recent evidence of increased Soviet shipments of fighter aircraft to Egypt and Syria, I do not agree with the administration's apparent position that delivery of Phantom jets to Israel must still be delayed. Two weeks ago it was reported in the New York Times that U.S. intelligence specialists had revealed that since last September the Soviet Union had shipped nearly 100 Mig–21's to Egypt, including eight delivered in June. This total was said to compare with only 90 Mig–21's delivered to Egypt from the end of the 1967 war to the middle of 1970.

Moreover, it was reported that Syria had received from the Soviet Union in the last 3 months 21 all-weather Mig–21 fighters, probably of the latest model, nine older-model Mig–17's, five Sukhoi–7 fighter-bombers, and 22 MI–8 helicopters. Especially significant are the high number of the most up-to-date Mig–21's and the first known delivery of the big MI–8 helicopters, which are designed to carry combat troops. These deliveries have apparently resulted from the Syrian-Soviet military pact signed last February.

I wish to express my own view in the strongest possible terms that Israel must have the arms she needs to defend herself and to maintain a balance of power with her adversaries. I hope that we will respond positively to the Israeli request for more assistance. We are committed to Israel's survival, and we are pledged to maintain a balance of military power in the Middle East. By either measure, it is imperative that we delay no longer in shipping the additional aircraft she requires.

We all pray for a political settlement in the Middle East that will leave Israel secure and will permit our friends in the Arab world to turn to the great task of national development. But prospects for a political settlement are surely not advanced by a military balance that shifts dangerously in favor of the Arabs. Neither are these prospects increased by a zigzag diplomacy on the part of the United States which, on the theory of gaining political leverage over Israel by delaying needed military assistance, serves only to raise doubts among all parties to the conflict that the United States is truly committed to preserving Israel's security. Such doubts will encourage the Arabs not to negotiate seriously with Israel, and make Israel more reluctant to negotiate territorial questions bearing upon her security.

Now is the time to reemphasize our commitment to Israel's security, and to restore the balance of power in the Middle East as the best means of furthering the goal of a negotiated settlement.

EXPERIMENT IN EARLY CHILDHOOD DEVELOPMENT

Mr. MONDALE. Mr. President, a fascinating article appeared in the July 1971, issue of American Education regarding an experiment in early childhood development done by the University of Wisconsin.

After extensive surveys, the team of educator-scholars observed that mentally retarded mothers create a social environment for their offspring that is distinctly different from that created by mothers of normal intelligence.

For the last 4 years some 40 mentally retarded mothers have taken part in the Infant Education Center project with their newborn children. When offered this opportunity, the mothers quickly seized it.

In this project, now in its 5th year, children from the Milwaukee slums, whose parents were both poor and illerate, have excelled as a result of the specialized treatment. Many of the children, whose mothers had IQ's of 70 points have achieved intelligence quotients as high as 135.

Mr. President, I think this is an extremely encouraging report. Since the Senate will soon be considering proposed legislation—which I introduced with Senator JAVITS, Senator NELSON, and Senator SCHWEIKER and 28 cosponsors, and whose major provisions are included in S. 2007, recently reported by the Committee on Labor and Public Welfare—dealing with the need for early childhood development, I respectfully request that the entire text of the American Education article be printed in the RECORD at the close of my remarks.

Mr. President, in the Washington Post of July 12, William Raspberry reviewed the article and its implications in a sensitive column. The Milwaukee Journal of July 12 included a similar review.

I ask unanimous consent that the excellent articles by Mr. William Raspberry, of the Washington Post, and Cynthia Williams, of the Milwaukee Journal, be printed in the RECORD.

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

[From the Washington Post, July 12, 1971]

FIRST HURDLE IS MONEY

(By William Raspberry)

Rick Heber, professor of education and child psychology at the University of Wisconsin, has demonstrated that it is possible to prevent the intellectual crippling that is the curse of slum children.

But there are two huge hurdles between proving that it can be done and actually doing it.

Heber used highly trained specialists and a very small pupil to teacher ratio—1 to 1 for the first two years and never more than 11 to 1. He also had ample supplies and equipment. The first and obvious hurdle, then, is money.

The second hurdle stems from the fact that although Heber's youngsters showed near-miraculous advances in IQ scores, the results depend on intervention at a very early age. (Heber's enrollees included 40 mothers and their *newborn* children.)

This is well before the state traditionally has intervened with compulsory education laws, and three to four years earlier than even such preschool programs as Project Head Start.

Furthermore, as Heber discovered, such retardation—even in the slums—is not randomly distributed but tends to occur in children whose mothers are of low intelligence. (This, he found, is not because of genetics but because low-IQ mothers fail to provide a stimulating environment for their offspring.)

In any case, any effort to prevent the most predictable retardation has to involve the mothers, who are themselves backward, which is to say mothers who may not know what is best for their children.

So having made the discovery that much intellectual retardation is both predictable and preventable, what do we do? Do we give the state the authority to force mothers to enroll their infant children in special preschool classes? Do we force mothers themselves to take the kind of training that will help them to provide a proper home environment?

The questions are important because intervention of the sort that is working so successfully in Milwaukee entails intrusion of a sort that Americans are disposed to resist. In addition, any such intervention attempted on a large scale would be certain to provoke shouts that the government was trying to brainwash and standardize innocent black children.

It is easy enough to dismiss such objections as charlatanism. But would it be as easy to persuade large numbers of ghetto parents to let their infant children be set apart for special treatment?

When Heber approached mothers of newborn children about participating in his Infant Education Center Project, they eagerly seized the opportunity. This may mean that ghetto mothers across the country would also be enthusiastic participants. Or it may mean only that a group of Milwaukee mothers had a good deal of confidence in a certain professor from the University of Wisconsin.

But even assuming the willingness of most parents, where would the money come from?

To begin with, there is virtually no chance that there will ever be enough money to give every slum child his own teacher.

But it isn't unreasonable to suppose that some things could be done to compensate for the stultifying home environment that condemns so many slum youngsters to a severe limitation of mental development.

If you care to dream a little, it might be that substantial parts of Heber's early education program could become an adjunct to the President's Family Assistance Plan.

Since Congress seems determined to write a work/training requirement into the legislation, something will have to be done with the children while mothers are on the job or in training.

This obviously entails day-care centers of some sort. Now if, instead of centers that are little more than storage bins, the government would finance well staffed, well equipped centers capable of supplying the intellectual stimulation that Heber found missing in many ghetto homes . . .

But that's almost too much to hope.

What is far more likely to that low-income families will go right on producing more than their share of functional retardates, even though Prof. Heber has told us that it doesn't have to be that way.

[From the Milwaukee Journal]

STUDY MIGHT PROVE POVERTY AFFECTS IQ'S

(By Cynthia Williams)

The Milwaukee Project, a five-year study of infant education, has recently presented data indicating that the children of the illiterate poor are not inherently inferior intellectually to other children.

The project team reported that children from Milwaukee's inner city consistently scored high on a variety of tests administered from infancy through their fourth year.

During this period, the youngsters' intelligence quotients jumped by more than 50%, with some of them achieving as high as 135.

LEARN FROM BIRTH

The study provided evidence that children start learning virtually from birth, according to F. Rick Heber, director of the project and professor of education and psychology at the University of Wisconsin. Heber also reported that if the educational process was begun soon enough, it could prevent or reduce retardation caused by a child's environment.

For the last four years about 40 mothers with IQs less than 70, with their newborn children, have voluntarily participated in the Milwaukee Project's Infant Education Center. Normal IQs range from about 90 to 110.

The newborn babies were put into two groups—two-thirds of them in the experimental program and one-third in a control group. Initially, the project workers, who consisted of psychologists, sociologists and teachers from the University of Wisconsin and others, worked on a one-to-one basis with the children.

TOGETHER IN GROUPS

As the children grew older, they were brought together in small groups, then in larger groups.

For six hours a day, five days a week, the children attend "stimulation" centers where they are cared for, talked to, read to, played with and taught numerical concepts and words.

"When the children in the experimental group reached 19 to 25 months of age, their vocabulary production began to accelerate rapidly," reported the July issue of "American Education."

"For those in the control group, vocabulary production did not begin in any instance until the child was 28 months old, and a number of the control group children still could not speak at that age," the magazine reported.

STARTED IN 1964

Heber and his team of researchers in 1964 began a series of surveys designed to learn more about the relationship of poverty to mental retardation.

In these first surveys they found that a mother's IQ was the most reliable single indicator of the level and character of a child's intellectual development.

The survey data showed that the lower the mother's IQ, the greater the possibility of the children's scoring low on intelligence tests.

From this and other information the researchers surmised that the unusually high concentration of mental retardation in the slum was not caused merely by the slum environment, but by the retarded parent living in that environment.

DIFFERENT ENVIRONMENT

After repeated visits with hundreds of families, the researchers found "that the mentally retarded mother creates a social environment for her offspring that is distinctly different from that created by her neighbor of normal intelligence level."

Under the direction of the university and supported by a grant from the Social and Rehabilitation Service of the Department of Health, Education, and Welfare, Heber established the Infant Education Center at 2014 W. North Ave. The surveys were conducted in the surrounding area.

"Knowing that only children of mothers with IQs less than 80 show a progressive decline in mean intelligence as they grow older, the Wisconsin group decided to focus their attention and their efforts on such youngsters," the magazine said.

PREVENTION SOUGHT

"They wanted to work with children who, according to the record, were virtually certain to show characteristics of mental retardation as they grew older."

"The challenge was to see whether intellectual deficiency might be prevented—as opposed to cured or remedied later—by introducing an array of positive factors in the children's early life, displacing factors that appeared to be negative or adverse."

CAN SLUM CHILDREN LEARN?

(By Stephen P. Strickland)

Disadvantaged children may be capable of educational achievements far beyond anything heretofore imagined if a remarkable project in Milwaukee is the guide it clearly seems to be.

In the project, now in its fifth year, children from poor, illiterate parents living in the city's most depressed section have shown sustained high performance on a variety of tests administered from infancy through their fourth year. During that period the youngsters' intelligence quotients jumped by better than 50 percent, with some of them achieving as high as 135.

This and other evidence gathered during the project seems to demonstrate that while early environmental circumstances have a powerful impact on a child's intellectual growth, the slum environment in and of itself does not necessarily form a lifetime trap for the disadvantaged.

Taken alone, that finding may not seem novel—although convictions about the success of various educational "intervention strategies" sometimes have appeared to be based more on hope and sympathy than on scientific evidence. The Milwaukee Project provides hard data to support the belief that, under the right circumstances, intervention can be successful even in the most difficult situations. Beyond that, the project suggests that some factors affecting learning capability and intelligence quotients which at first glance could be interpreted as matters of inheritance are instead matters of environment.

The implication of the latter finding is one of the things that makes the Milwaukee Project important. In fact, the project's implications relate to several educational concerns from compensatory education to mental retardation. Broadly, they justify our paying greater attention to the availability, the kind, and the quality of education programs for the very young child.

The Milwaukee Project was launched in 1964 when a multidisciplinary team from the University of Wisconsin under the direction of Rick Heber, Professor of Education and Child Psychology, began a series of surveys designed to learn more about the relationship of poverty to mental retardation. The team included professionals from the fields of psychology, psychiatry, Sociology, and speech therapy as well as education.

The Wisconsin group knew that by some estimates more than six million persons in the United States are considered to be mentally retarded and that, although the great majority of them have no identifiable pathology of the nervous system, all have exceptionally low I.Q.'s and are functionally if not physiologically retarded. They also knew that mentally retarded persons are found in particularly large numbers among the populations of economically distressed urban and rural areas. What had not been documented was a view that was nevertheless gaining increasing acceptance: that the retardation so frequently encountered in the slum was produced by the overall environment characteristically found there—a combination of ignorance, illiteracy, malnutrition, and economic, mental and psychological depression.

That view overlooked two rather obvious facts: by far the great majority of disadvantaged persons living in slum areas are not retarded, and the majority of children reared by economically disadvantaged families develop and learn in a relatively normal fashion. These facts suggested that the heavy concentrations of mentally retarded persons in slum areas were related to certain specific factors rather than the general environment, and the Wisconsin group set out to find them.

The area selected for the surveys was that residential section of Milwaukee which, according to census data had the lowest median family income, the greatest population density per housing unit, and the most dilapidated housing in the city. It was, in short, a classic urban slum. And predictably, it yielded a much higher rate of mental retardation among school children than any other area of the city.

The first survey was conducted in 1964, with all families in the area whose children included a newborn child being invited to participate. The most important finding to emerge from that initial study was that maternal intelligence was the most reliable single indicator of the level and character of intellectual development of the children. Although mothers with an I.Q. below 80 made up less than half the total group of mothers in the study, they accounted for about four-fifths of the children with I.Q.'s below 80. The survey data further showed that the lower the mothers' I.Q., the greater the possibility of their children's scoring low on intelligence tests.

Fathers were not valuated in the first survey. In a second survey, focused on 519 new-

born infants in the area, intelligence tests were given to fathers, mothers, and children over two years of age. While the results showed that the father's intelligence level tended to be strikingly close to that of the mother, members of the team felt that the constant proximity of infant and mother and the fact that often the father did not reside in the home made maternal I.Q. a more dependable gauge.

As a result of their surveys and analysis, the University of Wisconsin group became convinced that the exceptional prevalence of mental retardation in the slums of American cities is not randomly distributed or randomly caused. Rather, it is concentrated within individual families that can be identified on the basis of maternal intelligence. In other words, the reason for the unusually high concentration of mental retardation in slum areas is not the slum environment generally, but the retarded parent residing in that environment.

Examined superficially, the population survey data from the Milwaukee study could be taken as suggestive evidence that "cultural-familial" mental retardation is more a matter of heredity than of environment. But what the team of educator-scholars actually observed in their repeated visits with hundreds of families was that the mentally retarded mother creates a social environment for her offspring that is distinctly different from that created by her neighbor of normal intelligence level.

Challenged by that observation, Heber and his associates determined to discover whether the kind of retardation that perpetuates itself from parent to child in the slum-dwelling family could be prevented, and if so, how.

Under the auspices of the university and with grant support from the Social and Rehabilitation Service of the U.S. Department of Health, Education, and Welfare, the multidisciplinary team established an Infant Education Center in 1966 in the area where their surveys had been conducted. Knowing that only children of mothers with I.Q.'s less than 80 show a progressive decline in mean intelligence as they grow older, the Wisconsin group decided to focus their attention and their efforts on such youngsters. They wanted to work with children who, according to the record, were virtually certain to show characteristics of mental retardation as they grew older.

The challenge was to see whether intellectual deficiency might be prevented—as opposed to cured or remediated later—by introducing an array of positive factors in the children's early life, displacing factors that appeared to be negative or adverse. The Wisconsin team knew that any sound conclusions would have to be based on data developed over a period of years and for a relatively stable population group.

The teachers in the Milwaukee Project are both men and women and come from many different backgrounds. Not all of them are teachers by training. Indeed, not all of them have college degrees. They are chosen by the project directors from many applicants on the basis of personal interviews as well as comprehensive written information. What is sought is an ability for sensitive interaction with infants and small children and an ability to work within a system of special instruction that is both structured and flexible, requiring both discipline and initiative. Each teacher undergoes eight months of training before beginning work at the Infant Education Center. At present, six of the nine teachers teaching the two-to-four-year-olds have been with the program from its early days.

In the last four years some 40 mothers with I.Q.'s of less than 70 have, with their newborn children, participated in the Infant Education Center Project. When asked if they wished to have their children take part in such a program, all mothers who were offered the opportunity seized it quickly. The newborn babies of these mothers were divided into two groups, with two-thirds of them being placed in the experimental program and the remaining one-third in a control group. Beginning in the first few weeks of life, the project team launched a comprehensive "intervention" into the lives of those infants in the experimental program.

Shortly after the mother returned from the hospital, teachers began visiting the home for several hours each day, focusing most of their attention on the baby. Some weeks later, as soon as the mother and the teacher together decided that the time was right, mother and child joined programs at the Infant Education Center. The infant child, usually three to four months old, was exposed to mental stimulation of a wide variety for several hours each day under a one-to-one ratio with trained adults. Meanwhile the mother was encouraged—but not required—to take part in a center program designed to teach her improved homemaking and baby-care techniques and in some cases to provide basic occupational training.

The oldest children are now moving toward their fifth birthdays. For the last four-and-a-half years they have been picked up early each morning at their homes and brought to the Infant Education Center. Each child in the school has his own teacher until he is 24 months old. At that point small group learning begins with two-year-olds being placed in a class with five other youngsters. When the children are three years old, the size of the class is increased to eight; when they are four, it's increased to 11. Throughout, three teachers are assigned to each class. This formula enables every teacher to specialize in a given area—reading, language development and expression, or mathematics—while providing a constant relationsip between each child and several adults and constant relationship among the children.

ACTIVITIES ARE STRUCTURED

The education program is made up of a series of activities including important aspects of sensory and language stimulation. These activities are precisely structured, though the setting is arranged to encourage flexibility and initiative by both the infant and the teacher.

The schedule during four days of each week is firmly set for the children two years old and older. They arrive at the center by 9:00 a.m., and after they are given breakfast, they begin their classes at 9:30. Each of the three teachers engages a third of the pupils in learning activities in his or her special area, using both standard equipment and techniques, materials, and methods that have been developed at the center. For example, the Peabody Language Development Kit for primary level is used for children two, three, and four years old in their afternoon group language class. In the more individualized morning language class, the teacher usually uses equipment and methods developed over the last several years by Heber and his colleagues, and she may occasionally adapt variations from standard methods and equipment for particular purposes.

In his language class, which lasts a half hour, a child is guided by the teacher for 20 minutes of stimulatory exercises; in the remaining 10 minutes he may use the equipment or materials or continue in any way he wishes the activity the teacher began. His second class, also of a half-hour's duration, is likewise divided into 20 minutes of structured activity and 10 minutes of unstructured continuation of that activity. After a half-hour of free play, a third half-hour class brings the children to 11:30, when they decide whether they wish to watch "Sesame Street" on television—which the Milwaukee Project professionals rate highly—or to continue one of the activities begun previously that morning.

After lunch and a nap, there are two additional classes in the afternoon, once more of a half-hour each. For these two classes, each age group is divided into two sections with one teacher working with three to six children. The group language class emphasizes communication and problem-solving. The teacher might ask, for example, "What if you woke up in the morning and could find only one shoe?" The point is to stir the children's imaginations and encourage free verbalization of thought.

A second teacher engages her section in lessons on topics that vary from week to week and include science, art, and music. As in the morning classes, there are 20 minutes of structured activity and 10 minutes of free use of equipment or free exploration of topics introduced earlier. Meanwhile, the third teacher uses this period to work individually with any child needing special help in any subject.

Both the morning and afternoon class groupings are based on a combination of ability and behavior. Hence there is, once more, flexibility within the structure. A child may have his language class at 9:30 on some days and at 11 on other days. For children less than two years old, the day's activities are not as structured as they are for the older youngsters. And on Fridays, the day is less structured for all the children, often allowing for such special occasions as field trips.

The program for mothers continues after the children have begun their classes at the center. Following the initial emphasis on child care and homemaking, the program offers opportunities for vocational training and has assisted a number of mothers to secure steady employment for the first time. The center does not employ any of the mothers but supports an active parents organization in which the majority of them participate.

From the very beginning of their participation in the infant education program the youngsters have been tested as well as taught. At given intervals a number of experimental measures of learning and performance—in language development and motor skills, among other areas—have been applied and standardized tests of intelligence and intellectual development administered.

DIFFERENCES IN PERFORMANCES

Starting when they were 18 months old and continuing at six-week intervals thereafter, the children have been given a series of language performance tests, including both "free speech samples" (recordings of their conversations made at random intervals) and formal language tests. Over a period of three years, striking differences have developed in the performances of children in the experimental group and those in the control group. When the children in the experimental group reached 19 to 25 months of age, their vocabulary production began to accelerate rapidly. For those in the control group, vocabulary production did not begin in any instance until the child was 28 months old, and a number of the control group children still could not speak at that age.

An interesting phenomenon the University of Wisconsin team observed was that at approximately 28 months the children in the experimental group seemed to reach a vocabulary plateau lasting for one to two months. At that stage, as the children began to concentrate on grammatical structure, they produced fewer new words. Three or four months later, however, the children in the active program were able to express themselves in full sentences, some relatively complex, while most of the children in the control group were for the most part still producing unconnected words.

The children in the active stimulation program advanced rapidly not only in expression but in comprehension as well. A test given first at 36 months and thereafter at

three-month intervals measured the children's comprehension of 16 different grammatical features or rules of the English language. At every point, the children in the experimental group showed significantly superior performance.

Indeed, on a whole range of tests—from simple matching and sorting to comprehension and motor skills to tests of intellectual development and intelligence quotient—the children who have been exposed since infancy to the daily routine of mental stimulation have shown remarkable development in contrast with the children in the control group. This holds true even when the performance of the experimental group is measured against the norms established by age peers generally.

Naturally it was hoped and expected that the concentrated, carefully constructed program of stimulation of which one group of children was to be exposed would result in some noticeable differences. But the original specific goal was to test ways of preventing decline in intellectual development in children for whom such decline was predictable on a variety of grounds. What was not anticipated by Heber and his colleagues was the marked acceleration in a range of intellectual skills that has in fact occurred over the last four years on the part of the children in the experimental program.

Those differences are dramatized in the finding that at 42 months of age, the children in the active stimulation program, measured an average of 33 I.Q. points higher than the children in the control group, with some of them registering I.Q.'s as high as 135. Equally remarkable, the children in the experimental program are learning at a rate that is in excess of the norm for their age peers generally.

The results of four years of effort and analysis that have gone into the Milwaukee Project obviously are extremely promising. The professional educators, social scientists, and teachers involved are nevertheless cautious in their interpretation of those results. For one thing, they want to collect and analyze data on the children participating in the project for another two years or more.

Further, the children have doubtless become "test wise," and the project team would like more time to assess the possible effect of this kind of sophistication. Nevertheless, the children in the control group have been tested as often as those in the experimental program, and so the difference in their performances obviously results from differences in their educational environment.

Whatever their caution, members of the University of Wisconsin group do say that, as far as they know, the intellectual stimulation and training given the children in the Milwaukee Project have been more comprehensive and intensive than that to which any comparable groups of infants have ever been exposed. In the course of their efforts, members of the team have developed particular techniques—especially in the area of verbal skill development and reading comprehension—that seem to have affected the progress of the children, though team members are reluctant to suggest that those techniques and approaches are unique or even completely novel. They are, in any case, planning a series of instructional materials based on their research and teaching experience in infant education.

Despite the scientific caution and personal modesty of the Wisconsin group, their excitement at the possibilities they have developed shows through.

"We have seen a capacity for learning on the part of extremely young children that previously I would not have believed possible," says Heber. "While the results are by no means fully conclusive and must continue to be tested, the least that I am willing to say is that it is difficult to conceive of the children in the experimental program ever falling back to the level of their age peers in the lagging control group."

In any case, the trend of the data being developed in the Milwaukee Project engenders real hope that mental retardation of the kind that occurs in children whose parents are poor and of poor ability can be prevented. If the effort is begun early and remains constant in the early years, even very serious kinds of mental and intellectual disadvantage can possibly be forestalled.

ENDORSEMENT OF COMPREHENSIVE CHILD DEVELOPMENT BILL

Mr. MONDALE. Mr. President, recently the Day Care and Child Development Council of America met in Washington and reviewed pending legislation in the area of developmental day care.

I am delighted to learn that they endorsed the day care provisions in S. 2007—which reflect the major provisions in S. 1512, the Comprehensive Child Development Act of 1971, which I introduced with the Senator from New York (Mr. JAVITS), the Senator from Wisconsin (Mr. NELSON), the Senator from Pennsylvania (Mr. SCHWEIKER), and 29 cosponsors early this year.

In order that the views of this organization of persons experienced in early childhood efforts be available to all of us considering legislation in this field, I ask unanimous consent that the complete statement of the Day Care and Child Development Council of America be printed in the RECORD.

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

COUNCIL ACTS ON PENDING LEGISLATION

Attached is a statement of the Day Care and Child Development Council of America Executive Committee on pending legislation.

The Child Development Title of the Economic Opportunity Amendments of 1971 (S. 2007, formerly the Mondale Bill) may reach the Senate floor the week beginning August 2. Two areas of the bill may be vulnerable to amendment.

(a) *Prime Sponsor Eligibility.* In the bill reported out of Committee, preference for funding goes to localities or combinations of localities if they have the capacities to (1) spend on administrative overhead no more than 5 percent of their allotment and (2) arrange linkages with appropriate health, education, and social service programs.

An attempt is expected to substitute a population requirement for prime sponsorship such that the state's role would be enhanced and expanded.

(b) *Income Eligibility.* The bill now provides for free child care services for families with incomes below the Bureau of Labor Statistics lower living standard for an urban family of four—now $6,900.

The Administration reportedly favors a cut-off at the present income figure—$3,900.

The $6,900 has been praised as a significant step toward universal child care!

The Council supports the provisions of S. 2007. Key differences between S. 2007 and H.R. 6748, sponsored in the House of Representatives by Rep. Brademas and others, now are:

1. *Prime Sponsorship.* S. 2007 described above.

H.R. 6748 designates cities of 100,000 or more population and states as being in line for prime sponsorship.

2. *Authorization.* H.R. 6748 calls for "such sums as may be necessary." The Administration wishes no new sums. S. 2007 provides for $2 billion in the first operational year. DCCDCA sees the $2 billion as inadequate.

3. *Head Start Sponsor Protection.* Within the structure of the present H.R. 6748, no Head Start program sponsors should be terminated without a recommendation from Local Policy Councils and a hearing before the Child Development Council.

4. *Project Policy Committees.* Absent from H.R. 6748 is a provision for Project Policy Committees with approval responsibility over basic goals, policies and procedures for the project applicant, including policies with respect to planning, personnel, budgeting, location of centers and facilities, and evaluation of projects.

Both Houses of Congress will probably be in session through August 6. Some decisions regarding the above may be made before then.

TOWARD UNIVERSAL CHILD CARE: A POSITION ON CURRENT LEGISLATIVE OPTIONS

(Adopted by the Executive Committee of the Day Care and Child Development Council of America, Inc., July 26, 1971)

The Executive Committee of the Day Care and Child Development Council of America, Inc., following a two day conference of concerned day care participants which explored all aspects of pending day care legislation (S. 2007, H.R. 6748, S. 2003, H.R. 1) and the delivery mechanisms included in each, has chosen the bill sponsored by Senator Mondale as that representing the package that comes closest to the DCCDCA Statement of Principles. The Council had previously been on record in opposition to some central points of H.R. 1 (Welfare Reform) and S. 2003 (Long Bill) as they appeared in earlier versions.

BILL REFLECTS "STATEMENT OF PRINCIPLES"

The Council believes that S. 2007, now incorporated as part of the Economic Opportunity Act extension, lays the framework for a coordinated network of child care and development service which—

Are available to children of all ages from conception through youth, to families from every kind of economic and social background and to every community with priority to those whose need is greatest;

Are available through a wide variety of different types of programs and during all of the hours of the day and time of the year that children, families and communities need them;

Have the full range of components required to promote the intellectual, emotional, social and physical growth of the children they serve;

Insure parents a decisive policy role in the planning, operation and evaluation of programs which determine the environment in which their children live;

Place the major responsibility for planning and operating child care and development services at the local level;

Reflect and build on the culture and language of children, families and communities being served and enhance the distinctive features of the child's culture.

PROGRAMS WILL BE DEVELOPMENTAL

Under the mandates of this bill, child care programs must be developmental. They must include a broad range of educational, health, social service, and nutritional elements.

FRAMEWORK LAID FOR UNIVERSAL SERVICES; PRIORITY GIVEN THOSE WITH GREATEST NEED; INCOME ELIGIBILITY IS ACCEPTABLE

The bill lays the framework for universally available services. Priority attention is guaranteed for the economically disadvantaged, migrants, handicapped, Indians, and minority group children, and provision is mandated for bilingual programs. We are particularly impressed with the increase in income eligi-

bility for services without parental fees to families earning up to $6900. This will enhance the prospects of achieving class integration at the preschool level.

HEADSTART CONSTITUENCY IS SAFEGUARDED

Maintenance of priority, through earmarking of funds, for the present low-income constituency now served at an inadequate level of funding by Headstart, is a vital safeguard. We expect that the strong decision-making representation at the Prime Sponsor level by Headstart representatives will ensure the maximum opportunity for expanding quality developmental programs for low-income children and families.

OTHER POSITIONS APPROVED

The bill also creates demonstration Child Advocacy Programs, authorizing child care facility construction grants, and programs for federal employees.

COUNCIL QUALIFIES ENDORSEMENT

While recognizing the lateness of the hour in terms of prospects of changing the bill's language, the Council qualified its endorsements in several respects. First, it adopted a preference for separating eligibility determination from fees to be charged families with incomes above $6900.

FEE/ELIGIBILITY DETERMINATION NEEDS SEPARATION

The Executive Committee determined that for the purpose of defining eligibility, income gained due to child care availability should be disregarded. This would benefit the two-parent working low-income family and the single parent. But if fees are necessary, they should be charged in accord with total family income, less adjustments.

PARENT-CONSUMER PARTICIPATION NEEDS STRENGTHENING

The Executive Committee considered carefully the elements of the bill creating a structure that blended the sometimes diverse needs of governmental units and program consumers. Possible inter-relationships meshing the interests of the two groupings had been the subject of great concern at the conference preceding the Council's deliberations. While less than fully positive about all the components of the delivery system mechanism in any of the existing legislation proposals, the Council qualified its endorsement of the Mondale bill by adopting the conference recommendation of a 60% minimum parental-consumer participation on all child care boards and councils.

AUTHORIZATION OF FUNDS NEED TO BE INCREASED

Another qualified endorsement was sounded in the realism of finances. Mondale authorizes $100 million in fiscal 1972 for planning and technical assistance, and $2 billion in fiscal 1973 for program operation. This figure falls far short of the sum needed to provide child care services universally as a public, social utility on par with other essential services such as police, fire, and public education. And the Council is less than confident that the authorization figure will materialize unscathed from budgetary axwielders. Our membership and constituents should remember that the intention is to increase resource allocation to child care at an increasing rate until the needs of all children in the United States are realized.

COUNCIL MAKES OTHER RECOMMENDATIONS

The Council discussed the importance of providing opportunities for maximum local control of programs financed under the Mondale bill. The Council recognized some benefits of standardizing social service delivery regions. The arguments for requiring Prime Sponsor territorial conformity with regions within states formed in accord with the Intergovernmental Cooperation Act of 1968 were considered. The merits of encouraging prime sponsorship by localities were found to outweigh the disadvantages with respect to overlapping or contradictory coverage areas which are defined for the delivery of some complementary social services.

However, the Council urged that the administering agency should take into account regions established within states under the ICA of 1968 as long as the size of the prime sponsorship area is not thereby in anyway restricted.

As a step toward organizational consolidation and avoidance of duplication, the Council recommends that administrative guidelines be developed by the Office of Child Development, the federal agency designated to administer the Act's implementation, which would encourage Prime Sponsors to designate 4–C Councils as Child Development Councils.

This is in recognition of the labors of dedicated citizens representing private and public agencies, consumers, government, and private individuals who, out of a concern for the welfare of children and in the interest of program coordination, have formed Community Coordinated Child Care groups. The Council views the establishment of a separate Child Development Council as duplicative and therefore unnecessary in those instances where, with minor structural revisions, existing 4–C groups could comply with the composition for CDCs specified in the bill.

COUNCIL THANKS CONFERENCE PARTICIPANTS

The Executive Committee expressed its heartiest compliments and appreciations to the Conference participants who labored conscientiously to consider the major issues and emerged with a broad consensus. The Executive Committee adopted, in addition to the items mentioned above, Conference Recommendations for:

Creation of a single structure for child care services at state, regional and other levels.

Provisions, legislative and administrative, to make maximum use of funds available through various child care acts which result in community programs for *all* children, eliminating the segregation of children by category into separate programs. Thus the Council endorses the continuation of existing categorical programs which can be used to accomplish this objective, and seeks to protect the funding priorities already achieved for high priority categories of children.

Maintenance of open-ended appropriations under title IV–A of the Social Security Act.

A definition of "parents" in the context of parent board membership eligibility which includes (a) those needing and eligible for a variety of publicly funded child care services, (b) parents presently using child care services, and (c) alumni who have used child care services and have been selected by parents to represent them.

All legislation should include funds earmarked for parental and community participation at the disposition of parents for public and parent education, which may include transportation, conferences, and information dissemination.

VICE PRESIDENT AGNEW

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD a sage commentary on our distinguished Vice President by Joseph McCaffrey.

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

COMMENTARY OF JOSEPH MCCAFFREY

(As Broadcast Over WMAL-TV (7), Washington, D.C. at 11 P.M., July 26, 1971)

Spiro Agnew must get a lot of laughs out of his job. And he'll get more if his staff here at home saves some of the clippings from the last few weeks while he has been roaming the world.

The funniest one talks about the quote Drop Agnew move is picking up tempo unquote, and then it says "invariably these three names appear on what is beginning to look like a priority list of possible alternatives to Mr. Agnew".

Just where these names appear, other than in this story, and who is responsible for making up this priority list remains locked forever within the reporter who wrote the story, and possibly will always remain locked there because who really cares where such nonsense came from?

The three names on the alleged priority list are, hold your breath, Governor Rockefeller of New York, Presidential Advisor Donald Rumsfeld, not exactly a "household" name, and the Republican National Chairman, Senator Robert Dole of Kansas.

The article goes down hill from there.

But it surely should be on the top of the stack on Mr. Agnew's desk to greet him on his return.

Where does all this "drop Agnew" talk come from, other than dreamy reporters?

Or a better question: what case can be made for dropping Agnew?

In the face of a conservative Republican Administration making friends with the greatest hate of the conservatives, Red China, why would Richard Nixon compound his problem by dropping the conservative Spiro Agnew?

Those who have always pleaded for a more intelligent China policy have been, in the main, liberals who would not vote for Richard Nixon. The latest move isn't going to win them over, nor would dropping Agnew bring them around.

Vice President Agnew has, like'im or not, developed a constituency of his own. It is the same constituency which regrets and, in some cases opposes, the overtures to Red China. Its love for Spiro would bring it out to vote for the Nixon-Agnew ticket again. Dropping Spiro would mean these people would stay home or opt for George Wallace.

And dropping Spiro wouldn't bring a ticket headed by Mr. Nixon any new voting power.

DR. ROGER ADAMS

Mr. STEVENSON. Mr. President, Dr. Roger Adams, a leader in the field of organic chemistry, died on July 6, 1971, in Champaign, Ill., at the age of 82. A resident of Illinois for 65 years, Dr. Adams had headed the chemistry department at the University of Illinois for 28 years until his retirement in 1957. He also served on the National Science Board from 1954–60. Dr. Adams was the recipient of the National Medal of Science in 1965 awarded by President Johnson for his work "as the one recognized leader" in organic chemistry for many years.

I ask unanimous consent that the biography of the distinguished chemist from Illinois, Dr. Roger Adams, be reprinted at this point in the RECORD.

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

Dr. Roger Adams, who headed the chemistry department of the University of Illinois for 28 years until his retirement in 1957, died on July 6 in Champaign, Illinois. He was 82 years of age.

As one of the world's leading organic chemists, Dr. Adams consistently brought distinction to the University and the state of Illinois. A native of Massachusetts, Dr.

Adams was a resident of Illinois for 65 years. He first moved to Champaign-Urbana in 1916 to become assistant professor at the University of Illinois, and was later chairman of the department of chemistry and chemical engineering at the University from 1926–1954. In 1957 he became research professor and then professor emeritus.

Born in Boston, a member of the distinguished Adams family of Massachusetts, Dr. Adams received his A.B., A.M., and Ph.D. degrees from Harvard. Early in his teaching career he taught organic chemistry at Harvard University and Radcliffe College. At the University of Illinois he was personal research director for 184 Ph.D. recipients, many of whom became distinguished members of the academic and industrial scientific communities.

During his long career, Dr. Adams and his students developed what were referred to as "innumerable methods of organic synthesis" and determined structures of synthetic and natural products. Many of his methods have had important industrial or medical applications.

Dr. Adams held important scientific posts during World War I and II. Following the latter he was scientific advisor to the U.S. Military Governments in Germany and Japan. Appointed by the President to serve from 1954–1960 as a Member of the National Science Board, the governing body of the National Science Foundation, Dr. Adams' breadth of experience in university and government scientific circles was invaluable in shaping the growth of the Foundation in its early years. (The Foundation was formed in 1950 to continue on a permanent, peacetime basis the successful government-university relationships which had been established during World War II to support basic research.)

Dr. Adams served as overseer of Harvard, a trustee of the Battelle Memorial Institute, and a member of the Illinois Board of Natural Resources and Conservation. He was elected a member of the National Academy of Sciences, 1929 (head of its chemistry section from 1938–41); president of the American Chemical Society in 1935 and its chairman from 1944–50; president of the American Association for the Advancement of Science in 1950.

Dr. Adams was recipient of the Priestley Medal of the American Chemical Society (1946), the Davy Medal of the Royal Society (1945), the Perkin Medal of the Society of Chemical Industry (1954). In 1965 he was presented the National Medal of Science by President Johnson as "the one recognized leader" in organic chemistry for many years.

Dr. Adams' wife—the former Lucile Wheeler—died in 1964. He is survived by a daughter, Mrs. William E. Ranz of Greensboro, Vermont, and four grandchildren.

U.S. COMMITMENT TO PAY DUES OWED TO ILO

Mr. CRANSTON. Mr. President, the American assessment of membership dues to the International Labor Organization is now in arrears. Should these dues not be paid soon, this country will lose its voting rights and a major component of its voice in that international forum.

As Samuel de Palma, Assistant Secretary of State, recently testified before the Senate Appropriations Committee:

> The Departments of State and Labor are . . . convinced that, subject to a future review of the situation, it would better serve United States interests to maintain our membership, and that our influence and effectiveness in pursuit of our objectives within the Organization would be seriously impaired if we were to continue to withhold payment of our legally assessed dues of membership.

The Senate has seen fit to include this $7.8 million appropriation in the bill which has now come back to this Chamber without it. I do not intend to vote for this bill as it now stands and urge Senators to do likewise until the bill has been revised to include this important appropriation.

POSITION ON POLITICAL ADVERTISEMENTS BY WGN–TV, CHICAGO

Mr. STEVENSON. Mr. President, WGN–TV in Chicago has long been at the forefront of the effort to improve the quality of political advertising. Under the outstanding leadership of Mr. Ward Quaal, WGN–TV has voluntarily refused to accept political advertisements less than 5 minutes in length. According to Broadcasting magazine, for July 26, 1971, Mr. Quaal intends to bring the issue before the National Association of Broadcasters later this year.

I commend Mr. Quaal for this highly constructive iniative and ask unanimous consent that the Broadcasting article be printed in the RECORD.

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

QUAAL WANTS BAN ON POLITICAL SPOTS

A prominent Midwestern broadcaster has called on the National Association of Broadcasters to ban the use of 30- and 60-second spots by political candidates.

Ward L. Quaal, president of WGN Continental Broadcasting Co., said he wants the NAB TV and radio codes amended to prohibit stations from accepting any political statements that are less than five minutes in length in time for the 1972 election.

"I am fearful that unless such a plan is implemented," he told members of the San Diego Advertising Club last week, "we will have the same misunderstanding, distortion of issues and confusion" that occurred in the 1968 election campaign. Spot announcements by political candidates in 1968, Mr. Quaal said, "represented a pitiful reflection upon political leaders and a demonstration of total irresponsibility."

No candidate, Mr. Quaal said, can address himself adequately to his program in the course of a 30- or 60-second announcement. Also, he added, a candidate with heavy financial backing can saturate TV and radio in his area by buying spots.

"It is rather silly," Mr. Quaal said, "if we apply certain standards for shaving creams, dentifrices, gasoline, detergents, pharmaceutical products and intimate apparel and ignore an area which involves the election to office of the man who will lead this great Republic in the months and years to come and who is really the most powerful man on earth."

Mr. Quaal noted that he instituted this policy in 1952 at what is now Avco Broadcasting Corp., and in 1956 at the WGN Continental stations (WGN-AM-TV Chicago, KDAL-AM-TV Duluth, Minn., and KWGN-TV Denver).

Mr. Quaal's recommendation is not the first along these lines. A number of congressmen and senators, as well as political analysts, have expressed the view that 30- and 60-second spots should be banned in political campaigns. The latest was Senator Vance Hartke (D-Ind.) during the political-spending bill hearings by the Senate Communications Subcommittee last spring (BROADCASTING, March 8).

The subject is expected to come before the NAB's TV and radio code boards—the radio board on Sept. 21 in Denver; the TV board, Dec. 9–10 in Phoenix.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

CONFERENCE REPORT ON STATE-JUSTICE APPROPRIATION BILL—MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, yesterday the Senate agreed to temporarily lay aside the pending business at 2 p.m. today for consideration of the conference report on H.R. 9272, the State, Justice, and Commerce Departments appropriation bill.

I ask unanimous consent that that time be changed, instead, to 4 p.m. today.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I further ask unanimous consent that when the conference report is laid before the Senate, the Senator from North Carolina (Mr. ERVIN) be recognized.

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

FEDERAL ELECTION CAMPAIGN ACT OF 1971

The PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate S. 382, which the clerk will report.

The second assistant legislative clerk read as follows:

> Calendar No. 223 (S. 382), a bill to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Kansas (Mr. PEARSON).

QUORUM CALL

Mr. PASTORE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be taken out of either side.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. PEARSON. Mr. President, I yield myself such time as I may be required to use, and I might at this time ask the Chair what the parliamentary situation is.

Is it true that we are now considering an amendment to the Pastore amendment No. 308 in the nature of a substitute?

The PRESIDENT pro tempore. It is not a substitute. It is an amendment to the substitute.

Mr. PEARSON. The question is, to be more precise, whether amendment No. 340, which I understand was laid before the Senate last night and was reported by the clerk, is an amendment in the second degree consistent with the unanimous-consent agreement.

The PRESIDENT pro tempore. It is an amendment in the first degree to the Pastore substitute.

Mr. PEARSON. Mr. President, I shall not seek to identify election campaign financing problems, but only make reference to the fact that I was the principal cosponsor of S. 1, together with my distinguished colleague from Alaska (Mr. GRAVEL), who is now on the floor.

It is my feeling that S. 382, whether it be the predominant version of the Commerce Committee or of the Committee on Rules and Administration, can be a good bill, addressing itself to spending limitations, repeal of section 315, disclosure, and tax incentives for political contributions, seeking to broaden the base of participation in the democratic process.

All of those objectives will be provided in a good bill, if there is provision for enforcement and if it is enforced.

I think that necessitates precise procedures and an agency to act as a registrar, to set forth procedures, to conduct investigations as necessary, to provide for administration, and to do all these things without political pressures and without political influences.

The Commerce Committee version designated that agency to be the Secretary of the Senate and the Clerk of the House, and the Committee on Rules and Administration bill provided that this function should be placed in the General Accounting Office.

The pending amendment provides for an independent agency, seeking to draw to this bill greater public confidence and independence not only from the Congress but from the Executive.

Mr. President, the Secretary of the Senate acts in an employee-employer relationship. The General Accounting Office operates in a principal-agency relationship, the GAO being an arm of the Senate or an arm of the Congress.

I make reference to the CONGRESSIONAL RECORD of July 8 of this year, at page 24004, wherein was inserted a letter from the Director of the General Accounting Office to Senator MAGNUSON, chairman of the Senate Commerce Committee, setting forth first a recognition of the need for this sort of legislation, but further setting forth the nature of the General Accounting Office—the principal-agency relationship; how it needs, in order to be effective, to be an independent agency, and not be embroiled in partisanship issues or even partisanship criticisms.

I think then that if GAO were given this responsibility that not only would it be ineffective to this particular task, but it would reduce the effectiveness of other great and satisfactory roles which the GAO has performed in the last few years.

The pending amendment would create a five-man commission, with 10-year terms, staggered so a new commissioner would come aboard with the appointment of the President and with the advice and consent of the Senate, every 2 years. It would be composed of no more than three members from any one political party.

This would be done not to create a new bureaucracy, but to compile reports, file reports, establish procedures, and report any possible violations to the Justice Department.

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

Mr. PEARSON. I will yield in just a moment to the distinguished Senator from Pennsylvania.

Let me say that in a conversation earlier this morning with the Senator from Rhode Island I was reminded of the constitutional rights and privileges and duties of the Congress itself. Nothing in this amendment would abrogate any of those rights, duties, and responsibilities.

Now I yield to the distinguished Senator from Pennsylvania.

Mr. SCOTT. I thank the distinguished Senator from Kansas.

Mr. President, first of all I support the amendment. I have advocated the same concept based on my own experience in the Commerce Committee, when we have in the past considered campaign reform, and based on my experience and service in the Committee on Rules and Administration. It is essential that we have an independent agency. I congratulate the Senator for offering the amendment.

I think this is the way we establish that we really mean what we say. I remember a Member of the other body once who used to say: "Whenever we pass a law down here, we ought to add a line: 'By God, we mean it.' "

Now I think we have a good chance to show that Congress is wholly on the level in its desire to have campaign reform and to have an oversight by a truly independent commission. I do not think we ought to embarrass our own staff establishments on Capitol Hill by requiring them to pass judgment on us. I do not think we ought to turn it over to an agency which is bound by long association to be highly responsive to Congress, as is the General Accounting Office. I think we need a truly, genuinely independent commission.

One of these kneejerk columnists of the far left had the colossal gall, in his own particular imbecile way, to imply that I did not want a genuine bill. Now that man is not telling the truth. Moreover, he has not researched the record, and he is certainly not aware of my own consistent desire to have reform.

Heavens, I have put into the RECORD a statement of how much we owe, as well as how much the other party owes. My party has instituted and is instituting programs to pay off their indebtedness and has indicated that to the federally regulated agencies. I have listed how much my party owes and how much I myself owe. I work to pay off my own deficit. I do not owe now, I am glad to say, any money to federally regulated industries, but I owe a little to the few people who trusted me, and they will be paid.

I am not going to submit mildly or quietly to the imbecile types who, for the benefit of their own readership, will believe anything that some jackasses say; and therefore I believe the way to show that we mean business, the way to show that we are independent, the way to show that we do want a bill which works and one with teeth in it, is to adopt this kind of amendment. I propose strengthening it, and I ask the distinguished Senator from Kansas if he could approve an amendment which I submitted last night, on behalf of myself and Senator BAYH, to further strengthen the independence of this agency. That amendment, designated as No. 359, would be as follows:

On page 2, at lines 13 and 14, strike out "shall be appointed" and insert in lieu thereof the following: "shall be chosen from among persons who by reason of maturity, experience, and public service have attained a nationwide reputation for integrity, impartiality, and good judgment, are qualified to carry out the functions of the commission, and shall be appointed".

I would express the hope that the distinguished Senator from Kansas would accept it and agree to modify his amendment on those lines, so that we can make it crystal clear, to coin a phrase, that we intend this commission to be of the highest possible character.

Mr. PASTORE. Mr. President, will the Senator yield at this point, before discussion takes place on the modification?

Mr. SCOTT. The Senator from Kansas has the floor.

Mr. PEARSON. I yield.

Mr. PASTORE. Could we in some way alleviate the suspicion that might arise? I am not accusing anyone of any ulterior motive at this point, because I will say very frankly, while I know the arguments against this amendment, I still feel personally amenable to it, as the Senator from Kansas knows. But as he spells it out, he specifies that no more than three Members shall be of the same party. I wonder if we could not agree to the amendment suggested by the distinguished Senator from Pennsylvania, together with my amendment making it a six-man commission, because you find, when you get five people, and you do not have them equally represented on both sides, by analogy to the ethics committee here and the situation in our own State of Rhode Island, when you get yourself into this idea of supervising elections and things of that kind, it is usually good to have an even split, and you need not worry over their lack of decision for the simple reason that if you get the caliber of people the Senator from Pennsylvania talks about, any abuses will be reported, and it removes that suspicion.

Mr. PEARSON. Mr. President, speaking of the proposal of the Senator from Pennsylvania, I have no objection to his modification. It just makes clear what I hope the President would follow in making appointments, and what is the essential role of the Senate in advise and consent.

May I say to the Senator from Rhode Island that I gave some thought to his

suggestion last night, reached independently of his suggestion. The setting up of a commission in most instances requires an odd number for decisionmaking, but here, to accentuate the bipartisan nature or nonpartisan nature, if you will, I would have no objection at all to making this a six-member commission.

What I seek to do, above everything else, is to find some source of independence from Congress, from the executive branch and from politics. If the Senator from Pennsylvania would so modify his amendment, by changing the word "five" to "six," I would be glad to accept both the suggestion of the Senator from Rhode Island and that of the Senator from Pennsylvania.

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

Mr. PEARSON. Mr. President——

Mr. PASTORE. On our time.

Mr. PEARSON. Of course.

Mr. CANNON. I would just like to give a little background as to why we came up with the solution we did in the Rules Committee.

As Senators know, there was considerable support for the Clerk of the House of Representatives and the Secretary of the Senate, on the theory that under the Constitution each House is the judge of the rights of its own Members to be seated.

Mr. PEARSON. Yes.

Mr. CANNON. And we heard testimony at some length from people who were interested and had some expertise on this subject. While a number of witnesses said they would prefer an independent elections commission, they thought the GAO was a good compromise. This was more or less the reason we went to the GAO, because the GAO has a history of being about as independent an agency as can possibly be found in Government. It was originally created in 1921 by the General Accounting Act, and it was vested with all the powers and duties of six auditors and the Comptroller of the Treasury. We, of course, have used it very extensively since that time.

The authority was expanded and enlarged by various acts of Congress, and the office has grown to the point that today it certainly has a full staff of trained auditors, investigators, and others who have the experience and the expertise to really do a job such as would be required here.

One of the reasons that I was not favorably inclined toward the independent commission is that to establish such a commission, that has a job only every 2 years, is really to set up another bureaucracy, such as, for a good example, the Subversive Activities Control Board—another way to spend the Government's money without giving anyone a job to do.

Obviously, the commission would have to expand during an election year, build up its staff, and be prepared to handle the matters relating to an election, and then, after the election year is over, they have nothing to do.

I realize the proposal would establish the Commissioners on a part-time, $100-a-day basis, but on that basis I do not think they would ever develop the technical expertise that would really be developed by the General Accounting Office. I certainly hate to see us——

The PRESIDING OFFICER (Mr. GAMBRELL). The time of the Senator from Kansas has expired.

Mr. CANNON. We were operating on the time on this side of the aisle, and I will yield another 5 minutes. We were not operating on the time of the Senator from Kansas.

The PRESIDING OFFICER. That had not been made clear to the Chair. But we will proceed on the time of the Senator from Nevada.

Mr. CANNON. So, Mr. President, this is one of the reasons that we did not accept the proposal in the first instance.

The idea that there is an independent agency completely removed from politics is good. Theoretically, all of our independent agencies are removed from politics. They are made up with balance. But we all know the facts of life, and we know, for example, that the former chairman of the Republican National Committee is now chairman of one of these independent agencies, and, if the Democrats were in, the probabilities are that one of the agencies would be chaired by the former chairman of the Democratic National Committee.

So to say that they are completely removed from politics, in these appointive jobs, is not quite correct, and I do not know how we could ever get them completely removed.

As I say, I am quite reluctant to see us establish another bureaucracy that is going to cost the American taxpayer more than what we could do the job with through the General Accounting Office. That is my whole view on the matter.

Mr. PEARSON. Yes. I appreciate that comment and the rationale of the committee. It has great merit.

Before I respond to the comments of the Senator from Nevada, I wonder if I might ask unanimous consent to accept the modifications of the Senator from Pennsylvania and the Senator from Rhode Island, before we get the yeas and nays ordered.

The PRESIDING OFFICER. The Senator may modify his amendment as a matter of right. There have been two modifications suggested; does the Senator propose both modifications?

Mr. PEARSON. Yes.

The PRESIDING OFFICER. Will the Senator send those modifications to the desk?

Mr. PASTORE. They are being prepared now.

Mr. CANNON. I wonder if the Senator would yield one further moment, on my time.

Mr. PEARSON. Yes, I am pleased to yield.

Mr. CANNON. I made the statement earlier that some of the witnesses who testified before our committee said they favored the separate commission, but that they felt a good compromise would be to compromise on the General Accounting Office. One of those was Deputy Attorney General Kleindienst, who said that while he favored the independent commission, he felt the GAO was a good compromise. Senator JORDAN testified to that same effect, Senator COOPER to the same effect, and Dr. Alexander, who has considerable expertise in this area, to the same effect. All have said that they think this is a good compromise, to go to the General Accounting Office. So I submit that for consideration.

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

Mr. CANNON. I yield.

Mr. PASTORE. This is on my time, Mr. President.

First of all, I congratulate my colleague, who is the chairman of the subcommittee of the Committee on Rules and Administration.

I think he did what he thought was the right thing. There is no question at all that perhaps either way would be the proper way. This has been endorsed by the group known as Common Cause; this has been endorsed by the group known as the Committee for a More Effective Congress. It is a proposal that is very satisfactory or amenable to some Democrats on this side.

However, as I said yesterday, this is not to be a political instrument. There is no desire on the part of the Commerce Committee, no desire on the part of the senior Senator from Rhode Island, and no desire on the part of the Senator from Nevada to make this a game between Republicans and Democrats; because if it got to that point, I would no longer be interested.

I became involved in this very important subject because of what has been happening—the spiraling costs—and something needs to be done to bring this matter under control before we scandalize ourselves as an institution. So I think that, in the spirit of bipartisanship, we ought to go along with this amendment.

As I said before, we are not tied down to the pride of authorship. If anyone comes along with a suggestion that we feel will improve the bill, the Senator from Rhode Island and the Senator from Nevada not only are willing to listen but also to abide.

It is in that spirit, Mr. President, that I shall vote for the modified amendment. That is the way I feel about it.

Mr. PEARSON. Mr. President, I modify my amendment as proposed by the Senator from Pennsylvania, and modified further consistent with the proposal of the Senator from Rhode Island.

These modifications would contain certain language that deal with the personnel of this commission and would make it a six-man commission, with 12-year terms, staggered terms, appointed by the President, with the advice and consent of the Senate.

The PRESIDING OFFICER. The amendment will be so modified, and the clerk will read the modifications.

The assistant legislative clerk proceeded to read the modifications.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without

objection, the modifications will be printed in the RECORD.

The modifications are as follows:

On page 2, line 12, strike "five" and insert in lieu thereof the word "six".

On page 2, line 18, after the words, "ten years," the following: "and one for a term of twelve years."

On page 2, line 20, strike the word "ten" and add the word "twelve."

On page 3, line 5, strike out "3" and insert "4."

Mr. PEARSON. Mr. President, I think I should respond to the Senator from Nevada, who made some very valid points in relation to this amendment.

I am as sensitive as he is about a new bureaucracy. I think it will be found that most of the body of this amendment seeks to address itself to that problem—a per diem arrangement for members of the commission, a requirement to use personnel of the Justice Department and the GAO when necessary.

If we are going to have a job to do, and additional work to do, it is just a matter of where the additional bureaucracy—there is no other word for it—is going to be. With respect to the General Accounting Office taking this over, I say to the Senator that Mr. Staats, in a letter to the chairman of the Commerce Committee and in another letter to me, of a more personal nature, has indicated his lack of desire—almost a plea—not to be asked to undertake this. So the question is whether we are going to have more bureaucracy in the General Accounting Office or whether we are going to have more bureaucracy in the office of the Secretary of the Senate or whether we are going to have an independent commission. I do not really envision this to be a large, unyielding body of men and people.

Whatever the cost, I think it can be justified in renewed confidence in the inevitable result of reform, which is essential in this field.

So, I am sympathetic to the points raised about the additional bureaucracy and the great possibilities and the great record of the General Accounting Office. I think it is most natural that the committee look in that direction. It is an agency which has served us so well that I do not know what we would have done without it in many fields of congressional effort. That is why I think one of the most persuasive arguments is the letter of Mr. Staats, indicating that he thinks that this additional assignment would diminish his independence and his authority to act.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mr. John W. Gardner, chairman of Common Cause, dated July 26, 1971, and an editorial which was broadcast by Station WTOP on July 29 and July 30, 1971.

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

COMMON CAUSE,
Washington, D.C., July 26, 1971.

Hon. JAMES B. PEARSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PEARSON: You have done a great service to the public in your proposal to amend S. 382 by establishing a federal elections commission. The amendment has the strong support of Common Cause.

The need for an independent commission should be self-evident. Effective enforcement of the new law will be a grave responsibility affecting political careers and party fortunes, and should not be assigned to an office that is associated with Congress or the political parties.

Assigning the responsibility to a registry in the Government Accounting Office is clearly inappropriate. The GAO performs delicate tasks for the Congress, tasks that require an easy relationship of trust and confidence. That relationship could not survive the controversies that would inevitably beset any enforcement agency presiding over campaign finance. The Comptroller General himself has argued that such a responsibility would place a crippling burden on his office.

An independent elections commission would stand on its own, bearing the full consequences of its decisions and rendering objective judgments on the facts of each case. It would be free from even the appearance of Congressional influence. No conflicting obligations would restrain it from diligently searching out violations of law and reporting those violations impartially. Because an independent elections commission would have greater stature than a registry in the GAO, its decisions on controversial issues would be more readily accepted. In the eyes of the public, the establishment of a new commission would dramatize the departure from past practice and lend credibility to Congress' announced willingness to open political campaigns to objective scrutiny.

With adequate enforcement such as you would provide, I believe that S.382 could be a landmark reform. Without adequate enforcement, it is likely to fall flat. For the sake of the campaign reform Congress has worked so hard to achieve and for the sake of public confidence in the political process, I hope your amendment is adopted.

Sincerely,

JOHN W. GARDNER,
Chairman.

A WTOP EDITORIAL

As Congress moves toward final bills on campaign finance, there's still a strong compulsion—especially in the House—to *hide* as much as possible about the sources of money in political campaigns. Congress must be pressured relentlessly to write a law that will *reveal* as much as possible.

The bill which the House elections subcommittee has favored contains an atrocious provision which would require only one public disclosure of contributions and expenditures, and that would come 45 days after an election. A fat lot of good that kind of disclosure would do!

The Senate's primary bill, on the other hand, would vastly improve the disclosure process, with four major reports of fundraising activities filed every single year—including non-election years as well. That's the right direction.

In terms of policing and enforcing disclosure, the House is leaning toward a solution which is politically loaded. It would let the clerks of the House and Senate—political appointees both—continue to be watchdogs. We can't for a minute envision that such hired-hands would vigorously enforce the law against their political masters.

The Senate bill puts the whistle in the hands of the General Accounting Office, which would be an immense improvement. The GAO, at least, is once removed from the danger of political reprisals.

Far and away the best solution would be a new, independent, bipartisan Elections Commission, which also has the support of the President. We urge the Senate to lead the way by opting for such a Commission.

Big money in politics has created some big dangers for government in this country. When that money is concealed, the danger is multiplied. As Senator Mondale noted recently, "It's often more revealing to know who a politician takes money from, than what he says in his speeches."

As showdown time approaches on campaign finance legislation, let disclosure—wide disclosure—be the key.

This was a WTOP Editorial . . . Norman Davis speaking for WTOP.

Mr. PEARSON. Mr. President, I reserve the remainder of my time, if I have any left.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Nevada has 5 minutes.

Mr. PEARSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on the amendment. I hope every Senator will raise his hand.

The yeas and nays were ordered.

Mr. CANNON. I yield myself 3 minutes.

Mr. President, I want to associate myself with the remarks of the Senator from Rhode Island. We are anxious to try to get a bill. We have gone too long by marching up the hill and then going down the hill over the last few years, to try to get some meaningful bill on election reform, even to the extent of having a bill passed in this body by a vote of 86-to-0 and still not being able to get it through.

I think we all are interested in the same objective. I have explained the reasons why our committee went to the compromise position of the General Accounting Office. I still think it would be best, because it would cost less money, and it would result in one less bureaucratic agency than if we established a separate commission.

Of course, the expert witnesses to whom I referred testified that this was a good compromise. It was an acceptable compromise, so far as they were concerned. However, we did not get all the provisions out of my committee that I would like to see. I was voted down on a number of provisions in committee, and the bill came from the Rules Committee with a number of amendments that I would prefer not to have.

Again, I say that I am interested more in trying to get a bill that will give us some meaningful election reform, which we can get on the books, and then get on with our business.

So, Mr. President, under those circumstances, I am willing to accept the amendment of the Senator from Kansas, along with the Senator from Rhode Island (Mr. PASTORE).

I reserve the remainder of my time.

Mr. PROUTY. I yield myself 3 minutes on the bill.

Mr. President, I had an amendment very similar to one which has been offered by the distinguished Senator from Kansas, and I was prepared to offer it before the Rules Committee; but I decided that this matter was of sufficient importance that it deserved wider publicity than would have been possible had we simply acted on it in the Rules Committee.

I commend the distinguished Senator

from Kansas for offering the amendment, of which I am a cosponsor. I think the compromise which has been agreed to is highly commendable. It will go a long way to suggest to the general public that we are acting in a strictly nonpartisan manner, and I hope we shall continue to do so on other amendments submitted.

I invite the attention of the distinguished Senator from Nevada to the last section of the amendment, which reads as follows—and I am referring now to his fear that we are creating a new bureaucracy:

"(1) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request."

Mr. President, it seems to me that covers the situation clearly.

I ask unanimous consent to have printed in the RECORD a letter addressed by the Comptroller General to the chairman of the Appropriations Committee, the distinguished Senator from Louisiana (Mr. ELLENDER). Let me quote one sentence from it:

We are strongly opposed to placing the responsibility for the administration of Federal campaign financing requirements in the Comptroller General.

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

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., June 9, 1971.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Appropriations, U.S. Senate

DEAR CHAIRMAN: This replies to your request for our views on the question of involving the Comptroller General in the reporting, disclosure, and investigative functions concerning federal campaign contributions and expenditures, as is proposed by S. 382, as amended by the Senate Committee on Rules and Administration.

We are strongly opposed to placing the responsibility for the administration of Federal campaign financing requirements in the Comptroller General. Our position, as we have stated in the past with regard to several bills, is that we should not be given the responsibility for audit, investigation, or enforcement in connection with Federal elections. We believe that the effectiveness of the Comptroller General and the General Accounting Office depends in large measure upon maintaining a reputation for independence and objectivity. Not only must we remain free from political influence, but we must zealously avoid being placed in a position in which we might be subject to criticism, whether justified or not, that our actions and decisions are prejudiced or influenced by political considerations. We are, therefore, apprehensive of any measure that might subject us to such criticism, the inevitable result of which would be a diminution of congressional and public confidence in our integrity and objectivity.

Because our relationship to the Congress closely resembles that of principal and agent, we especially wish to avoid being placed in the anomalous situation of having to investigate and report on our principal. Over the years, we have had frequent and recurring associations with the committees of the Congress and with many of the members of Congress acting in their individual capacity. Our relationship has been most harmonious, but we are quite concerned that it could be severely impaired were we required to investigate and report on members of the Congress concerning campaign funds and expenditures.

We agree that there is a need for new legislation relating to the disclosure and financing of Federal election campaign costs, but we strongly recommend that the administration of legislation in this area not be placed in the Comptroller General. An alternative which we believe should be given serious consideration, would be the establishment of an independent, nonpartisan election Commission to oversee Federal campaign spending. This approach is proposed in two bills, S. 1 and S. 956, which have been introduced in the 92d Congress.

We very much appreciate your interest in obtaining our views on this legislation.

Sincerely yours,

(S) ELMER B. STAATS,
Comptroller General of the United States.

Mr. PROUTY. Mr. President, I am pleased to be a cosponsor of amendment No. 340 to amendment No. 308. The primary purpose behind election reform is to restore confidence of the American people in our election process. In order to achieve this end, it becomes essential for us to enact meaningful legislation. The only way that legislation can be meaningful is if we place the responsibility for administering the law in an agency which can insure impartiality and strict enforcement.

You will recall that S. 382 as introduced placed a responsibility for administering the disclosure law with the Clerk of the House and the Secretary of the Senate. Not only have those officials enforced the Federal Corrupt Practices Act of 1925 with less than active vigor, but also, by their very nature, there was a problem in giving them the task for administering the disclosure provisions of this act. First of all, they would have had to increase their staff tremendously. Second, being appointed by the Members of Congress, they hardly could have been expected to have enforced the law with vigor. When Deputy Attorney General Kleindienst testified before the Senate Commerce Committee, I asked the following question: The suggestion has been made that a Federal Election Commission be established with very detailed reporting required. Do you have any position on that? He responded as follows:

I think it is our position that probably an independent commission established by the Congress with appropriate personnel and appropriations would do a better job than the system that you now have. Even if it was put together on a bipartisan basis with appropriate staff and money I think it would be a good approach to this problem.

Unfortunately, as we have previously pointed out, the bill was not considered in its entirety by the Senate Commerce Committee. However, it is interesting to note that on page 33 of the majority report, there was the following acknowledgment that the demand for an independent Federal Elections Commission was great: There was strong feeling expressed by some members of the committee that an independent Federal Elections Commission should be created, in lieu of the Secretary of the Senate and the Clerk of the House, to supervise the enforcement of this legislation. The committee members strongly recommend to the Committee on Rules and Administration that they give this matter very serious consideration.

Senator PEARSON and others have pointed out the tremendous public interest for an independent Federal Elections Commission, and in testimony before the Senate Rules Committee, the distinguished senior Senator from Virginia (Mr. SPONG) testified as follows:

Briefly, I believe the bill should be amended to provide the creation of a Federal Elections Commission, as proposed by S. 956. Such a commission would seem to me to be a more effective agency for enforcing disclosure requirements than the Secretary of the Senate and the Clerk of the House who are designated for these responsibilities under S. 382. Because it would have only this function and because it would be independent of the Congress, the commission is far more likely to vigorously carry out the provisions of the law.

A number of other witnesses appearing both before the Commerce Committee and the Rules Committee endorsed the concept of an independent Federal Elections Commission. In our deliberations at the Rules Committee there was sharp disagreement as to where the responsibility should be placed. A number of questions were raised concerning the constitutionality of placing the responsibility anywhere other than in Congress. Deputy Attorney General Kleindienst had pretty well resolved that matter, so far as I was concerned. In a letter to Chairman MAGNUSON of the Senate Commerce Committee dated April 8, 1971, the Deputy Attorney General stated the following:

Finally, the Department is of the opinion that the establishment of an independent commission to administer the disclosure requirements would not constitute an unlawful delegation of legislative authority to the executive branch. Presently, reports and statements under the Federal Corrupt Practices Act (2 U.S.C. 244–246), and under the Federal Regulation of Lobbying Act (2 U.S.C. 264) are filed with, and preserved by, the Clerk of the House of Representatives and the Secretary of the Senate. The creation of an independent commission would not deprive either House of its constitutional authority under Article I, section 5, nor would it involve a delegation of such authority. Rather, it would merely permit each House better to exercise its authority by acting upon the most informed judgment.

Personally, I was mildly pleased that the Rules Committee agreed to give up the notion that only the Clerk of the House or the Secretary of the Senate could administer a Federal Campaign finance disclosure law.

As you know, Mr. President, I have long been an admirer of the Comptroller General. The integrity of the Comptroller General and the General Accounting Office is beyond question. I recall that several years ago I amended the Equal Opportunity Act so as to require a comprehensive study by the Comptroller General as to the effectiveness of the war on poverty. He carried out that study with impartiality and thoroughness, which today has resulted in some improvements in that particular

program. However, I could not agree that we had acted wisely by placing the Comptroller General of the United States in a position of administering the Federal Election Campaign Act of 1971. In my supplemental views to the Rules Committee I pointed out the following:

In placing the Comptroller General in the position of administering a campaign disclosure law, we are placing upon him the impossible burden of deciding whether or not his "employers" have complied with the law. The integrity and thoroughness of the Comptroller General and the General Accounting Office is beyond question. We must consider that his effectiveness in conducting investigations and studies for individual Members of Congress could be impaired if he were placed into the position of questioning the completeness of a disclosure by a Member or a committee supporting a Member.

I was convinced then and I am convinced now that the Committee's reasoning in adopting the amendment, placing the Comptroller General in charge of this law, was not based on any firm commitment against the Federal Elections Commission. For example, Mr. President, on page 61 of the Rules Committee report, the following reasoning is given:

With respect to the approval by the Committee of an amendment to direct the Comptroller General and the General Accounting Office to perform the duties set forth by pertinent sections of the bill, it is noted that opinion was and continues to be divided between the continuation of the offices of Secretary of the Senate and Clerk of the House of Representatives to act as depositories for statements and for other purposes, and the creation of a Federal Elections Commission to carry out those functions.

Recognizing the probable need of a Federal Elections Commission to borrow, from time to time, competent auditors, accountants, and investigators from GAO in order to avoid the expenditure of unnecessary money for salaries during nonelection years, among other reasons, the Committee agreed that the office of the Comptroller General which already is charged with oversight authority over certain government contracts and spending, and which employs many experienced accountants and investigators, would be preferable to the offices of the Secretary and the Clerk.

Accordingly, the Committee approved an amendment which in every pertinent title, section, or other provision of S. 382, changes the language of the bill to reflect the Comptroller General in lieu of the Secretary of the Senate and/or the Clerk of the House of Representatives.

Now, Mr. President, all those who suggest that we be creating bureaucracy should put their fears to rest. The Pearson amendment specifically provides that the independent commission should use to the maximum extent possible the services of GAO and the Justice Department. We would not be creating a big new bureaucracy. What we would be creating is an impartial, unbiased independent commission which could restore the faith of the American people.

Mr. President, this brings me to my final point. The Comptroller General himself agrees with me that he would be put in an untenable position if he were placed in charge of determining which Congressman or Senator may or may not have complied with the law. On every Senator's desk is a letter from the Comptroller General to the distinguished Senator from Louisiana, Senator ELLENDER. I believe we should follow the advice of the Comptroller General and good common sense by adopting the Pearson amendment creating an independent Federal Elections Commission. Let us have the courage to make the Federal Election Campaign Act of 1971 one that we can all be proud of.

Mr. PASTORE. Mr. President, I am ready to yield back my time. I am ready to vote. How much time do I have left?

The PRESIDING OFFICER (Mr. GAMBRELL). Three minutes.

Mr. PASTORE. I thank the Chair. I yield 1 minute to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. GRIFFIN. Mr. President, as a member of the Commerce Committee, I strongly supported a similar amendment to the bill when the legislation was before that committee.

I ask unanimous consent to have printed in the RECORD additional views which I inserted in the report of the Commerce Committee, indicating my support for this particular approach.

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

ADDITIONAL VIEWS OF MR. GRIFFIN

In 1913 Supreme Court Justice Louis D. Brandeis noted that:

"Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best disinfectant; electric light the most efficient policeman." [1]

In today's era of instant communications, Brandeis' statement is doubly relevant.

The bill reported by the Committee makes significant strides in the direction of full and timely disclosure. It provides the current for the electric light as well as the light bulb. But, unfortunately, it does not assure that someone will be available to switch on the light.

What good is a reporting system if there is no effective agency to police it? As in the past, S. 382 would continue to provide that reports by candidates and political committees be filed with the Secretary of the Senate or the Clerk of the House.

As the Twentieth Century Fund pointed out in its 1970 report on campaign financing, the Secretary of the Senate and the Clerk of the House "do not have the authority, the staff, or the motivation to do anything but accept the reports that are filed."

Furthermore, these agents of Congress, realistically speaking, are just not in a position to investigate charges of campaign abuse—particularly in the case of charges lodged against incumbent Members of Congress.

To leave the present regulatory set-up unchanged would surely invite public criticism that Congress is writing a law that would be nothing more than a paper tiger.

If one of the principal purposes of enacting reform legislation is to restore public confidence in the electoral process, then I submit that in-house regulations does not aid in achieving it.

On the other hand, there is widespread support for creation of an independent, bipartisan (or nonpartisan) Federal Commission to oversee the spending and disclosure requirements. In 1960 the Citizens' Research Foundation published a report entitled "Money, Politics and Public Reporting" by Dr. Herbert E. Alexander. In the report it was suggested that:

There is much to commend the establishing of an independent agency patterned, for example, upon the Civil Rights Commission. The electoral-financial process is hardly more sensitive an area than that of civil rights, and the strong opposition to the latter's establishment was overcome. . . .

Certainly, the record of the Civil Rights Commission, particularly in the area of voting rights, provides an excellent precedent.

Since this 1960 report was published, support for the concept of a Federal Elections Commission has mushroomed. Both the Foundation's report and the 1962 Report of the President's Commission on Campaign Costs called for creation of an independent Registry of Election Finance.

More recent proposals have also called for such a commission with investigative as well as publicity functions. Two of the bills that were before the Committee—S. 1, cosponsored by Senators Gravel, Brooke, Javits, Mansfield, Moss, Muskie, Packwood, Pearson, Randolph, Spong and Symington, and S. 956, cosponsored by Senators Scott, Mathias, Hatfield and Humphrey—call for establishment of a Federal Elections Commission.

In addition, other organizations, such as the National Committee for an Effective Congress, have spoken out in support of the commission approach. In a statement submitted to the House Committee on Standards of Official Conduct last December, the NCEC emphasized that "[e]ffective reform requires, at a minimum, the creation of an independent, non-partisan Federal Elections Commission insulated from and protected against the political pressures of the day."

Similarly, the position of the Justice Department and the Administration is that "a commission would be insulated from outside pressures and would increase the likelihood of vigorous enforcement."

Those who oppose establishment of such an Elections Commission say, in effect, that spending limitations, full disclosure and tougher penalties as provided in the bill will be enough to meet the mounting criticism against campaign spending abuses. But such an argument is unrealistic. While the tighter controls on spending and disclosure in the bill are essential, there is no glue to hold the pieces together in the absence of an effective independent, bi-partisan agency to monitor such activities.

Accordingly, while I recognize other deficiencies and inadequacies in the reported bill, including some outlined in the supplemental views, I believe the most glaring shortcoming is the omission of a Federal Elections Commission. I hope an effort to remedy this shortcoming will succeed.

ROBERT P. GRIFFIN.

Mr. PASTORE. Mr. President, I yield my remaining 2 minutes to the Senator from Alaska (Mr. GRAVEL).

The PRESIDING OFFICER. The Senator from Alaska is recognized for 2 minutes.

Mr. GRAVEL. Mr. President, I endorse the pending amendment and would like to say to my colleague from Nevada that I share his view that if there is anything we must be, it is vigilant against expansion of bureaucracies which seem to be the character of our system. If there is ever an area that indicates the need for expansion, it certainly would be in this area, which is the touchstone of our democracy. There is probably nothing that will be more important, no agency that will be more important than the operation of a system

[1] L. Brandeis, *What Publicity Can Do*, Harper's Weekly at 10 (Dec. 20, 1913).

of representative government than will be this one, since this one will actually police the methods that bring about the creation of all else. So I would agree with his view, but I am forced to deviate because of the importance of this single act.

Now, Mr. President, the bill currently before us is the most comprehensive and meaningful proposal for reform of election campaigns ever to be considered by the Senate. Its passage will go a long way to restore the lost confidence in the electoral process so prevalent today by letting the public know where campaign funds are coming from and where they are going.

Both the Commerce and the Rules Committees are to be highly commended for the prompt but careful attention they have given this subject, and I hope the whole Senate will follow their lead with an early enactment of this legislation.

Before final passage, however, there are several perfecting amendments which I believe should be adopted.

One of the most important of these is the amendment by the senior Senator from Kansas (Mr. PEARSON) to replace the General Accounting Office as repository of election reports with a nonpartisan Federal Elections Commission. This idea was contained in my own election campaign reform bill, S. 1, and I still think it the best assurance of full and fair disclosure of campaign financing.

While there is no question that the GAO possesses the facilities and expertise necessary to function as the repository of campaign reports, competence is not the only requirement if we are to have the most meaningful and complete disclosure of all campaign receipts and expenditures. We must also have independence.

The GAO is not, of course, subject to the charge of partisanship, which can hardly be avoided if the Secretary of the Senate and the Clerk of the House serve as the receivers of financial reports, as at present. Therefore, the committee's idea of placing this responsibility with the General Accounting Office is a commendable one, and constitutes a great step in the right direction.

Nonetheless, assigning this task to the GAO creates unique problems of its own. It would place the General Accounting Office in an investigatory and reporting capacity vis-a-vis the Congress, thus reversing the employer-employee relationship between the two bodies.

The undesirability of this situation was remarked upon by Elmer Staats, the Comptroller General, in a letter to the chairman of the Appropriations Committee (Mr. ELLENDER). He stated that—

> The General Accounting Office is strongly opposed to placing the responsibility for the administration of Federal campaign financing requirements in the Comptroller General.

Mr. Staats said:

> We believe that the effectiveness of the Comptroller General and the General Accounting Office depends in large measure upon maintaining a reputation for independence and objectivity. Not only must we remain free from political influence, but we must zealously avoid being placed in a position in which we might be subject to criticism, whether justified or not, that our actions and decisions are prejudiced or influenced by political considerations . . . because our relationship to the Congress closely resembles that of principal and agent, we especially wish to avoid being placed in the anomalous situation of having to investigate and report on our principal.

This is the inherent weakness in the proposal that the GAO assume responsibility for future financial disclosures. Any such extension of the Comptroller General's authority would be burdensome and uncomfortable, and could thereby prejudice not only the full disclosure of campaign financing but the other work of the GAO as well.

Creation of an independent, non-partisan Federal elections commission would avoid this difficulty. And it would not—as some have thought—entail setting up a whole new bureaucracy. The five-man commission would assume the responsibilities of decisionmaking and promulgating regulations, but the day-to-day work of receiving reports, conducting audits, and investigating abuses could be performed by personnel already available in the General Accounting Office and the Department of Justice.

The elections commission is a very practical idea, long supported by such reform-minded groups as the National Committee for an Effective Congress and the Citizen's Research Foundation. I hope that the Senate will adopt the amendment offered by the Senator from Kansas and myself.

Mr. BROOKE. Mr. President, comprehensive reform of the Federal campaign practices law is one of the most important issues with which the Congress must deal this year. Election after election, we have seen evidence that the American public is becoming increasingly weary and disillusioned by widespread abuse at campaign time of its tolerance, its intelligence, and its laws.

By its initial efforts in Commerce and Rules Committees, the Senate has posted clear notice that it intends to consider and approve the most sweeping reform and regulation of election laws in the Nation's history. I commend those Senators on both sides of the aisle who have worked diligently and cooperatively for several months, and trust that this spirit will carry the bill to prompt enactment. These efforts have laid a solid foundation for the molding of legislation which is both fair and effective.

Although previous legislation, principally the Corrupt Practices Act and the Hatch Act, has provided a basis for establishing some sense of order in campaign law, these acts have not been notably successful in preserving the integrity of the election process. Nor have they been adequately enforced over the years by the responsible officials of the Congress and the Justice Department. I am confident that this new legislation will provide means by which existing loopholes can be tightened and enforcement made more stringent.

There are several sections of the proposed legislation which I believe are deserving of special comment.

First, I believe that the most significant section of this bill is title III, which is concerned with disclosure of receipts and expenditures by candidates and their political committees. Should the Rules Committee version of the bill be enacted—and I am not aware of substantial opposition to most of its principal provisions—the American public will be provided with extensive information describing all phases of each candidate's financial activity.

Specifically, the treasurer of each political committee will be required to maintain records of all contributions and expenditures, and to file with the administrative office enforcing this act a listing of all contributions and expenditures in excess of $100. The bill requires that such reports be made on five separate instances prior to any election, including on the 5th day preceding the election.

I support also the provision, originally proposed by Senator SCOTT, requiring that candidates provide monetary guarantees that debts will be paid when owed to businesses regulated by the Federal Government, such as the telephone and airline companies. In my mind, it is scandalous that several candidates in the 1968 elections still owe hundreds of thousands of dollars to these corporations and have given no indication that the debts will ever be cleared.

Comprehensive disclosure is vital because it permits the voters to review the sources of funds for each candidate, as well as the total amount of such contributions. Indeed, disclosure requirements, if enforced, make less necessary any limitation on contributions or spending because they provide the public full opportunity to determine the appropriateness of a candidate's income and spending practices, and to translate that judgment into action at the ballot box.

It should be clear that a sum of money spent in one heatedly contested race might properly be greater than a sum of money spent in a mildly contested race in the same State. I for one have greater confidence in the logic and wisdom of an informed American electorate than I do in uniform legislative guidelines. Consequently, I fully support the disclosure provisions in the bill.

Third, I strongly support the amendment offered by Senator PEARSON of Kansas, which would create an independent Federal Elections Commission to supervise the enforcement of campaign laws. This proposed five-member bipartisan commission, appointed by the President with the advice and consent of the Senate, would have full power to investigate charges of illegal campaign activities, to subpena evidence, and to report possible violations of law to the Justice Department for prosecution.

These important responsibilities can be most effectively undertaken by a body which is almost entirely independent of both the executive and legislative branches. Although it would be an improvement over present law, the proposal that the General Accounting Office be assigned the responsibility would endanger that important body's nonpartisan status. Indeed, the Comptroller General, as Director of GAO, has himself

stated that he favors the independent election commission.

Bearing in mind that fair campaign practices will, in large measure, follow from stringent disclosure requirements, the Congress should be particularly careful to respect first amendment considerations in establishing campaign spending limitations. As incumbents, we ought to recognize that we have the most to gain by tightly limiting allowances for media expenditures. In most contests, the challenger starts with a serious disadvantage simply because his name and face are largely unknown. I believe that any campaign regulation should bear this factor in mind.

Thus, I strongly support the repeal of section 315 of the Communications Act for all candidates for Federal office, congressional as well as presidential. The present "equal time" requirement prohibits broadcasters from granting the two or three major party candidates an opportunity to debate and discuss the issues without providing an equal opportunity to all other candidates for the same office. The section should be repealed because it is unrealistic and because its net effect is to provide little, if any, free air time to any candidates for Federal office. Surely, it makes little sense to take the halfway measure of repealing the law only insofar as it applies to presidential contests. Recent experience as well as statistics prove that there is a much greater likelihood of third party opposition in a contest for the Presidency than in one for the Congress; therefore, if section 315 is repealed for presidential elections, there would be little point in retaining it for other Federal contests.

Repeal of section 315 would logically bring about a second highly desirable goal—a reduction in spending for media advertising and in the superficial commercialization of candidates that has become much too familiar in American political life.

After thorough consideration, I have concluded that we should adopt that part of the amendment proposed by Senator PASTORE which would limit spending for broadcast media to 5 cents per eligible voter. A study of the 1970 expenditures in senatorial contests reveals that a large majority of the candidates would have spent less than 5 cents per voter. There is, therefore, no need to enact into law a provision which has the effect of permitting increases, rather than limits, of the high costs of campaigning.

My decision on this matter was influenced also by two additional aspects of the bill about which there is little disagreement. First, the spending limitation will be based on the number of eligible voters rather than the number of individuals voting in the previous election. Second, the bill requires that all charges for broadcast facilities be assessed at the lowest unit advertising rate of the station in the 45 days prior to a primary election and 60 days prior to a general election. These changes will, in most cases, translate the 5-cent limit of the present bill to approximately 10 cents under the old standards.

Along with the 5-cent per eligible voter limit on nonbroadcast media expenditures, as well as repeal of section 315, this provision would place a reasonable limitation on the amount of television advertising but would still be high enough to provide adequate opportunity for each candidate fully to present his views to the public in whatever manner he sees fit.

The Senate will be debating other important aspects of this bill in the coming days. Hopefully, these efforts will result in legislation which is desired by a great majority of the public as well as by most individuals who run for public office.

It is clear that the American campaign process has become, in too many instances, a contest where the survivors are the wealthiest, the best performers, and the ones with the best advertising consultants. If we are to restore the confidence of American citizens in the political process and in the Congress itself, passage of this bill is a vital and requisite step.

Mr. PASTORE. Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, whatever time I had, I yield to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. (Mr. GAMBRELL). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from Kansas (Mr. PEARSON).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK) are detained on official business.

The result was announced—yeas 89, nays 2, as follows:

[No. 186 Leg.]

YEAS—89

Aiken	Cranston	Hollings
Allen	Curtis	Hruska
Alliott	Dole	Humphrey
Anderson	Dominick	Inouye
Beall	Eagleton	Jackson
Bellmon	Ellender	Javits
Bennett	Ervin	Jordan, N.C.
Bible	Fannin	Jordan, Idaho
Boggs	Fong	Kennedy
Brooke	Fulbright	Mansfield
Burdick	Gambrell	Mathias
Byrd, Va.	Goldwater	McClellan
Byrd, W. Va.	Gravel	McGee
Cannon	Griffin	McGovern
Case	Gurney	McIntyre
Chiles	Hansen	Metcalf
Church	Harris	Miller
Cook	Hart	Mondale
Cooper	Hartke	Montoya
Cotton	Hatfield	Moss
Muskie	Ribicoff	Symington
Nelson	Roth	Taft
Packwood	Saxbe	Talmadge
Pastore	Schweiker	Thurmond
Pearson	Scott	Tower
Pell	Smith	Tunney
Percy	Sparkman	Weicker
Prouty	Spong	Williams
Proxmire	Stevens	Young
Randolph	Stevenson	

NAYS—2

Buckley	Long

NOT VOTING—9

Baker	Brock	Magnuson
Bayh	Eastland	Mundt
Bentsen	Hughes	Stennis

So Mr. PEARSON's amendment, as modified, was agreed to.

AMENDMENT NO. 342

Mr. SCOTT. Mr. President, I call up my amendment No. 342 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 17, between lines 2 and 3, insert the following:

"SEC. 206. Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"'§ 614. Extension of credit to candidates for Federal office by certain industries

"'(a) Except as otherwise provided in subsection (b) of this section, no person engaged in a business, the rates and charges for which are regulated by the Civil Aeronautics Board, the Federal Communications Commission, or the Interstate Commerce Commission, shall furnish goods or render services to a candidate, or to any other person who is acting on behalf of such candidate, in connection with his campaign for nomination for election, or election, to Federal office unless such candidate or person (1) pays for such goods or services in advance of their being furnished or rendered, or (2) secures the debt so created in full by property, bond, or other security.

"(b) In the case of any such business whose customary practice is to submit statements to its customers at periodic intervals requesting payment for goods furnished or services rendered, such business shall not furnish goods or render services to any such candidate or person, or to any other person acting on behalf of such candidate in connection with his campaign, so long as any debt owed by such candidate or person for past goods furnished or services rendered in connection with the campaign of such candidate remains unpaid for more than ten days after the date such statement is issued unless such debt is secured in full by property, bond, or other security. In order to carry out the provisions of this subsection, such business shall submit such statements on a monthly basis to its customers who are candidates or persons acting on behalf of a candidate in connection with his campaign.

"(c) Any candidate who purchases goods or services from any such business in connection with his campaign for Federal office, and any person who purchases such goods or services on behalf of such candidate in connection with his campaign, shall identify himself as a candidate or as a person acting on behalf of a candidate before purchasing such goods and services and shall indicate that such goods and services are being purchased in connection with the campaign of such candidate.

"(d) For purposes of this section—

"(1) payment in advance by cash, check, money order, or by credit card (if the issuer of such card is not the person from whom such goods or services were purchased, or a subsidiary, parent, or affiliate corporation thereof) shall be considered to be payment in advance; and

"(2) a person shall be considered to be acting on behalf of a candidate if—

"(A) he is employed by such candidate or by a political committee to act on behalf of such candidate in connection with such candidate's campaign for nomination for election, or election, to Federal office;

"(B) such candidate, or a political committee which makes expenditures to influence the nomination or election of such candidate, pays, directly or indirectly, for goods and services purchased by such person while so acting;

"(C) such person is acting under an agreement with such candidate, or with a political committee which makes expenditures to influence the nomination or election of such candidate, under which he is to engage in activities in connection with such candidate's campaign for nomination for election, or election, to Federal office; or

"(D) such person is acting as an agent of such candidate, or of a political committee which makes expenditures to influence the nomination or election of such candidate, in connection with such candidate's campaign for nomination for election, or election to Federal office.

"(e) The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate its own regulations, within ninety days of the effective date of this Act, in order to carry out the provisions of this section with respect to businesses regulated by it.

"(f) Violation of the provisions of this section, or regulations promulgated under this section, is punishable by a fine not to exceed $1,000, imprisonment for not to exceed one year, or both."

On page 17, line 3, strike "SEC. 206" and insert in lieu thereof "SEC. 207".

On page 17, strike the matter between lines 10 and 11, and insert in lieu thereof the following:

"611. Contributions by Government contractors.";

(4) Adding at the end of such table the following:

"614. Extension of credit to candidates for Federal office by certain industries".

On page 27, line 21, strike out "SEC. 305." and insert in lieu thereof "SEC. 305. (a)".

On page 28, between lines 4 and 5, insert the following:

"(b)(1) Any candidate, or person acting on behalf of such candidate or as an agent of such candidate in connection with the campaign of such candidate for nomination for election, or election, to Federal office, who purchases goods or services in connection with such campaign from any business the rates and charges for which are regulated by the Civil Aeronautics Board, the Federal Communications Commission, or the Interstate Commerce Commission, shall file with the Comptroller General a statement disclosing—

"(A) the name of the purchaser and the name of the candidate for the benefit of whose campaign the goods or services were purchased;

"(B) a specific description of the goods or services furnished and the quantity or measure thereof, if appropriate;

"(C) any amount of the price of such goods or services not paid in advance of their being furnished to the purchaser;

"(D) any unpaid balance of the price of such goods or services as of the reporting date;

"(E) a description of the type and value of any bond, collateral, or other security securing such unpaid balance; and

"(F) such other information as the Comptroller General shall require by published regulation.

"(2) Reports required under paragraph (1) of this subsection shall be filed on the dates on which reports by political committees are filed, and shall be cumulative.

Mr. SCOTT. Mr. President, I yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. Mr. President, I wish to point out to Senators——

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Rhode Island will withhold for a moment. The Chair asks that Senators be seated and that attachés retire to the rear of the Chamber. Let us have order.

The Senator from Rhode Island may proceed.

Mr. PASTORE. Mr. President, as I was saying, we have a one-half hour limitation, with 15 minutes to a side. I would expect that votes will come fast and, hopefully, furious.

Mr. SCOTT. Mr. President, I agree with the statement of the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, my amendment concerns the extension of credit to candidates for Federal office by certain federally regulated industries.

The basic points to consider are that the legislation and regulations covering common carriers—airlines, telephone companies, and telegraph companies—generally prohibit discrimination and unreasonableness in setting rates, charges, and deposits. Because of this inflexibility, these federally regulated industries have great difficulty in obtaining sufficiently large deposits to cover operations connected with political campaigns.

Because of this difficulty, many political accounts remain outstanding. In some cases they are completely uncollectable and, in fact, have been written off entirely.

The combination of these three factors places these regulated industries, all of them corporations, in a position of making illegal corporate contributions to political campaigns. Existing law already prohibits corporate contributions, in addition to "free" services.

Mr. BYRD of West Virginia. Mr. President, may we have a little better order in the Senate?

The PRESIDING OFFICER. The Chair will again attempt to get order. The best way to have order is for Senators to respect the right of other Senators to be heard.

The Senator from Pennsylvania may proceed.

Mr. SCOTT. Mr. President, very simply, because of their inability to protect themselves adequately these federally regulated industries become easy prey for political candidates. The airlines, telephone, and telegraph companies have been placed in a position of unlawfully, unavoidably, and unintentionally—and I might add illegally—subsidizing political campaign expenses.

Another point to keep in mind is that, even if it can be shown that these particular industries have enough latitude to protect themselves, a very delicate political problem remains. For example, an airline executive could be faced with a problem of how he tells a powerful Member of Congress, whose jurisdiction in committee may include airlines and who may be a candidate for office, that the candidate's credit or application for credit must be denied. Perhaps the candidate would seek out another airline to extend credit, but in any event the uncooperative airline would be at least in fear of possible future recrimination. Only the force of law, as proposed in my amendment, would prevent such abuses of power.

Mr. DOMINICK. Mr. President, will the Senator yield for a question?

Mr. SCOTT. I will yield in a moment.

Mr. President, on July 23, 1971, at page 26935, I introduced a longer statement on the amounts due—from both political parties and the candidates of both political parties—indicating that this difficulty has afflicted many federally regulated industries, no matter who is the candidate or which party is running.

I am glad to yield to the Senator from Colorado.

Mr. DOMINICK. I raise a question just on the wording of the amendment. I can certainly sympathize with the Senator from Pennsylvania on the purpose of the amendment. I understand what he is trying to get at, but on page 3 of the amendment, it reads:

For purposes of this section—

(1) payment in advance by cash, check, money order, or by credit card . . .

Then the language continues—

if the issuer of such card is not the person from whom such goods or services were purchased . . .

And so on.

I have an international credit card, just to make it personal, so I will not be stepping on anybody else's toes, which is under the aegis, at least, of the United Air Lines. In the process of traveling back and forth to my State, I use United Air Lines all the time, and then go ahead on that travel-card system.

I would hesitate to make a pronouncement on this, but, for the record, I would think that is a person from whom such goods and services were purchased if I were traveling on United; and I would think it would be prohibited under this language.

Mr. SCOTT. Mr. President, the Senator and I discussed this earlier. I did not intend to mislead him, but, on a careful reading of the amendment and its effect, it would mean credit could be used by candidates as long as the debt is fully secured. American Express cards, for example, could be used at any time; but a credit card issued by a particular airline, for example, could not be used unless the credit is secured—that means otherwise secured. So an airlines credit card would not be covered, but the other credit cards would be exempted. Western Union or Bell Telephone cards would be covered unless otherwise secured.

Mr. DOMINICK. I would think that would create all kinds of problems, because in the normal course of events, I use the airlines all the time—and I am sure everyone else around here does—on the ordinary credit card, or some other cedit card which is available, and I would think it would be extremely complicated

to say the whole bill must be secured, when one does not know what it is that must be secured before he can travel on it.

Mr. SCOTT. There is a 10-day grace period during which unsecured credit can be cleared up by full payment of bills or through a security arrangement. Monthly statements, however, are required. But there cannot be any attempt to pile up bills on that credit card.

For example, if a Senator used the United Air Lines card and ran up a debt of $10,000 unsecured, there is nothing in the credit card or no available means by which the airlines could proceed. Failure to pay an American Express card bill definitely affect the personal credit as well as the credit of a candidate or of any person who is running for office, and it is believed that that in itself operates as sufficient security, in addition to the checks and the protections which American Express, Diner's Card, and all the rest have used to assure themselves by prior credit investigation.

Mr. DOMINICK. I am trying to clear the record. Most of the credit cards issued by the airlines do have credit secured, because it costs about $200 to go back and forth, and one has to put up $400 security. Obviously, it is not going to be enough in a campaign year for any kind of candidate.

The difficulty I see in this amendment is that it provides that one is still abiding if he pays within 10 days, but if he does not, he is in a substantial problem. He may find himself engaged in a campaign where the bill does not even come in during that period or he may find himself in a position where, because of the campaign exigencies, he is not able to get back just to find the bill and write a check. In other words, there are some problems in this airline situation which perhaps have not been considered.

The American Express card is largely unsecured. The airlines cards have some deposits behind them, at least to some degree. But is it not a matter of business on the part of the airlines to decide whether or not they are going to crack the whip and make a person pay his bill?

Mr. SCOTT. I grant that there are difficulties, but I do not know of a better way to get at it. The effect probably would be that the airlines would require a greater deposit than they presently require, according to the track record of the candidate who is running. One who is in a nearby State might be expected to pay a smaller deposit. They might do that. Perhaps others will want to do that. In any event, say $4,000 was required; that might be used as security until it was exhausted.

Mr. DOMINICK. It seems to me that if we take the words out of the amendment on page 3 in parenthesis, on lines 12 to 15, the problem that I have brought up would be solved, and that person, in other words, would still be considered to have made a payment in advance when he has a credit card. Therefore, he would not have that problem.

Mr. SCOTT. I would be glad to consider that possibility and discuss it with the Senator from Colorado prior to the vote and make a statement as to whether or not we can do that. In the meantime I would like to give other Senators an opportunity to be heard.

Mr. DOMINICK. I thank the Senator.

Mr. SCOTT. Mr. President, at this time I yield the floor and reserve the balance of my time.

Mr. PASTORE. Mr. President, as our beloved former colleague, Mr. Dirksen, would be prone to say, this indeed is discriminatory; it makes a second-class citizen out of a candidate. My question is, Why do we do it to ourselves? Who really are we that we think of ourselves in such a way that we have to punish ourselves unnecessarily when we are trying to do what most of us think is an act of nobility in running for public office? The former Senator from Illinois would be prone to say this is really throwing out the baby with the bath water. I would say this is burning down the barn to catch one mouse.

After all, this is entirely within the discretion of the airlines. If they do not think PASTORE or HUMPHREY is worthy of credit, they do not give it, and if they give credit and get stuck, they cannot add it on their rate base. That is the law.

I say this amendment is absolutely unnecessary. This is not the place for it. It should not be in the bill. It ought not to be in the bill. I hope the Senate will knock it down.

As the Senator from Colorado said, talk about a sieve when the President vetoed the original bill; this is full of potholes. This is a bottomless kettle, and I think we will all be inundated with shame if we adopt the amendment. I hope it will be knocked down.

Mr. CANNON. Mr. President, will the Senator yield to me?

Mr. PASTORE. I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I associate myself with the Senator from Rhode Island in opposing this so-called fat cat or rich man's amendment that is before us.

In the first place, it would establish a discriminatory position in favor of Carte Blanche, American Express, and other credit chains that issue cards to cover many different services and charge a percentage to the agency that is utilizing those services.

On the other hand, it would penalize any company that wants to carry its own credit. Any of the airlines, Western Union, or the telephone company that wanted to carry their own credit and use their own credit would be penalized because they could not operate under this amendment.

I pointed out yesterday that it is, plainly and simply, a fat cat or rich man's amendment. It is not only designed to, but will, eliminate those without ample resources and finances from participating as candidates for public office.

I do not think that is what we want to do. We heard a lot of discussion here a few minutes ago, on the last amendment, about the worthy objectives of a nonpartisan approach to try to get an election bill out of here that would provide some election reform.

This is going to reform it: it will make it so that no one except a rich man can run for public office.

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

Mr. CANNON. I am happy to yield.

Mr. STEVENS. How does this get to be a rich man's amendment? I do not quite understand that. The people who are running up these bills are people who are not paying their bills. I do not quite see how you can call this a fat cat or a rich man's amendment. We are trying to assure that people are responsible for the debts incurred in their names by committees which are organized in order to help a candidate run for election.

Mr. PASTORE. Mr. President, will the Senator yield on that point?

Mr. CANNON. I yield.

Mr. PASTORE. The poor man, the guy we are trying to help, is not getting that kind of credit.

Mr. STEVENS. Who does the Senator know in that circumstance? What candidate does he know who is running around the country, running up bills and not paying them?

Mr. PASTORE. Did the Senator ever run for President?

Mr. STEVENS. No, and I have no intention of doing so.

Mr. PASTORE. When the Senator runs for President, he will have a job on his hands.

Mr. STEVENS. We are talking about campaign committees running up charges and now being serviced by corporations, contrary to the Corrupt Practice Act. That is my understanding. How does that turn out to be a "fat cat" amendment? We are trying to make those fat cats pay up.

Mr. CANNON. Mr. President, I would like to answer now. I have yielded to several Senators on my own time.

In the first place, if they are extending credit in violation of the Corrupt Practices Act, the Department of Justice ought to take action, and I am sure they would if someone made a complaint to them, because that is their responsibility, to prosecute if there is a violation of the Corrupt Practices Act. The violation would be if this were really a contribution and not a pure and simple extension of credit.

But the amendment would prohibit the ordinary man, like myself, the Senator from Alaska, and a few others, who travel great distances, from using an airline credit card unless we post security in full. With the amount of traveling we would do, we could not use that card.

On the other hand, we could, as I pointed out earlier and as the Senator from Colorado pointed out, go to American Express or Carte Blanche or some other company, and use the credit card there without posting security, and the beneficiary, the company extending the service, either the airline, Western Union, or the telephone company—and those are the only three involved—would have to pay a premium to Carte Blanche or American Express to use that service, and could not issue its own credit card, which it has the right to do in the ordinary course of good business practice, in carrying out good credit management.

I submit, Mr. President, that this is really and truly a fat cat or rich man's amendment, and it would prohibit a poor man, who cannot put up the necessary

cash to cover his own traveling expenses and the telephone calls he is going to make, from running for public office.

It covers three agencies, the FCC, the ICC, and the CAB. We might as well eliminate the ICC to begin with, because they only cover the railroads, and the railroads are not running any more, anyway, as far as passenger traffic is concerned, and do not extend credit when they do.

The other two have authority to establish rules and regulations to protect the organizations which they exercise jurisdiction over. Certainly the business management practices of those companies ought to be adequate to take care of this particular situation. Therefore, Mr. President, I oppose the amendment.

Mr. SCOTT. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The clerk will state the modification.

The legislative clerk read as follows:

On page 36, after line 16, add the following:

"TITLE IV—MISCELLANEOUS

"EXTENSION OF CREDIT BY REGULATED INDUSTRIES

"SEC. 401. The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within 90 days after the date of enactment of this Act, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 301 (c) of the Federal Election Campaign Act of 1971), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office."

The PRESIDING OFFICER. The amendment will be so modified.

Mr. SCOTT. Mr. President, the reason for submitting the modification is twofold. First, the sheer pragmatism of recognizing that, in view of the opinions expressed here, particularly by the distinguished Senator from Rhode Island, for whom we have such respect, and recognizing pragmatically that my original amendment is not going to carry, although I think it is better than the one I am now submitting, and I think it is more desirable; and second, I have here just received further evidence of the piling up of bills of the Bell Telephone Co., in the form of a letter from the American Telephone & Telegraph Co., dated yesterday; the back of poor old Ma Bell is bending, and I ask unanimous consent that the letter and supplementary material be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

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

Mr. SCOTT. If I may say just briefly this: What we propose now, after discussion with the distinguished manager of the bill (Mr. PASTORE), is that the appropriate regulatory agencies, within 90 days after the enactment of this act, issue such rules and regulations as will have the effect of correcting a situation where huge bills can be piled up without any subsequent genuine effort to pay them. We are going to leave it to the regulatory agencies. To do the job they are supposed to do.

My original amendment was a mandate. This is a directive that regulations be proposed. It has been discussed with the Senator from Rhode Island, and I understand that the Senator from Nevada is aware of it, and I hope that the manager of the bill can accept the amendment.

EXHIBIT 1

AMERICAN TELEPHONE & TELEGRAPH CO.,
New York, N.Y., August 2, 1971.

Mr. BERNARD STRASBURG,
Chief, Common Carrier Bureau,
Federal Communications Commission,
Washington, D.C.

DEAR MR. STRASBURG: This is in further reply to your letters of May 24, 1971 and June 21, 1971 (File 9330) which enclosed copies of letters from the General Accounting Office (GAO) requesting that we obtain and furnish certain information regarding political campaign debts owed to the Bell System Telephone Companies.

The revised GAO request, transmitted with your June 21, 1971 letter, specified that we need to provide (1) only the amount of debt still outstanding for each candidate in the 1968 presidential campaign and (2) the amounts written off as uncollectible for all candidates for Federal office for the years 1968, 1969 and 1970.

Our letter of July 7, 1971 transmitted the information covering the amounts written off as uncollectible for the years 1968, 1969 and 1970. However, we do not consider any such amounts as written off in the sense of discharging the debtor; nor do we discontinue collection efforts. In addition, we do not settle debts for less than the full amount.

We are attaching hereto the requested information covering the outstanding campaign debts owed to Bell System Companies for communication services furnished during the 1968 presidential campaign to national, state and local committees campaigning for the candidates.

Bell System policy and procedures with respect to the billing and collection of debts incurred by the committees campaigning for the candidates for Federal office are consistent with the policy and procedures applicable to any other customer. Furthermore, we do not differentiate in our collection efforts between regular customers and those campaigning for political candidates.

All communication services for all customers are provided at the rates and charges specified in applicable tariffs on file with the appropriate regulatory bodies.

In addition, the GAO requested that we provide:

1. An explanation as to why any other data requested could not be provided including, where appropriate, an estimate of the time and cost that would be involved (in assembling such data).

2. Actual or estimated total amounts, written off as uncollectible for each of those years for which the carriers cannot submit (the requested) data.

In response to item 1. above, the records for all the years prior to 1965 have been destroyed as provided for by Part 42 of the F.C.C. Rules and Regulations, "Preservation of Records of Communication Common Carriers." For the years 1965 through 1967, political accounts were not separately identified and were filed with all other accounts. To determine at this time the political accounts previously written off as uncollectible for the years 1965 through 1967 would require identification of the names of all candidates then running for Federal office. Once these names were determined, a manual search of Commercial records in each of the Telephone Companies would have to be initiated to obtain the telephone numbers of the political accounts in question. Many accounts, however, may be listed under billing names other than those of the candidates and thereby virtually impossible to identify. The list of telephone numbers that could be assembled would then be furnished to the Comptrollers Department, which would institute a search of the records to determine what amounts had been written off as uncollectible. These Comptrollers Department records are currently stored in each Telephone Company in a number of dead storage locations. We estimate that it would require approximately 1,750 man hours at each of the 108 Revenue Accounting Offices or a total of 189,000 man hours to search the records at an estimated cost of $960,000.

In response to item 2. above, we have no basis for estimating the political account amounts written off as uncollectible prior to 1968, other than by extrapolation of our experience starting with 1968. In our opinion, such a bench mark would be unrealistic. The campaigns commencing in 1968 differed from previous campaigns inasmuch as the amount of telephone communications used from 1968 onward greatly exceeded the volume of calling in comparable campaigns. Therefore, we do not believe we possess sufficient data to permit an estimate which would have any degree of validity.

If you have any questions regarding the attached information, we shall be glad to discuss them at your convenience.

Yours very truly,

D. E. EMERSON.

OUTSTANDING DEBTS OWED TO BELL SYSTEM COMPANIES FOR SERVICES FURNISHED DURING THE 1968 PRESIDENTIAL CAMPAIGN TO NATIONAL, STATE, AND LOCAL COMMITTEES OF THE CANDIDATES

[Not written-off as uncollectible]

Company	Incurred on behalf of—	Number of accounts	Amount owed
Southern New England	Humphrey-Muskie	2	$218.83
Cincinnati Bell	do	8	1,643.28
Wisconsin	McCarthy	3	6,419.94
	Nixon-Agnew	2	224.36
Total			6,644.30
Southwestern	Humphrey-Muskie	78	$15,264.54
	Kennedy	1	201.05
	Nixon-Agnew	27	7,087.79
Total			22,553.38
New Jersey	Humphrey-Muskie	64	12,456.89
	Nixon-Agnew	19	12,463.74
Total			24,920.63

OUTSTANDING DEBTS OWED TO BELL SYSTEM COMPANIES FOR SERVICES FURNISHED DURING THE 1968 PRESIDENTIAL CAMPAIGN TO NATIONAL, STATE, AND LOCAL COMMITTEES OF THE CANDIDATES—Continued

[Not written-off as uncollectible]

Company	Incurred on behalf of—	Number of accounts	Amount owed
Pennsylvania	do	46	$19,051.25
	Humphrey-Muskie	54	17,012.00
Total			36,063.25
Long Lines	do	2	10,724.00
	Nixon-Agnew	1	1,379.66
Total			12,103.66
New York	Nixon-Agnew	1	71,242.42
	McCarthy	6	8,170.92
	Humphrey-Muskie	154	27,006.94
	Kennedy	25	43,419.77
Total			149,840.05
Pacific Northwest	Humphrey-Muskie	14	4,234.57
	Nixon-Agnew	1	32.35
	McCarthy	15	22,720.79
	Kennedy	129	29,152.62
Total			56,140.33
Michigan	Nixon-Agnew	11	2,004.79
	Humphrey-Muskie	2	30.43
	Kennedy	16	4,422.89
	McCarthy	2	244.71
Total			6,702.82
Ohio	Nixon-Agnew	89	19,206.96
	Rockefeller	1	161.71
	Humphrey-Muskie	58	8,296.82
	McCarthy	10	334.64
Total			28,000.13
Indiana	Humphrey-Muskie	9	2,768.16
	Kennedy	64	36,440.87
	Nixon-Agnew	2	284.34
Total			39,493.37
Mountain	do	50	6,160.77
	Rockefeller	1	235.03
	Humphrey-Muskie	31	5,133.84
	Kennedy	20	3,447.90
	McCarthy	2	730.69
Total			15,708.23
Pacific	Nixon-Agnew	13	$4,810.91
	Kennedy	150	98,275.07
	Humphrey-Muskie	88	66,312.14
Total			169,398.12
Illinois	Nixon-Agnew	34	21,710.45
	Rockefeller	1	1,173.52
	Humphrey-Muskie	17	2,108.96
	Kennedy	14	3,565.47
Total			28,558.40
Northwestern	Humphrey-Muskie	16	4,195.54
	Kennedy	147	26,998.26
Total			31,193.80
C. & P., Virginia	Humphrey-Muskie	21	2,645.17
C. & P., West Virginia	Kennedy	3	2,958.67
C. & P. Co	Nixon-Agnew	10	11,085.54
	McCarthy	1	111,760.02
	Kennedy	3	158,110.47
	Humphrey-Muskie	3	153,354.04
Total			434,310.07
C. & P., Maryland	Nixon-Agnew	6	3,115.52
	Kennedy	1	509.08
	Humphrey-Muskie	14	4,031.55
Total			7,656.15
New England	Nixon-Agnew	27	1,703.88
	McCarthy	2	107.02
	Kennedy	16	1,100.41
	Humphrey-Muskie	7	420.16
	Rockefeller	1	7.50
Total			3,338.97
South Central	Nixon-Agnew	56	6,391.27
	McCarthy	1	10.07
	Humphrey-Muskie	81	6,620.72
Total			13,022.06
Southern Bell	Nixon-Agnew	27	729.27
	Wallace	1	30.00
	Humphrey-Muskie	1	355.13
	Kennedy	8	282.40
Total			1,396.80

Mr. SCOTT. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, this is now a horse of a different color. It is acceptable to me. It really modifies a directive which is the existing authority today, under the law, of these various agencies. It reminds them of their responsibilities. There is nothing punitive about it, and for that reason I am perfectly willing to accept it. I think as now modified it really is a public service.

Mr. SCOTT. I thank the distinguished Senator from Rhode Island. My white horse is now a palomino, but it is by no means piebald, and I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. HUMPHREY). Do Senators yield back their time?

Mr. SCOTT. I yield back the remainder of my time.

Mr. PASTORE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. SCOTT), as modified.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT 348

Mr. PROUTY. Mr. President, I call up my amendment 348, offered by the distinguished senior Senator from Tennessee (Mr. BAKER) and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 7, insert "(1)" before "Section".

On page 2, strike lines 10 and 11, and insert in lieu thereof the following: "and the following: 'other than Federal elective office (as defined in subsection (c) of this section),' ".

On page 2, between lines 11 and 12, insert the following:

"(2) Section 315(a) of such Act is amended by inserting after the first sentence thereof the following: 'If a licensee permits a legally qualified candidate for Federal elective office to use his broadcasting station in connection with such candidate's campaign for nomination for election, or election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format.'."

The PRESIDING OFFICER. The Chair inquires of the Senator from Vermont whether he asks unanimous consent that the amendments be considered en bloc.

Mr. PROUTY. I so request.

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

The Chair inquires of the Senator whether this is one of the amendments for which he has asked 3 hours.

Mr. PROUTY. No, Mr. President, it is not.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. PROUTY. Mr. President, in considering the proposed legislation, both the Senate Commerce Committee and the Committee on Rules and Administration were made acutely aware of the fact that section 315(a) of the Federal Communications Act of 1934 inhibited broadcasters from providing any free time to candidates for Federal office. Section 315(a) is the so-called "equal time provision" of the Federal Communications Act.

Mr. President, a provision similar to section 315(a) was in the Radio Act of 1927. In 1934 Congress saw fit to carry this provision over into the new law. The reasons for the provision were simple. Then, as today, broadcasting was recognized as a powerful force for influencing public opinion. It was because of the tremendous power inherent in the use of radio and television that section 315 was enacted, so as to insure that if one can-

didate was given free time on radio or television, other candidates for the same office would be afforded an equal amount of time. If one candidate was able to buy a certain amount of time on radio or television, his opponents would be entitled to purchase an equal amount of time.

Quite frankly, Mr. President, this "equal time provision" in reality became an easy excuse for broadcasters to provide absolutely no free time.

Dr. Frank Stanton, president of CBS, in his testimony before the Senate Commerce Committee on March 3, described the inhibitive effect of section 315 when he stated:

Central to any measures calculated to strengthen the electoral process must be the improvement of the quality and quantity of information provided to the public about the candidates and the issues. The repeal of Section 315 is an important avenue to this end, since it would provide opportunities for greater contribution of free time by broadcasters and deeper treatment of the issues. Because Section 315 requires equal time for every candidate for an office, however insignificant or frivolous his candidacy, the practical effect of the law has been to deny free broadcast time to major candidates or to force free time to be shared with fringe candidates. This, it seems to me, is a classic case of backlash on the public interest.

Dr. Stanton was but one of many from the broadcast industry to testify to the fact that section 315(a) has become a "no time offered requirement" in practice.

Vincent Wasilewski representing the National Association of Broadcasters before the Commerce Committee stated:

Broadcasters stand ready and willing to provide free time for the appearance of presidential and vice-presidential candidates of the major parties.

We believe the capricious operation of Section 315, however, makes it impossible for broadcasters to perform this public service responsibility.

The presidents of NBC and ABC confirmed the conclusions of Dr. Stanton and Mr. Wasilawski. Since we were determined in Rules Committee to consider this important legislation in its entirety other broadcasters testified before us. Victor Diehm, president of the Mutual Broadcasting System succinctly reenforced the need for exempting all candidates for Federal office from the equal time requirements of section 315 (a), when he said:

Under the present law, any appearance by a candidate in person gives rise to the requirement of equal opportunity or equal time for all other candidates for the same office. The bill, S. 382, as amended, recognizes that this is really an inhibiting factor operating on a broadcaster rather than a guarantee of equal treatment. By its present language, S. 382 would repeal the equal opportunity provision of section 315 of the Communications Act for Presidential and Vice-Presidential candidates. Extension of this policy to all Federal officeseekers would permit coverage of all serious candidates to a much greater extent than is now possible.

It should be pointed out that the public interest standard and all other applicable considerations bearing on a broadcast licensee's stewardship of the airwaves remain in full force. Abuse, if it should occur, could be readily redressed.

Stations, freed from the threat of great swarms of candidates appearing for a variety of reasons, would be able to concentrate coverage on bona fide candidates to the benefit of the public.

Before the Rules Committee we were also fortunate to have the president of the North Carolina Association of Broadcasters, Mr. Richard Barron and Mr. Wade Hargrove, the general counsel for the association. I say we were fortunate, because too often we rely on national associations or big national networks. Mr. Barron and Mr. Hargrove were speaking for the small broadcast station owners. They too agreed that section 315(a) has become the "no free time offered" provision. For example, Mr. Barron testified:

We do have certain reservations about particular aspects of this bill which we wish to briefly state.

First, we agree with the provisions of the bill that would call for the repeal of section 315(a) of the Federal Communications Act to delete the equal time requirement for presidential and vice-presidential candidates. We recommend, however, that the bill be expanded in this regard so as to delete the equal time requirements for all candidates.

The Deputy Attorney General in fact testified before both committees urging the repeal of section 315(a) for all Federal candidates. Before Rules Committee Mr. Kleindienst testified as follows:

First, section 101 would repeal the equal time provision of section 315 of the Federal Communications Act with respect to candidates for the office of President and Vice President. The justification for this provision is that section 315, contrary to its purpose, has inhibited broadcasters from offering free time and coverage to candidates, and has favored incumbents over challengers. Also, it has restricted the access of the electorate to the candidates and their views. We agree that section 315 has produced the wrong results, but these are not limited to presidential and vice-presidential candidates. They are equally applicable to candidates for other Federal offices. Every argument supporting limited repeal supports total repeal. The fairness doctrine enforced by the Federal Communications Commission will afford all candidates access to broadcasting facilities on an equitable basis. We urge total repeal of section 315.

Mr. President, one of the major purposes of this legislation is to reduce the costs of campaigns. The standard argument favoring spending limitations is that campaign costs are too high. Radio and television they argue is the prime reason for the increased costs. For the sake of argument, assume the advocates of limitations are correct. What better way to lower costs than legislation encouraging "free" radio and television time?

The evidence is overwhelming from broadcasters that the equal time requirements now inhibit them from giving any free time for fear of encouraging fringe candidates and crackpots. Can that evidence be substantiated by an objective source? The chairman of the Federal Communications Commission testified before the Commerce Committee. Mr. Burch stated emphatically that—

A first improvement should be concerned with facilitating free time for political candidates. Broadcasters have long claimed that section 315 in its present form discourages affording such free time because they have to make time available to so-called fringe candidates, such as candidates of the Socialist Labor, Socialist Worker, and Vegetarian Parties.

Mr. President, what would any reasonable man conclude from the evidence I cited with respect to need to exempt all Federal candidates from the equal time requirements of section 315(a)? Local broadcasters, broadcast associations, network presidents and the chairman of the FCC all agree that section 315(a) has become the "no free time offered requirement."

Basically, Mr. President, the equal time requirement favors the incumbent because he is better known and it is easier for him or her as an incumbent to make news. In 1960, we exempted Presidential candidates from the equal time requirement so that the Kennedy-Nixon debates could take place.

We saw that networks in fact did give free time.

We saw that millions of Americans took a greater interest in the campaign than ever before.

In my mind we proved that the equal time requirement should be changed so as to encourage a wider dissemination of issues, ideas, and political philosophy in an election campaign.

As a member of the Communications Subcommittee prior to the 1964 election I recall that the incumbent President did not want section 315(a) repealed nor did he want it repealed in 1968. Today we have a President who wants section 315(a) repealed not only for candidates for the office of President but for all Federal candidates. What holds us back? I suppose it is fear but if that is the case it should not be. There is nothing to fear from exposing voters to all of the issues and facts in a campaign.

Our distinguished chairman of the Communications Subcommittee has in the past supported complete repeal of section 315(a) for all Federal offices as well as for the offices of Governor and Lieutenant Governor. During the current hearing on S. 382, Senator PASTORE responded to Dean Burch's comments on section 315 as follows:

You have got to be a little pragmatic about that. I suggested at one time that we exclude the office of Congress and the governorship from the equal opportunity requirement of section 315. It didn't get to first base. There was a tremendous amount of resentment on the floor of the Senate and the House. . . .

The chairman went on in those hearings to further state his position with respect to those who felt that repeal of the equal time requirements would result in unfairness:

That is the fear on the part of most. Inasmuch as this is a monopoly you would leave too much power in the hands of the broadcaster. I have never felt quite that way. I always felt there was sufficient maturity and integrity in the industry that you could afford to take the risk.

But that is the feeling of the Congress at the present time. I don't think it is going to be an easy thing to repeal section 315. I think it is an impossible thing at this

moment. All we are trying to do is to do it because there is precedent for it in the case of presidential and vice-presidential campaigns.

Chairman Burch responded to those possible fears as follows:

I think as a practical matter, Mr. Chairman, broadcasters, and we cite this later in a letter we wrote to this committee, I think broadcasters in the political field dealing with major candidates are going to find that the only fair way to handle them is comparably.

I think that is just the realities of life.

Nevertheless, when it came to a vote before the Commerce Committee those of us who wanted section 315(a) repealed for all Federal candidates did not have the votes. I ask unanimous consent, Mr. President, that a copy of that rollcall vote be printed in the RECORD immediately following my remarks.

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

(Se exhibit 1.)

Mr. PROUTY. Mr. President, quite frankly, I was surprised that the Commerce Committee did not extend the exemption to all Federal candidates when I considered the following response by Senator PASTORE to the Deputy Attorney General concerning his recommendation for repealing section 315(a) for all Federal candidates:

Now your argument is that we should include the office of, let's say, a Senator or a Congressman. I personally have no objection to that. The only trouble is that there has been some stiff resistance to that on the grounds that this is more or less a parochial situation and does not fit in the same category as the offices of President and Vice President that have to appeal for the national networks rather than the local broadcasting station. . . .

As I have pointed out the Rules Committee considered S. 382 in its entirety. Among other things the Rules Committee would repeal section 315(a) for all Federal candidates.

We did so because we could not find one witness before either the Commerce Committee or Rules Committee who opposed such a move.

We did so because we did not want an incumbent's bill.

We did so because we felt repeal if section 315(a) would lower campaign costs even though nonincumbents might be given a fairer chance.

Broadcasters want repeal for all candidates.

Many Senators, including Senator KENNEDY, Senator SCOTT, Senator BAKER, Senator COOK, and Senator PASTORE apparently want repeal for all Federal candidates.

The President definitely wants repeal for all Federal candidates.

The Rules Committee chose repeal for all Federal candidates. Now the sponsor of the bill apparently wishes to avoid repeal for congressional and senatorial races. I believe, Mr. President, that, in the interest of fairness to candidates for political office, it is highly desirable that we repeal section 315(a), so that all candidates for Federal office will have the right to equal time, which I am sure will be granted on a fair basis.

EXHIBIT 1

1. Amendment offered by Senator Baker to repeal the equal time requirement of section 315 of the Communications Act and to provide that the lowest unit charge shall apply to all legally qualified candidates for public office. Rejected: 6 yeas; 7 nays.

YEAS—6

Cotton, Prouty, Pearson, Griffin, Baker, Cook.

NAYS—7

Magnuson, Pastore, Hart, Cannon, Long, Moss, Spong.

Mr. PASTORE. Mr. President, will the Senator from Vermont yield on my time for a question?

Mr. PROUTY. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. Referring to his amendment, what he does, actually, is to repeal section 315 which is the equal time provision of the law with reference to all Federal offices. Then on page 2 of his amendment he has this expression:

'If a licensee permits a legally qualified candidate for Federal elective office to use his broadcasting station in connection with such candidate's campaign for nomination for election, or election to such office, the licensee shall afford candidate maximum flexibility in choosing his program format.

It has been my experience—and I want to say to the Senator from Vermont that he quotes me correctly when he says I was for repeal of section 315 insofar as all Federal elective offices are concerned, and I went so far as to include Governors and Lieutenant Governors—that we took up that bill on the floor of the Senate several years ago, but we did not get very far because there was a solidified feeling that this would place a campaign more or less at the whim of an affluent licensee.

Well, I am one of those that will admit there might be spotty cases where that would be the case. I remember the former Senator from Texas, Mr. Yarborough, getting up and saying that he had bought certain time at a station but when he went there to make his broadcast they told him they were sorry but the engineer was not there. So he became a victim of the whim of that licensee. It was to fill the equal-time need, in order to keep a gage on the local licensee, that we instituted that provision in section 315. But my personal feeling is we have come a long, long way from that day.

What I do not like about the amendment of the Senator from Vermont is the word "if." When he uses the word "if," he is going to put that licensee in a position to say, "Unless you do it my way, I will not give you time."

If the Senator would permit, if we could rather use the word "when," I think the record which is being made for the CONGRESSIONAL RECORD today will show that we intend that free time shall be given as a public service.

I tell the Senator frankly—I do not know how our other colleagues will vote on it—that I shall not vote against it.

I tell the Senator frankly that I think the President has a point. The reason why we wrote this exemption into section 315 for the President, was to do the President a favor. I am the one who said to the networks—I do not know whether the Senator was at the meetings, "You cannot compel the President of the United States to enter into debate. I do not want to tell the President what the format should be. If the President of the United States does not feel that he should debate, no one should embarrass him, whether he be a Republican or a Democratic President." I have said this 10 times on the floor of the Senate.

I got an agreement from the networks that they would allow the President, and the candidate against him, to initiate their own format. It would be a format of their own choosing, because of the astronomical cost of the nationwide television program, that this would be helpful to the candidates, be they Republican or Democrat. That is the only reason why we did it.

In the various States, when it comes down to Senators and Representatives, time has been given because we do not have 35 parties running in a particular State for the office of Senator or Representative. We might have an independent or two but, ordinarily, we have the normal number of candidates, Republicans or Democrats.

But, on the national level, we have the Prohibition Party, the party for this and the party for that, and by the time we get through, we have a bunch of bananas.

So I tell my colleague from Vermont very frankly that if he will change that word "if" to "when," so far as I am concerned, I am ready to vote for it now.

Maybe it will not meet with unanimous approval, and even the Senator's colleagues on his side of the aisle may have strong feelings otherwise, that they would want to have a check on an affluent licensee in a particular State; but so far as I am concerned, I find the amendment agreeable, and I am not going to contest it.

Mr. PROUTY. I certainly appreciate the comments and the cooperation of the Senator from Rhode Island. I am perfectly willing to modify the amendment by striking out on page 2, following the colon, the "if" and substituting in lieu thereof the word "when".

The PRESIDING OFFICER (Mr. HUMPHREY) The Senator has a right to modify his amendment and, at the request of the Senator, his amendment is modified accordingly.

Mr. PASTORE. I think, if it is agreeable, if we have consumed all the time, but before the vote, we should have a quorum call so that Senators will know what this is all about.

Mr. PROUTY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes remain to the Senator from Vermont.

Mr. BAKER. Mr. President, will the Senator from Vermont yield me 2 minutes?

Mr. PROUTY. I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Sen-

ator from Tennessee is recognized for 2 minutes

Mr. BAKER. I thank the Senator from Vermont for yielding, so that I may add my entire and enthusiastic agreement to the accord which has now been reached between the Senator from Rhode Island and the Senator from Vermont.

As the Senator from Vermont indicated in his remarks in support of the amendment, which was cosponsored by the Senator from Vermont and myself, I offered this amendment, or at least the first half of the amendment, in the Commerce Committee.

I must say that at that time I was impressed with the candor and frankness of the Senator from Rhode Island in indicating that he felt there was merit in the contention and that on previous occasions the waiver of section 315, as it related to presidents and vice presidents, had produced laudable results and that he felt it might have those results in other races.

Mr. President, I shall not prolong the debate by embellishing the accord reached between the distinguished Senators. I only commend the Senator from Rhode Island for coming to agreement on what I believe to be a very significant item.

This is the first time we have provided for a practical access to television and radio opportunities for candidates other than President and Vice President. I believe that there are bound to be laudatory results. I hope that the amendment will be agreed to.

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

Mr. PASTORE. Mr President, I yield to the Senator from Virginia whatever time he might desire.

Mr. BYRD of Virginia. Mr. President, I appreciate the Senator yielding to me. I would like to ask a question of the sponsor of the amendment.

May I ask the Senator from Vermont if the Senator from Virginia understands correctly that the amendment proposes to allow maximum flexibility in determining a program format for all candidates for Federal office, and not just for President and Vice President, as the original bill proposed.

Mr. PROUTY. That is exactly correct.

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

Mr. PASTORE. Mr. President, I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I would like to say that is not the basic issue. That is sort of a side effect to the main purpose of the amendment. The main purpose is that it fills the time requirement for all candidates and broadens it beyond the President and Vice President.

This means that we are putting a tremendous weapon in the hands of the broadcaster, whether television or radio. He could select the people to whom he wants to give time and he would not have to give equal time to all candidates.

Mr. BYRD of Virginia. Mr. President, I appreciate the statement made by the Senator from Nevada.

Frankly, I did not know that was a basic issue involved. I had been at a meeting of the Finance Committee querying the Secretary of HEW on some budget figures. I could not be here at the time.

That being the case, does the Senator from Rhode Island have adequate time that he could yield to me for the purpose of clarifying this matter?

Mr. PASTORE. Mr. President, I have 7 minutes remaining. How much time does the Senator from Virginia require?

Mr. BYRD of Virginia. Mr. President, I do not know how much time I will require.

Mr. PASTORE. The Senator can continue and if he needs more time, I will yield him time on the bill.

Mr. BYRD of Virginia. Mr. President, I could continue speaking and then offer and amendment if the Senator prefers and take the time from that amendment.

Mr. PASTORE. No; the Senator may keep speaking, and then I will yield him time if necessary on the bill.

Mr. BYRD of Virginia. Mr. President, I ask either the Senator from Rhode Island or the Senator from Nevada in regard to repealing the equal time provision whether that would expand it to congressional or senatorial races.

Mr. PASTORE. The Senator is correct. We left it alone for the President and Vice President. That was because that involved a national question having to do with the networks and because of the prestigious position occupied by the President and Vice President, no national broadcasting network would dare to create a discriminatory position because it involves the highest offices in the land. When it comes to a Senator or a Representative, we are dealing with the licensee and not with the network.

If we have a licensee who is a Democrat and a candidate who is a Republican, he can do what he pleases. That argument can be made. However, we do have the fairness doctrine and the responsibility of the licensee, whose license comes up for renewal every 3 years.

That is about the only tool we have. However, if the Senator from Virginia were to ask me categorically whether, if we repeal the equal time statute, a station could give all of the time to one candidate and jeopardize its license if he wanted to, the answer is yes subject to the fairness doctrine. That is the reason we have section 315.

Mr. BYRD of Virginia. Mr. President, do I assume that the Senator from Rhode Island is opposed to or approves the amendment?

Mr. PASTORE. Mr. President, I approve the amendment because I think overall the industry has reached the stage of maturity in which they can be trusted. I feel that we have the FCC which is a very efficient body. We have our committee, as well. Then we have the fact that every 3 years their licenses may be challenged.

I feel that these are the safeguards. However, I am not ruling out any possible abuse. I am not saying that in the State of Virginia or in the State of Rhode Island it could not happen. I do not know. However, on balance I believe we will find that the broadcast industry is rather a responsible industry when it comes to things of that kind.

I would doubt very much that anyone would even dare, unless it was a brother or a son, to work out a discriminatory arrangement of that kind. They would be scandalized publicly, and public opinion would be against them. In fact, the backlash would hurt the candidate that was being favored more than it would help him. They have to come in for a renewal of their licenses every 3 years and if the man who was prejudiced would rise up and say, "They have not been conducting themselves in the public interest; this is what they did to me," their license would be subject to cancellation.

Mr. BYRD of Virginia. Mr. President, the key point that the Senator made is that the broadcasting industry speaking generally is a responsible industry. I think that what the Senator said is correct.

To get to a broader question, however, does the legislation under discussion, either the pending amendment or the bill itself, discriminate in any way against candidates who are not nominees of either of the major parties?

Mr. PASTORE. Well, the discretion is up to the licensee. And in the State of Virginia—I do not mean to be facetious about this—I do not think, whether my good friend, the Senator from Virginia, ran on the Democratic or Independent ticket, anyone would dare do it to him.

Mr. BYRD of Virginia. Mr. President, I appreciate the statement of the Senator from Rhode Island. I am not sure about that. However, perhaps there will be others elsewhere, and even in Virginia.

As a matter of fact, one individual in Virginia, and I am not of the same political persuasion that he is, is running as an Independent for lieutenant governor. I do not want to see him discriminated against.

I think that everyone, regardless of his political philosophy, should have the same opportunity I have. I am not a champion of this individual who is an Independent candidate for lieutenant governor.

He fought me all he could. He went from one end of the State to the other, trying to defeat me, just as the Republican governor of the State did. However, I do not want to vote for any legislation that would be discriminatory against this individual who is running as an Independent candidate for lieutenant governor.

I assume from what the Senator says that he would be no more discriminated against than would the nominee of the Democratic or Republican Party.

Mr. PASTORE. In other words, the equal time which is now provided by law becomes the equal time for Fedral office and the discretion is that of the licensee.

Mr. PROUTY. Mr. President, I yield myself 2 minutes on the bill.

Mr. President, I point out to the Senator from Virginia that there are probably 50 or 60 different political parties, so-called political parties, throughout the country. Very few of these candidates will receive more than a handful of votes. They are not considered to be candidates by anyone. Under the existing law, anyone who declares himself a candidate as a vegetarian, or something of that nature, would have to be given time if the broadcaster gives time to anyone. It is to get away from that feature that we are providing this amendment.

The Chairman of the Federal Communications Commission made it very evident in testimony before the committee that the fairness doctrine would apply to any of these stations. They have to give fair and equal treatment to all candidates. Certainly a candidate who is perhaps an independent will be given the same equal time as a member of either of the other national parties.

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

Mr. PROUTY. I yield.

Mr. BYRD of Virginia. The Senator mentioned that there are candidates of minor parties scattered over the Nation, but an independent is not a candidate of any party, whether it be minor or large. I want to be sure that a person who submits his record to the public as an independent has the same standing as does the nominee of the major political party.

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

Mr. PROUTY. Mr. President, I yield myself 2 additional minutes on the bill.

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

Mr. PROUTY. Mr. President, I think I can assure the Senator that that will be the case; that any bona fide independent candidate or a candidate running on some other ticket, if he is recognized as a major candidate, who is going to receive substantial support in his area, will be given equal time under this amendment. There is no question about that. It is guaranteed by the fairness doctrine, as well.

Mr. BYRD of Virginia. Mr. President, if the Senator will yield further, for the purpose of legislative history I would like to make a few comments. If this is the appropriate time, I can do it now or I could do it later, but I would like to make a few comments in regard to the question of an independent candidate so that the legislative history will be clear.

Mr. PROUTY. Mr. President, how much time does the Senator require?

Mr. BYRD of Virginia. I would say 10 minutes.

Mr. PASTORE. Let us give him 5 minutes apiece.

Mr. PROUTY. I agree to that.

The PRESIDING OFFICER. The Senator has a "coalition" of 10 minutes.

Mr. BYRD of Virginia. Mr. President, this is an extremely important piece of legislation and I am speaking now of the total legislation, as well as the amendment which is being considered by the Senate.

First, I think it is very important that there be an election reform bill. I think it is very important that ceilings be placed on campaign spending.

Now, there is another aspect to this bill that is very important and for the purpose of legislative history I want to review what occurred in Virginia last year and what is now occurring in Virginia this year.

I want to query the managers of the bill as to whether the situation which took place last year and which again is taking place this year could be duplicated if anyone so desired in years to come if this legislation is enacted.

Mr. President, to go back to 1970, in February of that year the Democratic State central committee adopted a resolution requiring for the first time in history that anyone who was to file as a candidate in the Democratic primary for U.S. Senator must certify that he would support whomever the Democratic National Convention might nominate for President in 1972.

It was aimed directly at the incumbent senior Senator from Virginia. The incumbent senior Senator from Virginia took this under advisement and he determined that it would not be proper for a Member of the U.S. Senate to sign any such statement. No one knew who the candidate would be or what he would stand for and no one knows today.

I refused to sign such a statement, and submitted my record to the people of Virginia as an independent.

The Republican Party nominated a candidate for the U.S. Senate, and the Democratic Party nominated a candidate for the U.S. Senate. The Republican nominee had the full support of the Republican Governor, who spent full time in the latter part of the campaign going throughout Virginia seeking to eliminate the Senator from Virginia from the U.S. Senate.

The Democratic candidate in every speech that he made—and I would be glad to give his name but I never was able to recall it during the campaign and I cannot recall it now—called the Senator from Virginia "the Republican from Winchester." He made that statement in every speech and he made it very articulately.

The Republican Governor said he approved of my record; he thought I was a very fine Senator; but unless I called myself a Republican he was going to eliminate me—cut off my political head. That is a tough position to be in because in Virginia—and I do not know how it is in other States—the Governor has great power, and he used the full power and prestige of his office even to the extent of writing letters on official stationery of the Governor asking for campaign contributions to my opponent.

So I was in a very difficult position. I do not recommend to any of my colleagues that they get themselves in the same position. But I determined to struggle along as best I could.

I feel I know the people of Virginia fairly well. The people of Virginia are rather independent minded individuals; they do not like someone to tell them what to do; they make up their own minds. I have great confidence in the people of Virginia. I have even more confidence in them today than I did a year ago and I had unbounded confidence in them a year ago.

When the votes were counted, the Governor and his candidate had 14 percent, the Democratic nominee about 30 percent and the incumbent senior senator from Virginia 55 percent.

So the situation last year was that each major party nominated a candidate and the incumbent ran as an independent.

Now we come to this year. Several months ago, the vigorous, attractive, Lieutenant Governor died. It was very tragic; he died of cancer at the age of 33. He had a fine future. That left a vacancy in the office of Lieutenant Governor. The office must be filled this November. Each major party within the next several weeks will nominate a candidate for the office of Lieutenant Governor.

In the meanwhile, a State senator has announced his candidacy as an independent. It just happens that this particular State senator who will be a candidate for Lieutenant Governor as an independent is not of the same philosophy as is the Senator from Virginia, and this candidate for Lieutenant Governor did everything possible to defeat the Senator from Virginia in the general election last November.

But I want to be sure that in any legislation that is passed by the Senate that this State senator who has submitted his candidacy for Lieutenant Governor in Virginia will have the same opportunity insofar as the broadcasting industry is concerned, insofar as the newspapers are concerned, and insofar as any other media communication is concerned as I had as an independent last year. I want to be sure he will have the same opportunity that the Senator from Virginia had last year; and I want to be sure also that, if conditions require it, anyone who desires to run for public office as an independent will have an opportunity to do so without being handicapped by any law that might be passed by the Congress of the United States.

As I understand it, there is nothing in this legislation which would change in any way the situation which existed in Virginia last year, and is now existing in Virginia this year; which is to say, to phrase it another way, if this legislation is enacted the Senator from Virginia or a member of the State senate or any individual citizen in my State or any other State, for that matter, may submit his record or candidacy to the people as an independent and will not be discriminated against in any way if either this bill or this amendment is approved.

May I ask the manager of the bill whether my understanding is correct.

Mr. PASTORE. Mr. President, the Senator has put his language in the extreme, and I am afraid I cannot affirm it in any way. I think the possibility for abuse is still there. I think a licensee would do so at his own peril. But I want to say to the Senator from Virginia the reason we reported a bill confining it to the Presidency and Vice Presidency was

that I felt this was a matter that had to be determined on the floor of the Senate. I know this is not acceptable to every Senator. I know there are Senators who have hard feelings. As far as I am concerned, I am perfectly willing to vote for this amendment, because if I can say to the President of the United States, "We shall exempt your office from the provisions of 315," I do not think I can stand up and say, "Insofar as you are concerned, Senator PASTORE, the same rule should not apply to you."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PASTORE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator has only 1 minute remaining.

Mr. PASTORE. Then I give myself the other minute from the time on the bill.

The President of the United States took that position. That is exactly what he said. That argument was made by some of my colleagues before the committee. I think it was made by the Senator from Vermont (Mr. PROUTY) and the Senator from Tennessee (Mr. BAKER).

I say very frankly, I do not care whether one is a Republican or Democrat, this is an issue which has to be decided from good conscience. As far as I am concerned, I am going to vote for the Prouty amendment, but that does not mean every Senator will vote the same way from his convictions. If anyone thinks this amendment will put him at the mercy of a private licensee, he should vote against it. If he feels that way, he should vote against the Prouty amendment.

Mr. BYRD of Virginia. Mr. President, the point I am trying to make clear is that this does not put an independent candidate at the mercy of a licensee any more than it puts a candidate in a major party at the mercy of a licensee.

Mr. PROUTY. Precisely. As a matter of fact, if the licensee wanted to abuse the law, he could give all the time to an independent; but we are talking only about free time now.

Mr. BYRD of Virginia. We are talking about free time. The point I am trying to establish, and I believe the Senator from Rhode Island has established it, is that if the legislation is adopted it will not put the independent candidate in any more adverse position than it would put the candidate of a major party.

Mr. PASTORE. Exactly.

Mr. BYRD of Virginia. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PROUTY. Mr. President, I yield back my time.

Mr. PASTORE. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Vermont (Mr. PROUTY), as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Mississippi, (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Iowa (Mr. HUGHES), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 71, nays 21, as follows:

[No. 187 Leg.]

YEAS—71

Aiken	Fong	Muskie
Allen	Fulbright	Packwood
Allott	Gambrell	Pastore
Anderson	Goldwater	Pearson
Baker	Griffin	Pell
Beall	Gurney	Percy
Bellmon	Hansen	Prouty
Bennett	Harris	Ribicoff
Boggs	Hartke	Roth
Brock	Hatfield	Saxbe
Brooke	Hruska	Schweiker
Buckley	Humphrey	Scott
Burdick	Inouye	Smith
Byrd, W. Va.	Jackson	Sparkman
Case	Javits	Stevens
Church	Jordan, Idaho	Stevenson
Cook	Magnuson	Symington
Cotton	Mansfield	Talmadge
Cranston	Mathias	Thurmond
Curtis	McGovern	Tower
Dole	McIntyre	Weicker
Dominick	Miller	Williams
Eagleton	Mondale	Young
Fannin	Montoya	

NAYS—21

Bentsen	Gravel	McGee
Bible	Hart	Metcalf
Byrd, Va.	Hollings	Moss
Cannon	Jordan, N.C.	Nelson
Chiles	Kennedy	Proxmire
Cooper	Long	Spong
Ervin	McClellan	Tunney

ANSWERED "PRESENT"—1

Taft

NOT VOTING—7

Bayh	Hughes	Stennis
Eastland	Mundt	
Ellender	Randolph	

So Mr. PROUTY's amendment (No. 348), as modified, was agreed to.

Mr. PROUTY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TAFT. Mr. President, because of prior personal participation in the broadcasting industry and continuing family and trust interests in a broadcasting company, it has been and will continue to be my practice to answer "present" on matters directly affecting broadcasting.

Accordingly, I have answered "present" on this amendment.

The PRESIDING OFFICER. The question recurs on amendment No. 308.

Who yields time? Time remains on amendment No. 308.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. Is anything pending at the moment?

The PRESIDING OFFICER. The Pastore amendment, No. 308, is pending.

Mr. PASTORE. Mr. President, I cannot ask for third reading. Will someone who has an amendment offer it?

Mr. MATHIAS. Mr. President, I call up my amendment No. 272.

The PRESIDING OFFICER. Would the majority leader yield back his time on the Pastore amendment?

Mr. MANSFIELD. The Senator from Rhode Island (Mr. PASTORE) has all my time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 6, strike lines 9 through 13 and insert in lieu thereof the following:

"For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a Presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire populaton of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with his primary campaign in any State shall not exceed such limitation for that State."

On page 11, strike lines 19 through 23 and insert in lieu thereof the following:

"For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a Presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire resident population of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with his primary campaign in any State shall not exceed such limitation for that State."

The PRESIDING OFFICER. How much time does the Senator from Maryland yield?

Mr. MATHIAS. I yield myself 5 minutes.

Mr. President, this amendment deals with the spending limitations for presidential primaries. The language, as reasonably construed, is interpreted to mean that a candidate for President calculates how much he can spend in any one primary by first determining how much he can legally spend in the Nation at large—which is 5 cents multiplied by the resident population. Taking this figure, he can then divide that amount by as many primaries as he may wish to enter.

We have all been interested and, perhaps, amused at the sweepstakes going on among New Hampshire and other States that want to be first with the presidential primary. Maybe they have more of a point than we realize. Perhaps it is important from an economic point of view for a State to have the first primary. This is an amendment which brings that very much to mind. As presently drafted a candidate may spend his allocated amount all in one State primary, or he may enter three, 10, or 50 primaries.

I would submit, with due respect to the

committee, that the language should be tightened up. It is much too general. Perhaps the chairman of the committee can help us to define what is meant by "resident population." Is he talking about residents who will participate in the primary party, just Democrats, or just Republicans, or is he talking about the resident population of an entire State?

The PRESIDING OFFICER (Mr. KENNEDY). Does the Senator wish his amendment to be modified to apply to the substitute amendment rather than the bill?

Mr. MATHIAS. That is right.

The PRESIDING OFFICER. The amendment is so modified.

Mr. MATHIAS. The specific points in the bill that would be involved are on page 5, lines 3 to 7, and on page 8, lines 17 to 21.

The text of amendment No. 272, as modified, is as follows:

On page 5, strike lines 3 through 7 and insert in lieu thereof the following:

"For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a Presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire population of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with his primary campaign in any State shall not exceed such limitation for that State."

On page 8, strike lines 17 through 21 and insert in lieu thereof the following:

"For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a Presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire resident population of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with hs primary campaign in any State shall not exceed such limitation for that State."

Mr. MATHIAS. Mr. President, I think that, as drawn, the bill limits broad-based participation by all States and their respective citizens. Congress should declare a policy that it desires more rather than less presidential primaries, that it desires more citizens of more States to have a realistic opportunity to determine the party nominee of their party for the office of President of the United States. It would be patently unfair for a man who aspires to be President to choose to enter one symbolic primary, be it in New Hampshire or Florida, or wherever, and to spend exorbitant amounts of money in that single primary to the exclusion of other and perhaps equally important State primaries, and to use the State's population base for the purpose of spending ceilings in the primary of his choice.

This amendment would limit the amount a presidential candidate can spend to 5 cents multiplied by the estimated number of residents in each State the candidate enters a primary. The amendment does not limit the candidate's choice but what it does is to encourage every presidential candidate to go into more primaries which, in the end, will result in a more responsive and a more responsible system of nominating a President.

In a general election, of course, no similar restrictions, in my judgment, should be applied. There, the nominees of the parties stumping the country in the final election drive could make any determination that they chose, in their own judgment and discretion, as to where the moneys allowed under the general limitation could be spent. But in the primary there is a different situation. It seems to me it should be a matter of declared public policy, to encourage a candidate who wants to be the nominee of his party not to throw all that he is legally allowed to spend into one or a few primaries, to the detriment of the entire electoral system.

Mr. President, I hope that the Senate will adopt this amendment.

Mr. PASTORE. Mr. President, will the Senator from Maryland yield?

Mr. MATHIAS. I yield.

Mr. PASTORE. I have no personal objection to the amendment. I raised the question with the staff that, when we use the expression "resident population of voting age," I was wondering whether the Senator took the language we used in the substitute or whether he used the eligible vote. I think we both join in meaning, but there is a question of whether, by reference, we may be confusing the issue. In other words, a resident vote, of course, could be even an alien or one not qualified to vote.

Mr. COOK. Mr. President, if the Senator will allow me to interject there, the language in the substitute states:

Multiplied by the estimated resident population of voting age for such office.

Mr. PASTORE. All right. I thank the Senator. I do not know about my other colleagues, but I do not see any objection to the amendment. What the Senator is saying is that, in a primary, he does not want to allow the candidate for the office of President to pick and choose a particular State. It could be that he would want to go into a particular State to make a big impression.

Mr. MATHIAS. Yes. He may think it better for the public relations value of the thing to go into X State.

Mr. PASTORE. The same thing applies as for a Senator running on a statewide basis.

Mr. MATHIAS. That is correct.

Mr. PASTORE. I see no objection to the amendment. I am perfectly willing to accept it. I do not know about my other colleagues on the floor, of course, but, if it is necessary to take a vote, I suggest we do it now.

I yield back the remainder of my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CHILES). The question is on agreeing to the amendment of the Senator from Maryland, as modified, No. 272.

The amendment was agreed to.

AMENDMENT NO. 271

Mr. MATHIAS. Mr. President, I call up my amendment No. 271 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 5, line 2, before the semicolon insert the following: "or (3) has publicly announced his candidacy for such office or has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures".

On page 10, line 2, before the semicolon insert a comma and the following: "or (C) has publicly announced his candidacy for such office or who has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures".

The PRESIDING OFFICER. Does the Senator wish to modify his amendment to conform to the substitute amendment?

Mr. MATHIAS. Yes; I make that request. The necessary pagination is page 4, lines 5 to 10, and page 7, lines 11 to 16.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The text of amendment No. 271, as modified, is as follows:

On page 4, line 10, before the semicolon insert the following: "or (3) has publicly announced his candidacy for such office or has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures".

On page 7, line 16, before the semicolon insert a comma and the following: "or (C) has publicly announced his candidacy for such office or who has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures".

Mr. MATHIAS. Mr. President, this amendment deals with the definition of a legally qualified candidate. Unless a candidate comes within this legislative definition, he is free to spend as much as he wants and is excluded from the spending limitations of the bill. It is all very well for Congress, in its attempt to reform the election laws, to establish ceilings, limitations, and disclosure regulations, but unless they apply to actual people who are running for public office, it does not mean very much.

The definition as presently drafted has two parts: first, that the candidate qualify under Federal law. In the case of the U.S. Senate, this means that the candidate must be 30 years of age, and a citizen of the United States, whether natural or naturalized.

Second, he qualifies under applicable State law.

Mr. President, I submit that this is not enough. As drafted, both provisions omit any affirmative action by the candidate and only contemplate a passive, formalized series of acts of qualifying oneself for a candidate.

There may be situations in which a candidate would not, perhaps even could not, qualify under State law, although he might be running down the pike at a full gallop and in this case he would not be covered under "applicable State law" and thus excluded from the spending ceilings. He may be a candidate in the eyes of the public and a candidate in his own eyes, and yet not be covered by the bill.

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

Mr. MATHIAS. Mr. President, I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, let us assume that someone invites the distinguished Senator to make a speech in California. Let us further assume that that Senator had in mind that he would like to be a candidate for the President of the United States. We would then get into the precise definition that is already recorded in the register and is the definition adopted by the regulations promulgated by the FCC. I am afraid that we are going to be doing a lot of crystal ball gazing. At what point do we know whether a man is a candidate unless he says so or qualifies under Federal law?

There is a period of time that is rather nebulous. It is true that we have a lot of men who are going all over the country making speeches. Whether they will become candidates or not, I do not know. However, when does anyone know that anyone else is a candidate unless that person says so.

Mr. MATHIAS. Mr. President, the distinguished Senator from Rhode Island raises a possibility that is so remote that it is very difficult for me to answer it seriously. However, let me talk about it in more general terms, because there are people here to whom the question is not as remote as it is to me.

I think we can tell. We can tell that there are people in the Senate today who are thinking of being candidates. It is not any mystery. When one begins to collect money to open an office and to start to make expenditures which are compaign-type expenditures, I think this indicates more than something that is just in one's mind. I think it is something in one's mind which is being expressed.

I agree that we will always have these remarkable situations where, if an east coast Member goes to the west coast, and begins to make speeches and nothing more, it may have the effect of enhancing his reputation and improving his capabilities for the Presidency. However, it is not necessarily the act of a candidate. But when there is the collection of money for the purpose of being a candidate, with the candidate's knowledge—and which he has not disavowed—these are the circumstances my amendment touches.

Then I believe we have the situation which the law can identify and recognize. I think that is the point at which we ought to say that this bill takes hold.

There are also situations where one can actually file under some State law and then, because of the anomaly of different State laws, not become a candidate for a period of time, for as much as 10 days. Under those circumstances, he would still have the freedom to act without respect to the limitation of the bill as presently drafted.

For these reasons, I think we ought to expand the coverage so that we do include candidates who are merely running in their own minds or in the eyes of the public, who can accrue whatever benefits can be accrued from spending, but are not being limited or held accountable under the provisions of the bill.

I hope the amendment will be agreed to. It covers what I think is a serious loophole in the bill.

Mr. PASTORE. Mr. President, I mean to be very cooperative. I tell the Senator that any reasonable suggestion that may be made will be given consideration. However, as I said before, in the spirit of cooperation and developing a bipartisan bill, which is necessary because of the critical and crucial situation. I am willing to go along. However, on this amendment, I am afraid that we are dealing with something that may turn out to be a can of worms.

We debated this from every angle before the committee. It is one section of the bill that we devoted a little more time to than we devoted to other sections.

I hope that we would not do anything to disturb the already accepted definition of a legally qualified candidate.

I hope that the Senator would withdraw the amendment. Otherwise, I would have to move to lay it on the table.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD my reasons for being opposed to the amendment.

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

AMENDMENT No. 271

Mr. President, my amendment to S. 382 defines 'legally qualified candidate' solely for purposes of determining when the limitation on a candidate's expenditures becomes applicable. It is a paraphrase of the regulations and rulings of the FCC as published in the Federal Register, and I have here a copy of the FCC's primer on this matter. That definition is precise; its meaning is readily ascertainable by all concerned—the candidates and the media suppliers; and it is easily enforced.

Of course, one can make up remote, hypothetical situations where its intent could be evaded. But that is true of every piece of legislation ever conceived by the mind of man.

In the world of political campaign reality, however, the definition in my amendment will, for purposes of the spending limitation, make candidates indentifiable.

Mr. President, the additional language of definition of 'legally qualified candidate' in any attempt to include a class of individuals described by the sponsor of the amendment as 'inchoate candidates.' These are individuals, according to the amendment sponsor, who could not at a particular point in time, qualify as a candidate under State law, though clearly a candidate in the eye of both the public and himself.

In attempting to reach these candidates, the amendment would, in my judgment, create greater problems than the one it is designed to cure.

Under the amendment anyone who has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or reelection, and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures, would be a 'legally qualified candidate' for purposes of the spending limitation even if he is not qualified under applicable State law and Federal law.

Mr. President, this amendment can only cause confusion and uncertainty among the media suppliers, the candidates, and those who must enforce the legislation.

How, for example, can an individual be charged with knowing every person or committee who makes a contribution or expenditure in order to bring about his election? It also seems to me that this requirement could be easily evaded if someone were disposed to do so.

Moreover, it would bring within the purview of the legislation people who could not possibly be elected for the particular office, because they were not and could not legally qualify. This, it seems to me, would add a needless burden on everyone.

I, therefore, urge the Senate to reject the amendment. The present definition is more than adequate to deal effectively with the situations the legislation is designed to alleviate.

Mr. MATHIAS. Mr. President, I think the Senator from Rhode Island certainly has exhibited the desire to be helpful and cooperative, and I appreciate it. I also understand his feeling that we are in an area that is hard to define. However, because it is difficult to do does not mean that it ought not to be done. I think we can do it with the language I propose which deals with the acts of a man who should be covered by the bill. And these are definable. They are observable. They are not hard to recognize. I believe that the Senate ought to make a decision on it.

I think when we are talking about a man who has publicly announced his candidacy for office or who allows other people to puff up his candidacy with his knowledge and without any denial on his part that we are talking about a man who ought to be covered.

I think a man who allows a committee to be formed to receive money, which he does not disavow, has done something which is clearly within the realm of the legal definition and could be comprehended by the bill.

I believe that if we do not do this, we will then have the bucket of worms that the Senator from Rhode Island mentions. This is never going to get to the marginal case which the Senator and I discussed a moment ago. The marginal case is that of someone who goes out and simply puts up trial balloons in the normal course of public service and in the exercise of the duties of one in public life. We will not get to that. However, in those cases, we are not talking about collecting and disbursing money. Here

we are talking about the real possibility that people are collecting and expending different sums of money and that they will accrue the benefit of a public relations campaign which results from those expenditures.

There are things in this area, such as name identification, which can be a very large asset to a man who is relatively unknown before he becomes a candidate. If his name is identified through a public relations campaign before he becomes a candidate, this would give him a substantial advantage over another candidate who has not made those expenditures or whose expenditures for such purposes were in fact limited by the law.

Mr. PASTORE. Mr. President, I recognize the problem. I am not saying that there is not merit in what the Senator says. The only trouble is that if we begin to tamper with an accepted definition of something that is very important—what is a legally qualified candidate—I am afraid that if we do it off the top of our heads, we will develop more trouble than we have. When we start talking about candidates, as far as I know we have two or three avowed candidates, and I guess every other Member of the Senate is running for the Presidency. I do not know. But the fact is that one has to go to the convention to get the nomination no matter what, and there is a limitation in there now that they cannot spend more in a State than an amount based on the resident population of the State. I think we should try it this way, without this disturbance. If there is some abuse, perhaps we can try it another way later, but I hope the Senator will not pursue this now.

Mr. MATHIAS. The Senator said we should not do this off the tops of our heads. I agree. I have tried not to do that. But I suggest that this is an untried definition in the amendment. The Federal Communications Commission has regulations and in their regulations they have definitions. If the Senator will bear with me further, I would like to read the definition which is in force under the FCC regulations. It states:

> A "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:
>
> (1) Has qualified for a place on the ballot.

This is an expanded definition. It goes beyond that.

Mr. PASTORE. That is our definition. The paraphrase of that. That is exactly the point I am making.

Mr. MATHIAS. I do not believe that the committee bill makes reference to an announcement or to one who holds himself out as a candidate. The committee bill refers to one who qualified and there is a big difference between announcing and qualifying.

The unfortunate fact is that the broader definition and the more inclusive definition would be superseded by the statute, by the act of Congress, and I believe in the process we would be enlarging a loophole which the Federal Communications Commission has attempted by regulation to close.

It is for this reason I press this point because I think the bill, by eliminating not only those who allow others to act for them, but even those who say frankly, "I am a candidate," permits expenditures that should not be allowed.

Mr. PASTORE. As I said before, unless the Senator withdraws his amendment I am going to move to table it at this time. I would not want to do it but I certainly cannot accept it at this moment. I am afraid we would confuse the bill.

Mr. MATHIAS. With all deference to the Senator from Rhode Island, I feel that the question of who is qualified and who is covered is a very important point.

If the Senator feels he must move to table, I certainly understand.

I think the loophole is too big. I think we should agree to the amendment but I am perfectly willing to put the matter to a vote, if the Senator wishes to do so.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

Mr. MATHIAS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. All time must be yielded back first. Is all time yielded back?

Mr. MATHIAS. Mr. President, I yield back my time.

Mr. PASTORE. I yield back my time.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to table the amendment (No. 271) of the Senator from Maryland, as modified. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana, (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Iowa (Mr. HUGHES), the Senator from Mississippi (Mr. STENNIS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce, that if present and voting, the Senator from Missouri (Mr. SYMINGTON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are detained on official business, and, if present and voting, would each vote "nay."

The result was announced—yeas 51, nays 40, as follows:

[No. 188 Leg.]

YEAS—51

Allen	Harris	Montoya
Anderson	Hart	Moss
Bible	Hartke	Muskie
Burdick	Hollings	Nelson
Byrd, Va.	Humphrey	Pastore
Byrd, W. Va.	Inouye	Pell
Cannon	Jackson	Proxmire
Church	Jordan, N.C.	Randolph
Cook	Kennedy	Ribicoff
Cranston	Long	Sparkman
Eagleton	Magnuson	Spong
Ellender	Mansfield	Stevenson
Ervin	McClellan	Taft
Fong	McGee	Talmadge
Fulbright	McGovern	Tunney
Gambrell	McIntyre	Williams
Gravel	Mondale	Young

NAYS—40

Aiken	Curtis	Miller
Allott	Dole	Packwood
Baker	Dominick	Pearson
Beall	Fannin	Percy
Bellmon	Goldwater	Prouty
Bennett	Griffin	Roth
Boggs	Gurney	Saxbe
Brock	Hansen	Schweiker
Brooke	Hatfield	Scott
Buckley	Hruska	Smith
Case	Javits	Stevens
Chiles	Jordan, Idaho	Weicker
Cooper	Mathias	
Cotton	Metcalf	

NOT VOTING—9

Bayh	Hughes	Symington
Bentsen	Mundt	Thurmond
Eastland	Stennis	Tower

So Mr. PASTORE's motion to lay on the table Mr. MATHIAS' amendment, as modified, was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its read-clerks, announced that the House had passed, without amendment, the bill (S. 485) to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 8866) to amend and extend the provisions of the Sugar Act of 1948, as amended, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POAGE, Mr. ABERNETHY, Mr. FOLEY, Mr. BELCHER, and Mr. TEAGUE of California were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 6) to express the sense of Congress relative to certain activities of Public Health Service hospitals and outpatient clinics, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 701. An act to amend the Migratory Bird Hunting Stamp Act to authorize the Secretary of the Interior to establish the fee for stamps issued thereunder, and for other purposes;

H.R. 760. An act to revise and improve the laws relating to the documentation of vessels;

H.R. 1074. An act to amend section 220(b) of the Interstate Commerce Act to permit motor carriers to file annual reports on the basis of a 13-period accounting year;

H.R. 2595. An act to amend the act entitled "An Act to regulate the practice of podiatry in the District of Columbia," approved May 23, 1918, as amended;

H.R. 3628. An act to amend title 5, United States Code, to provide equality of treatment for married women Federal employees with respect to preference eligible employment benefits, cost-of-living allowances in foreign areas, and regulations concerning marital status generally, and for other purposes;

H.R. 7048. An act to amend the Communications Act of 1934, as amended, to establish a Federal-State Joint Board to recommend uniform procedures for determining what part of the property and expenses of communication common carriers shall be considered as used in interstate or foreign communication toll service, and what part of such property and expenses shall be considered as used in intrastate and exchange service; and for other purposes;

H.R. 7117. An act to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes;

H.R. 7096. An act to direct the establishment of health standards for employees of food service establishments in the District of Columbia;

H.R. 8689. An act to provide overtime pay for intermittent and part-time general schedule employees who work in excess of 40 hours in a workweek;

H.R. 9442. An act to authorize compensation for five General Accounting Office positions at rates not to exceed the rate for executive schedule level IV;

H.R. 9798. An act to authorize the Secretary of the Interior to establish the Lincoln Home National Historic Site in the State of Illinois, and for other purposes;

H.J. Res. 1. Joint resolution concerning the war powers of the Congress and the President; and

H.J. Res. 829. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 9417. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1972, and for other purposes; and

H.R. 9667. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1972, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred, as indicated:

H.R. 701. An act to amend the Migratory Bird Hunting Stamp Act to authorize the Secretary of the Interior to establish the fee for stamps issued thereunder, and for other purposes;

H.R. 760. An act to revise and improve the laws relating to the documentation of vessels;

H.R. 1074. An act to amend section 220(b) of the Interstate Commerce Act to permit motor carriers to file annual reports on the basis of a 13-period accounting year;

H.R. 7048. An act to amend the Communications Act of 1934, as amended, to establish a Federal-State Joint Board to recommend uniform procedures for determining what part of the property and expenses of communication common carriers shall be considered as used in interstate or foreign communication toll service, and what part of such property and expenses shall be considered as used in intrastate and exchange service; and for other purposes; and

H.R. 7117. An act to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes; to the Committee on Commerce.

H.R. 2595. An act to amend the act entitled "An Act to regulate the practice of podiatry in the District of Columbia", approved May 23, 1918, as amended; and

H.R. 7096. An act to direct the establishment of health standards for employees of food service establishments in the District of Columbia; to the Committee on the District of Columbia.

H.R. 3628. An act to amend title 5, United States Code, to provide equality of treatment for married women Federal employees with respect to preference eligible employment benefits, cost-of-living allowances in foreign areas, and regulations concerning marital status generally, and for other purposes;

H.R. 8689. An act to provide overtime pay for intermittent and part-time general schedule employees who work in excess of 40 hours in a workweek; and

H.R. 9442. An act to authorize compensation for five General Accounting Office positions at rates not to exceed the rate for executive schedule level IV; to the Committee on Post Office and Civil Service.

H.J. Res. 1. Joint resolution concerning the war powers of the Congress and the President; to the Committee on Foreign Relations.

H.J. Res. 829. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes; to the Committee on Appropriations.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting the Locarno Agreement Establishing an International Classification for Industrial Designs, was communicated to the Senate by Mr. Leonard, one of his secretaries.

FEDERAL ELECTION CAMPAIGN ACT OF 1971

The Senate continued with the consideration of the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

Mr. MATHIAS. Mr. President, I have introduced amendment No. 291 to S. 382, the Campaign Reform Act of 1971. The amendment creates a franking privilege for all candidates in Federal elections. I strongly believe that the equitable use of this privilege by all candidates would be a major contribution to the electoral process.

It is equally important, however, that the Congress and now the Senate, pass meaningful reform legislation. I believe to call up this amendment now, would seriously affect the chances of passage of S. 382, and, I clearly do not wish to do this. Amendments to S. 382 have been limited to changes in the language of the reported bill and new titles like the one proposed in my franking privilege amendment have been postponed for individual consideration.

In addition, the Post Office and Civil Service Committee of the Senate under the distinguished and able leadership of Chairman McGEE have not had the opportunity to consider this important matter, and I feel the Senate could greatly benefit from its involvement.

Mr. President, I shall not call up Amendment No. 291 for consideration by the Senate and I ask unanimous consent to insert in the RECORD a letter written to me from Chairman McGEE indicating his plans to hold hearings in the very near future on this subject matter.

Mr. President, I do not intend to drop this important addition to campaign reform, but only await consideration by the Post Office and Civil Service Committee until I again pursue its useful objectives.

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

AUGUST 2, 1971.

The Honorable CHARLES McC MATHIAS, JR.
United States Senate,
Washington, D.C.

DEAR SENATOR: Thank you for your note concerning your interest in removing your amendment #291 to S. 382, the Federal Election Campaign Act of 1971.

Like you, I see great advantages to limiting the number of amendments to the campaign reform bill. Your offer to withdraw your amendment is commendable.

As you know, the Administration has introduced legislation which comes very close to accomplishing what this amendment would provide. This administration bill has already been referred to this Committee.

Although we have not yet had the opportunity to hear this legislation, you can rest assured that following the August recess this Committee will schedule hearings as soon as the calendar allows.

Best wishes.

Sincerely,

GALE McGEE,
Chairman.

AMENDMENT NO. 273

Mr. MATHIAS. Mr. President, I call up my amendment No. 273, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 9, beginning with line 6, strike down through line 25 and substitute in lieu thereof:

"(d) if a State by law and expressly—

"(1) has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection, and

"(2) has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election, and

"(3) has provided in any such law an unequivocal expression of intent to be bound by the provisions of this section, and

"(4) has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under subsection (3) had such election been an election for a Federal elective office or nomination thereto;

then no station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate, or a person specifically authorized by such candidate in writing to do so, certifies to such licensee in writing that the payment of such charge will not violate such limitation.".

The PRESIDING OFFICER. Does the Senator wish to offer his amendment to the Pastore substitute?

Mr. MATHIAS. Yes, it is offered to the substitute, and for the purpose of conforming——

Mr. BYRD of West Virginia. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Maryland may proceed.

Mr. MATHIAS. I offer the amendment to the substitute. For the purpose of conforming it with the Pastore bill, the opposite lines are on page 9, lines 6 through 25.

The PRESIDING OFFICER. The amendment will be so modified.

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

This is a very simple amendment, very uncomplicated. It might be called a States rights amendment. It is to preserve the control of the States over their own participation in the electoral process. In the lines that have been proposed to be amended, in the broadcast section of the bill, it is provided that if the Federal Communications Commission makes certain findings as to the applicability of a State law, then that State's candidates will come within the purview of the bill as it pertains to licensees, certification, and spending ceilings.

I certainly support the committee very strongly in the goal which I believe to have been intended by this language—the goal of providing some uniformity and some voluntary compliance with Federal law.

But I would raise the constitutional question of instructing a Federal agency, the FCC, to determine the applicability of the laws of one of the States of the Union. I would suggest—and I have suggested by this amendment—that we leave the question of determination to the States and to the judicial system. I can see that there might be some tendency on the part of the States—which have also labored, as we are working here, for electoral reform—to resent this preemption in the effort to get some uniformity in the election laws.

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

Mr. MATHIAS. I yield.

Mr. PASTORE. What we did in this bill was merely to recommend that the States follow suit. The decision is to be theirs. But because broadcasters and licensees have to report what candidates spend, we brought the FCC into the picture in the event that a State decided to limit the amount of money that a candidate for State office could spend in order to run for State office.

What this amendment does—and I think it clarifies the situation—is to say explicitly that the State shall make the determination and call upon the FCC for this guidance.

Is that not all the Senator intends to do?

Mr. MATHIAS. The Senator is exactly correct.

Mr. PASTORE. I am perfectly willing to accept the amendment.

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

Mr. PACKWOOD. I yield.

Mr. PROUTY. I, too, wish to assure the Senator from Maryland of my support. I think it is a very worthwhile amendment.

Mr. MATHIAS. I thank the Senator.

The PRESIDING OFFICER. Is all time on the amendment yielded back?

Mr. MATHIAS. I yield back the remainder of my time.

Mr. PASTORE. I yield back the remainder of my time.

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

The amendment was agreed to.

AMENDMENT NO. 312

Mr. PACKWOOD. Mr. President, I call up my amendment No. 312.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 34, line 5, before the period insert the following: "except that any contribution of $5,000 or more received after the last report is filed prior to the election, shall be reported within twenty-four hours after its receipt."

The PRESIDING OFFICER. Does the Senator wish to modify the amendment?

Mr. PACKWOOD. I offer a modified amendment, the only change being made to conform it to the line numbers of the Senator from Rhode Island's amendment. I send to the desk the modified amendment.

The PRESIDING OFFICER. The modified amendment will be stated.

The legislative clerk read as follows:

On page 25, line 9, before the period insert the following: "except that any contribution of $5,000 or more received after the last report is filed prior to the election, shall be reported within twenty-four hours after its receipt."

Mr. PACKWOOD. Mr. President, what we have now, in essence, is a 10-day grace period in which to file a report, 10 days prior to the election, because it is reported on a Thursday before the Tuesday, and a person need not file anything received within 5 days before that. There is the possibility—and I will call it more than that; there is this probability—if one has ever looked at the preelection and postelection reporting, an extraordinarily large amount of money comes into the campaign—I think deliberately prearranged—after the deadline for preelection reporting. We now have a 10-day period, in essence, between the deadline and the last day in which a report has to show money received, in which money can come in.

I am not suggesting that we are going to account for every nickel and dime in that 10-day period. I am asking that any contribution in excess of $5,000—and that is not very often in most campaigns—be reported within 24 hours of its receipt, so that the voters might be aware of any large last-minute contributions that are filed.

Mr. PASTORE. Mr. President, the way the bill is drafted, and the way my substitute is drafted at the moment, there is no limit to a contribution. I understand that there will be several amendments to accomplish exactly that. Whether or not this amendment is premature, I do not know.

Mr. PACKWOOD. This is not a limit on the size of the contributions.

Mr. PASTORE. I know it is not. But the Senator is talking about $5,000 or more. The question arises that if we limit the contribution to $5,000, "or more" does not apply any more.

Mr. PACKWOOD. The Senator's question confuses me. There is no limit. If somebody wants to give $25,000——

Mr. PASTORE. I know. But I am saying to the Senator that there will be a move here to limit the contribution to $5,000, that no one can give more than $5,000. What the Senate will do with that, I do not know. All I am saying, is that this amendment seems to jump the gun a little, because the Senator refers to anyone who contributes $5,000 or more. The words "or more" may not apply once we work on the other amendments.

I wonder whether the Senator would postpone this amendment for a while, until we determine what is going to happen to the other feature.

Mr. PACKWOOD. I have no objection, if we get to the stage of putting on the campaign limitation of $5,000, to strike out "or more." I want to make sure that money is not sneaked into a campaign in the last 10 days.

Mr. PASTORE. I have no objection to the amendment, if we have that limitation. I think we ought to wait and see what happens, and then we will entertain the Senator's amendment.

Mr. PACKWOOD. Then, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

AMENDMENT NO. 303

Mr. PACKWOOD. Mr. President, I call up my amendment No. 303.

The PRESIDING OFFICER. The amendment will be stated.

Mr. PACKWOOD. Mr. President, I send to the desk a modified version of this

amendment, so that it conforms with the Pastore substitute.

The PRESIDING OFFICER. The clerk will state the modified amendment.

The legislative clerk read as follows:

On page 27, line 21, strike "Sec. 305." and insert in lieu thereof "Sec. 305. (a)".

On page 28, between lines 4 and 5, insert the following:

(b) Any person who lends $10,000 or more within any calendar year to any candidate, political committee, or any candidate and one or more political committees supporting such candidate, shall report such loan to the Comptroller General within 5 days after such loan is granted. The report shall disclose the amount, term, interest rate, and date of the loan, the name of the person to whom such loan was made, the names and addresses of any endorsers of such loan, and the amount of such endorsements.

Mr. PASTORE. Mr. President, what is the number of this amendment?

Mr. PACKWOOD. No. 303.

Mr. President, this amendment is intended to require people who lend $10,000 or more to candidates to divulge this fact.

I think most of us are familiar with the fact that quite often campaigns are financed on "loans" rather than contributions. Sometimes those loans are repaid, sometimes not. This amendment is not designed to determine whether or not the loans are repaid or whether they shall be treated as gifts. It simply says that at any time someone loans $10,000 or more to a candidate—which is not regarded at the time as a contribution—that information shall be reported immediately, or within 5 days, to the commission.

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

Mr. PACKWOOD. I yield.

Mr. CANNON. Mr. President, I think this provision is unduly restrictive. S. 382 requires candidates and committees to report contributions and loans. To require banks to report on loans made in the ordinary course of business would be quite unreasonable. This certainly would make that imposition.

In other words, banks are in the lending business; and any time they make a loan of $10,000 or more, they would be required to report it, under the provisions of this amendment. I do not think it is necessary; and, under the circumstances, I would have to oppose it.

Mr. PACKWOOD. I would like to know if Chase Manhattan or Bank of America or some large donor is lending $10,000 to a campaign, and I would like to know it soon, not just within the reporting time provisions in the act.

The amendment is designed to get at exactly what the Senator has suggested. If a bank makes a loan in the normal course of business—a loan of $25,000 or $50,000—to a candidate, it is not going to be reported posthaste under the bill. It is going to be reported in due course. I think a loan of that size, $10,000 or more, should be reported as soon as possible.

Mr. CANNON. I have nothing further to say, Mr. President. I am opposed to the amendment. I think it is unreasonable.

The reporting provisions we have in the bill requiring periodic reports as well as reports in advance of election time are adequate. We require reports on the part of the candidate and on the part of the committee.

Mr. PACKWOOD. Mr. President, I want to ask for the yeas and nays, but before doing so, will yield back my time if the Senator from Nevada will yield back his time.

Mr. CANNON. Mr. President, I yield back my time.

The PRESIDING OFFICER. (Mr. COOK). All time on the amendment has been yielded back.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, I move to lay on the table the amendment of the Senator from Oregon (No. 303).

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada (Mr. CANNON) to lay on the table the amendment of the Senator from Oregon.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Iowa (Mr. HUGHES) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. ROTH), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are detained on official business.

If present and voting, the Senator from Delaware (Mr. ROTH), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 48, nays 43, as follows:

[No. 189 Leg.]

YEAS—48

Allen	Gravel	Montoya
Anderson	Hart	Moss
Bible	Hartke	Muskie
Burdick	Hollings	Nelson
Byrd, W. Va.	Humphrey	Pastore
Cannon	Inouye	Pell
Chiles	Jackson	Proxmire
Cook	Jordan, N.C.	Randolph
Cranston	Kennedy	Ribicoff
Curtis	Long	Sparkman
Eagleton	Magnuson	Spong
Ellender	Mansfield	Symington
Ervin	McClellan	Taft
Fong	McGee	Talmadge
Fulbright	McIntyre	Tunney
Gambrell	Mondale	Williams

NAYS—43

Aiken	Byrd, Va.	Hansen
Allott	Case	Harris
Baker	Church	Hatfield
Beall	Cooper	Hruska
Bellmon	Cotton	Javits
Bennett	Dole	Jordan, Idaho
Bentsen	Dominick	Mathias
Boggs	Fannin	McGovern
Brock	Goldwater	Metcalf
Brooke	Griffin	Miller
Buckley	Gurney	Packwood
Pearson	Schweiker	Stevenson
Percy	Scott	Young
Prouty	Smith	
Saxbe	Stevens	

NOT VOTING—9

Bayh	Mundt	Thurmond
Eastland	Roth	Tower
Hughes	Stennis	Weicker

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 349

Mr. PROUTY. Mr. President, I call up my amendment No. 349.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 4, beginning with line 16, strike down through line 7 on page 5 and insert in lieu thereof the following:

"(2)(A) No legally qualified candidate in any primary, runoff, general, or special election for a Federal elective office may spend for the use of broadcasting stations on behalf of his candidacy in such election a total amount in excess of—

"(i) 5 cents multiplied by the estimate of resident population of voting age for such office, as determined by the Bureau of Census in June of the year preceding the year in which the election is to be held; or

"(ii) $30,000, if greater than the amount determined under clause (i).

A legally qualified candidate for nomination for election to the office of President may not spend a total amount for all primary elections held for such office in which he is a candidate in excess of the limitation provided by the first sentence of this paragraph.

"(B) In addition to the amount which he may spend under paragraph (2)(A) of this subsection for the use of broadcast communications media in connection with his campaign, a candidate for Federal office may spend for such use any unspent portion of the amount he is authorized to spend for the use of nonbroadcast communications media under section 103 of the Federal Election Campaign Act of 1971."

On page 8, strike lines 6 through 21, and insert in lieu thereof the following:

"(c)(1) No legally qualified candidate in any primary, runoff, general, or special election for a Federal elective office may spend for the use of nonbroadcast communications media on behalf of his candidacy in such election a total amount in excess of—

"(A) 5 cents multiplied by the estimate of resident population of voting age for such office, as determined by the Bureau of Census in June of the year preceding the year in which the election is to be held; or

"(B) $30,000, if greater than the amount determined under subparagraph (A).

A legally qualified candidate for nomination for election to the office of President may not spend a total amount for all primary elections held for such office in which he is a candidate in excess of the limitation provided by the first sentence of this paragraph.

"(2) In addition to the amount which he may spend under this subsection for the use of nonbroadcast communications media in connection with his campaign, a candidate for Federal office may spend for such use any unspent portion of the amount he is authorized to spend for the use of broadcast communications media under secion 315 (c) of the Communications Act of 1934 47 U.S.C. 315(c))."

The PRESIDING OFFICER. The Chair wishes to ask the Senator if this is one of the amendments on which there is a 3-hour time limitation.

Mr. PROUTY. It is. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Vermont may proceed.

Mr. PROUTY. Mr. President, I realize that there are many who believe that any spending limitation for political candidates is unwise and may be unconstitutional. For example, Prof. Ralph Winter of Yale Law School testified before the Senate Commerce Committee, as follows:

> Any limitation on spending in political campaigns, whether limited to spending for certain media or encompassing spending generally, violates the First Amendment. This applies to any limitation on the amount of money that a person can contribute as an individual contribution to a campaign.
>
> It is my judgment that the First Amendment plainly prohibits the setting of a legal maximum on the political activities in which an individual may engage. This is the case whether or not the maximum is imposed in the name of equalizing opportunity or whether an actual discriminatory effect can be shown.

In both the Senate Commerce Committee and the Rules Committee, we gave serious consideration to the question of the constitutionality of a spending limitation. I, for one, was convinced that such a limitation could be constitutional. However, as with any first amendment right, the limitation must be a reasonable one.

As you know, Mr. President, the bill reported by the Senate Commerce Committee had separate but identical limitations for the broadcast and nonbroadcast communications media. In Rules Committee, we adopted the same spending limitation but to avoid overstructuring of the political process, we permitted a candidate to spend any unspent portion of one limitation as an additional amount for the other limitation. This interchangeability feature is the feature which makes any spending limitation reasonable.

Mr. President, when we consider spending limitations, I think it is important for us to remember what the spending limitation does. First of all, any spending limitation favors the incumbent. This fact is particularly true with regard to spending limitations on the communications media.

Why is this the case? There are a number of reasons; but, perhaps the greatest reason is the fact that incumbents are generally better known than challengers. Moreover, incumbents can more easily make news by the way they vote or by the stands they take on important issues.

A recent editorial in Time magazine urged Congress to enact no spending ceiling. It concluded by stating that "money is the great equalizer in the American political system." I am not sure that I completely agree with that premise, but I can understand it. We all should be able to understand it when we consider that under the present system which is completely without spending limitations over 93 percent of the Congressmen and Senators who have run for reelection since 1940 have been successful. Any limit that we place on a challengers ability to spend money in order to convince the voters that an incumbent has served long enough will tend to be viewed as incumbent insurance.

Mr. President, the spending ceilings in S. 382 are relatively unimportant as far as meaningful reform of our election laws are concerned. For example, the repeal of the equal time requirement of section 315(a) for all Federal candidates is much more than election reform because the effect of the repeal is to increase rather than diminish the exchange of political ideas. The amendments to the Criminal Code which eliminate the unregulated District of Columbia Political Committee and prevent political candidates from running up big bills that they do not pay. It is far more important to insure that political candidates do not violate the law getting elected to office than it is to tell them how they should allocate their resources in a campaign. It is most important that the financing of political campaigns be subject to full and complete disclosure so that the voters can know where a candidate gets his money and how he spends it.

I hope that every Member of this body fully understands the significant difference between spending limitations and all other parts of this bill. Spending limitations by their very nature have a limiting effect while all other provisions have the effect of encouraging aboveboard honest elections.

As we consider this bill, Mr. President, I hope that the broad perspective I have just outlined will be kept in mind. Amendment No. 308 chooses a method for limiting expenditures which is far inferior to the method adopted by the Rules Committee. By trying to impose separate spending limitations on broadcast and nonbroadcast communications media, amendment No. 308 ignores all of the testimony presented before both committees.

Our distinguished majority leader (Mr. MANSFIELD) submitted testimony and a number of letters to the Senate Commerce Committee. In his letter to Joseph Sample, Senator MANSFIELD probably best summed up the problem when he stated:

> I am hopeful the final version of the bill will contain the type of leeway and discretion to each candidate to permit the transfer of amounts from one category to another, depending upon individual judgment and needs of that candidate. I do believe that the overall limitations provided in the bill are adequate, but it is true that a challenger to an incumbent may justly and validly need to expend more of his campaign funds on name identification which can probably more validly be achieved through the electronic media. I would not want any bill with which I associated to be considered a bill for the protection of incumbents.

We all know, Mr. President, that a campaign for the U.S. Senate in Wyoming or Maine is going to have very different requirements than a campaign for the U.S. Senate in New York or California—or even Rhode Island. We all know, Mr. President, that a congressional candidate in New York City may not even be able to afford television at all, while a congressional candidate in Wyoming may find that television is the only way to reach all of the voters.

What rational basis is there for setting separate limitations? Let me read to you the reasons contained on page 30 of the Commerce Committee report:

> Some of the witnesses who testified before your Committee urged there be one total limitation on all media spending with discretion left to the candidate to determine what amounts to spend on broadcast and nonbroadcast advertising. There is merit to this contention especially since campaigns differ according to the personal style of a candidate and the area of the country in which the election is being held.
>
> On the balance, however, your Committee opted against such an approach. Television is unquestionably the most used media in political campaigns, and it has been the most significant contributor to the spiraling cost of these campaigns. If candidates were given complete discretion to spend on the use of this media your Committee was fearful that in the closing months of a campaign the airwaves might become inundated with political broadcasts to the exclusion of entertainment and other public interest programs.

The Deputy Attorney General of the United States, Richard G. Kleindienst, replied to that report language in his testimony before the Rules Committee. He stated:

> We think the economic facts of life in the broadcasting industry and the long term self-interest of broadcasters will adequately protect the public from any real possibility of an inundation of the air by political advertisements. We also believe that compartmentalized spending limitations ignore differences in candidates and variances in media coverage capabilities and media rates throughout the Nation. Candidates should have the flexibility to structure their campaigns to produce the most efficient and effective communication with the electorate.

Mr. President, let us, in establishing a spending limitation, be realistic. Let us face the facts. Candidates for Federal office should be given the flexibility necessary to insure that all of the voters in their State or congressional district have the maximum flexibility in deciding the best way to adequately inform all of the voters.

The proponents of the approach used in the Pastore amendment argue that if interchangibility were permitted, all candidates would spend all of their money on radio and television. Can they prove such a charge? The answer is no. But I suppose they would argue that the reasonable man knows that television and radio are the most important means for reaching the electorate. Perhaps they are right. However, all of the evidence seems to suggest they are wrong.

Today we do not have any accurate facts showing the amount of money spent by political candidates on billboards or newspaper advertisements. The reason we do not have those facts is that the disclosure laws now on the books are ineffective, both at the Federal and the State level. Herbert E. Alexander of the Citizens Research Foundation is acknowledged by everyone to have done the most work in this area and to be the most knowledgeable. In his recent book, Financing the 1968 Campaign, Mr. Alexander makes some important points. For

those who believe that television and radio is the most important part of a political campaign, Mr. Alexander makes the following observation:

Viewed in terms of candidate selection, the impact of broadcasting on our political life, at least at the Presidential level, is probably less than some have warned.

If one tried to judge the impact of political broadcasting on the outcome of the Presidential election, contradictory conclusions can be drawn from the evidence of 1968. On one hand, some political experts believe that Humphrey would have won the election if he had had sufficient funds to properly plan and fully execute his television campaign. It is suggested by these observers that lack of adequate television exposure caused by lack of funds cost Humphrey the election.

On the other hand, it has been noted by some observers that in spite of the most massive television campaign in history, and the biggest television spending advantage over his opponent in history, Nixon's rating in the polls was virtually unchanged from May to November (ranging around 42 percent). This could mean that Nixon's nonsupporters or waiverers may have been largely unaffected by his expensive media campaign and that his media campaign served mainly to reinforce the favorable tendencies of his existing constituency.

It is impossible to resolve these two conflicting views on the importance of television on the basis of the 1968 Presidential election. One can conclude that other factors are probably at least as important, and that very little is really known about the way and the degree to which television influences voters.

Let us face the facts, Mr. President—television costs have been rising at a rapid rate. Political candidates do spend more money on television than they did in the past. When one stops to think of it, that is not too surprising. Until the 1960 Kennedy-Nixon debates, I am not sure that political candidates had given a great deal of thought to the fact that television could be used to inform the voters about the issues in a campaign. In no way, however, does the mere fact that television costs money lead to the conclusion that political candidates should be limited in using television.

Just the opposite conclusion might be reached, Mr. President.

A recent article in the June 10 edition of the Washington Post gives some indication as to the escalation of media advertising costs. In the Washington, D.C., area alone, media advertising costs rose 8.8 percent between April 1970 and April 1971. The article went on to point out that this was a smaller increase than the average 10.8-percent rise in media costs over the previous 5 years. Of all media costs, television rates rose the sharpest. Over the past 6 years in Washington, D.C., television rates rose 80.2 percent. This far outstrips any future adjustments which may be made in the formula as a result of the cost-of-living increase provision contained in the bill.

I would only conclude on this point, Mr. President, by pointing out that even the distinguished chairman of our Communications Subcommittee (Mr. PASTORE) seems to recognize the necessity for at least some degree of interchangeability. During the course of hearings before our Commerce Committee, in a colloquy with Mr. Wasilewski, president of the National Association of Broadcasters, the few following exchanges occurred:

Senator PASTORE. We thought of that. What you would do in that particular case, you would transfer to the other area.

Mr. WASILEWSKI. I think this ought to be a matter that is in the broad discretion of the candidate himself.

Senator PASTORE. You are absolutely right, because we have said this time and again here, especially during the testimony of some of the networks.

He can better spend his money in another way; that is, either by mailing or by billboards or however he wants to do it.

We have been thinking of the idea that no more than 7 cents per vote, if that is the figure, and any candidate who does not use up to 7 cents can take the slack and transfer it to the other areas. (Commerce Committee Hearings, Serial No. 92–6 at 478, 479.)

Mr. President, all of the foregoing evidence simply begs the question; why not face reality and provide the necessary interchangeability?

Mr. President, I yield such time as he may desire to the distinguished Senator from Tennessee.

Mr. BAKER. I thank the Senator from Vermont for yielding.

Mr. President, this is an amendment which I offered in the Commerce Committee and which was discussed at great length at that time. It has a practical aspect that has been discussed thoroughly and ably by the Senator from Vermont. It has a deeper and more philosophical aspect that I should like to touch on for just a moment.

I think we can begin by agreeing that there is a substantial need for upgrading and modernizing the laws of the United States dealing with the election of Federal officials. Most of us would agree that such improvement and such legislation must embrace some sort of appropriate, enforceable and practicable reporting requirement, as well as some sort of disclosure of the amount of the contribution, at a time which is useful to the electoriate.

Most of us probably would agree that there needs to be some sort of regulation of unfair campaign practices. But beyond that point, I am not sure all of us could agree on the techniques that should be employed to accomplish those purposes.

For instance, I am convinced that the lack of interchangeability of campaign allowances, as it is written into amendments Nos. 308 to S. 382 now before the Senate, is a distinct step backward instead of a step forward, because, while we need regulation and improvement in the Federal election laws, we do not need to regiment and institutionalize the process of campaigning. I resist with all the vigor of which I am reasonably capable any effort, for instance, to require that expenditures be made through a Federal agent. That is not seriously suggested nor implied in this bill, but it is one idea that has been considered by those who turn their attention to electoral reform.

By the same token, I would stoutly resist any effort by anyone to say one could or could not use television or could or could not use radio, or mass mailing, or any of the other several techniques that are available for campaigning in large, populous areas.

It seems to me that if we cannot all agree on the danger of institutionalizing or federalizing the very delicate and personal business of campaigning for the right to represent the people in this Federal Republic, then there is very grievous danger in requiring that a candidate dedicate a fixed percentum share of the amount which he is allowed to spend on advertising to either the electronic or nonelectronic media.

I personally resist the idea that all of us, in our collective judgment, can decide how best and how most efficiently and most equitably the respective viewpoints of candidates in all of the several States of the Union can be presented. As the Senator from New Hampshire (Mr. COTTON), the distinguished ranking minority member of the Committee on Commerce, pointed out, television is almost useless in the State of New Hampshire when it comes to statewide campaigning. As I recall his comments and statements before the Commerce Committee, he wishes that he could utilize television effectively in New Hampshire, but he finds he cannot.

In the State of New Jersey, for instance, there is no television station, although New Jersey is certainly one of our great urban centers in the United States. If a candidate for statewide office in New Jersey desires to campaign through the electronic media, he must purchase time on broadcast stations in New York and Philadelphia. The candidate would therefore, be spending a great deal to reach relatively few potential voters in his State.

This, it seems to me, Mr. President, is a fair example of why we cannot by stature structure the allocation of the available funds between the candidates and between the media.

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

Mr. BAKER. I am happy to yield to the Senator from Kentucky.

Mr. COOK. The same thing could be said as to the State of New Jersey, could it not, as far as nonbroadcast media are concerned? If a candidate for the U.S. Senate wanted to place a full-page advertisement in the New York Times, although it covers a good percentage of the State of New Jersey, actually the cost of the advertisement would be based on the entire circulation area, which would take in a tremendous area in addition to the State of New Jersey; so the principle applies at both ends of the spectrum.

Mr. BAKER. The distinguished Senator from Kentucky is very accurate indeed, and I agree with him. It is a further example of the fact that we cannot effectively and appropriately allocate the funds to be spent in a rigid way. We cannot institutionalize the business of campaigning by requiring a certain percentage of the money to be spent either in the newspapers, as the Senator points out, or in television, according to the formula written into this bill.

I think there should be full interchangeability. I agree that there should

be a limitation on the amount that can be spent. I think that that is the very essence of campaign reform. But I think there should be maximum flexibility for each candidate to decide how to spend it. I do not think Congress should indicate what percentage share can be spent for television or nontelevision advertising, and I wonder, if this measure were enacted, if our next step would be to say that a certain percentage has to be spent in mass mailing, or on billboards, or on magazines, or handout material, or buttons or badges or whatever. Because you see, Mr. President, I contend, and I believe, that it is just as rational and just as logical to require that you spend a certain fractional share of your allowance for rubber balloons as it is to require that you spend a certain percentage share of your allowance for nonelectronic media as distinguished from electronic media.

I want the freedom, Mr. President, to decide how I will spend the statutory allowance which I may spend in any future campaign in which I may engage as a candidate. I do not want, as much as I respect every Member of this body and the judgment of every Member of this body, my peers and colleagues to tell me how to run a campaign in Tennessee.

I think, Mr. President, there should be full interchangeability. This does not act in derogation of the effectiveness of modernized campaign reform. I think we should move about the business of trying to make it practical and workable. But I do not believe we should go this step backward toward the regulation of the allocation of campaign expenditures. Therefore, Mr. President, I join with the Senator from Vermont in offering this amendment to change that provision, instead, to provide 100 percent full interchangeability from one medium to the other, according to the judgment and discretion of the candidate, still within the expenditure limitation framework. I think the Committee on Rules and Administration did an excellent job in this respect. I do not agree with my own committee's version, which is that of the Committee on Commerce. I support the Prouty amendment.

I thank the Senator from Vermont for yielding.

Mr. PROUTY. Mr. President, in the last issue of the Congressional Quarterly, this whole question of media spending was gone into in considerable detail. I shall take only the time to read a brief portion of the article, under the section headed "Media Studies":

> One difficulty in assessing the effectiveness of political broadcast advertising is that no one really knows what the public thinks about the massive media campaigns or whether voting behavior is influenced.
>
> Very little evidence has been gathered through research by social scientists in the field. Many persons presume that in politics name recognition automatically means votes, "image" ads are better than "issues" ads, spot announcements reach the widest audience and the more ads the better.
>
> However, there is no proof that these presumptions are correct, and some recent research tends to indicate that they may be misleading.

Mr. President, I remember one very articulate and very able former Member of this body, a great orator and a great thinker, who, when he became involved in television programs, was completely helpless, overcome with fear and trepidation. He was most ineffective. Others do a better job on television than some of their opponents. But it seems to me that as long as we are requiring full disclosure and placing limitations on the amount of money that a candidate can spend, it seems to me that the candidate himself should have the right to determine how that money is going to be spent within the imposed limitations.

In my own State of Vermont, it was necessary for me to utilize television stations in New Hampshire, Maine, New York, and Massachusetts in order to cover my State of Vermont, which is a small State. There was no other means of doing it. In some areas where there are no television stations, certainly a man could not be required to limit his expenditures to just half of what he would spend if television facilities existed.

It seems to me this is a fair and reasonable approach, and it was approved overwhelmingly by the Committee on Rules and Administration.

I am now very happy to yield to the distinguished Senator from Kentucky.

Mr. COOK. Mr. President, we debated this proposition at length in committee. I think the theory of dividing broadcasts from nonbroadcasts, and making them noninterchangeable, as they are now, runs totally contrary to the basic concept of the bill. When you set up that a candidate is entitled to so much money to reach his constituents. If, in fact, one is entitled to 5 cents per eligible voter for broadcast media and 5 cents per eligible voter for nonbroadcast media, it means that he has the opportunity to reach his constituents at that level of expenditure.

The basis for the noninterchangeability does not allow one to reach all his constituents at this value.

Take the example of the Commonwealth of Kentucky. In order for a candidate to go on television in the State of Kentucky, he not only buys the station's time in Louisville, Lexington, Paducah, Bowling Green, and Hazard, but also buys time on television stations in Charleston and Huntington, W. Va.; in Cincinnati, Ohio; in Evansville, Ind.; in Harrisburg, Ill.; in Cape Girardeau, Mo.; in Nashville and Knoxville, Tenn., and in the Tri-Cities area of Bristol-Johnson City.

If, in fact, we mean that a candidate is entitled to spend 5 cents per eligible voter in the area in which he lives, obviously we are not allowing him to do it; because when he buys time in Cincinnati, he is immediately dissipating out of every 5 cents per voter—if that is what he is doing on the station—about 65 percent of his allocable funds, because that is how much is wasted in the States of Indiana and Ohio when one tries to reach Northern Kentucky.

The point is that when you have this degree of non-interchangeability, what you say, in essence, to candidates in some States is this: "Your money will be totally diffused. Yet, if you happen to be from the State of Alaska, where you cannot be reached from any of the other 48 States, you may spend all your money within the framework of that State, and it can be utilized in that State. So you get a 100 percent value."

The distinguished Senator from Tennessee gave the example of the State of New Jersey. No one from my part of the country, by the furthest stretch of the imagination, would believe that the State of New Jersey has no television stations. It is a State with a large population, far greater than mine, and its only television outlets are in Philadelphia and New York City. How much of that nickel per voter on broadcast media does a candidate in New Jersey get if he buys time on a New York station? In the first place, he has how many other stations to compete with? I only pose the question to the Senator from New York. I have no idea how many television stations are in New York City with which he has to compete. He has the most expensive market to compete with, and he loses approximately 75 or 80 percent of his allocated funds per voter because they do not even live in the State in which he is trying to get to the voter.

I should like to read two very interesting comments in our hearings on the Federal Election Campaign Act. These are letters that were put into the record by the distinguished majority leader, who wrote to station managers in his home State of Montana. He wrote to Mr. William A. Merrick, who is president and general manager of KBMN. The distinguished majority leader wrote:

> I believe that there should as well be some discretion to the candidate that would permit transferring from one media allocation to the other depending upon the individual needs of each candidate.

In a letter to Mr. Sample of Montana Television Network, the majority leader wrote:

> In addition, I am hopeful the final version of the bill will contain the type of leeway and discretion to each candidate to permit the transfer of amounts from one category to another, depending upon individual judgment and needs of that candidate. I do believe that the overall limitations provided in the bill are adequate, but it is true that a challenger to an incumbent may justly and validly need to expend more of his campaign funds on name identification which can probably more validly be achieved through the electronic media. I would not want any bill with which I associated to be considered a bill for the protection of incumbents.

I could not agree with that more.

It is my intention—I say this to the Senator from Rhode Island—at the appropriate time to offer an amendment. I know the conversations that have gone on, the discussion that has been had, the reports relative to the disposition of this subject on both sides of the aisle, that the question of total interchangeability is going to be very difficult to get through. It will be my intention to offer, in the nature of a substitute, if the Senator from Vermont will agree, or as a separate amendment, an amendment that will allow a 50 percent discretion one way or the other. This degree of leeway at least will allow a candidate to make up for the inefficiencies he finds in

one media establishment or another where he cannot honestly get to all the constituents he wants to, for the amount of money he is allowed under this allocation.

Mr. PROUTY. Mr. President, I commend the distinguished Senator from Kentucky for his suggestion. I think we have been trying to cooperate. I certainly want to pay tribute to the distinguished floor manager of the bill, the Senator from Rhode Island (Mr. PASTORE).

I would be perfectly willing to modify my amendment along the lines suggested by the Senator from Kentucky, if that would meet with the approval of the distinguished Senator from Rhode Island.

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

Mr. PROUTY. I yield.

Mr. PASTORE. We all have lived in a very cooperative spirit here today, and I congratulate my colleagues on the other side of the aisle for some of the amendments that have been proposed.

But I hope that this afternoon we do not end up adding insult to injury. After all, the common denominator in this bill is, How much are you allowed to spend? When we get into this transferability, which is a 100-percent total, or even 50-percent total, I am afraid that we are going to end up in a very chaotic condition.

Looking at the chart in the report, we know that it spells out how much one can spend in each category in each State. This is alone for the television and the radio time one buys, irrespective of what it costs for production. Taking the figure in California alone, if there is transferability of $1,423,700 for radio and television time, I say that we have to kiss Bob Hope goodby, we have to kiss "Bonanza" goodby, we have to kiss "I Love Lucy" goodby. We are going to knock off every entertainment on the television screen if we are going to devote this kind of money to radio and television. It will be impossible.

I say to the Senator, frankly, that I want to be compromising and I want to be fair. If he will make that a 20-percent transferability, I will go along with it, because I think that will allow the leeway to take in the situations which are marginal, such as New Jersey or Kentucky.

Let us face it. If we transfer all this money to radio and television, we are going to have utter chaos. The reason why we made it 5 and 5 is that we did section it off. If we are going to have transferability, 10 cents is really too much, for this reason: No. 1, we are not talking about the registered vote. We are talking about the eligible vote—the eligible vote that is determine by the Bureau of Census on the June before the year of the election—which means every person over the age of 18, male and female, whether they have registered or not; and that is a larger total than the number of people who will go out to vote. That is very generous.

So the 5 and 5 is predicated upon that formula. Then add to that the lowest unit cost, which will give a discount on the television time that is bought of between 35 percent and 50 percent. Add that to it, and I say that we will end up with a scandal. Every office in this country will be put on the auction block.

The time has come when public life and public office will be put up for sale. That is not what we are trying to do. We are trying to cut down the astronomical costs of campaigning. In the last campaign, the President spent on radio and television $12.7 million. If the Senator invokes this formula, the President will have to spend over $15 million.

What are we doing?

If we are going to add to it, then I say we are wasting our time. Frankly, we have to have some transferability, which is the argument made by the Senators from Tennessee and Kentucky, and I am perfectly willing to go along with that, but for goodness gracious sake, make it reasonable.

Mr. PROUTY. Mr. President, I yield now to the distinguished Senator from Tennessee.

Mr. BAKER. Mr. President, this is the second chorus that the Senator from Rhode Island is singing. He put this before the Committee on Commerce previously. We have argued the——

Mr. PASTORE. I sing it in the key of C and the Senator sings it in the key of G.

Mr. BAKER. There is no point in arguing this now, except to say that what we are discussing now are two of the most difficult parts of the bill, both the unit rate and institutionalizing the apportionment of the power. I lost on that. The pending bill came out of committee that way. Sooner or later we will regret it. I commend the Senator from Kentucky for trying to compromise a difficult situation. Twenty percent is better than nothing. I hope that some day we will have the interchangeability.

Mr. PASTORE. If it does not work out, we will change it.

Mr. COOK. Mr. President, I would like everyone who reads the RECORD to think that we had full interchangeability for every candidate running for public office, including the President, in some degree to spend his money on television and radio. We just had an election——

Mr. PASTORE. I say to the Senator from Kentucky that is where he is going to put his money.

Mr. COOK. We had just finished a presidential election before then, and the President who was running for office did not spend all his money on radio and television. I did not spend all my money on radio and television. Those Senators, all of whom are here, did not spend all their money on radio and television. There were no restrictions on interchangeability then. There have never been before. So when we say, all of a sudden, that something will happen, it has not happened in the past. With interchangeability, we can still get out the pamphlets, use the billboards, or buy balloons, as the case may be. The only thing I can tell the Senate is, we did not have this and we could have spent every dime of our money on radio and television, but we did not think it was practical and we are not going to think it is practical in the future.

From the standpoint of the offer made by the Senator from Rhode Island, let me say that I conveniently have already changed my amendment and I hope that the Senator from Vermont can accept it.

Mr. PASTORE. And the Senator from Rhode Island will buy it.

Mr. PROUTY. Mr. President, I yield to the Senator from Oregon (Mr. PACKWOOD), who wishes to ask one or two questions.

Mr. PACKWOOD. I wonder whether the Senator from Rhode Island would permit me to ask one or two questions.

Mr. PASTORE. Certainly.

Mr. PACKWOOD. I do not understand how, if we put in interchangeability, that it will cut down 1 cent from a campaign. If we do not put in interchangeability, how will it change campaign costs by 1 cent? How will it prevent a Senator from spending money on billboards, bumper stickers, pamphlets, or utilizing people going door to door?

Mr. PASTORE. The point is, we have been generous in allocating the formula and the amount. The reason why we were generous in advocating the formula we did was that we limit it to 5 cents on television and radio. We took that into account. The figure adopted is slightly more than the figure spent on the average throughout the entire country in the last election.

Mr. PACKWOOD. This bill, then, is not a campaign spending limit bill, is it?

Mr. PASTORE. Of course it is.

Mr. PACKWOOD. How are we limiting the spending of the money?

Mr. PASTORE. By limiting it to 5 cents on every eligible voter where radio and television are concerned. On a nonbroadcast item, it is 5 cents. A candidate is limited to what he can spend. I think every candidate for public office spends twice as much as he should, twice as much as is necessary.

Mr. PACKWOOD. He spends everything that he has.

Mr. PASTORE. The Senator knows what happens. The candidate is riding along in his automobile and he sees his opponent's sign on the other side of the street, with a big, big billboard, so the candidate does not sleep unless he puts up a billboard on the other side of the street. That happens all the time.

The candidate sees an ad of his opponent's in the newspaper and he has to have one in the newspaper the very next day. If his opponent is on television and he calls you a name, you have got to go on television and reply to him. After the election is over, you say to yourself, "My goodness gracious, how stupid I was. I could have saved half that money."

Mr. PACKWOOD. Let us look at what will happen. If we have interchangeability, every candidate can spend all the money he has plus what he can borrow, unless we limit the amount he can borrow in this bill. If he wins, he can possibly pay off the deficit.

I say, if we want to bring it down, let us bring it down to nothing but do not let it apply to radio, television, or the newspapers.

Mr. PASTORE. I agree with the Senator that if we are going to have interchangeability, we have got to do something about reducing the 10 cents. We have got to do it.

Mr. PACKWOOD. We do not have to do it at all. We can cut it out entirely. Then it will be a bonanza if we do not allow advertising.

Mr. PASTORE. It could be very well, and bring spending into its proper context. If we have interchangeability, then we have to reduce the total amount.

Mr. PACKWOOD. What the Senator has here is not a bill allowing campaign spending but a bill against broadcasting. Perhaps that is what the Senator wishes to do.

Mr. PASTORE. My goodness gracious, no. I have nothing against the broadcasters. As a matter of fact, in some quarters, I have often been called a patsy—which, of course, it not true. Now do not label me with that. I have been stigmatized enough as it is.

Mr. PACKWOOD. I will state for the record, with or without this limitation, that campaign costs on the average will exceed what was spent in 1970 to run for the Senate. This bill is a disclosure bill and a good bill. We should have disclosure. But it will not save 1 cent or put a limit on spending for campaigns. What we are doing is to transfer support from broacasting to support from the print media and we will find some other way, whether loudspeakers, bumper stickers, or billboards, to spend every red cent that every candidate can raise for his campaign.

Mr. PASTORE. Mr. President, I am willing to yield back my time now.

Mr. PERCY. Mr. President, will the Senator from Rhode Island yield for a question on the amendment?

Mr. PASTORE. I yield.

Mr. PERCY. I wish to inquire, because I was not here for the entire colloquy, the distinguished Senator made the statement that every candidate could figure out that he could save half his campaign expenditures. I agree as to the campaigns I have been in, but has the distinguished Senator figured out which half?

Mr. PASTORE. Both halves. [Laughter.] I wish the Senator would ask me a hard question some day.

Mr. PROUTY. Mr. President, I am perfectly willing to accept a modification of my amendment as suggested by the distinguished Senators from Kentucky and Rhode Island and yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FANNIN). The Senator has a right to modify his amendment. Does the Senator so modify it?

Mr. PROUTY. I so modify it.

The PRESIDING OFFICER. The amendment is modified as requested.

The text of the amendment as modified is as follows:

On page 4, line 16, strike "No" and insert in lieu thereof "Except as provided in section 104 of the Federal Election Campaign Act of 1971, no".

On page 8, line 6, strike "No" and insert in lieu thereof "Except as provided in section 104 of this Act, no".

On page 10, immediately after line 3, insert the following new section:

"LIMITED INTERCHANGEABILITY BETWEEN EXPENDITURES LIMITATIONS

"SEC. 104. (a) A legally qualified candidate in any primary, runoff, general, or special election for Federal elective office may, at his option, transfer not to exceed 20 per centum of the expenditure limitation under section 315(c) of the Communications Act of 1934 as amended or section 103(c) of this Act between one or the other to be spent on either the broadcast or nonbroadcast media on behalf of his candidacy in such election. Any amount so transferred from the one expenditure limitation to the other shall be deducted from the expenditure limitation upon the media from which such transfer is made.

"(b) Any such legally qualified candidate exercising this option shall promptly notify the Federal Elections Commission in writing of the amount so transferred and spent, and shall provide such Commission with such information as the Commission, in its judgment, deems necessary and proper in the exercise of this option.

"(c) The Federal Elections Commission is authorized to develop and promulgate appropriate rules and regulations to carry out the purposes of this section.

"(d) The definitions contained in section 315(c) of the Communications Act of 1934 and in section 103(a) of this Act are applicable to this section."

On page 10, line 5, strike "SEC. 104." and insert in lieu thereof "SEC. 105".

On page 11, line 2, strike "SEC. 105." and insert in lieu thereof "SEC. 106."

Mr. PASTORE. Mr. President, I yield back the remainder of my time.

Mr. PROUTY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Vermont.

The amendment was agreed to.

REMOVAL OF INJUNCTION OF SECRECY FROM EXECUTIVE I, 92D CONGRESS

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Locarno Agreement Establishing an International Classification for Industrial Designs, Executive I, 92d Congress, first session, transmitted to the Senate today by the President of the United States, and that the agreement, together with the President's message, be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message from the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Locarno Agreement Establishing an International Classification for Industrial Designs, signed October 8, 1968. I transmit also, for the information of the Senate, the report of the Secretary of State with respect to the Agreement.

The countries which are parties to the Agreement constitute a Special Union. The principal purpose of that organization, which will consist of an Assembly of all contracting parties, and a Committee of Experts, is to establish an international classification for industrial designs. Such a classification system will be of great assistance in researching the existence of exclusive rights respecting a specified design or any variants thereof. This arrangement will be generally similar to that set forth in the Nice Agreement Concerning International Classification of Goods and Services to which Trademarks are Applied as revised at Stockholm July 14, 1967.

I recommend that the Senate give early and favorable consideration to this Agreement.

RICHARD NIXON.

THE WHITE HOUSE, *August 3, 1871.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the joint resolution (S.J. Res. 105) authorizing the President to issue a proclamation designating 1971 as the "Year of World Minority Language Groups."

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7960) to authorize appropriations for activities of the National Science Foundation, and for other purposes.

FEDERAL ELECTION CAMPAIGN ACT OF 1971

The Senate continued with the consideration of the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

The PRESIDING OFFICER. Who yields time? The bill is open to further amendment.

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 3, line 14, strike out "amount of time" and insert in lieu thereof "class and amount of time and same frequency of use"

On page 10, line 6, strike out "amount of space." and insert in lieu thereof "class and amount of space and same frequency of use.".

Mr. STEVENS. Mr. President, this is the amendment mentioned in the unanimous-consent agreement for a limitation of 2 hours.

I yield myself 20 minutes at this time.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 20 minutes.

Mr. STEVENS. Mr. President, the Senator from Rhode Island is an extremely fair man. We have had an interesting discussion in committee about this bill.

The PRESIDING OFFICER. Does the

Senator ask that the amendments be considered en bloc?

Mr. STEVENS. Yes—two amendments.

The PRESIDING OFFICER. The amendments will be considered en bloc.

Mr. STEVENS. Mr. President, the provision I am most disturbed with in this bill is one that apparently attracts little attention. If it were said that a typesetter would have to work for 50 percent while he was setting type in a political ad, that a broadcaster would have to work for 50 percent while he read a political ad on a radio station, or that a television announcer would get paid 50 percent while he was reading a political ad for a candidate, I assume that would cause a little more attention to be attracted to the matter. However, it does not.

What it says is that the media, both the air medium and the printed medium, must carry the political advertising at the lowest unit rate available in this 45-day period before a primary election and 60-day period before a general election.

Mr. President, I had printed in the RECORD on July 21 some examples of what would happen in Alaska—and this is comparable all over the country—with small radio stations, small newspapers, and small television stations that are independent of these massive networks or are independent of these very large newspaper chains.

This is what will happen to them. A fixed rate cut, for instance, shows that for a prime time, one spot, a 60-second spot, will cost $12.50. That would be the cost to anyone who went in there. There is no discrimination against a politician. He will not get it at any more expensive rate or any cheaper rate. However, if this bill passes, the politician will get that time at $4.50 instead of $12.50.

I have had discussions with the Senator from Rhode Island in committee, and I am certain from what he has said here that this is the intended result. I do not argue with his intended result in terms of purpose. I argue with it in terms of whether it is fair and whether we should, in fact, require the news media to subsidize political campaigns throughout this country from now on and require, as I have pointed out, this one station to provide political advertising at one-third the cost that it was provided in the last election.

In the last campaign the record shows that my opponent spent twice as much money as I did on radio and television.

Under the pending bill, the Senator from Rhode Island very generously raised the amount for each medium. But under the bill the $30,000 would be worth at least $60,000. So, if we are talking about putting a limit on expenditures, it is not in this bill with that provision. It is highly discriminatory to say that this can happen in terms of newspapers. I know of no legal basis or constitutional basis whereby the Congress of the United States can order a newspaper to provide advertising to a political candidate at the lowest rate it provides advertising media to any other advertiser.

With respect to the air medium, I can understand it, because we regulate the airwaves. But I would challenge anyone to show me the constitutional basis for requiring the printed medium to provide a political candidate for federal office with advertising at the lowest unit rate at which it sells advertising to the grocery store on an average of 6 days a week, 52 weeks a year, and get an earned rate discount.

I call my amendment the comparable rates provision. It requires that no one can discriminate against politicians in terms of their advertising. It says that they cannot charge us any more than they charge anyone else for the same class of time, the same amount of time, or the same frequency of use, or the same class or amount of space or the same frequency of use of the printed medium.

I call the attention of the Senator from Rhode Island to the testimony before the committee in terms of this lowest rate provision when Mr. Wasilewski, from the National Association of Broadcasters, testified before the committee. He was very plain, quoting from page 483 of the hearings before the Commerce Committee, when he said:

> Some of the bills introduced would require that broadcasters sell candidates' advertising at the lowest rate available to any advertiser for an equivalent time period, regardless of volume or other considerations. Present law requires a broadcasting station to charge political candidates no more than it would an advertiser for the comparable time. This insures that the candidate will get treatment equitable to anyone else who purchases air time. To require broadcasters to charge political candidates a lesser rate than charged other comparable purchasers of time would constitute an enforced subsidy for political broadcasting—a subsidy required of no other industry.

Mr. President, I underline that. It is certainly required of no other industry.

We are not going to say to anyone else involved in the campaign activity, whether a person who prints billboards, sells billboard space, prints placards, bumper stickers, sells balloons, or whatever it is, that he has to give a politician a favored rate.

But the pending bill cuts right into the small, individually owned radio and television stations and newspapers throughout the country.

I had hoped that we might be able to get a comparison of some of the similar things throughout the country, of similar rates quoted for news media throughout the country. I have not been able to do so, because I guess they do not provide these. They are printed in the FCC records. However, I have not been able to get the individual ones.

Just to show what will be required of the radio, television stations, or newspapers in Alaska—according to information which I have readily available—the Alaska newspaper rate for 1 inch on a display rate is $3 a column inch. Based upon frequency of use, that is reduced down to as low as $1.30 an inch. Under the pending bill, it would mean that the politician would pay the low rate. I think it must be a difficult thing for a newspaper to handle every 2 years or 6 years when the politicians come in with advertising that is not very well prepared and not made up in the careful way in which the grocery store ads would be made up in terms of regular ads coming into the newspaper office. But they are to get the grocery store rate available in the small weekly and monthly newspapers in my State that barely survive. They would have to provide the politicians with that rate.

Make no mistake about it. The bill is not a limitation on expenditures.

Under this provision, it becomes a bill which strictly requires a news medium to give the political candidate at least a 50 percent preference in terms of advertising.

If I might have the attention of the Senator from Rhode Island for just a minute, I will ask him if I have misinterpreted this in any way. It is the intention now to have the lowest unit rate in either the 45- or 60-day period available to any advertiser regardless of volume or class of time.

Mr. PASTORE. The Senator is correct.

Mr. STEVENS. I wanted to make sure I was not overstating the case as far as this provision is concerned.

Mr. PASTORE. No. The Senator took occasion to raise the question of the constitutionality of imposing this low unit cost on the newspaper. There is no case as far as we have been able to research that declares such a law unconstitutional. However, there is a New Hampshire case that went before the Supreme Court of New Hampshire. And the supreme court held:

> The statute establishing the commercial advertising rate as maximum rate for political advertising in newspapers or by radio stations does not abridge freedom of the press.

That is the language of the Supreme Court of New Hampshire. The case was brought before the Supreme Court of the United States and certiorari was refused. Then, they asked for a review of the refusal and it was refused again. That allowed the supreme court decision of New Hampshire to stand.

We were guided by that. I am not saying the question of constitutionality cannot be debated; it can be.

We are merely saying that a campaign is in the public interest to bring to the people not only the quality of the candidates but also the various issues that affect the community, State, or the Nation.

We are saying that a political candidate is not that kind of customer either for the newspapers or the news media that he can actually undertake a contract to be on radio or in the newspapers throughout the entire calendar year, like, let us say, Procter & Gamble, or some cigarette manufacturer which has prime rates. All we are saying to a newspaper is, "You yourself establish your prime rate, but whatever you establish, that rate you must give to a candidate for public office, in the public interest, for 45 days preceding the date of a primary election and during the 60 days preceding the date of a general or special election." That is all we are doing and we

think that is in the public interest. We are doing that to make it available for the man without great means, in order to challenge another candidate, who may be just as worthy, but who has tremendous means, to put them on the same level so that money will not be the common denominator but so that wisdom, talent, and the issues will be the common denominator. That is what is behind this.

I know the Senator from Alaska is absolutely sincere about his position. There is no doubt about it. But that is why we decided it this way and I think we did the right thing. We are not saying to anyone, "You have to give a certain party a rate you do not give anyone else." What we are saying is, "You make your rate and establish it. The lowest unit cost you charge anyone is that section of time on television, on radio, or in newspapers you have to charge the candidate for public office, whether he is running for the school committee, dog catcher, or the President of the United States. You have to give him the same rate."

Mr. STEVENS. Mr. President, I wish to say to the Senator from Rhode Island that he stated his case very fairly. I only rebut that by saying: Look at the stations. We have small stations. For instance, in Anchorage, Alaska, we have three television stations, four FM stations, four AM stations, two newspapers, and we have less than 100,000 people. The thing that made that available was a group of people who were very aggressive and very competent. The rate cards show that for prime time it is $300 for a 60-minute program. On the same station for class C time it is $100.

What the Senator from Rhode Island is really saying is that the politician will walk in and get prime time that is worth $300 if anyone else were to buy it—and believe me, they do buy it—and that time is put aside for them and they pay only $100.

Mr. PASTORE. The Senator is 100 miles off course.

Mr. STEVENS. Tell me where I am off course.

Mr. PASTORE. That same time that the Senator is talking about is prime time for Proctor & Gamble for which they charge Proctor & Gamble $300, and they cannot charge the Senator $400.

Mr. STEVENS. That is not what the bill says.

Mr. PASTORE. Yes, it is.

Mr. STEVENS. It has nothing to do with time, or frequency, or use. We took it up with the staff and the FCC. If the Senator is willing to concede class of time I am ahead and I am willing to quit.

Mr. PASTORE. I do not know where the Senator gets "class of time." I am talking about the same period of time. In other words, if there is an agreement on the part of any radio station or television station that between 6 o'clock and 7 o'clock anybody can buy time for $200, and that is the lowest unit cost for that time, if the Senator buys that same time between 6 and 7 o'clock they cannot charge the Senator more than $200.

Mr. STEVENS. Will the Senator go one step farther? Suppose the Senator buys it 10 times and I buy it one time; then, the Senator would get the earned rate discount.

Mr. PASTORE. The Senator cannot buy it 10 times because he does not buy 10 times a year; he buys it one time.

Mr. STEVENS. We are in agreement on class of time.

Mr. PASTORE. I do not know where the Senator gets the expression "class of time."

Mr. STEVENS. There is double-, triple-, and third-class time; and that is prime time, middle time, and run-of-the-station time. It is in the FCC journals.

How about newspapers? Can we go into newspapers?

Mr. PASTORE. Yes. If in the Sunday newspaper, page 5, anyone can buy it for $300, they cannot charge the Senator more than $300 for that same page 5 on Sunday. That is all I am saying. In other words, they have to treat the man running for public office in the same way they treat their own best customers. What is wrong with that?

Mr. STEVENS. I still think there is something wrong with that.

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

Mr. STEVENS. I will yield in just a moment.

The Senator says there is a premium for advertising on page 2 and if the grocery store buys page 2, it would pay the same price I would pay as a candidate; but if the grocery store bought the page for 52 weeks and at a special price, the Senator would get the special price or discount.

Mr. PASTORE. The Senator is correct. The Senator is headed on the right course. The Senator has come around to where he should have started.

Mr. STEVENS. I respectfully suggest that we need to put that language in the bill in respect to class and time. It is not understood by the industry. I have a letter here concerning that.

Mr. President, I am happy to yield to the Senator from Iowa.

Mr. MILLER. I have already discussed this part of the bill with the Senator from Rhode Island.

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

Mr. STEVENS. Mr. President, I yield myself another 20 minutes and I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. MILLER. Mr. President, I have already discussed this part of the bill with the Senator earlier this morning. I think that as far as one part of the Stevens amendment is concerned there is a meeting of the minds. While I do not think the bill quite says what the intention is, reading the committee report, page 27, especially, I think the intention is stated and I see no reason why the Senator from Rhode Island, the manager of the bill, and the Senator from Alaska cannot get together on this one part; that is, for the same class or quality of time the unit charge will be the same, whether it is for a political advertiser.

I think the Senator is getting to another angle, and that is if the commercial advertiser is given a certain rate because he is going to advertise for two times a day for 30 days and therefore he may get a discount of 20 percent, the question is whether the political advertiser who comes in for just one time a day for 10 days can get the same unit price.

I do know the answer but I know the way the bill reads it would permit the political advertiser to get that unit price even though he may only advertise for 10 days, whereas the commercial advertiser gets it because he is going to advertise for 30 days.

I would like to have the comment of the Senator from Rhode Island because I am sure the committee went into this aspect and it is a troublesome matter.

Mr. PASTORE. This is the way the bill reads:

> During the 45 days preceding the date of a primary election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same amount of time during the same period;

Mr. President, you could change that and say "lowest unit charge of the station for the same amount and period of time."

Mr. MILLER. The same amount and class of time?

Mr. PASTORE. No, it is the period that counts, because in television it is the period that constitutes prime time. The Senator calls it class; I call it period. If class means so much the Senator can use "class." But we want to make sure we are talking about the same thing. Class is quality. Period is time.

Mr. MILLER. Will the Senator from Alaska yield further?

Mr. STEVENS. I yield.

Mr. MILLER. I think the Senator from Rhode Island has recognized that we are talking about the same thing insofar as class of time is concerned, whether it is prime, triple A, or class D time. The language can be worked out on that. But the Senator from Alaska has a point here, and that is that if during that period of time which is 45 days preceding a primary election and 60 days preceding a general election a commercial advertiser would be given a unit cost at the 20 percent discount because he is advertising each day of the 30 days, and the political advertiser is coming along and advertising only in 5 days, or perhaps 2 days, in the same class of time, yet the political advertiser will get that discount. I think that is the point the Senator from Alaska is making. I think there is agreement between the Senator from Rhode Island and the Senator from Alaska.

Mr. PASTORE. The committee was in agreement on this point. Insofar as candidates for public office in any State, municipal, or nationwide office were concerned, as a public service, they ought to be entitled to the lowest unit charge. Frankly, there was not too great an objection to it. Naturally, of course, the broadcasting industry would like to have it out. The newspapers would like to have it out. We know that, but I think they owe the country something. They are given licenses. They enjoy lucrative

businesses. They have more or less monopolies, to a certain extent. I do not see any harm in it at all.

Mr. MILLER Mr. President, will the Senator from Alaska yield further?

Mr. STEVENS. I yield.

Mr. MILLER. What the Senator from Rhode Island is saying is no doubt the truth, but I do not think we have developed here on the floor what that amounts to. I do not know, in dollars and cents, what that particular aspect of the Stevens amendment is going to mean to a small radio or TV station. I do not know whether we are talking about a small amount of money or a large amount of money because I am not that cognizant with the rates on prime time.

Mr. PASTORE. The committee limited it to 45 days for a primary election and to 60 days for a general election. We were shortening the campaign time, in effect. Not only that, but there is a tendency to wait to come within those 45 days and those 60 days because the candidates will get the lower rates. The discount may come to 30 percent or 50 percent—I do not know—for radio and TV. I do not think the newspapers get into the lowest unit cost, only the radio and television, because most of the radio and television stations are connected as affiliates with the networks, and the networks enter into agreements. They make certain concessions to the licensees for the time they use in showing national broadcasting programs

I will tell the Senator very frankly what I think is a remarkable thing. Metromedia, WTTG; NBC, Dr. Goldman; ABC, Mr. Goldenson; CBS, Dr. Stanton—all four of them came in and said, "We are willing to give a discount voluntarily."

When it was put up to the committee, the committee said, "No; it ought to be placed in the law."

Mr. STEVENS. This is the very problem. The networks can come in and say, "We are willing to be big guys," but what about Cordova, or Ketchikan, or Fairbanks, stations which are selling time to a local grocery store or a drugstore or a drive-in. They have to scratch for it. That comes to one-third of the time, going by the class of time and frequency of use. The difference is one-third on the frequency and the class of time. If we are agreed on what prime time is, the class it is, we are still talking about frequency.

Mr. PASTORE. There is nothing in the law which compels the radio or television station to sell any time. They do not have to sell a nickel's worth of time.

Mr. STEVENS. That may be the law, but if there is a presidential or senatorial or gubernatorial campaign and those stations try to prevent campaigners from using their facilities, there would be a great protest.

Mr. PASTORE. I was just reminded that they do have to sell a reasonable amount of time. That provision was inserted in the bill.

Mr. STEVENS. There is a provision that requires them to sell.

Mr. PASTORE. But they cannot inundate the broadcasting; it has to be reasonable. In my State the radio and television announcements tell the people that so much time will be made available for political purposes. They wait for the applicants to come in, and they allocate.

I realize there may be difficulties in some places, but looking at this from a panoramic view, I do not know of a situation where there is not some difficulty. Perhaps the answer for Alaska is that they may have to charge the candidates the full time. I do not think we are asking too much in this bill.

Mr. STEVENS. I would say throughout the country, where there is a weekly or local newspaper, the situation would be the same.

My amendment would strike out the words "amount of time" and use the terminology class and amount of time and same frequecy of use," whether we call it unit or class or time. We are in agreement.

Mr. PASTORE. What the Senator from Alaska is doing is repealing the lowest unit cost provision, and I cannot accept it.

Mr. STEVENS. The Senator said he agreed on class of time.

Mr. PASTORE. I am telling the Senator that anything he does to disturb the provision for lowest unit cost I am against. If the Senator tells me that his amendment carries the lowest unit cost provision, we will get together on the language, but if he is out to destroy the provision for lowest unit cost, I am against it.

Mr. STEVENS. I am trying to preserve the lowest unit cost basis on a comparable basis. I had understood the Senator from Rhode Island agreed on it.

Mr. PASTORE. I agreed on what?

Mr. STEVENS. On the same class of time. The Senator wants prime time to be paid as prime time.

Mr. PASTORE. I suggested that we would use the words "amount" and "same period of time." If the Senator wants to correct it that way, I will accept it.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum so we can take a look at it.

The PRESIDING OFFICER. Out of whose time does the time for the quorum call come?

Mr. STEVENS. The Chair can take it out of my time. I do not care.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent to modify my amendment on page 2, line 23 of the Pastore substitute. Strike out everything after the word "amount", insert a comma, and have it read, "class and amount of time during the same period".

On page 8, line 5 after the word "amount", insert "and class".

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, with these modifications, which are agreeable to the committee, I am perfectly willing to accept the amendment, and I yield back the remainder of my time.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. PASTORE. Let me repeat the modification, in order to make it clear.

On page 2, line 23, after the word "amount" in the middle of the page, we delete everything to the end of the paragraph on page 24, and substitute in lieu thereof ", class and amount of time during the same period"?

Mr. STEVENS. And on page 8, line 5, insert after the word "amount"——

Mr. PASTORE. After the word "amount" insert "and class of space".

Mr. STEVENS. That is correct. Has my amendment been so modified?

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

Mr. STEVENS' amendment, as modified, is as follows:

On page 2, line 33, strike out everything after "amount" and insert in lieu thereof "class and amount of time for the same period."

On page 8, line 5, after the word "amount" insert "and class of space."

The PRESIDING OFFICER. Is all remeaning time yielded back?

Mr. PASTORE. Mr. President, I want the RECORD to be clear that this in no way rejects the committee report recommendation as to the lowest unit cost.

Mr. STEVENS. That is absolutely correct. It is the lowest unit cost for the same class of time and the same period of the day, during the same 45- or 60-day period. We have not done anything about the frequency of use. We concede that, but we have gone to the prime time concept.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. STEVENS. I move the adoption of the amendment, and yield back the remainder of my time.

Mr. PASTORE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ROTH). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS), as modified.

The amendment was agreed to.

Mr. PASTORE. I yield to the Senator from West Virginia.

THE HIGHER EDUCATION BILL—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I am authorized by the majority leader, after having consulted with the minority leader and the principal parties on both sides, to present the following unanimous consent request:

I ask unanimous consent, with respect to the so-called higher education bill—when it is called up—that debate on that bill be limited to 6 hours, the time to be equally divided between and controlled

by the distinguished junior Senator from Rhode Island (Mr. PELL) and the distinguished senior Senator from New York (Mr. JAVITS).

Ordered further, that the time on any amendment be limited to 1 hour, the time to be equally divided between and controlled by the mover of such amendment and the distinguished manager of the bill (Mr. PELL), with exceptions as to the time on the following amendments:

An amendment by the Senator from Colorado (Mr. DOMINICK), on which there be 3 hours.

Two amendments by the Senator from Montana (Mr. METCALF), on each of which there be 2 hours.

Provided further, that time on any amendment to an amendment be limited to one-half hour, the time to be equally divided between and controlled by the mover of the amendment in the second degree and the distinguished manager of the bill (Mr. PELL).

Ordered further, that no amendment not germane be received.

Provided further, that Senators in control of time on the bill may yield therefrom to any Senator on any amendment, motion, or appeal, with the exception of a motion to lay on the table.

Mr. DOMINICK. Mr. President, reserving the right to object, in connection with the limitation on germane amendments, I should like to get a ruling at this time, before I agree to that, that the Foreign Service scholarship program is germane.

Mr. BYRD of West Virginia. Mr. President, in response to the able Senator, I ask unanimous consent that all amendments which have been enumerated be in order.

Mr. JAVITS. And amendments to those amendments, because otherwise the rule of nongermaneness would apply to an amendment to his amendment.

Mr. BYRD of West Virginia. I so modify the request.

Mr. JAVITS. Mr. President, reserving the right to object, I want to get one thing clear. I thoroughly agree with the objective, but I do want to clarify one point:

We may not be able to reach this bill this week, or may not be able to finish it. What is our understanding as to whether this unanimous-consent agreement on the part of everybody—it is fine with me, I say in advance, but I think it should be clear whether it will or will not carry over the recess.

Mr. BYRD of West Virginia. Mr. President, I would respond by saying that in my judgment, and I hope the majority leader will say something on this, we will reach the bill and ought to be able to complete it before the recess.

Mr. JAVITS. And even if we do not, is it the intention to carry it over the recess?

Mr. BYRD of West Virginia. Yes, I would hope so.

Mr. JAVITS. As a result of some of my discussions with some of the minority members who feel strongly on the poverty bill, I thought we had better take the precaution on this one that this unanimous-consent agreement will apply whenever the bill is called up.

Mr. BYRD of West Virginia. That is true. I believe that, operating on the double-track system, as we intend to do, we will be able to take it up and complete it before the recess.

Mr. JAVITS. As a matter of fact, in good faith—and I think the majority leader can help us in this—every effort is going to be made to reach it; and if it is not reached, it will be right on the calendar when we get back. We would not want this matter to drag along and have a unanimous-consent agreement outstanding, because circumstances might change.

Mr. MANSFIELD. We are going to make every effort to finish it before the conclusion of business on Friday, and we have every expectation that we will.

Mr. JAVITS. Or, if we do not, that it will be on the calendar when we come back.

Mr. MANSFIELD. It will be. But, frankly, the Senator from Montana is not looking too far ahead on this bill.

Mr. DOMINICK. Mr. President, reserving the right to object—and I do not anticipate objecting—I would like to follow up what the Senator from New York has said. In the event we do not reach the bill or do not finish it prior to the recess, it is entirely possible that during the recess period we will find, from some of the education groups or other people involved, amendments which are not enumerated in here and which may be of some significance. The question, then, is whether the mood of the majority leader and the majority whip would be to modify whatever unanimous consent we have to include additional amendments which might be of more significance that just the 1-hour time limitation would permit us to debate.

Mr. MANSFIELD. Of course, if they were germane.

Mr. JAVITS. That is, if they related to the subject of higher education.

Mr. MANSFIELD. Yes.

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

Mr. BYRD of West Virginia. I thank the Senators.

The unanimous-consent agreement reads as follows:

Ordered, That, during the consideration of the Higher Education bill (S. 659) debate on any amendment (except an amendment by the Senator from Colorado (Mr. DOMINICK) which shall be limited to 3 hours, and 2 amendments by the Senator from Montana (Mr. METCALF), which shall be limited to 2 hours each) shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment and the Senator from Rhode Island (Mr. PELL).

Ordered further, That, on the question of the final passage of the said bill, debate shall be limited to 6 hours to be equally divided and controlled, respectively, by the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. JAVITS). Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal, except a motion to table.

Provided further, That, no amendment that is not germane to the provisions of the said bill shall be received, except the amendments enumerated above and amendments to amendments which are germane thereto.

FEDERAL ELECTION CAMPAIGN ACT OF 1971

The Senate continued with the consideration of the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

Mr. PASTORE. Mr. President, I understand that the Senator from Virginia has an amendment. I think we can dispose of it in short order.

AMENDMENT NO. 263

Mr. SPONG. Mr. President, I call up my amendment No. 263, and I have modified it to conform to the Pastore substitute. I send to the desk the modifications.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The legislative clerk read as follows:

On page 22, line 4, strike "and".

On page 22, line 5, before the period insert the following: "and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made".

On page 26, line 23, strike "and".

On page 26, line 24, before the semicolon insert "and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made".

Mr. SPONG. Mr. President, I believe that this amendment would improve the reporting procedures required of political committees. It would require those committees to list, in addition to how they spend the money, in whose behalf—the candidate's name—the money is spent.

Mr. PASTORE. Mr. President, I have studied this amendment. I believe it would strengthen the disclosure section. If it is agreeable to the Senator from Nevada, I think we can accept this amendment.

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

Mr. SPONG. I yield.

Mr. CANNON. Do I correctly understand that this amendment would require disclosure of specific expenditures that a committee might report on behalf of each candidate?

Mr. SPONG. That is correct.

Mr. CANNON. I see no objection to the amendment.

Mr. PROUTY. Mr. President, I am in favor of the amendment.

Mr. PASTORE. I yield back the remainder of my time.

Mr. SPONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. HOLLINGS. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 21, line 10, after the word "contribution," insert the following: "in excess of $10."

On page 21, line 24, strike the word "any" and insert in lieu thereof "a".

On line 24 after the word "contribution" insert the following: "in excess of $10."

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, the Senator talked to me about this amendment. I understand that he has talked to the author of the disclosure part of the bill. The amendment seems to me to be reasonable.

Mr. HOLLINGS. This amendment applies to the small contribution of $1 or $2, so that it will not be necessary to employ a large staff and keep all these records. Having a large staff would really discourage the small contributor. This amendment applies to small contributions. Tremendous recordkeeping would be necessary unless we provided that in the case of contributions of $10 or less all these records would not be required.

Mr. PASTORE. I find the amendment satisfactory.

Mr. CANNON. Would this amendment eliminate the detailed accounting and recordkeeping for contributions under $10?

Mr. HOLLINGS. Under $10.

Mr. CANNON. I have no objection.

Mr. PASTORE. Mr. President, I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

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

The amendment was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, the quorum to be stopped at 4 p.m. At that time, the distinguished Senator from North Carolina, under a previous agreement, will be recognized for the consideration of the conference report on State, Justice, Commerce, and the Judiciary.

Mr. CANNON. Mr. President, would the distinguished majority leader advise whether it is the intention to return to the consideration of S. 382 or whether it will go over until tomorrow?

Mr. MANSFIELD. It is up to the distinguished Senator from Nevada and the distinguished Senator from Rhode Island. Whatever their wishes are, the leadership will be glad to accede to them.

Mr. CANNON. I ask the Senator from Rhode Island whether consideration of S. 382 will go over until tomorrow, after the matter to which the majority leader has referred is laid before the Senate.

Mr. PASTORE. Yes. What time will the Senate meet tomorrow?

Mr. MANSFIELD. 10 a.m.

LINCOLN HOME NATIONAL HISTORIC SITE

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 9798.

The Chair laid before the Senate a message from the House on H.R. 9798, an act to authorize the Secretary of the Interior to establish the Lincoln Home National Historic Site in the State of Illinois, and for other purposes, which was read twice by title.

Mr. BIBLE. I ask unanimous consent that the Senate proceed to the consideration of the bill.

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

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

Mr. BIBLE. Mr. President, this is the so-called Lincoln boyhood bill, to establish the Lincoln Home National Historic site, in Springfield, Ill.

We have extended discussion and extended hearings on the Senate side. The Senate committee reported it favorably and unanimously to the Senate. It was before the Senate and it was approved. This is the House counterpart of the bill.

I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, passage of H.R. 9798 today will be a great tribute to Congressman PAUL FINDLEY. It is he who has been the moving force behind this legislation to make Abraham Lincoln's home in Springfield, Ill., a national historic site. This bill will make possible the purchase of a four-block area around the Lincoln home and restoration of the site as it appeared when Lincoln lived there before becoming President in 1861.

I commend Representative FINDLEY for his leadership in this bill and feel it is only proper that the President should sign the House of Representatives version of this legislation so that it will be clear that this originated with Representative FINDLEY in the House. I have been happy to cooperate with him on this side of the Capitol, and I wish to express appreciation to my colleagues in the Senate who so enthusiastically backed a companion bill I introduced in the Senate. Our actions here today will result in final congressional action on this bill.

Mr. STEVENSON. Mr. President, this afternoon the Senate has a rare opportunity to honor one of the country's greatest Presidents, as well as the State and the city which he called home.

A little over a century ago the country faced the first real challenge to its national existence. It was saved by a unique American who came from the prairies of mid-America—from Illinois. Abraham Lincoln had faith in the good sense and decency of men and believed in the possibilities for reason and progress in the world.

When he left Springfield, Ill., on February 1, 1861, he could not have foreseen the enormity of the task that lay ahead. We will never be sure what events or good fortune conspired to give us this man in that moment of need. We do know that a homespun, self-taught man, unequipped by conventional standards to assume the Presidency, emerged from Springfield in 1861 to reunite a country almost destroyed by open rebellion.

It is only appropriate that the place where Lincoln unknowingly prepared himself to meet the challenges of his fateful Presidency be preserved and designated the national historic landmark that it is.

The Lincoln home, located on the corner of Jackson and Eighth Streets in Springfield, was the only place Lincoln called home for the 17 years preceding his Presidency.

Currently maintained by the State of Illinois in its original condition, it is one of the 10 most popular historic sites in the country. The neighborhood surrounding the home has been increasingly subject to the deterioration of commercial urbanization. The Lincoln Home National Historic Site bill, on which we will vote today, establishes a four-square block area surrounding the house to be administered by the National Park Service and restored to its original condition at the time Lincoln lived there.

At the Lincoln Home a smalltown lawyer and political novice became a statesman of world renown. I trust that the Senate will insure the preservation of this important part of our national life.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 9798) was ordered to be read a third time, was read a third time, and passed.

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

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

The motion to lay on the table was agreed to.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. ROTH). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quourm call be rescinded.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate a message from the President of the United States submitting the nomination of Robert A. Morse, of New York, to be U.S. attorney for the Eastern District of New York, which was referred to the Committee on the Judiciary.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1972—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. ROTH). The hour of 4 p.m. having ar-

rived, and under the previous order, the Chair lays before the Senate the conference report on H.R. 9272, which the clerk will report.

The assistant legislative clerk read as follows:

A report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9272), making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1972, and for other purposes.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 28, 1971, at page 27712.)

The PRESIDING OFFICER. Without objection, the Senate will proceed to the present consideration of the conference report.

Mr. McCLELLAN. Mr. President, I shall make only a few brief remarks.

The total of the appropriations allowed is $4,067,116,000. This sum is $149,686,000 below the total budget estimates of new obligational authority, is $30,967,000 below the total sum recommended by the Senate, and $382,933,000 above the total allowed by the House.

In my judgment it is a fairly good bill. The amounts provided for some of the items are not to my complete satisfaction; however, under the present financial condition of available revenues, there will be sufficient funds to meet the essential expenses of the 3 departments, the judiciary, and related agencies for the fiscal year 1972.

As Members know, the rate of expenditures since July 1 has been under a continuing resolution of Congress, and will be until such time as the pending bill becomes law.

Major items that were added by the Senate and were approved, reduced or denied in conference are the following:

For the Department of State, the conference approved $90,000 for payment of dues to the International Center for the Study of the Preservation and Restoration of Cultural Property: $200,000 of the $400,000 added for the lamprey program of the Great Lakes and $1,780,000 for the design and initial construction of the Tijuana flood control project, under the International Boundary and Water Commission, United States and Mexico. Also approved was $500,000 of the $2 million recommended additional for the educational and cultural exchange program, to provide a total of $40.5 million and change of $500,000—from $4 million to $4.5 million—in the use of excess foreign currencies. By this action, the sum of $36 million would be available in hard dollars, and $4.5 million from utilization of excess foreign currencies. As respects the cultural center in Hawaii, an additional $370,000 was approved to cover mandatory increases in salaries, building operations, and rental payments of married grantees.

The House conferees were adamant in the disapproval of the Senate recommendation of the $7,906,000 for payment of the 1971 calendar year dues to the International Labor Organization. In this connection, I refer to page 4 of the conference report, which states the following:

No funds have been provided for payment of dues to the International Labor Organization. The conferees have not the slightest intention of ever abandoning our membership in the I.L.O.

We do not lose our voting rights until we are two years in arrears. The conferees recommend that no payment at all be made at this time pending further improvement of our position.

For the Department of Justice, approval was given to the $8 million Senate recommendation for the Bureau of Narcotics and Dangerous Drugs to implement the programs presented by the President in his message to the Congress on June 17, 1971: $1,959,000 to enable the Bureau of Prisons to plan and acquire a site for a Metropolitan Correctional Center in San Diego, Calif., and $667,000 of the $1,335,000 added by the Senate to permit expansion of the community relations service.

For the Department of Commerce, the conference approved $297,863,000 of the $311,964,000 additional recommendations of the Senate. Included in the allowance was $283,961,000 for the Maritime Administration that had been recommended by the House Appropriations Committee but was deleted on the House floor for lack of authorization at that time and $1 million for the Bureau of Standards to implement their research, development, and facilities programs, particularly those of highest priority dealing with building codes and standards for flammable fabrics. Also approved was the additional sum of $12,902,000 of the $20,803,000 Senate recommendation over the House allowances for high-priority items financed from the three appropriation accounts of the National Oceanic and Atmospheric Administration. Included in the $12,902,000 is the sum of $3,067,000 additional for salaries and expenses; $1,620,000 additional for the satellite programs, and $8,215,000 for costs of high-priority programs which includes about $2.5 million additional for the sea-grant programs, under the research, development, and facilities activities.

For the judiciary branch, the conference agreed to the Senate amendment to restore to the bill the sum of $68,654,000 for salaries of supporting court personnel, which sum had been previously approved by the House Appropriations Committee, but was deleted on the House floor. The Senate recommendation of $642,000 for 61 additional assistant secretaries for the circuit courts was disapproved.

Under the heading of related agencies, major changes concerned the following: For the Equal Employment Opportunity Commission, the conference approved $1 million of the additional Senate recommendation of $5,620,000 needed to cope with the increased workload. This allowance provides $23 million as compared to $16,185,000 available for fiscal 1971.

For the National Commission on Fire Prevention and Control, the sum of $300,000 was provided instead of $400,000 recommended by the Senate for expenses in fiscal 1972. The same amount—$300,000—was approved for necessary expenses of the National Tourism Resources Review Commission. And for salaries and expenses of the Small Business Administration, the conference approved $22,650,000 in direct appropriation, as compared to $22,300,000 proposed by the House, and $23 million recommended by the Senate.

As respects the Tariff Commission, the conference recommended $5,186,000 instead of $5,036,000 proposed by the House and $5,336,000 recommended by the Senate.

For the Subversive Activities Control Board, the House conferees were insistent on deletion of the Senate provision that none of the $450,000 shall be available for the Board to execute any of the additional functions, duties, or powers which Executive Order 11605, dated July 2, 1971, purports or undertakes to confer on the Board. They cited the fact that by a vote of 246 to 141, the House tabled the motion to instruct the House conferees to agree with the Senate language amendment No. 35.

Yesterday, the House adopted the Conference report by a vote of 337 to 35.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina (Mr. ERVIN) is recognized.

Mr. ERVIN. Mr. President, I rise to ask the Senate to reject the conference report.

When the bill making these appropriations was before the House, there was no new Executive order in existence. After the bill had passed the House, and after it had been under consideration for some days by the Senate Committee on Appropriations, the President issued a new Executive order, No. 11605, with a date of issuance of July 2, 1971. The order, however, was not published until July 8, 1971.

This Executive order purported to be an amendment to Executive Order No. 10450, issued by President Eisenhower on April 27, 1953.

Mr. President, as I shall demonstrate later, the major parts of the new Executive order do not have the slightest relevance to President Eisenhower's Executive order. The new portions of the Executive order undertake to expand the powers of the Subversive Activities Control Board far beyond the powers conferred upon it by Congress in the Subversive Activities Control Act of 1950 and its amendments, and far beyond the limits marked out by the Constitution in respect to matters of this kind.

When the bill was before the Senate, I offered an amendment which was adopted by a substantial majority of 51 to 37 providing that none of the appropriations of the Subversive Activities Control Board could be expended for the purpose of carrying out the additional powers which the President undertook to confer upon the Board on July 2, 1971. This amendment would have made it certain that the appropriations could only be expended to carry out acts of Congress. Unfortunately, however, the conference committee has eliminated the amendment of the Senate from the bill.

I ask the Senate to reject the conference report so that after its rejection I can move to send the bill back to conference with instructions to the Senate conferees to strive to retain my amendment.

The Senate should reject the conference report for three reasons:

First, the Executive order of July 2 is unwise as a matter of policy because it is alien to the American system of government. It is based on unjustified fears and it reflects the spirit of McCarthyism.

Second, the Executive order of July 2 is repugnant to the first amendment which was embodied in the Constitution to make Americans politically, intellectually, and spiritually free.

Third, the Executive order of July 2 constitutes an attempt on the part of the President to usurp and exercise the legislative powers vested in Congress by section 1 of article I of the Constitution.

To understand the new Executive order, it is necessary to examine briefly the Executive order issued by President Eisenhower on April 27, 1953. That Executive order revoked a previous Executive order, No. 9835, issued by President Truman on March 21, 1947.

The Executive order issued by President Truman and the Executive order issued by President Eisenhower were authorized by many acts of Congress regulating employment in the executive departments and agencies of the Government. It is said that the Executive order issued by President Nixon is also based on acts of Congress.

On the contrary, I assert, without fear of successful contradiction, that the Executive order issued by President Nixon on July 2 has no warrant in any act of Congress.

The Executive order issued by President Eisenhower was an Executive order which applied only to a limited class of people; namely, persons already enjoying employment in an executive department or agency, or persons actually applying for employment in an executive department or agency.

Unlike the order of President Nixon, it did not attempt to place all the 205 million people in the United States and the organizations to which they may belong, all the movements and all the groups to which they might be connected, under the jurisdiction of the Subversive Activities Control Board. For ease of expression, I will refer to this agency as the Board.

President Eisenhower's Executive order authorized investigations to determine whether the employment or retention in employment of anyone falling within either of the two categories I have specified, "is clearly consistent with the interests of national security."

President Eisenhower's Executive order provided that the Civil Service Commission should be primarily responsible for the conduct of investigations in respect to persons entering employment in the competitive service and that the employing departments or agencies should be primarily authorized to conduct investigations in respect to persons entering or enjoying employment other than in the competitive service.

President Eisenhower's Executive order provided that in certain instances the executive departments or agencies empowered to make these investigations could obtain the services of the Federal Bureau of Investigation to assist them in determining whether the employment or retention in employment of an individual is consistent with the national security.

President Eisenhower's Executive order is a sane and a sensible order supported by many acts of Congress regulating Federal employment. Under President Eisenhower's Executive order, the Subversive Activities Control Board has nothing whatever to do with the carrying out of the provisions of the order established by him.

The Executive order of July 2, 1971, undertakes to amend President Eisenhower's Executive order in two respects. Section 1 of the new Executive order rewrites one section of President Eisenhower's Executive order, and to that extent it represents a valid exercise of Presidential power. The change it makes, however, is insignificant.

However, section 2 of President Nixon's Executive order has no relevancy whatever, in the last analysis, to the provisions of President Eisenhower's Executive order. What it really attempts to do is to amend the Subversive Activities Control Act of 1950 and the amendments made to such act in 1954 and 1968.

I respectfully submit that an act of Congress cannot be amended by an Executive order of the President for reasons which I shall hereafter specify.

Mr. President, I hold in my hand a copy of President Eisenhower's very sound, very sensible, and very sane Executive order. In the interest of time, I ask unanimous consent that it be printed in the RECORD at this point.

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

[From the Federal Register, April 29, 1953]

EXECUTIVE ORDER 10450—SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYMENT

Whereas the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

Whereas the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 831); the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, *et seq.*); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 118j); and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22–1, *et seq.*), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

SECTION 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government.

SEC. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interest of the national security.

SEC. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: *Provided*, that upon request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: *Provided*, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: *And provided further*, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field preappointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

SEC. 4. The head of each department and agency shall review, or cause to be reviewed the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947, and, after such further investigation as may be appropriate, shall re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

SEC. 5. Whenever there is developed or received by any department or agency informa-

tion indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

SEC. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security, in accordance with the said act of August 28, 1950.

SEC. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: *Provided*, That no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

Sec. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) An adjudication of insanity, or treatment for serious mental or neurological disorder without satisfactory evidence of cure.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts threat or preparation therefor, conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency. Departments and agencies without investigative facilities may use the investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (7) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

SEC. 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investgations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except, with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

SEC. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

SEC. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: *Provided*, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Civil Service Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked. For the purposes described in section 11 hereof the Loyalty Review Board and the regional loyalty boards of the Civil Service Commission shall continue to exist and function for a period of one hundred and twenty days from the effective date of this order, and the Department of Justice shall continue to furnish the information described in paragraph 3 of Part III of the said Executive Order No. 9835, but directly to the head of each department and agency.

SEC. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee security program.

SEC. 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are inconsistent with the interests of, or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial, and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semiannually, on the results of such study, shall recommend means to correct any such deficiencies or tendencies, and shall inform the National Security Council immediately of any such deficiency which is deemed to be of major importance.

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Civil Service Commission in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Commission as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies pursuant to this section shall be included in the reports which the Civil Service Commission is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.

SEC. 15. This order shall become effective thirty days after the date hereof.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *April 27, 1953.*

Mr. ERVIN. Mr. President, I also hold in my hand a copy of President Nixon's Executive order of July 2, 1971. In the interest of time, I ask unanimous consent that it be printed in full in the RECORD at this point.

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

EXECUTIVE ORDER 11605

Amendment of Executive Order No. 10450 of April 27, 1953, relating to security requirements for government employment

By virtue of the authority vested in me by the Constitution and statutes of the United States including 5 U.S.C. Sections 1101 *et seq.*, 3301, 3571, 7301, 7313, 7501(c), 7512, 7532 and 7533; and as President of the United States, and finding such action necessary in the best interests of national security, it is hereby ordered that Executive Order No. 10450[1] of April 27, 1953, as amended, is hereby further amended as follows:

1. Paragraph (5) of Section 8(a) shall read: "(5) Knowing membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organization) which is totalitarian, fascist, communist, subversive, or which has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means.

2. Section 12 shall read:

"(a) Executive Order No. 9835 of March 21, 1947, as amended is hereby revoked.

"(b) The head of each department and agency shall be furnished by the Attorney General with the name of each organization which shall be or has been heretofore designated under this order. Except as specifically provided hereafter, nothing contained herein shall be construed in any way to affect previous designations made pursuant to Executive Order No. 10450, as amended.

"(c) The Subversive Activities Control Board shall, upon petition of the Attorney General, conduct appropriate hearings to determine whether any organization is totalitarian, fascist, communist, subversive, or whether it has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means.

"(d) The Board may determine that an organization has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their constitutional or statutory rights or that an organization seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means if it is found that such group engages in, unlawfully advocates, or has among its purposes or objectives, or adopts as a means of obtaining any of its purposes or objectives.—

(1) The commission of acts of force or violence or other unlawful acts to deny others their rights or benefits guaranteed by the Constitution or laws of the United States or of the several States or political subdivisions thereof; or

(2) The unlawful damage or destruction of property; or injury to persons; or

(3) The overthrow or destruction of the government of the United States or the government of any State, Territory, district, or possession thereof, or the government of any political subdivision therein, by unlawful means; or

(4) The commission of acts which violate laws pertaining to treason, rebellion or insurrection, riots or civil disorders, seditious conspiracy, sabotage, trading with the enemy, obstruction of the recruiting and enlistment service of the United States, impeding officers of the United States, or related crimes or offenses.

"(e) The Board may determine an organization to be 'totalitarian' if it is found that such organization engages in activities which seek by unlawful means the establishment of a system of government in the United States which is autocratic and in which control is centered in a single individual, group, or political party, allowing no effective representation to opposing individuals, groups, or parties and providing no practical opportunity for dissent.

"(f) The Board may determine an organization to be 'fascist' if it is found that such organization engages in activities which seek by unlawful means the establishment of a system of government in the United States which is characterized by rigid one-party dictatorship, forcible suppression of the opposition, ownership of the means of production under centralized governmental control and which fosters racism.

"(g) The Board may determine an organization to be 'communist' if it is found that such organization engages in activities which seek by unlawful means the establishment of a government in the United States which is based upon the revolutionary principles of Marxism-Leninism, which interprets history as a relentless class war aimed at the destruction of the existing society and the establishment of the dictatorship of the proletariat, the government ownership of the means of production and distribution of property, and the establishment of a single authoritarian party.

"(h) The Board may determine an organization to be 'subversive' if it is found that such organization engages in activities which seek the abolition or destruction by unlawful means of the government of the United States or any State, or subdivision thereof.

"(i) The Board may further determine, after consideration of the evidence, that an organization has ceased to exist. Upon petition of the Attorney General or upon petition of any organization which has been designated pursuant to this section the Board after appropriate hearings may determine that such organization does not currently meet the standards for designation. The Attorney General shall appropriately revise or modify the information furnished to departments and agencies consistent with the determination of the Board.

"(j) The Board shall issue appropriate regulations for the implementation of this section."

RICHARD NIXON.

THE WHITE HOUSE, *July 2, 1971.*

[FR Doc. 71-9765 Filed 7-7-71; 12:01 p.m.]

Mr. ERVIN. Mr. President, in order to show that the major provisions of the Executive order of July 2, 1971, attempt to amend the Subversive Activities Control Act of 1950, I wish to point out very briefly what the provisions of that act provide.

That was an act which established this Board and empowered the Board, upon petition of the Attorney General, to identify and require the registration of two kinds of organizations: First, Communist action organizations, and second, Communist front organizations. tions.

By an amendment of 1954, the jurisdiction of the Board was extended by Congress to identify and require the registration, upon petition of the Attorney General, of a third type of organization—a Communist infiltrated organization and those individuals who happen to be members of Communist action organizations.

The validity of many of the provisions of these amendments were attacked in the courts. And the Supreme Court of the United States in seven decisions and the Court of Appeals of the District of Columbia Circuit in other opinions, which the Department of Justice did not dare to appeal to the Supreme Court, held virtually every provision of the Subversive Activities Control Act of 1950, except the provisions which authorized registration, to be unconstitutional under either the first amendment or the

[1] 3 CFR 1949–1953 Comp., p. 936; 18 F.R. 2489. 26 F.R. 6967.

self-incrimination clause or the due process clause of the fifth amendment.

Mr. President, as a result of these decisions, the Board was left virtually without anything that it could do. The Court had sustained the provisions of the act as a valid registration act. But these decisions held that there was no way by which the Board could constitutionally require registration according to the compulsory provisions of the law.

I ask unanimous consent that a list of the Supreme Court decisions and of the circuit decision to which I have alluded be printed in the RECORD at this point.

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

1. Communist Party v. SACB, 367 U.S. 1 (1961).
2. Aptheker v. Secretary of State, 378 U.S. 500 (1964).
3. Albertson v. SACB, 382 U.S. 70 (1965).
4. American Committee for Protection of the Foreign Born v. SACB, 380 U.S. 503 (1965).
5. Veterans of the Abraham Lincoln Brigade v. SACB, 380 U.S. 513 (1965).
6. DuBois Clubs of America v. Clark, 389 U.S. 309 (1967).
7. United States v. Robel, 389 U.S. 258 (1967).
8. Communist Party v. United States (C.A.) 331 F. 2d 807, cert. denied, 377 U.S. 968 (1963).
9. Communist Party v. United States (C.A.) 384 F. 2d 957 (1967).

Mr. ERVIN. Congress attempted to find something else for the Board to do. So it amended the act on January 2, 1968. This amendment replaced the compulsory registration provisions of the original act, with authorization for the Board to issue declaratory orders, upon petition of the Attorney General, to determine whether organizations are, first, Communist action organizations; second, Communist front organizations; or third, Communist infiltrated organizations.

The amended act also provided that the Board should have jurisdiction in like manner to issue declaratory judgments, determining whether individuals are members of Communist action organizations.

This amendment was soon subjected to attack in the courts, and the Circuit Court of Appeals for the District of Columbia held in *Boorda* v. *SACB*, 421 F. 2d 1142, that the provisions of the act and the amendment authorizing determinations with respect to members of Communist action organizations were unconstitutional on the ground that disclosure of Communist Party membership is constitutionally protected by the first amendment except for those who join with the intent of furthering specific illegal actions.

As a result of this decision, the jurisdiction of the board to determine whether individuals are members of Communist action organizations was destroyed for all practical intents and purposes.

As I shall demonstrate in a few minutes, the board has rendered no service of any value to the American people during the 21 years of its existence. So Congress decreed at the time of the amendment of 1968 that the board would have to go out of existence unless it had at least one case referred to it by the Attorney General in the ensuing year. Its life was saved by the fact that one case was referred to it.

The Executive order of July 2 undertakes to extend the jurisdiction of the board beyond its present legal jurisdiction over Communist action organizations, Communist front organizations, and Communist infiltrated organizations to virtually every other association, group, movement, or combination of persons which the President deems to be intellectually dangerous to the United States.

I say intellectually dangerous, because under hundreds and hundreds of statutes any person who is physically dangerous to the United States and manifests such danger by his physical disposition toward any person within the borders of the United States is guilty of a crime for which he can be prosecuted in our courts.

This Executive order of July 2 attempts to give the board jurisdiction over what it calls Fascist organizations, totalitarian organizations, Communist organizations, and all the groups of people that have a policy of resorting to violence to deny the rights of other people. That is broad enough. But under this provision, they do not have to adopt a policy of violence in advance to become subject to the jurisdiction of the board. Under this Executive order of July 2 it provides that the board can find they have such a policy if anyone in the group goes out and commits acts of violence.

Therefore, under this Executive order, if it be valid, this board could pry into every demonstration and into every group of people whose views the board considers to be intellectually disturbing to the Government; and even though a group or organization abhors violence, if there is a demonstration of some kind and one of the members on the spur of the moment commits an act of violence, then all associated with him, no matter how peaceful they may be, are subjected to the scrutiny of the board.

Mr. President, I said there are three reasons why this conference report should be rejected. The first reason I gave was that the Executive order of July 2 is unwise as a matter of policy because it is alien to the American system of government; because it is based on unjustified fears; and because it reflects the spirit of McCarthyism.

The Civil Rights Committee of the Chicago Bar Association made a recommendation a short time ago which antedated this Executive order. In that report they set forth a statement which indicates very strongly their opinion that there is no place in our society for a governmental board to stigmatize and brand Americans if their thoughts are not popular or because their thoughts are displeasing to the Federal Government.

Mr. President, in the interest of time, I ask unanimous consent that a portion of the report of the Civil Rights Committee of the Chicago Bar Association dealing with this matter be printed in the RECORD.

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

> The fundamental question underlying all of the Board's remaining activities is whether it is the proper business of government to guard its citizens from questionable associations by publicly labeling certain organizations as politically dangerous to the established order. The derogatory attachment of such a label is obviously the purport of a declaratory order characterizing an organization as Communist-action, Communist-front, or Communist-infiltrated. We submit that involving the government in such a process is both an insult to the citizens whom it purports to protect and an unjustifiable intimidation of those whom the government purports so to label as intellectually dangerous. The entire process is so basically inconsistent with the fundamental assumptions of an intellectually free society, that it is no wonder that the per curiam opinion vacating the order in *American Committee for Protection of Foreign Born v. Subversive Activities Control Board*, 380 U.S. 503, 505 (1965), went out of its way to make this explicit reservation with respect to the constitutionality of the whole process of attaching the label "Communist-front" to private organizations: "Our Communist Party decision on the Communist-action provisions did not necessarily foreclose petitioner's constitutional questions bearing on the Communist-front provisions." As this reservation suggests there is good reason to believe that a continuation of the Board's life would eventually lead to a determination of the unconstitutionality of its principal remaining function. Nor do we believe that the Board should now be continued simply for the purpose of finally reaching this inglorious result at the cost of further litigation involving unjustified public and private expense. Surely, American citizens should be assumed to be sufficiently mature to make their own choices among political organizations, accepting at the same time whatever appropriate risks may be involved in such associations.

Mr. ERVIN. Mr. President, it is a strange thing that anyone would advocate the extension of the power of this board in a free society.

I join the Civil Rights Committee of the Chicago Bar Association in asserting that the concept embodied in this board and in this Executive order is alien to the American system of government.

In his opinion in the case of *Whitney* v. *California*, 274 U.S. 357, Justice Brandeis said:

> Among free men the deterrents ordinarily to be applied to prevent crime are education and punishment for violations of the law, not an abridgment of the rights of free speech and assembly.

That is precisely the objective of the Executive order—that is, the abridgment of the rights of free speech and association.

If the Constitution makes anything plain, it is that those who drafted that instrument believed that the Government of the United States should not punish anybody except for crime. Every syllable in the Constitution of the United States dealing with this subject shows that the Founding Fathers felt that if Congress believed something to be wrong, it should designate it as a crime and subject it to prosecution as such. They wanted to make certain that no guilty person should ever be punished for a crime under any circumstances if it

could be avoided. So they wrote into the Constitution that nobody could be placed on trial for an infamous crime except upon presentment or indictment by a grand jury; that no person could be tried for a crime except by a petit jury; that a person who was charged with a crime had to be acquainted with the nature of the accusation against him; he had the right to be confronted by his accusers and to cross-examine them; he had the right to compulsory process to obtain witnesses in his own behalf; he had the right to counsel for his defense; and he could not be convicted or punished unless a jury found beyond a reasonable doubt from the evidence that he was guilty.

The Founding Fathers never contemplated that the Congress of the United States would set up a board and give it jurisdiction to finger individuals or groups of individuals who had committed no crime, saying that their thoughts and their words were unpopular or displeasing to government and for that reason they should be stigmatized by a decree of an executive agency.

Yet that is precisely what this Executive order undertakes to confer upon the Board the power to do.

Mr. President, I think many people see ghosts. I was struck by reading a statement to justify this action by the President. That statement says that the Board's findings will be crucial. Once a group is found subversive, it will automatically be placed on the Attorney General's list. This list is extremely important in helping department and agency heads to ascertain the employability of Government personnel. The new Presidential order comes none too soon, for there is mounting evidence that members of non-Soviet Communist groups and revolutionary organizations have been prompted to work for various Government agencies, including the Pentagon, precisely because these groups have not been previously carried on the Attorney General's subversive roster. This is what that statement says.

I challenge the factual validity of that statement. If anybody has any knowledge that any disloyal personnel are working in the Department of Defense or in any other department or agency of this Government, all he has to do is to report that to the heads of those departments or agencies and they can be removed. President Eisenhower's Executive order of 1953 holds in substance that the right to Federal employment is a privilege and not a right and for that reason can be terminated for any good reason and can be terminated in any case if one's retention in the employment is not consistent with the national security.

Let us see about these matters. I say this is alien to our system of government. Furthermore, it is entirely unnecessary. I am reliably informed that on September 30, 1970, Kimbell Johnson, Director of the Bureau of Personal Investigations of the Civil Service Commission, testified before the House Internal Security Committee that between November 19, 1956, and June 30, 1970, only 16 people were found ineligible for Government employment because of their "dubious loyalty." Now, what rational human being could take the position that those 16 persons of dubious loyalty could have overthrown this Government by force and violence—a government of a country that has 200 million people?

Let us see what the Board has done in the exercise of its powers during the 21 years it has been in existence.

During those 21 years, it found only one Communist action organization in the United States, and that was the Communist Party. It was never even able, by constitutional methods, to impose compulsory registration on the Communist Party. Then during all these years, the Attorney General filed petitions alleging that 22 other organizations were Communist front or Communist infiltrated organizations within the purview of the act.

What happened to those 22 petitions? Eight of them were dismissed by the Board itself. The Board conducted hearings on the other 14 and found that they were one or another of these types of organizations; but many of the cases were appealed to the courts, and there was no successful prosecution in any of the cases, because not a single one of those organizations was ever registered.

During the same period of time, the Attorney General filed petitions with the Board alleging that 66 individuals—mind you, Mr. President, only 66 individuals out of the 200 million people in the United States—were members of a Communist action organization. Those petitions came to naught because of the ruling of the Court in the Boorda case, which I previously mentioned.

So the Board has proven itself to be totally useless during the 21 years of its life. And still it is proposed to extend its power and allow it to stigmatize any one of the 200 million American citizens who may belong to what it may characterize as a Fascist or totalitarian organization, or who may belong to such things as the Black Panthers or the Weathermen faction of the Students for a Democratic Society.

If these people violate the criminal laws, I say bring them to justice. But the Senate of the United States ought not to sanction the rewriting by the President of the acts of Congress so as to stigmatize and ban people because they are deemed to be not physically but intellectually dangerous to the Government.

What I have said, I think, indicates that this Executive order is contrary to the American system of government; that it is based on unjustified fears, because the fears have not materialized; and because the Attorney General himself was unable to find more than 66 persons in the entire United States that he sought to have branded by the Board as members of Communist organizations.

The second reason why the Senate should reject this conference report is that the Executive order of July 2 is repugnant to the first amendment, which was put into the Constitution to make America politically, intellectually, and spiritually free.

The first amendment is a part of the Bill of Rights. I hate to say this, but there are some people in high positions in the executive branch of the Government who indicate by their recommendations that they do not like the Bill of Rights. Moreover, they indicate by their actions and their recommendations that they are afraid for Americans to enjoy the freedoms given them by the Bill of Rights in general and the first amendment in particular.

I assert that this Executive order is in part an attempt to frustrate the provisions of the Bill of Rights. I think one of the finest things I have seen about the Bill of Rights was said by the late Justice Jackson, in the case of *Board of Education* v. *Barnette*, 319 U.S. 624. His statement appears at page 638, where he says:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to a vote; they depend upon the outcome of no elections.

And, thank God, they depend not at all upon the contents of an Executive order issued by the President or an act passed by Congress.

To my mind, the heart of the Bill of Rights is in the first amendment. The first amendment reads as follows:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

That amendment was placed in the Constitution to make Americans politically, intellectually, and spiritually free. I think that the men who drafted this amendment and the other provisions of the Constitution, including the Bill of Rights, were the wisest men in the field of government that this earth has ever known. But, Mr. President, they were not smart enough to draw a first amendment which would give the right of freedom of speech to wise men and deny it to fools, so they gave the right of freedom of speech to wise men and to fools. They gave it to people whose thoughts and words are pleasing to Government and to those whose words and thoughts are not pleasing to Government. They gave it to people who love America, and they gave it to people who hate America.

I hate the thoughts of the Black Panthers. I hate the thoughts of the Weathermen faction of the Students for a Democratic Society. I hate the thoughts of Fascists. I hate the thoughts of totalitarians. I hate the thoughts of people who adopt violence as a policy. But those people have the same right to freedom of speech, subject to a very slight qualification, that I have. While I hate their ideas, I love the Constitution so much that I am willing to stand on the floor of the Senate and fight for their right to think the thoughts and to speak the words that I hate. If we ever reach the

condition in this country that we attempt to have free speech for everybody except those whose ideas we hate, not only free speech but freedom itself are out in our society.

We do not need this Executive order. We have criminal laws which deal with men who commit crimes. We have the Smith Act of 1950. The Smith Act goes to the very limits of congressional power under the First Amendment. That act makes it a crime, first, to advocate or teach the desirability of overthrowing or destroying the Government of the United States or of any State by force or violence. Second, it makes it a crime to be a member of any society or group or assembly of persons who advocate or teach the destruction or overthrow of the Government by violence or by force.

The Smith Act was interpreted by the Supreme Court in three decisions: *Dennis* v. *United States,* 341 U.S. 494; *Yates* v. *United States,* 354 U.S. 298; and *Scales* v. *United States,* 367 U.S. 203. To avoid holding the Smith Act unconstitutional, the Supreme Court in Dennis wrote into the Smith Act the provisions of the First Amendment. In the case of *Yates* v. *United States,* a case which, incidentally, virtually repudiated the decision in the Dennis case, the Supreme Court asked, "What do the words of the Smith Act, or, rather, the words of the amendment, say in plain English?"

What do the words of that decision say in plain English? I invite the attention of the Senate to the words of Justice Harlan, who wrote the majority opinion, on page 321.

Instead of reading those words, I ask, What do his words say in plain English? This is what they say in plain English: that the Federal Government cannot place any limits on the constitutional right of those who associate themselves together and advocate or preach the desirability of overthrowing the Government by violent action, unless these three conditions concur in respect to them: First, they must intend to accomplish their purpose to overthrow the Government by violent action. Second, they must use words to incite action for the accomplishment of that purpose. Third, they must utter those words under circumstances which reasonably justify apprehension that violent action will occur as a result of their words.

It is absurd to think that there is any danger that 16 Government employees of dubious loyalty or 66 persons out of 200 million Americans will ever overthrow the Government of the United States or destroy by force and violence constitutional government in our land.

No, Mr. President, the real danger to our constitutional government comes from other sources. I predict that if constitutional government ever ceases to exist in America, it will be because Presidents and Congressmen and Supreme Court Justices do not obey their oaths to support the Constitution of the United States, including the first amendment.

The President ought not to have issued this Executive order. If the President or others thought that the Board had any rightful place in our scheme of government and that its powers ought to be expanded beyond those given to it by Congress in the Subversive Activities Control Act of 1950 and its amendments, he or they should have submitted to Congress recommendations for legislation.

Those recommendations should have been studied by the appropriate committees of Congress, and legislation should have been framed and reported to both Houses of Congress in the event the respective committees thought such legislation was needed. Instead of doing so, the executive branch of Government decided that it would just write the law itself, in a very simple and a very easy way. By so doing, it does not have to be confronted by the objections of people such as myself, who think that persons and organizations they hate are entitled to freedom of speech.

Mr. President, the Senate should reject this conference report. This House should not consent to the provisions of the Executive order of July 2. Why do I say that? I say that because of the third objection.

The Executive order of July 2 constitutes an attempt on the part of the President to usurp and exercise the legislative powers vested in Congress by section 1 of article I of the Constitution.

The President and the Members of Congress are sworn to support the Constitution, and the first thing in the Constitution they have sworn to support is the first section of article I of the original Constitution. This section states:

> All legislative powers herein granted shall be vested in a Congress of the United States . . ."

I do not think there is anything in the Constitution which is plainer than that. I do not think there is anything in the Constitution that is more understandable than that. That is the first thing in the Constitution which the President and Members of the Senate and Members of the House of Representatives have sworn to support.

If my recollection serves me right, this is one of the few times the Constitution uses the word "all."

It says that all of the legislative powers of the Federal Government belong to Congress and none of them belong to the President.

The Executive order of July 2 is an obvious attempt on the part of the executive branch of the Government to usurp and exercise the legislative powers of Congress.

Oh, those who would justify it will say that it is necessary because some of these people might overthrow the Government by force and violence. This is an absurdity because there is no group in the United States strong enough to overthrow the Government of the United States by force and violence.

But the answer to the argument of necessity was given for all time by William Pitt. He said:

> Necessity is the plea for every infringement of human liberty.

Mr. President, that is the way human liberty is destroyed. That is the way this Congress itself sits by and allows the President of the United States—I do not care what political party he belongs to—to usurp and exercise its powers.

Let us deal with this question of necessity a little further. In 1952, when the United States was engaged in war in Korea, a strike was threatened in the steel plants of the Nation, plants on whose continuing operation this Nation depended for weapons and munitions for our soldiers in Korea.

President Truman seized the steel mills. One of the steel mills, the Youngstown Sheet and Tube Co., contested the constitutionality of the seizure of its plants, in the case brought against the Secretary of Commerce, Mr. Sawyer, which is reported in 343 U.S., at page 579.

If there ever was a time in the recent history of this country when it seemed that the plea of necessity might have some validity, it was in that case. Those were more drastic times than the times in which we now live.

The Supreme Court, in one of the most magnificent opinions of all time, written by Justice Black, held that the seizure of the steel mills by the President, without authority of an act of Congress, was unconstitutional because it violated section 1, Article I of the Constitution.

Justice Black refuted the notion that the President had the power to make this seizure as Commander in Chief of the Armed Forces and then proceeded to state:

> Nor can the seizure order be sustained because of the several constitutional provisions that grant executive power to the President. In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. The first section of the first article says that "All legislative Powers herein granted shall be vested in a Congress of the Untied States . . ." After granting many powers to the Congress, Article I goes on to provide that Congress may "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

He said further:

> It is said that other Presidents without congressional authority have taken possession of private enterprises in order to settle labor disputes. But even if this be true, Congress has not thereby lost its exclusive constitutional authority to make laws necessary and proper to carry out the powers vested by the Constitution "in the Government of the United States, or any Department or Officer thereof."
>
> The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times. It would do no good to recall the historical events, the fears of power and the hopes for freedom that lay behind their choice. Such a review would but confirm our holding that this seizure order cannot stand.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire opinion of Justice Black.

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

[No. 744. Certiorari to the United States Court of Appeals for the District of Columbia Circuit]*

YOUNGSTOWN SHEET & TUBE CO. ET AL. v. SAWYER

Argued May 12–13, 1952.—Decided June 2, 1952

To avert a nation-wide strike of steel workers in April 1952, which he believed would jeopardize national defense, the President issued an Executive Order directing the Secretary of Commerce to seize and operate most of the steel mills. The Order was not based upon any specific statutory authority but was based generally upon all powers vested in the President by the Constitution and laws of the United States and as President of the United States and commander in Chief of the Armed Forces. The Secretary issued an order seizing the steel mills and directing their presidents to operate them as operating managers for the United States in accordance with his regulations and directions. The President promptly reported these events to Congress; but Congress took no action. It had provided other methods of dealing with such situations and had refused to authorize governmental seizures of property to settle labor disputes. The steel companies sued the Secretary in a Federal District Court, praying for a declaratory judgment and injunctive relief. The District Court issued a preliminary injunction, which the Court of Appeals stayed. *Held:*

1. Although this case has proceeded no further than the preliminary injunction stage, it is ripe for determination of the constitutional validity of the Executive Order on the record presented. Pp. 584–585.

(a) Under prior decisions of this Court, there is doubt as to the right to recover in the Court of Claims on account of properties unlawfully taken by government officials for public use. P. 585.

(b) Seizure and governmental operation of these going businesses were bound to result in many present and future damages of such nature as to be difficult, if not incapable, of measurement. P. 585.

2. The Executive Order was not authorized by the Constitution or laws of the United States; and it cannot stand. Pp. 585–589.

(a) There is no statute which expressly or impliedly authorizes the President to take possession of this property as he did here. Pp. 585–586.

(b) In its consideration of the Taft-Hartley Act in 1947, Congress refused to authorize governmental seizures of property as a method of preventing work stoppages and settling labor disputes. P. 586.

(c) Authority of the President to issue such an order in the circumstances of this case cannot be implied from the aggregate of his powers under Article II of the Constitution. Pp. 587–589.

(d) The Order cannot properly be sustained as an exercise of the President's military power as Commander in Chief of the Armed Forces. P. 587.

(e) Nor can the Order be sustained because of the several provisions of Article II which grant executive power to the President. Pp. 587–589.

(f) The power here sought to be exercised is the lawmaking power, which the Constitution vests in the Congress alone, in both good and bad times. Pp. 587–589.

(g) Even if it be true that other Presidents have taken possession of private business enterprises without congressional authority in order to settle labor disputes, Congress has not thereby lost its exclusive constitutional authority to make the laws necessary and proper to carry out all powers vested by the Constitution "in the Government of the United States, or any Department or Officer thereof." Pp. 588–589.

103 F. Supp. 569, affirmed.

For concurring opinion of MR. JUSTICE FRANKFURTER, see *post*, p. 593.

For concurring opinion of Mr. JUSTICE DOUGLAS, see *post*, p. 629.

For concurring opinion of Mr. JUSTICE JACKSON, see *post*, p. 634.

For concurring opinion of Mr. JUSTICE BURTON, see *post*, p. 655.

For opinion of MR. JUSTICE CLARK, concurring in the judgment of the Court, see *post*, p. 660.

For dissenting opinion of MR. CHIEF JUSTICE VINSON, joined by MR. JUSTICE REED and MR. JUSTICE MINTON, see *post*, p. 667.

The District Court issued a preliminary injunction restraining the Secretary of Commerce from carrying out the terms of Executive Order No. 10340, 16 Fed. Reg. 3503. 103 F. Supp. 569. The Court of Appeals issued a stay. 90 U.S. App. D.C. ——, 197 F. 2d 582. This Court granted certiorari. 343 U.S. 937. The judgment of the District Court is *affirmed*, p. 589.

John W. Davis argued the cause for petitioners in No. 744 and respondents in No. 745. On the brief were *Mr. Davis, Nathan L. Miller, John Lord O'Brian, Roger M. Blough, Theodore Kiendl, Porter R. Chandler* and *Howard C. Westwood* for the United States Steel Co.; *Bruce Bromley, E. Fontaine Broun* and *John H. Pickering* for the Bethlehem Steel Co.; *Luther Day, T. F. Patton, Edmund L. Jones, Howard Boyd* and *John C. Gall* for the Republic Steel Corp.; *John C. Bane, Jr., H. Parker Sharp* and *Sturgis Warner* for the Jones & Laughlin Steel Corp.; *Mr. Gall, John J. Wilson* and *J. E. Bennett* for the Youngstown Sheet & Tube Co. et al.; *Charles H. Tuttle, Winfred K. Petigrue* and *Joseph P. Tumulty, Jr.* (who also filed an additional brief) for the Armco Steel Corp. et al.; and *Randolph W. Childs, Edgar S. McKaig* and *James Craig Peacock* (who also filed an additional brief) for E. J. Lavino & Co., petitioners in No. 744 and respondents in No. 745.

Solicitor General Perlman argued the cause for respondent in No. 744 and petitioner in No. 745. With him on the brief were *Assistant Attorney General Baldridge, James L. Morrisson, Samuel D. Slade, Oscar H. Davis, Robert W. Ginnane, Marvin E. Frankel, Benjamin Forman* and *Herman Marcuse.*

By special leave of Court, *Clifford D. O'Brien* and *Harold C. Heiss* argued the cause for the Brotherhood of Locomotive Engineers et al., as *amici curiae*, supporting petitioners in No. 744 and respondents in No. 745. With them on the brief were *Ruth Weyand* and *V. C. Shuttleworth.*

By special leave of Court, *Arthur J. Goldberg* argued the cause for the United Steelworkers of America, C.I.O., as *amicus curiae.* With him on the brief was *Thomas E. Harris.*

MR. JUSTICE BLACK delivered the opinion of the Court.

We are asked to decide whether the President was acting within his constitutional power when he issued an order directing the Secretary of Commerce to take possession of and operate most of the Nation's steel mills. The mill owners argue that the President's order amounts to lawmaking, a legislative function which the Constitution has expressly confided to the Congress and not to the President. The Government's position is that the order was made on findings of the President that his action was necessary to avert a national catastrophe which would inevitably result from a stoppage of steel production, and that in meeting this grave emergency the President was acting within the aggregate of his constitutional powers as the Nation's Chief Executive and the Commander in Chief of the Armed Forces of the United States. The issue emerges here from the following series of events:

In the latter part of 1951, a dispute arose between the steel companies and their employees over terms and conditions that should be included in new collective bargaining agreements. Long-continued conferences failed to resolve the dispute. On December 18, 1951, the employees' representative, United Steelworkers of America, C.I.O., gave notice of an intention to strike when the existing bargaining agreements expired on December 31. The Federal Mediation and Conciliation Service then intervened in an effort to get labor and management to agree. This failing, the President on December 22, 1951, referred the dispute to the Federal Wage Stabilization Board [1] to investigate and make recommendations for fair and equitable terms of settlement. This Board's report resulted in no settlement. On April 4, 1952, the Union gave notice of a nation-wide strike called to begin at 12:01 a.m. April 9. The indispensability of steel as a component of substantially all weapons and other war materials led the President to believe that the proposed work stoppage would immediately jeopardize our national defense and that governmental seizure of the steel mills was necessary in order to assure the continued availability of steel. Reciting these considerations for his action, the President, a few hours before the strike was to begin, issued Executive Order 10340, a copy of which is attached as an appendix, *post*, p. 589. The order directed the Secretary of Commerce to take possession of most of the steel mills and keep them running. The Secretary immediately issued his own possessory orders, calling upon the presidents of the various seized companies to serve as operating managers for the United States. They were directed to carry on their activities in accordance with regulations and directions of the Secretary. The next morning the President sent a message to Congress reporting his action. Cong. Rec., April 9, 1952, p. 3962. Twelve days later he sent a second message. Cong. Rec., April 21, 1952, p. 4192. Congress has taken no action.

Obeying the Secretary's orders under protest, the companies brought proceedings against him in the District Court. Their complaints charged that the seizure was not authorized by an act of Congress or by any constitutional provisions. The District Court was asked to declare the orders of the President and the Secretary invalid and to issue preliminary and permanent injunctions restraining their enforcement. Opposing the motion for preliminary injunction, the United States asserted that a strike disrupting steel production for even a brief period would so endanger the well-being and safety of the Nation that the President had "inherent power" to do what he had done—power "supported by the Constitution, by historical precedent, and by court decisions." The Government also contended that in any event no preliminary injunction should be issued because the companies had made no showing that their available legal remedies were inadequate or that their injuries from seizure would be irreparable. Holding against the Government on all points, the District Court on April 30 issued a preliminary injunction restraining the Secretary from "continuing the seizure and possession of the plants . . . and from acting under the purported authority of Executive Order No. 10340." 103 F. Supp. 569. On the same day the Court of Appeals stayed the District

*Together with No. 745, *Sawyer, Secretary of Commerce* v. *Youngstown Sheet & Tube Co., et al.*, also on certiorari to the same court.

[1] This Board was established under Executive Order 10233, 16 Fed. Reg. 3503.

Court's injunction. 90 U.S. App. D.C.—, 197 F. 2d 582. Deeming it best that the issues raised be promptly decided by this Court, we granted certiorari on May 3 and set the cause for argument on May 12, 343 U.S. 937.

Two crucial issues have developed: *First.* Should final determination of the constitutional validity of the President's order be made in this case which has proceeded no further than the preliminary injunction stage? *Second.* If so, is the seizure order within constitutional power of the President?

I

It is urged that there were non-constitutional grounds upon which the District Court could have denied the preliminary injunction and thus have followed the customary judicial practice of declining to reach and decide constitutional questions until compelled to do so. On this basis it is argued that equity's extraordinary injunctive relief should have been denied because (a) seizure of the companies' properties did not inflict irreparable damages, and (b) there were available legal remedies adequate to afford compensation for any possible damages which they might suffer. While separately argued by the Government, these two contentions are here closely related, if not identical. Arguments as to both rest in large part on the Government's claim that should the seizure ultimately be held unlawful, the companies could recover full compensation in the Court of Claims for the unlawful taking. Prior cases in this Court have cast doubt on the right to recover in the Court of Claims on account of properties unlawfully taken by government officials for public use as these properties were alleged to have been. See *e.g., Hooe* v. *United States*, 218 U.S. 322, 335–336; *United States* v. *North American Co.*, 253 U.S. 330, 333. But see *Larson* v. *Domestic & Foreign Corp.*, 337 U.S. 682, 701–702. Moreover, seizure and governmental operation of these going businesses were bound to result in many present and future damages of such nature as to be difficult, if not incapable, of measurement. Viewing the case this way, and in the light of the facts presented, the District Court saw no reason for delaying decision of the constitutional validity of the orders. We agree with the District Court and can see no reason why that question was not ripe for determination on the record presented. We shall therefore consider and determine that question now.

II

The President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself. There is no statute that expressly authorizes the President to take possession of property as he did here. Nor is there any act of Congress to which our attention has been directed from which such a power can fairly be implied. Indeed, we do not understand the Government to rely on statutory authorization for this seizure. There are two statutes which do authorize the President to take both personal and real property under certain conditions.[2] However, the Government admits that these conditions were not met and that the President's order was not rooted in either of the statutes. The Government refers to the seizure provisions of one of these statutes (§ 201(b) of the Defense Production Act) as "much too cumbersome, involved, and time-consuming for the crisis which was at hand."

Moreover, the use of the seizure technique to solve labor disputes in order to prevent work stoppages was not only unauthorized by any congressional enactment; prior to this controversy, Congress had refused to adopt that method of settling labor disputes. When the Taft-Hartley Act was under consideration in 1947, Congress rejected an amendment which would have authorized such governmental seizures in cases of emergency.[3] Apparently it was thought that the technique of seizure, like that of compulsory arbitration, would interfere with the process of collective bargaining.[4] Consequently, the plan Congress adopted in that Act did not provide for seizure under any circumstances. Instead, the plan sought to bring about settlements by use of the customary devices of mediation, conciliation, investigation by boards of inquiry, and public reports. In some instances temporary injunctions were authorized to provide cooling-off periods. All this failing, unions were left free to strike after a secret vote by employees as to whether they wished to accept their employers' final settlement offer.[5]

It is clear that if the President had authority to issue the order he did, it must be found in some provision of the Constitution. And it is not claimed that express constitutional language grants this power to the President. The contention is that presidential power should be implied from the aggregate of his powers under the Constitution. Particular reliance is placed on provisions in Article II which say that "The executive Power shall be vested in a President . . ."; that "he shall take Care that the Laws be faithfully executed"; and that he "shall be Commander in Chief of the Army and Navy of the United States."

The order cannot properly be sustained as an exercise of the President's military power as Commander in Chief of the Armed Forces. The Government attempts to do so by citing a number of cases upholding broad powers in military commanders engaged in day-to-day fighting in a theater of war. Such cases need not concern us here. Even though "theater of war" be an expanding concept, we cannot with faithfulness to our constitutional system hold that the Commander in Chief of the Armed Forces has the ultimate power as such to take possession of private property in order to keep labor disputes from stopping production. This is a job for the Nation's lawmakers, not for its military authorities.

Nor can the seizure order be sustained because of the several constitutional provisions that grant executive power to the President. In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. The first section of the first article says that "All legislative Powers herein granted shall be vested in a Congress of the United States. . . ." After granting many powers to the Congress, Article I goes on to provide that Congress may 'make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

The President's order does not direct that a congressional policy be executed in a manner prescribed by Congress—it directs that a presidential policy be executed in a manner prescribed by the President. The preamble of the order itself, like that of many statutes, sets out reasons why the President believes certain policies should be adopted, proclaims these policies as rules of conduct to be followed, and again, like a statute, authorizes a government official to promulgate additional rules and regulations consistent with the policy proclaimed and needed to carry that policy into execution. The power of Congress to adopt such public policies as those proclaimed by the order is beyond question. It can authorize the taking of private property for public use. It can make laws regulating the relationship between employers and employees, prescribing rules designed to settle labor disputes, and fixing wages and working conditions in certain fields of our economy. The Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control.

It is said that other Presidents without congressional authority have taken possession of private business enterprises in order to settle labor disputes. But even if this be true, Congress has not thereby lost its exclusive constitutional authority to make laws necessary and proper to carry out the powers vested by the Constitution "in the Government of the United States, or any Department or Officer thereof."

The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times. It would do no good to recall the historical events, the fears of power and the hopes for freedom that lay behind their choice. Such a review would but confirm our holding that this seizure order cannot stand.

The judgment of the District Court is affirmed.

Mr. JUSTICE FRANKFURTER.

Although the consideration relevant to the legal enforcement of the principle of separation of powers seem to me more complicated and flexible than may appear from what Mr. JUSTICE BLACK has written, I join his opinion because I thoroughly agree with the application of the principle to the circumstances of this case. Even though such differences in attitude toward this principle may be merely differences in emphasis and nuance, they can hardly be reflected by a single opinion for the Court. Individual expression of views in reaching a common result is therefore important.

Mr. ERVIN. Mr. President, I did not intend to detain the Senate so long. This debate, I trust, will soon draw to a close and the Senate will have an opportunity to reject the conference report and thus manifest its devotion to the Constitution under which we exist.

I know, Mr. President, that some very eloquent arguments will be made in a few minutes, to the effect that the question ultimately, in a case of this nature, should be decided by the courts.

Now, while that argument may not intend to do so, its effect will be to make an appeal to Members of the Senate to pass the buck to the courts.

I assert, however, that, in good conscience, the Members of the Senate cannot pass the buck to the courts. I say that because every Member of the Senate has taken an oath to support the Constitution and to support all of the Constitution and to support section 1 of article I of the Constitution. The oaths of Congressmen are just as binding on them as the oaths of judges are binding on the judges.

I know also that the argument will be made in all probability that other Presi-

[2] The Selective Service Act of 1948, 62 Stat. 604, 625–627, 50 U.S.C. App. (Supp. IV) § 468; the Defense Production Act of 1950, Tit. II, 64 Stat. 798, as amended, 65 Stat. 132.

[3] 93 Cong. Rec. 3637–3645.

[4] 93 Cong. Rec. 3835–3836.

[5] Labor Management Relations Act, 1947, 61 Stat. 136, 152–156, 29 U.S.C. (Supp. IV) §§ 141, 171–180.

dents have written Executive orders; but I digress for a moment to observe that I challenge anyone to find any Executive order issued by any President at any time in our history which constitutes such a usurpation of legislative power as this. And even if other Presidents have attempted to exercise legislative power, as President Truman did in the steel seizure case, I would remind the Senate that wrongful practices in the past do not justify or sanction wrongful practices at the present time or in the future.

Murder and stealing have been committed in every generation since mankind made his appearance on this earth. But that fact has not made murder meritorious or larceny legal.

What other Presidents may have done in the past does not authorize a usurpation of legislative power in this particular case.

Mr. President, in closing I urge that the Senate reject the conference report because that is the only way in which the Senate can express its will and its belief that the provisions of this Executive order are alien to our system of government; that the order is based upon unjustifiable grounds; that the order smacks of McCarthyism; and that even if Congress had enacted statutes embodying the contents of this Executive order, there would be serious doubt under the first amendment whether such acts of Congress would be constitutional.

Mr. President, I say above all things, regardless of how a person may feel on these other issues, that every Member of Congress should repudiate the usurpation by the Executive of legislative power vested in the Congress by rejecting the conference report.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, first of all, I wish to express my support of the magnificent presentation by the Senator from North Carolina (Mr. ERVIN) of this case to the Senate.

Mr. President, I have another objection which also, in my judgment, is an additional reason why this conference report should be rejected.

Mr. President, as the subject to which I would like to address myself is the International Labor Organization, a separate subject, I propose to suggest a short quorum call so that Senators may be informed that we will be discussing this other subject.

Mr. President, I hope to limit myself to 20 minutes at the most in this discussion. And while, like the Senator from North Carolina, I have deep feelings about this, I have no desire to delay the Senate. I hope that soon after I finish and after the managers have completed stating their points of view, we might be able to come to a vote.

Mr. McCLELLAN. Mr. President, there is no limitation of time. It was thought that perhaps we could make better progress without a limitation of time. I do not know how much time other Senators will want to use. However, I do not think it will take more than 30 minutes, from the number of speakers who wish to speak in favor of adopting the report.

So, I would think that possibly we might get to a vote sometime around a quarter after 6, which would be within an hour.

Mr. JAVITS. That is agreeable to me. I agree with the Senator from Arkansas that there is no need to have a unanimous-consent agreement.

Mr. McCLELLAN. Mr. President, some Senators have been inquiring about the time we expect to vote. So far as I can ascertain, we would be voting around 6 to 6:15. That would be as close as I could come to the time when we would be voting.

I thought I would state that so that we might have some idea of when we would vote.

Mr. JAVITS. Mr. President, I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I wish to lay before the Senate a very serious situation as it relates to the United States and the world, which revolves around our refusal—and that is what we face here—to pay the dues which we legally owe, and there is no doubt about it, to the International Labor Organization.

The ground on which we have failed to pay up to now is that the organization has not operated according to our idea of how it should operate and has shown a bias in favor of the Soviet Union.

Mr. President, the justification offered for this refusal to pay has been that we lose nothing in terms of our voting rights until we are 2 years in arrears and that, therefore, this will be a well deserved lesson to the ILO, which it has earned because of the way it has been conducted, and there is no hurry about our paying.

Even to state that is debasing and demeaning to a great Nation like the United States, especially when one realizes that the sum about which we are talking is $10 million.

Mr. President, whatever may have been the justification for withholding these funds before, now it is completely counter-productive and could be very mischievous and harmful to the position of the United States in an international organization which on a cost-benefit ratio has the capability for doing us more good in the world than a whole kit full of other organizations which cost us many times more.

For some time I have argued this case. The Senate sent me as an observer to the last meeting of this organization in May in Geneva. I came back and made a report outlining very much what I have just said.

But now the Department of State of the United States, by the hand of the Secretary of State, has evidenced support for this position and where the true interests of the United States rest. I wish to read to the Senate the letter from the Secretary of State because I think it is so critically important. The letter is addressed to me only because I asked for his views; otherwise it would have been addressed to the Senator from Arkansas (Mr. McCLELLAN), as a communication from the administration.

The Secretary of State states as follows in his letter:

I am glad to respond to your request for my views on the conference report on the State Department appropriation. As you know, the report accepts the House position to deny the $7.8 million requested for our 1971 dues to the ILO.

I said $10 million because we still owe $3.5 million for 1970.

The letter continues:

At the same time it states: "The conferees have not the slightest intention of ever abandoning our membership in the ILO."

If the conference report is endorsed, our arrears will come to $11.6 million. The ILO's financial reserves will be exhausted. Its activities will have to be further seriously reduced and the organization will have to borrow at commercial rates. The United States, of course, will be blamed.

Within the ILO, our influence is likely to deteriorate rapidly. Resentment over our continuing deliberate withholding in the face of those consequences will focus attention on our delinquency rather than on the improvements we seek in the ILO's adherence to its constitutional, tripartite precepts and objectives.

Considerable progress has been made regarding the objectivity of ILO publications, the "double standard" in the Conference Committee on the Application of Conventions, the erosion of the autonomy of the non-government groups, and the use of the ILO as a platform for irrelevant political resolutions and propaganda.

I interject that these were the main complaints against the ICO. The Secretary of State said "Considerable progress has been made" on these matters.

The Secretary of State continues:

Continued withholding of our contribution will not only jeopardize the progress already made, but will also make it exceedingly difficult for us to get support for the further changes we wish to see made.

Our deliberate withholding would have implications for the UN system and other international organizations. By willfully failing to meet this international commitment we would be encouraging others to ignore customary standards of international conduct. It would contribute to a weakening of international cooperation through those organizations which, regardless of their many imperfections and shortcomings, have served the interests of the United States. It would align us with those whose behavior we have condemned.

That refers to France and the Soviet Union, who failed to pay their assessments to the United Nations, although the World Court ruled they should.

As Secretary of State I am very much concerned that, unless funds for our 1971 dues to the ILO can be restored, it will be difficult for us to continue as a participating member of the ILO.

I hope that a sufficient awareness of the serious consequences which would flow from adoption of the Conference report will persuade the Senate to return it to Conference with instructions to insist on the restoration of the funds requested for our 1971 ILO dues. I would appreciate your circulating this letter

to other members of the Senate and any assistance you can give to this end.

With best personal regards.

Sincerely,

WILLIAM P. ROGERS.

The conclusion of Secretary Rogers is fully borne out by my own personal observations of the ILO. Pursuant to my appointment by the Senate as an observer, I attended the opening of the recently concluded 56th annual conference of the ILO this June. During my stay in Geneva I had an opportunity to meet with the tripartite members of the American delegation, as well as the Director-General of the ILO, Wilfred Jenks. At these meetings I was able to explore in depth the problems which have arisen for us within the ILO in recent years, and the progress which has been made in resolving them.

The American delegation—government, labor, and employer delegates—were unanimous in the view that any further withholding of our funds from the ILO would be extremely counterproductive from our point of view.

They made it clear that as a result of our action in withholding our dues payments for the last half of 1971 we have now reached a critical stage with respect to our relationship with the ILO; and that continued failure to appropriate funds to pay our dues will have the most serious ramifications for the ILO and our ability to function as a member of the organization.

To summarize the reasons for paying our dues:

First, we have a binding international obligation to pay our dues. We have long criticized the failure of Communist nations to pay their U.N. assessments, and have gone to the point of pressing the matter before the World Court of Justice. Our cavalier disregard for our financial obligations to the ILO is not only demeaning to us as a great nation, but also undercuts our stand in the U.N. with respect to Communist failures to pay assessments. Our sincerity and credibility on this issue has already been substantially impaired in the eyes of the world because of this ILO situation.

Second, during the past year a number of developments have occurred within the ILO which signify great improvement of the ILO from our point of view. These encouraging developments have already been brought to the attention of this subcommittee in the testimony of Assistant Secretary of State de Palma. They include:

First, a marked decrease in the anti-American polemics in various ILO conferences;

Second, better control of the content of ILO publications to screen out Communist propaganda;

Third, the willingness of the Conference Committee on Freedom of Association to face squarely the question of violation of the important Freedom of Association convention in Czechoslovakia and the U.S.S.R.;

Fourth, the resistance to structural changes demanded by the Communists to overcome the refusal of worker and employer delegates to recognize as such their Communist counterparts; and

Fifth, the election of an employer representative as the President of the recently concluded annual conference over the objections of the Communists.

Our dues—$7.9 million—represent about 25 percent of the ILO budget. Our failure to pay the last half of our 1971 dues has necessitated some administrative belt tightening and the use of reserves, but up to now no permanent cutbacks in staff or in operations have been necessary. However, continued withholding of our dues will necessitate permanent cutbacks in staff and in operations, commencing this fall. The result of such cutbacks would be a legacy of bitterness toward the United States within the ILO and, equally important, among the countries of the developing world which depend upon the ILO for technical assistance and manpower projects.

Thus, there would be a further weakening of the field structure on which the future of the whole operational program of the Organization was dependent.

This, together with the drastic cuts in regular budget technical cooperation already in force, and the serious weakness of technical departments that will be caused by the reductions, would seriously reduce the ILO's future technical cooperation work at a time when new United Nations development program approaches to programing require a competent mobile ILO presence in the field more than ever; in many areas there would simply not be the people, the expertise, and the travel facilities to develop new projects and to complete successfully those already started.

The world employment program will be further affected; the jobs and skills program for Africa, already seriously delayed as a result of measures taken hitherto, could not start; the research program, which was important to insure the vitality of policy and relevance of action in this essential field, would be further reduced.

Further postponements of meetings would become necessary.

There would be consequent weakening of personnel and financial management.

It will be necessary to terminate the appointments of a further number of professional and general service officials whose skills and experience would, in all likelihood, be permanently lost to the Organization.

As I have explained in my report to the Senate, the work of the ILO is extremely important in helping the developing countries of the world cope with the inevitable strains and tensions of industrialization. The tripartite system on which the ILO is premised, and upon which its projects are based, is fundamentally consistent with Western democratic ideals and irreconcilable with totalitarianism of the left or the right. It is thus to our benefit—not the Communists—to have the ILO continue as a strong, viable organization.

No other organization offers us a format in which we can challenge so directly the myths about freedom within Communist countries frequently propagated by the Communists. The program of multilateral aid and assistance offered by the ILO is certainly superior to any system of bilateral aid which could be devised as a substitute for it in case we were to withdraw from the ILO.

The standards developed by the ILO in various fields through conventions and recommendations on subjects such as social security and occupational health and safety have had considerable effect on legislation enacted by both developed and developing countries throughout the world and could be of benefit in helping to establish principles of fair international competition as the basis for resolving some of the difficult trade problems which have arisen for the United States and other countries recently. I am pleased to note, in the latter connection, that the Director-General, in his closing address to the 56th annual conference pledged to initiate discussions in the field of trade problems with the other international agencies directly concerned such as GATT and UNCTAD.

Our policy toward the ILO, as toward other international organizations, must be to fight aggressively and effectively within the organization for what we believe to be right; not to act like a spoiled child. We cannot, of course, expect to win all the time; compromises will be necessary and reverses may have to be accepted. But I am confident that with the proper amount of commitment we shall more than hold our own in the ILO and that it will be most worthwhile for us. As I have pointed out in my report, it bears emphasis in this connection that many of our problems with the ILO actually stem from our own failure to devote sufficient time, energy and resources to the ILO, a failure which has been acknowledged by the administration. This year we did take the ILO seriously, and the resulting improvements, which I have summarized above, speak for activism.

Mr. President, what is the International Labor Organization? The International Labor Organization is probably the oldest international organization, now under the aegis of the United Nations. It is over 50 years old. It is a tripartite organization, consisting of delegations from each country that is a member, representing labor, management, and government. There is represented in it the Soviet Union and many of the countries in the so-called Communist bloc; not Communist China, but many other countries are involved. There are well over 100 countries in total.

The value of this organization has been this very tripartite method of organization, for it is obvious that in a Communist country there is neither free labor nor free management, and, hence, the Communist countries have constantly had to scratch in order to either disrupt the organization or to do their utmost to obtain recognition for their "labor" and "employee" delegates.

They have thus been subject to scrutiny in the eyes and views of all the developing nations in Asia, Africa, and Latin America; those developing nations have seen in this way much of the hypocrisy of the Communist position because the fact is, whereas any free country has labor and employees who are worthy of the name, the Communist countries have none because labor is truly slave labor for all practicable purposes and manage-

agement is just an extension of government.

Mr. President, this organization, if it served only that purpose, would have been of enormous value to the United States.

But, in addition, in times like these, when we are trying to upgrade the world, especially when there is so much competition to the United States in markets at home and abroad, it has proven valuable in endeavoring to raise labor standards of developing countries, where there is cheap labor to make products to compete with the United States and other industrialized countries.

Our original complaints against the International Labor Organization and the reason we cut off payment of our dues were those recited by the Secretary: that there was a lack of objectivity in the ILO publications; that there was much too much Communist propaganda in them; that there was a double standard in the conference report respecting the so-called application of conventions—which means the Soviet Union was not called to book although it had adopted a convention relating to freedom of association and the right to join labor unions. We have not ratified that convention, but we complained about it, as we had the right to do. That is all right; they were bound; we were not. We found the organization discriminated in condemning others.

Also, mention was made of "the erosion of the autonomy of the nongovernment groups." That referred to bending the principle of tripartism—the status of the three groups in the ILO, because the Soviet Union and other Communist countries did not have labor and employees who could be defined by those terms.

And finally the use of ILO as a platform for irrelevant political resolutions and propaganda. It is a fact that in the ILO vituperative attacks on the United States and other industrialized countries were not ruled out of order by presiding officers and articles were offered for publication in reports of the ILO which were unworthy of ILO and certainly not creditable to the United States and other free world countries.

In many of these areas there have been constructive changes. For example, in the matter of irrelevant resolutions and diatribes against the United States, such polemics have in the main been ruled out of order. The publications have largely been sanitized—and I use that word in the best sense—and many of these complaints are no longer true.

It is a fact that one might say that the withholding of dues by the United States for half of 1970 was a rather shocking and cold bath to the ILO; that they did make these changes and undoubtedly will make more. But we can make too much of a good thing, Mr. President. The Secretary of State is convinced of that fact, and I believe many others in the Congress are convinced that if we continue to withhold our dues now, it will be counterproductive and regressive.

What will happen now is that countries in the ILO that have supported the position of the United States and other free world countries will be discouraged and disheartened; that the Communist influence in the ILO will grow; that its functions will be materially reduced; and that there is even a chance that, under the guise of this disappointment and frustration, the tripartite character of the ILO, which is the greatest thing to commend it, may be destroyed and eroded, and that when we did pay our dues and were able to assert influence in the organization, we would find that the organization had been shifted out from under us and has been swept under essentially Communist control.

Mr. President, why do we run that risk? Do we run it because we are going to quit the ILO, or unless they do exactly what we believe they ought to do, we will not stay with them? Not at all. That is what makes this whole thing so tragic, if it were not so ludicrous, because the House conferees, who are the ones who are supposed to be so bitterly and intransigently determined to have their own way in this matter, say, in the last paragraph of their comment on page 4 of the manager's report:

> We do not lose our voting rights until we are two years in arrears. The conferees recommend that no payment be made at all at this time pending further improvement of our position.

And the chairman of the subcommittee which handled this matter is himself quoted as saying that "by no means are we going to resign from the ILO."

The managers' report says:

> The conferees have not the slightest intention of ever abandoning our membership in the ILO.

So, Mr. President, is a great power like the United States to go through the demeaning exercise, the almost childish exercise, of saying we are not going to pay our dues, but, of course, we have to pay them ultimately and in time to prevent us from losing voting rights and we have not the remotest intention of pulling out of the Organization? It seems to me that, rather than make the Organization do what we want it to do, it will make its members furious and that the members, for the most part, if they have character—and I think they have—will do exactly the contrary to what we want them to do.

Last year we withheld our dues in what was considered to be a legitimate gesture of indignation.

I say that myself notwithstanding, that I sought to get the dues paid. I am willing to say that perhaps I was wrong at that time, and perhaps it has worked. I am willing to say that is the reason, or one of the reasons, why certain things have taken place; but I am deeply convinced that we can only get mischief and harm out of continued action of that kind that will have a counterproductive result. This is based on my personal presence on the scene, and now the views of the Secretary of State of the United States himself in the letter which I just cited.

When I consulted with the three elements that make up our delegation in Geneva—government, labor, and employers—I found they were unanimous in the belief that any further withholding of our dues from the ILO would be extremely counterproductive to the point of view of the United States.

Let us see the record:

First, there can be no question about the Government's wanting the dues paid. We have the letter of Secretary Rogers on that.

Second, the employer position is now very clearly stated in the position of the National Chamber of Commerce, which essentially is responsible for the delegation from the employers that goes to the ILO. This is what they say:

> The Chamber of Commerce has for 30 years supported U.S. participation in the ILO and at this time supports continued United States participation in anticipation that U.S. effort can be made much more effective than it has in recent weeks. However, whether we stay in or get out, we should pay up according to our commitment.

That is the view of the U.S. Chamber of Commerce.

As to the employees, this is what has cast a certain amount of doubt over this situation. However, it seems to me that by now that doubt should be completely dispelled. The last time this matter was up for half of the 1970 dues, it is a fact that payment of the dues was opposed by George Meany, president of the AFL–CIO. When the Congress rejected that payment, it deferred in very large part—I do not say that invidiously; I have said that perhaps I was wrong and the majority were right—to the views of the AFL–CIO as expressed by George Meany. But at the conference the employee delegate expressed himself in a delegation meeting as being for the payment. When I returned, I found Mr. Meany, at a press conference during the AFL–CIO major board meeting in Atlanta on May 11, 1971, had said the following about the ILO:

> Now, as far as the appropriations are concerned, our position is quite simple. We owe the money and we should pay it. However, because of the strenuous opposition in Congress we have gone along with a suggestion made by the employer representative and concurred in by the State Department that we should pay up all of our obligations immediately and, at the same time, file an official notice of withdrawal from the ILO two years hence.

That means operative 2 years hence.

In fact, the employers, if they ever made such a proposal, have withdrawn that, and that is also true of the U.S. Government. So we must take it that the straight position of the AFL–CIO is: We owe the money and we should pay it.

I have not been able—and I say this frankly to the Senate—to get the AFL–CIO to say in just so many words what Mr. Meany said at the press conference, and I understand—though I do not have a copy—that the letter sent to the chairman of the subcommittee, which I have just read, said:

> We stand upon the statement of George Meany made in the press conference.

Mr. President, whatever may be their view, for their own reasons, for not having an unequivocal position in this matter, it certainly seems to me that this press conference——

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

Mr. JAVITS. I yield.

Mr. McCLELLAN. The Senator made some reference to a letter. Which letter?

Mr. JAVITS. I understood—and I do not say this of knowledge; I am really asking the chairman—that he had received a letter from Andrew Biemiller which said:

We simply reiterate the position by Mr. Meany.

Mr. McCLELLAN. I have that letter, but that is not from Mr. Meany. He is the one who took the initiative and came to the Congress to get this appropriation stopped. I think Mr. Meany, if he still means that, should have responded to our request and written us a letter stating that he had changed his mind and why.

Mr. JAVITS. I thoroughly agree with the chairman in that view. I tried to get it personally, as I told the chairman I would, and I was unsuccessful. But it seems to me, in view of his statement, which I have read, that that should not inhibit us from doing what we ought to do; as a matter of fact it should urge us to do it rather than not to do it.

Now, Mr. President, one final word about this ILO. We have enough problems in the world, Lord knows, with many nations, especially the developing nations of the world, the so-called African-Asian bloc and the Latin American countries, so that we need no more, especially no more where the worst you can say is that it is as close a case as this.

I deeply feel that to reject the payment of the amount here involved, considering the inevitability of payment anyhow, considering the fact that the managers on the part of the House now say that under no circumstances are we going to get out of the ILO, is really demeaning to our country, and unnecessarily, gratuitiously flying in the face of decent relations in a sensitive area, the labor area, with so many of the developing countries of the world involved. It seems inconceivable that a great Nation like ours would take this position.

We all know that this represents the dug-in position of a Member of the House of Representatives who happens to be in a powerful position. The question facing the Senate is, Have we got the character to turn down a conference report because we will not be dictated to in this way? That is really the question before the Senate. It so happens that I have the deepest affection for the Member personally; he is a great friend of mine, and has been for 25 or more years. But on this particular subject, it is just a matter of, do we do it as he says, or do we do what is in the best interests of our country, and what I deeply feel a majority of both Houses really want?

It does not hurt to go along where it does not cut much ice either way, and it will not do any great harm. But when the Secretary of State of the United States certifies to us in writing that it is very much against the interests of our own Nation not to pay these dues, and there is only $10 million involved, I respectfully submit—and I know what the proponents are going to say: "You might insist this or you might insist that, and the conferees might get hung up again." The other body does not seem to care, unless we vividly call its attention to this situation. It seems to me that we ought to have the character—and that is what this comes down to—to turn down this conference report, and say: "This is the right thing to do, let us do it, let us pay these dues and stop demeaning ourselves in this rather small way."

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

Mr. JAVITS. I yield.

Mr. BROOKE. I am pleased to associate myself with the work of the distinguished Senator from New York. The ILO certainly carries out important advisory and administrative functions to the worldwide organization of the labor movement, and I think our continuing and unnecessary refusal to pay our proportionate share of the costs could have undesirable consequences for our role in this vital movement. So I certainly want to express concern that the conferees deleted from the bill the $11 million to pay our dues to this vital international labor organization.

I hope the Members of the Senate will show their opposition, and reject the conference report.

Mr. JAVITS. I am grateful to my colleague for speaking out in this manner. I know, like myself, he has many interests in other aspects of this conference report, which is all the more reason for my gratitude to him, and for my feeling that as always, he expresses what deep conscience and what he believes are the highest national interests dictate.

I yield to the Senator from Michigan.

Mr. HART. Mr. President, I thank the Senator from New York for giving me the opportunity to make clear our deep conviction that in the elimination of the dues we do a wrong. I realize that in expressing this point, I may sound very unappreciative to the Senate conferees, because in this bill, and not without considerable effort, the conferees saved a money item in which the junior Senator from Michigan and I have a very deep interest. I only wish at times that we could have our cake and eat it. This is such a time.

But the overriding importance of the ILO, and our relationship to it, persuades me to rise and speak in support of the Senator from New York, as I do the Senator from North Carolina.

Mr. President, I strongly support the Senator from North Carolina in his opposition to this conference report. None of us seek in any way to reflect upon the efforts of the Senate conferees on this wide-ranging and complex bill. Rejecting a conference report, we all know, is done only with reluctance, especially when the press of other important business is so heavy. But there are simply too many large constitutional questions at stake for us to approve this one, on a business-as-usual basis, because of the recess deadline.

The matter has been already summarized by the Senator from North Carolina. The conference report deletes from this bill's appropriation for the Subversive Activities Control Board—the SACB—the crucial prohibition or any use of these funds to implement the new powers purportedly conferred upon the Board by unilateral executive action. The issue was so clear when we debated this matter previously, that by an absolute majority of the Senate—51 to 37—we adopted the amendment providing this restriction. The issue is still clear cut to me and I shall oppose acceptance of the report.

In an obvious effort to revive this moribund agency, the Executive has legislated broad new powers for it to exercise. Notice, I did not say "recommended legislation," or "requested legislation." No, the President, by Executive Order No. 11605, has sought to bestow these new duties upon the Board himself. A brief history reveals the motive.

Established in 1950, the Board was originally designed to provide a registry of subversives, who were required to come forward and identify themselves. Willful failure to self-register was penalized. In 1965, however, the Supreme Court held that this scheme violated the fifth amendment privilege against self-incrimination. For 2 years thereafter, the Board did nothing. In 1967, Congress deleted the requirement that individuals identify themselves. Instead, the Attorney General was to cite persons or groups to the Board, which would determine if they were subversive. Congress also provided that if no cases were sent to the Board it would expire. A few cases were sent to it, keeping the Board alive, but then, in 1969, the District of Columbia Court of Appeals ruled this new scheme unconstitutional, too: First amendment freedom of association was found to be infringed because membership was penalized without regard to the member's knowledge of all the group's purposes or his intent to participate in those which might be illegal. The Supreme Court has let this latest decision, in the Boorda case, stand.

The latest effort to find work for the Board, Executive Order 11605, assigns to it the duty of determining which groups should be added to the so-called Attorney General's list, used for Federal employment security programs directly, and is also used, indirectly, by many private personnel security programs.

This order should not be funded. It is legislation by Executive flat, in violation of section 1 of article I of the Constitution, which vests legislative power in Congress. In addition, the substance of the order patently infringes the first amendment rights of speech and association. Let me comment on briefly each vice.

The Board was created by Congress and given specified duties and powers. Its role has been changed since then by further congressional action. At the very least, congressional debate and court decisions in this area have made clear that broad delegations of sweeping powers, without careful limitations, raise very serious constitutional and policy questions which should be fully debated through normal legislative channels.

That is not what happened here. From the viewpoint of Congress, a sweeping change has been sought in the most cursory and preemptory manner imaginable. The President waited until 10 days after the House had actually passed

this bill. The Executive order was then announced and we were told that Senate approval of the SACB appropriation would suffice for congressional approval of this legislative step.

Executive encroachments in the congressional domain continue to threaten the equal independent status of this branch of Government. It is bad enough when we are denied information by the Executive which Congress needs to legislate. It is worse yet when the Executive tries to legislate for us—or ignores our legislation. But, Mr. President, it is intolerable when the Executive tries to ram through far-reaching legislative changes by Executive order, and then suggests that Senate approval of an appropriation subsequent to the order is the equivalent of legislative authorization. The dangers of such assertions of congressional "ratification" are all too apparent to Members of this body after our experience over the last few years in Southeast Asia. A U.S. court of appeals and several scholars have suggested that Congress may have supplied a de facto declaration of war by approving appropriations measures. We are embarking upon a very dangerous course if this is to become a pattern of legislative acquiescence in critical areas.

Now I know it has been suggested that the President did send implementing legislation to Congress pursuant to the new Executive order. But those bills only provide for new procedures needed to implement the powers conferred by the order. In any event, Congress may or not pass that legislation. Appropriations for carrying out these functions surely can await orderly hearings and a final decision on whether Congress wishes to give the Board these new powers.

Opponents of the amendment offered by the Senator from North Carolina also urged that the President has statutory authority for such transfers of function from one executive agency to another. They cite section 301 of title III of the United States Code which generally authorizes the President to designate the head of a department or agency to perform any function vested in the Executive. But the examples of reorganizations or delegations carried out under this authority which have been cited are situations where Congress conferred general power in an area on an agency and the President has specified a particular task within the scope of that authority—for example an Executive order delegating authority to the FPC to authorize certain power facilities near the Mexican and Canadian borders. That is not the situation here. If section 301 is read more broadly, to authorize any transfer of functions within the executive branch which the President desires, then he could under that view delegate the present functions of the Defense Department to the Civil Rights Commission and the present functions of the SEC to the Department of Health, Education, and Welfare. Clearly he has no such power.

It must be remembered that this order does not merely transfer the task of supervising the present compilation of the Attorney General's list to the SACB. In addition, the order greatly expands the reach of the list and, in so doing, raises serious constitutional questions of another nature. The order purports to remove any due process defects in the Executive order which it supersedes by specifying definitions of the groups to be listed. Here, the cure is clearly more dangerous than the disease. For the definitions, if carefully read and cross-referenced, would expose to branding as a subversive security risk those who merely express dissent from official policy and who are at any time with a large group of which one or two members throw a rock or overturn a garbage can. None of us condones violence, rock throwing, or terrorism, Mr. President. We need not play that game again, it was fully exhausted during last year's election campaign. We all agree that someone who engages in physical violence or terrorism must be apprehended, prosecuted, and punished. We also have laws for attempting or conspiring to do such unlawful acts. But the Supreme Court has made clear the difference between inciting such actions and merely advocating social protest or even social change. The latter is protected under the first amendment. Even more clear is the constitutional protection afforded one's freedom to associate with other persons without being punished for their actions, unless there is a conscious decision to participate in the illegal actions of the group as well as the constitutionally protected activities.

The revised Executive order includes six categories of groups which can be placed on the Attorney General's list, including any group which "has adopted a policy of unlawfully advocating commission of acts of force or violence to deny others" their constitutional or legal rights. The order then authorizes the SACB to determine that a group comes within this category if, among others bases, it engages in "the unlawful damage or destruction of property; or injury to persons." That is in section (d) (1) (2).

Then, if we go back to the first paragraph of the new order, we find that it authorizes blacklisting anyone not only members of such groups, but even someone and I quote "in sympathetic association" with such a group or with a combination or persons who engage in such unlawful acts. What does this mean?

Well as I read the English language, in concrete terms, that boils down to this: Someone who advocates sole recognition of the Government on Taiwan, and who therefore opposes our present overtures to mainland China, may be branded a subversive and blacklisted from Government employment merely because he attends a rally of likeminded persons, a few of whom display their displeasure by tossing things, or defacing property. Indeed, it is only a very slight exaggeration to suggest that this new scope for the Attorney General's list—by reaching those "in sympathetic association" with "combinations of persons" who engage in any acts which damage property or injure persons—would encompass many of the Washington Redskin fans at the District of Columbia stadium followed a hard-fought football game.

The proponents of this new list may disavow intention to go after any but the most hard-core bombthrowing revolutionary. But the history of witch hunts and guilt by associations is not that dim in America that we can dismiss such dangers lightly. The new order can be used to blacklist dissenters or participants in protests activities who neither condone nor participate in any illegal acts, yet who are branded subversives under this order.

For me this is patently unconstitutional. But at the very least, surely it deserves the benefit of the normal legislative process; not ratification by appropriation in this offhanded manner. I urge my colleagues to reject the conference report.

The able senior Senator from New York (Mr. JAVITS) raises another and important reason which I hope will persuade us to reject the report. Funds to pay the United States' 1971 dues to the ILO have been dropped. The Senator from New York has placed on our desk a copy of a letter to him dated August 3 from the Secretary of State. It summarizes the issue and makes clear the correctness of the Senate's position and I join with Senator JAVITS in urging rejection of the report on this ground also.

Mr. JAVITS. Mr. President, I am very deeply appreciative. I feel about the Senator from Michigan as he has said he feels about myself. I know how he feels about the conferees, and I feel that fully myself; I have sat with the conferees, and know what it is to face absolute intransigence by the other body.

But certainly this is such a test of character that I hope very much we will reject the conference report. I believe the conferees are themselves men of character, and though they might not agree, they will understand if we act as the Senator from Massachusetts, the Senator from Michigan, and I recommend.

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

Mr. JAVITS. I yield.

Mr. BROOKE. Mr. President, I sincerely regret that I have to object to this conference report on two grounds. I have already voiced my objection to the portion pertaining to the ILO, but I also wish to speak at this time on the SACB.

Mr. President, I have long believed that the SACB should be abolished. It is a vestigial agency that quite literally has had no business to transact for nearly two decades. The Supreme Court has repeatedly struck down the actions of the Board. The very existence of the Board is contrary to the Constitution of the United States and a contravention of the rights of this Nation's citizens.

The fact is that the law enforcement and internal security divisions of our government are mandated by law to investigate and bring charges where there is sufficient cause, against any individual whose actions pose a clear threat to our Nation's security. We should continue to rely upon the regularly constituted judicial and investigative bodies to identify, charge, and convict by due process of law any individuals guilty of subversive activity.

But there neither has been nor will be any legitimate need to grant to any administrative body the power to investigate individuals and organizations and

to publish lists of those organizations which meet arbitrary criteria allegedly denoting subversive tendencies. This is a violation of all the constiutional rights which this Nation was established to preserve.

It is therefore especially disturbing to me that Executive Order 11605 seeks to increase the authority of the SACB. Under this order, the Board is empowered to determine which organizations should be included on the Attorney General's list of subversive organizations, a document which has lain dormant since 1965 as a result of court decisions. Legal experts had generally considered this list a dead letter, a relic of the "Cold War" years.

Even the agencies and departments of Government have been discontinuing their use of the Attorney General's list as a reference point for applicants. Recently, in response to a constituent inquiry, I had occasion to communicate with the Chairman of the Civil Service Commission regarding certain questions contained in its form used to solicit references for potential Government employees.

Until this year, the form included two particularly offensive questions:

1. Do you have any reason to believe this person belongs, or has belonged, to any Communist or Fascist organization, or to any organization which advocates overthrowing or altering our Constitutional form of government by force or other illegal means?

2. To your knowledge does this person associate, or has he associated, with any person whose loyalty to the United States is questionable or who belongs to any organization of the type described in (the question) above?

I am pleased to report that the second question has been entirely eliminated and that the first question has been changed to read as follows:

Do you have any reason to believe this person belongs, or has belonged, to the Communist Party, U.S.A., to any subdivision of the Communist Party, U.S.A., or to any organization which seeks the overthrow of the Constitutional form of government of the United States by force or violence or other unlawful means?

This revision represents a clear acknowledgement by the Civil Service Commission and, logically, the United States Government which it serves, that loyalty tests in the past have constituted too great an infringement on personal privacy and First Amendment rights.

Consequently, it is particularly disturbing that, at approximately the same time, the President has issued an Executive order which not only revives the shopworn loyalty test format but also greatly expands its scope and the power of the administering body.

After conducting a hearing, the SACB is authorized by the terms of Executive Order 11605—

To determine whether any organization is totalitarian, fascist, communist, subversive, or whether it has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State.

Mr. President, I strongly believe that Congress should pass the State, Justice, Commerce Appropriations bill with the language of the amendment of Senator ERVIN, as it was originally approved by the Senate. That amendment would have prevented the SACB from using its appropriated funds to implement the Executive order.

One of the great features of our Constitution, and the Goverment which it has created, is its tolerance of dissent, however strongly worded or carried out. Although individuals properly should be punished when their dissent grows into criminal conduct, there can be no legal justification for the "blacklisting" which would be implemented if this Conference Report is approved.

The Senate would do well to follow the comments of the Civil Service Commission in describing the additional safeguards which have been placed in the reference form to which I earlier referred—"these safeguards strike a reasonable balance between legitimate needs of the Government and the full protection of individual rights." This is the balance which must always be maintained by a government concerned with the welfare of its citizens.

Mr. President, the amendment forbidding the SACB to use its funds for the purpose of designating groups as "subversive" passed the Senate by the sizeable majority of 51 to 37. It is not easy for me, as a member of the subcommittee which considered this appropriation, to oppose this Conference Report. But in the interests of safeguarding individual liberty and preserving a vital principle of our democratic system, I urge the Senate to support the motion to table the Conference Report on H.R. 9272, and I urge a new conference to incorporate the Senate amendment in the bill.

Mr. McCLELLAN. Mr. President, I have listened with a great deal of interest to the remarks of the distinguished Senator from North Carolina, and in many respects I agree with him. The only point, perhaps, at which we disagree—and that disagreement is not a harsh disagreement—is that I think this is a situation in which the courts will have to decide the issue.

When the Proxmire amendment was before the Senate, to strike out the entire appropriation for the Subversive Activities Control Board, I said:

I can apreciate that there may be a valid objection to the President's Executive order. I do not know what the Court will hold about it.

I meant its constitutionality.

That is a Court question. All I know about the Supreme Court is that it often reverses itself. Whatever it held last year or the year before or some other time may not be its guiding light in the next decision it makes. No one can depend on it. One cannot rely on it, with the record it has of repudiating its own precedents. It will just have to make the determination. I cannot.

I cannot make this determination, and I do not think the Senate can make it. Each individual can make it for himself and use his own guidelines as to that and be governed accordingly. But for anyone to say what the Court will hold on it, I do not know. It is a matter that should go—and I do not doubt that it will go—to the Supreme Court. The objection stated is that it will take 2 or 3 years for a decision. That is probably true. But these are the realities with which we are confronted, and I want to talk about them.

We had this hearing record, and we knew about this Executive order. The Appropriations Committee heard it, and I questioned most thoroughly about it at the time.

I asked them about its validity, about its constitutionality, and whether they were certain about that, and whether they advised with the President about it before the order was made.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conslusion of my remarks, the dialog that took place between me and other members of the committee and Mr. Mardian, special assistant to the Assistant Attorney General, Internal Security Division, who testified before the subcommittee, pages 975 to 980, inclusive.

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

(See exhibit 1.)

Mr. McCLELLAN. This question was raised by the committee at the time this item was heard. There was question in my mind about it then. There is some question in my mind about it now. But the President issued this order on the advice of officials of the Department of Justice. I am not prepared to say who is right or wrong.

Let us look at what is before us now. We have a conference report. In the first place, the Senate kept in this bill the money for this Board. The adoption of the Ervin amendment did not kill this Board. It is alive; it is active. The Ervin amendment did not take out of the appropriations bill the money appropriated for it. The Senate kept that money in the bill, by a vote of 47 to 41. The Senate kept the money in the bill and sent us to conference with the Ervin amendment, which was adopted by a margin of 14 votes, as I recall. We go to conference, and the House, the day before we go to conference, moves to instruct its conferees to accept the Senate amendment No. 35, the Ervin amendment. After debating it briefly, the motion was made to table the motion to instruct. The House voted to table the motion by a vote of 246 to 141, or by a majority of 105 votes. That is what the Senate conferees were confronted with when they went into conference. The House had taken the action to reinforce its conferees and, by this action, to hold against the amendment.

All right, so we have the Board, the money is in the bill to cover expenses of the Board this fiscal year. That will not be changed by rejection of the conference report.

The only issue here is not what should be in the bill or what should not be in the bill but, on the whole, on the conference report; namely, do we reject it or do we accept it?

I have some things in it I do not like, and I am sure there are some things in it that other Senators do not like, but it comes to the point where the two

houses have to undertake to accommodate each other to some extent.

Mr. PASTORE. Mr. President, will the Senator from Arkansas yield at that point?

Mr. McCLELLAN. In a second, I shall be glad to do so.

I can say to you, Mr. President, that there are others present who were on the conference who supported the amendment, who know the realities of the situation and exactly what the conferees were confronted with, and they knew of the reenforcement which the House conferees had by the vote of the day before, which certainly gave them a position of strength from which to insist that the amendment be stricken from the bill and not accepted by the conferees.

Now I am happy to yield to my good friend from Rhode Island.

Mr. PASTORE. The Senator is an experienced legislator. He has had many experiences at conferences. I have had some myself—perhaps not so many as the Senator from Arkansas. But I ask the Senator, if this bill is sent back to conference, in his opinion, what are the prospects?

Mr. McCLELLAN. I shall reach that point and will cover it shortly.

Mr. PASTORE. I thank the Senator.

Mr. McCLELLAN. The House took up the conference report yesterday and voted on it. The same argument was made again by the Representative who made the motion to instruct the conferees to reject the amendment and the report. However, the House adopted the report by a vote of 337 to 35.

I merely emphasize this, not that the House is right, but today we are not facing theory, we are facing reality and what is the practical thing to do.

The $450,000 are not even involved. The board will have that money. They will pay their salaries and other expenses with it. The House conferees, since the report has been accepted, are now discharged and if we vote down or reject the report, the next step will be that we will have to call for a new conference, new conferees will have to be appointed, and we will have to ask the House for a conference. I am confident that they will ultimately grant one, but they do not have to take it up, and anyone can object to the conference report being taken up again, or any section of it, as I understand it, for 3 days following the action we take here in the Senate tonight. That will throw it over until Friday. I do not know the consequences of the legislation, whether they have a quorum in the House on a Friday or not. Maybe they will. But we have to have a new conference if something is not done by then.

I ask the distinguished Senator from Louisiana (Mr. ELLENDER), when is the time the continuing resolution expires?

Mr. ELLENDER. We adopted a resolution the other day that goes into effect on August 6.

Mr. McCLELLAN. When is the continuing resolution under which we are operating going to expire?

Mr. ELLENDER. August 6.

Mr. McCLELLAN. The same day we adjourn. I thank the Senator from Louisiana.

The continuing resolution, of course, will have to be adopted before Congress recesses on August 6. In the meantime, here are the consequencs and I want to read them into the RECORD. This is only part of it, but it is illustrative of what the consequences will be.

I consider it important to call Members' attention to the effect of the continuing resolution on certain Senate amounts that were agreed to by the conference committee but which could not be obligated if the pending report is not approved or if it should be indefinitely postponed, or during any period of postponement.

Some $29 million would be involved, as they were add-ons to the House bill. Included in this sum are the following important items and this is not all of them but this is a number of them:

For the Department of State $1,780,000 for the Tijuana flood control project; $200,000 for the Great Lakes lamprey control project; $370,000 for mandatory items needed by the East-West Cultural Center; $90,000 for the Rome, Italy study center, and $750,000 for a new chancery in Buenos Aires.

For the Department of Justice, three important items would be deferred: namely, $1,959,000 for planning and site costs of the San Diego correctional center, under the Bureau of Prisons, and $8 million to implement the drug programs as presented to the Congress by the President in June.

For the Commerce Department, $12.9 million for the three appropriation accounts of the National Oceanic and Atmospheric Administration. Included in this sum is $2.5 million for the sea-grant programs which is necessary in addition to the $15.2 million available under the House bill. Also, there is the sum of $1 million added to cover essential costs in the research and development of building code and flammable fabrics standards, essential projects under the National Bureau of Standards. As respects the related agencies, $1 million is added for the Equal Employment Opportunity Commission; $300,000 additional for each of the three activities; named National Commission on Fire Prevention and Control, National Tourism Commission, and the Small Business Administration.

Other important items subject to deferral if the pending report is not adopted concerns the $45.5 million increase in the sums allowed for the Maritime Administration over the total available for 1971. Also, the $9 million increase in the allowance for salaries of supporting personnel over the sum provided for 1971. These two amounts would seriously affect planned programs for the fiscal year 1972.

There are other items, Mr. President, but this gives an illustration of what is involved here in the $29 million that will not be available for expenditures. Those are part of the consequences.

I think I can say this, without trying to establish myself as reading the minds of other people, that the House was adamant about it. I do not mean that we must agree with the House every time. Again, I tell the Senate that we are facing reality, not theory. The House was pretty adamant about the situation. And the vote that they have been able to obtain over there on the tabling instruction motion and also approving the conference report reflects the support that I think the conferees of the House will have in maintaining and sustaining their position.

I do not know. We could reject this report. Then we would have to go back to conference some time, and my guess is that it would be in late September. We will not go back to conference before we recess. Then what would happen? Would there be any change? I see no prospect of it. In other words, the rejection of this conference report may well be an exercise in futility.

That is my best judgment at the moment. It may be in error.

I am now going to go to the next item, the one raised by the Senator from New York (Mr. JAVITS), the ILO. It is a little unusual, I think, to get a letter from the Secretary of State on this. I do not think anything very serious will happen concerning it. The ILO item was taken out of the bill last year because the leadership of labor wanted it to be done. It came up here asking for it. This year, we tried to get the same leadership to come back and make a direct statement about it. We got no direct statement from him. He sent it through some of his assistants down the line, I think his public relations man. It was not with his signature nor with anything that directly related to him.

The Secretary of State closed the letter by saying:

> I hope that a sufficient awareness of the serious consequences which would flow from the adoption of the conference report will persuade the Senate to return it to conference with instructions to insist on the restoration of the funds requested for the year 1971 for our 1971 ILO dues. I would appreciate your circulating this letter to the other Members of the Senate and any assistance you can give to this end.

The Secretary is giving this matter a priority, a preference, and an urgency above everything else in the bill, as I interpret it. He is making this item more important that the entire $4,067 million in the bill, in the light of this statement.

However, let me say that if the ILO is so important, there is nothing to prevent the President of the United States from sending down a supplemental request tomorrow. I do not weigh that with any force or influence whatsoever.

We know how this operates up here. We are in a critical hour with a recess approaching and trying to get these things through.

I can say that I would like to have some brief expression from other Members of the Senate who served on the conference committee with me. I can say that the House is not going to take the ILO item. That is pretty apparent. And I see no prospect that they will take the other.

We either approve this report and immediately, if we want to, we can introduce a bill to repeal the entire Board.

That is the way to do it. We have a remedy. We can introduce a bill, and process it, to repeal the board. If the board is repealed, they cannot spend any more money, if we can pass it in the House.

And I do not think the Senate can pass everything in the House that they would like to, and I do not think that the House can pass everything in the Senate that they would like to. It is a matter of making some accommodation.

If the Senate wants to make the conferees take it back, we will take it back. However, I say that if we do go back I can see no prospects of resolving the issue in this way.

EXHIBIT 1

DEPARTMENT OF JUSTICE

Statement of Robert C. Mardian, Assistant Attorney General, Internal Security Division; accompanied by Robert L. Keuch, Chief, Appellate and Civil Litigation Section; James W. Ziglar, Special Assistant to the Assistant Attorney General, Internal Security Division.

INTRODUCTION OF ASSOCIATES

Senator MCCLELLAN. Mr. Mardian, whom do you have accompanying you?

Mr. MARDIAN. Robert Keuch and Mr. Ziglar of our staff.

SUBVERSIVE ACTIVITIES CONTROL BOARD

Senator MCCLELLAN. The question has come up here this morning that gave this committee some concern. We have had the Subversive Activities Control Board before us. They have five members of the Board down there drawing $36,000 a year. That is about $175,000 to $180,000, nearly $200,000.

I understand that they have had only two cases referred to them by the Justice Department since the Board was somewhat revitalized, since this administration came in, I would say, because the other administration had ceased to give the Board any business, to submit any cases to it.

Now, as we understand it, the Board cannot initiate cases. It is a hearing body. It conducts hearings on cases that the Justice Department refers to it. It can only proceed with those hearings as the Justice Department makes available to it the witnesses that it wants to present to substantiate the charges of subversion, and so forth.

Now, that Board is under attack, has been, and will be again, not only on the Senate floor, but in this committee before it gets on the Senate floor.

What has given us some concern, who have been supporting this Board, and who believe there is a need for it, is the lack of interest, or the lack of something on the part of the Justice Department, possibly a lack of business to refer to it. For some reason, this Board is not working. Now, their time is not being consumed, its usefulness is not being employed, if it is useful.

It comes right back to the Justice Department. We would like to have you comment on these things, and tell us what the real situation is, and what the prospects are in the future.

This is not criticism. This is trying to meet our responsibilities. We do not want to keep the Board and have people sit there and do nothing. If the Commission is not needed, we want to stop it now.

Mr. MARDIAN. Mr. Chairman, I first would like to apologize for lack of preparedness.

Senator MCCLELLAN. I appreciate that. We are trying to move along with this. We will permit you to submit any supplemental statement after you have had time to weigh it.

I support the Board. In fact, I think there is a need for it, but it is not working, for some reason. Is it the fault of the Justice Department, or where is the fault? Why is it not functioning as it should?

BOORDA V. SACB DECISION

Mr. MARDIAN. Let me say at the outset that one of the greatest deterrents to our submitting cases to the SACB has been the decision in the case *Boorda* v. *SACB*, which largely inhibited hearings before that Board insofar as they relate to the designation of individuals who fall within the proscribed classifications.

Since the decision in *Boorda*, the activities of the SACB as well as the Internal Security Act of 1950 and Executive Order 10450, issued by the President of the United States, have been under intensive study, and I can inform the committee today that the President has signed an amendment to Executive Order 10450, in accordance with his constitutional and statutory powers.

AMENDMENT TO EXECUTIVE ORDER 10450

This amendment to 10450 amends sections 8 and 12 of Executive Order 10450 to permit the Attorney General to petition the Subversive Activities Control Board to conduct appropriate hearings to determine, inter alia, whether an organization is one which seeks to overthrow the Government of the United States, or any State or subdivision thereof, by unlawful means or unlawfully advocates the commission of acts of force or violence to deny others their rights under the Constitution or laws of the U.S.

Senator MCCLELLAN. To do what? To prevent others from violating the rights of others? We are getting into civil rights now.

Mr. MARDIAN. To deny others their rights under the Constitution or laws of the United States or of any State.

Senator MCCLELLAN. Does that not get into a purely civil rights issue?

Mr. MARDIAN. No. It will permit, for instance, the Subversive Activities Control Board to investigate, upon petition of the Attorney General——

Senator MCCLELLAN. It is not an investigating agency. I thought it was a hearing board.

Mr. MARDIAN. I am sorry.

To permit hearings of the Subversive Activities Control Board into activities presented by the Department of Justice for instance, in connection with terrorist activities, which are on the increase in the United States today.

Senator MCCLELLAN. Like bomb throwing?

Mr. MARDIAN. Yes, sir.

Senator MCCLELLAN. Threats?

Mr. MARDIAN. Yes, sir.

PURPOSE OF AMENDMENT

The amendment will serve a two-fold purpose. It will permit the SACB to hear these cases on petition of the Attorney General, and it will remove the fact-finding function of the Attorney General, which he now has, in designating subversive organizations under 10450, and will thus separate the prosecutive and judicial functions which the Attorney General now has and place the judicial function in the SACB.

This will largely pertain—I should not say "largely," but will pertain to the existing unused authority of the Attorney General under 10450 with respect to personnel security in the U.S. Government.

Senator MCCLELLAN. What does all of this mean? When was this Executive order amended?

Mr. MARDIAN. The Executive order was signed by the President within the past 2 days. I cannot tell you at this hour when it was signed.

Senator MCCLELLAN. It has been signed in the last day or two, this amendment?

Mr. MARDIAN. Yes, sir.

INCREASED WORKLOAD

Senator MCCLELLAN. In your interpretation of it, or your evaluation of that, maybe your assessment of it would be better terminology, does that mean that there will be more work for this Board to do?

Mr. MARDIAN. Yes, sir; there will be a great deal more work for the Board.

Senator MCCLELLAN. Well, it has not had very much to do, and it will need a great deal more in relation to what it has now to justify it.

Mr. MARDIAN. It will undertake the function imposed by 10450 on the Attorney General, a function which has been unused I believe since 1956 in making determinations of the character described for personnel security reasons within the Government.

Senator MCCLELLAN. You mean you can present evidence to this Board to make a determination about whether a man in Government, in a position in Government, is——

Mr. MARDIAN. —violating the proscribed elements now contained in Executive Order 10450.

Senator MCCLELLAN. You cannot do that now?

Mr. MARDIAN. No, sir. Under Executive Order 10450, that entire function is reposed in the Attorney General.

Senator MCCLELLAN. Do you have cases of that kind now to submit?

Mr. MARDIAN. At this point I would not like to give you a fixed number. I am not prepared, Senator.

Senator MCCLELLAN. I am not asking for figures. Do you have cases of that kind to submit?

Mr. MARDIAN. Yes, sir.

Senator MCCLELLAN. Did you so advise the President and counsel with him in getting that amendment to the Executive order so that this Board might have jurisdiction of these cases?

Mr. MARDIAN. Yes, sir.

Senator MCCLELLAN. In your interpretation of it, or your evaluation of that, maybe your assessment of it would be better terminology, does that mean that there will be more work for this Board to do?

Senator MCCLELLAN. Is that one of the reasons why the President amended the order?

Mr. MARDIAN. Yes, sir.

Senator MCCLELLAN. Can we have a copy of that for the record, that Executive order?

Mr. MARDIAN. Yes; within a matter of 24 hours the President will transmit to the Speaker of the House of Representatives, in addition, a proposed amendment to the Internal Security Act of 1950 which will in effect dovetail 10450 with the Internal Security Act, so that they can be construed together and will represent——

Senator MCCLELLAN. Does the President have the power to issue this regulation? Is there any question about that?

Mr. MARDIAN. Not as to the Executive order; no, sir.

Senator MCCLELLAN. He does have the power to issue the Executive order?

Mr. MARDIAN. He does have that power. I think that power is unquestioned with respect to the Executive order.

Senator MCCLELLAN. And the Board can operate under that order, perform the functions that this order provides?

Mr. MARDIAN. Yes, sir.

Senator MCCLELLAN. Without legislation?

Mr. MARDIAN. Yes, sir.

Senator MCCLELLAN. Does the legislation creating the Board do that, give the President that power?

Mr. MARDIAN. There was testimony, I believe, before this committee last year with respect to the additional duties or functions which might be reposed in the SACB in connection with its appropriation hearing last year. It was in light of this testimony, I believe, that the appropriation was passed.

Chairman ELLENDER. The question is: Can the President by Executive order broaden the work of a Board created by Congress?

Senator MCCLELLAN. Unless the statute, itself, authorizes it.

Chairman ELLENDER. That is what you are doing.

Mr. MARDIAN. The President is transmitting legislation to the Congress. It is my understanding, sir, that where the appropriate committee having jurisdiction is advised of the functions, additional functions, which the Commission is granted, and the Congress acts upon that appropriation with that knowledge, that, as in this case, the SACB

would have the authority to engage in that type of hearing activity.

Chairman ELLENDER. Would it take congressional action of any kind?

AMENDING INTERNAL SECURITY ACT OF 1950

Mr. MARDIAN. We will transmit, I believe tomorrow, additional amendments to the Internal Security Act of 1950.

Chairman ELLENDER. So that the Executive order cannot become effective until Congress acts?

Mr. MARDIAN. I think that if the Congress acts on the appropriation which is now pending for the SACB, with the knowledge that additional functions are to be given to the SACB, that, based upon custom, usage, and I think existing law, the SACB may, upon petition of the Attorney General, make recommendations to the Attorney General for additions to the list.

Senator MCCLELLAN. I cannot follow you. Here this Commission exists by reason of a statute. The statute defines its functions, what it can do, and what it cannot do.

Now, as I understand the President's amendment, it would undertake to broaden that power beyond what the statute now prescribes.

Mr. MARDIAN. No.

Senator MCCLELLAN. It does not? That statute may vest the President with certain powers, I do not know, we will have to check that, but unless it does, I do not see how the President, by Executive order, can give to a Board created for one purpose by the Congress, with its powers and limitations prescribed, give to it a function which the Congress did not authorize.

Mr. MARDIAN. It does not propose to give it any additional powers, sir. It proposes that the Attorney General petition the SACB to conduct hearings in connection with the obligations of the Attorney General under Executive Order 10450, and make recommendations.

Senator MCCLELLAN. Does this Board now have the power, under the statute, to conduct the kind of investigation that this order would authorize?

Mr. MARDIAN. I believe it has the power to conduct identically this type of investigation.

Senator MCCLELLAN. If it does, it is all right, but I suggest, then, with these questions that we are raising here, that the Department prepare and submit a memorandum on it for the record together with a copy of Executive Order 10450. I think we had better do that, now.

Again, as one who believes here is a problem that ought to have attention, I would regret to see the Board abolished, unless it is not going to function, we are not going to use it, and the money is just being thrown away. I am apprehensive over the fact that there are many organizations, many groups, and so forth, too many, who are more or less subversive, and would be submersive. I just hate to see it abolished.

But if we are not going to use it, and if there is not the backlog of need for it that I think exists, the quicker we abolish it, the better it will be.

Mr. MARDIAN. That, of course, is a determination for the Congress.

Senator MCCLELLAN. Yes, but we need facts upon which to act judiciously or wisely in the interest of our country. That is what we are looking for.

PRESIDENTIAL EXECUTIVE ORDERS

Chairman ELLENDER. We ought to have from you whether or not the President with an Executive order can expand the duties of this Commission which was created by a legislative act. In my opinion, if you go beyond the act creating that Commission, you will be in trouble.

Mr. MARDIAN. We will prepare a legal memorandum for the committee, and we will do it as promptly as possible.

Chairman ELLENDER. Can you do it this week?

Mr. MARDIAN. I am sure we can do it this week.

I would like to make clear: nothing in the Executive order purports to expand the authority of the SACB.

Senator MCCLELLAN. It may have the authority under the statute. I have not examined it. I want to clear that up.

One other thing. I want you to show, if you can, the need for the continuation of this Board.

Mr. MARDIAN. We will try to cover that.

Senator MCCLELLAN. Well, show it. Do you propose to let it sit there a year or two and do nothing?

Mr. MARDIAN. No, sir.

Chairman ELLENDER. Evidently we have. They have had three witnesses and 10 days' work. These Board members are being paid $36,000 a year to warm seats only.

Senator MCCLELLAN. We had the Chairman of the Board right here this morning.

I have supported it because I felt there is a need for it. There either is no need, or if we are not going to use it, like the last Administration did not use it, let us find out, because it has to be settled and resolved on the basis of reality, on the basis of facts. I am not prejudiced either way.

Very well. Thank you, sir.

Mr. MARDIAN. Thank you.

Mr. YOUNG. Mr. President, I rise to support the position taken by the distinguished Senator from Arkansas, the chairman of the subcommittee. I think the conferees did all they possibly could do to get the House to accept our provisions, particularly the ones having to do with the Subversive Activities Control Board and the ILO.

If this was final, if there was no other opportunity to remedy the matter, I would say that we should go back and we might be able to change a few minds. However, there will be another opportunity in the first supplemental bill which is to be considered in September.

In the meantime, there is no possible chance of getting this bill passed if we go back to conference again.

The distinguished Senator from Arkansas has pointed out that even if we have a conference, under the House rules it can be held up for 3 days. Congress will then be over until after the vacation recess.

Some of the things we will lose in addition to the $8 million for narcotics control are among others: $97 million for grants to institutions to help them improve their correctional institutions, $698.9 million for law enforcement, $170 million more than the year before.

These are programs that must go on but that will be postponed until some time in late September or October if the conference report is sent back again.

I really cannot see that anything could be gained by sending it back to conference that could not be obtained by adding the same provisions to the first supplemental bill coming up in September.

Mr. ELLENDER. Mr. President, I do not think I can add much to what has been said by the distinguished Senator from Arkansas. The Appropriations Committee has up to now made a very fine record. I hope we may continue to do so. This conference report involves the Departments of State, Justice, and Commerce, the judicial branch, and many important related agencies.

As the Senator from Arkansas has stated, I do not think there is a possible chance of getting the House to change its position.

When the question of the appointment of conferees arose in the House of Representatives on July 27, Congressman EDWARDS of California moved that the managers on the part of the House of Representatives be instructed to agree to amendment No. 35 relating to the Subversive Control Board. A motion to table the motion of Mr. EDWARDS of California was agreed to on a yea-and-nay vote of 246 to 141. The managers on the part of the Senate were faced with this vote during the conference. On August 2 the conference report was adopted on the floor of the House of Representatives by the overwhelming vote of 337 to 35.

Even though this conference report was rejected, it would not mean that the Subversive Activities Control Board would stop operating, because a continuing resolution will be presented to the Senate within the next 2 days. Under that resolution this Board will keep on operating at the same level as in fiscal 1971.

As has been stated the fiscal 1972 appropriation for this Board is not in controversy. If the conference report is adopted, I have no doubt in my mind that objection will be raised to this Board carrying on the work prescribed for it under the new Executive order. Someone offended by it will certainly take it to the courts, and the courts will probably do with the Executive order as it did with the act of 1950 creating the Board.

Mr. President, there is nothing to be gained, in my opinion, by having this report sent back for further conference. I am very hopeful that the conference report will be adopted. We should go at it in a correct way and that is through legislation to get rid of this Board rather than to try to get rid of it under an appropriation bill.

Mr. President, I completely agree with the statements which have been made by the chairman of the subcommittee. Should this conference report be rejected, I feel sure that it will not be possible to secure enactment into law of this important appropriation bill until September at the earliest. In the meantime, the entire judicial branch of the Government, the Department of State, the Department of Commerce, and the Department of Justice, and many important related agencies, will be operating under a continuing resolution which will authorize operation at the rate of last year. The additional funds which have been placed into this bill for the Bureau of Narcotics and Dangerous Drugs will be of no value in the administration's program to combat drug addiction, since that Agency will have to continue at last year's rate. This increase was in excess of $21 million.

Another important program, the Law Enforcement Assistance Administration, would be in the same predicament—the increase for this Administration was approximately $170 million.

I would also like to point out that for

the Federal prison system the increase over last year was mainly for grants to construct new correctional institutions in the States. This amounts to some $51 million, which would not be available if this conference report is rejected.

Turning to another Department, the Department of Commerce, there is another agency in which we are all interested, and that is the National Oceanic and Atmospheric Administration. The increase here amounts to almost $46 million and will affect many ongoing and proposed programs.

Still another agency in the Department of Commerce is the Maritime Administration, and here, this Agency would not have available to it an increase of some $46 million that is contained in this bill.

There are many other agencies which I have not mentioned.

I hope the conference report is adopted, and if it is, we will have the judicial branch, three departments of Government and some important related agencies operating under their respective appropriations provided for 1972. By all means we should follow that course.

Mr. HRUSKA. Mr. President, I rise to support the proposition that the conference report should be agreed to. The ground has been quite thoroughly covered during this dimension. The Senator from Arkansas summarized the principal points, as well as detailing and documenting them.

We have a practical situation from which escape is not readily contrived: the situation of an appropriation bill of some $4 billion involving three departments, as well as another branch of Government. There is much riding upon the resolution of this conference report by way of progress and orderliness and efficiency. It would be an exercise in futility to reject the conference report.

There is much to what the Senator from North Carolina has said with respect to the doubt which attaches to the constitutionality and propriety of the transfer of certain powers to the Subversive Activities Control Board. But if there is doubt, Mr. President, concerning the authority of the President by Executive order to transfer powers of this sort from one body to another, then this question should be and it will be litigated in the Federal courts. It appears certain that if this Executive order goes into effect someone will bring suit and the issue will be resolved by the judicial branch. The extent of executive authority in this area needs to be determined and Congress rightly should be jealous of its authority and monopoly over legislative power.

However, I feel that because there is sufficient doubt in this particular instance, I am willing to support the President's reasoning and await a final judgment by the courts. I do this first because I feel that the better argument on the question before us is with the Executive and that there are numerous precedents to support his action. But also because I do not want to see the members of the SACB spend another year drawing down healthy salaries with absolutely nothing to do. It is a disgrace that in the past 6 months the Board has had but 3 days of work to occupy its time.

If the Senate feels that the SACB should not have any responsibilities, then a majority should have had the courage to abolish the entire Board and stop this charade. I note that 2 weeks ago a majority did not feel the Board should be abolished and so voted, 47 to 41, but then a few minutes later voted, 51 to 37, to deny it the duties the President has sought to confer on it in response to our oft-repeated pleas. To do less is hypocrisy of the worst sort. The Senate should do one or the other. Having now voted to retain the Board we should permit it to exercise the powers delegated to it by the President, at least until such time as the courts shall determine otherwise.

President Nixon, by his order, was attempting to breathe some life into our moribund employee-security program. The Attorney General's list has gone unrevised since 1955—despite the demise of over 250 organizations on the list and the birth of numerous organizations which should be considered for inclusion on the list. What he was hoping to do was to use existing resources and machinery—already set up, staffed and functioning—to carry out this responsibility. His interest, I am certain, was not to usurp legislative authority which as we all know resides only on this Hill.

Mr. President, the authority of Congress as the sole source of this Nation's legislation is so elementary as to be beyond discussion. Now it is alleged that this power has been called into question, even usurped, by the President in publishing Executive Order 11605, the order which amended Executive Order 10450 relating to the Government's employee security program.

The fact that allegations like this have often been made before in other contexts does not make this charge any less serious. The system of checks and balances in our Government will only work if each coequal branch is vigilant against possible excesses of the others.

Is Executive Order 11605 dated July 2, 1971, an intrusion by the executive branch into the power and authority of the legislative? The issue is by no means clearcut. There are some factors which should be considered, however, before hasty conclusions are reached.

First of all, the presidential order does not create a new body. The Subversive Activities Control Board has existed since 1950, and has had the power to investigate and characterize organizations and individuals as Communist related. The Board was created because of the recognized and documented threat of communism to our form of government and to world peace and freedom. This is a threat which still exists, and which the Congress underscored in enacting Public Law 90–237 on January 2, 1968.

Communism has learned much during the last 20 years, however. The forces and objectives which made communism a threat in the 1940's and 1950's have now become more diffused and disguised, but no less serious to our form of government. Organizations having the same goals, and dedicated to the same principles and methods of operation, are now present in the United States. They do not, however, call themselves Communist organizations. Their members do not call themselves Communists.

Mr. President, if Executive Order 11605 does not create a new body, does it then invest this existing body with new powers and jurisdiction? I believe a compelling argument can be made that it does not, which is why I am willing to support the President and the validity of the order. Should the judicial branch rule otherwise, that would be a different matter, of course, but absent such a ruling I believe the President acted within his authority in redefining the role of the Subversive Activities Control Board in national security. To deny him this right as Chief Executive would be both unfair and unwise.

The statutes governing the creation and operation of the Subversive Activities Control Board, which can be found starting in section 791 of title 50, United States Code, require the Board to determine whether organizations are Communist-action, Communist-front, or Communist-infiltrated. But these are merely labels. What is the real substance which underlies these labels, the threat which the 81st and 90th Congresses were trying to thwart when they created and reiterated the need for control of subversive activities? It is nothing less than the subversion and overthrowing of our Government, replacing it with a totalitarian dictatorship. The congressional finding of necessity in the 1950 act which established the Board makes this plain.

And what does the President's Executive order of July 2 add to the original Executive Order 10450? It requires the Subversive Activities Control Board to determine "whether any organization is totalitarian, Fascist, Communist, subversive, or whether it has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their right under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means." It can be argued persuasively, I think, that this is a logical and permissible implementation of the law creating the Subversive Activities Control Board—one which complies with the legislative intent of the act of 1950. Certainly it is not inconsistent for the President to take an established body whose mission in life is to investigate and characterize subversive organizations, and to clarify this mission in terms of today's needs in this very area.

Mr. President, it has been suggested that because the distinguished Senator from Mississippi and I have introduced S. 2294, a bill to amend the Subversive Activities Control Act of 1950 in support of the President's recent Executive order, we have admitted that it takes legislation to do what the President has done unilaterally. This is not the case. Both the legislation and the Executive order are designed as complementary measures. Indeed, the bill contemplates and depends upon the existence of Executive Order 11605.

Mr. President, there are many good

reasons for accepting the conference report on this appropriation bill. The issue of the Subversive Activities Control Board is certainly a bad reason for not accepting the report. I am hopeful that the Senate will accept the report.

On the matter of the International Labor Organization, that ground has been plowed thoroughly and diligently. We took a position in favor of funding this activity. It was denied us by the other body, not because of lack of advocacy in favor of the position taken by the senior Senator from New York, but because the other body felt it did not want to admit the legitimacy of proceeding along that line and by a vote of 337 to 35 there was confirmation of their position by Members of the other body.

Mr. President, I hope this report is agreed to and that we may go forward in an orderly fashion.

Mr. MANSFIELD. Mr. President, I hope we could get to a vote on this matter very shortly. It has been a long, hard day. We have had the arguments advanced on both sides. The distinguished Senator from North Carolina who placed his arguments—and they were very cogent—before this body for consideration relative to the Subversive Activities Control Board. He pointed out if this matter is going to be decided in the courts it may well take 3, 4, or 5 years before that objective is accomplished.

On the other hand, the distinguished Senator from Nebraska has given us the other side of the argument and has indicated he favors the executive authority issued by the President on July 2, on which there is a grave and serious question with respect to violating the existence of this body. It has been suggested by the chairman of the conference that legislation should be forthcoming.

I would express the hope that legislation would be forthcoming, and not bottled up in committee but brought before the Senate for consideration.

This is a most serious question and a most serious issue because here, once again, and in a sense it has been highlighted by the Senator from North Dakota, the question of executive superiority over the legislative branch has come to the fore and it is a question which should be settled one way or another.

The issue before the Senate is to vote either up or down the pending conference report. The arguments have all been made. I hope we will be able to vote shortly.

Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

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

Mr. MANSFIELD. I yield.

Mr. PASTORE. Mr. President, the majority leader pointed out that this has been a long and tiring day. As a matter of fact, the Senator from Rhode Island has been on his feet since 10 o'clock this morning. I do not think we should shut off debate. I think every Senator should be allowed to say whatever he wants to say, either for or against this measure.

However, could we not have a unanimous-consent agreement to vote at 9 o'clock tomorrow morning and let every Senator talk until midnight if he wishes?

Mr. MANSFIELD. If we could vote in the next 15 minutes, I would be delighted to push that request, because the distinguished Senator from Rhode Island has been on his feet since 10 o'clock this morning. It has been an arduous day for him.

Mr. President, I ask unanimous consent, first, that the vote take place at a quarter of 7.

Mr. FULBRIGHT. Mr. President, reserving the right to object, I should like to speak for about 3 or 4 minutes.

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

The PRESIDING OFFICER (Mr. HART). Is there objection? Are the 5 minutes to be included in the 15 minutes? The first 5 minutes are to be for the Senator from Arkansas?

Mr. MANSFIELD. Yes.

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

Mr. FULBRIGHT. Mr. President, I certainly am not disposed to delay the Senate, but on this issue I am greatly embarrassed. I know of no Member of this body who has done more effective work for the reestablishment of the proper role of this body than the Senator from North Carolina (Mr. ERVIN). In his efforts in this respect and on many other issues which he has been pursuing in the last several years, I have supported him. I have told him that on this subject I support him, and I did support him in the previous vote.

I am very much torn by the fact that I am opposing my colleague from Arkansas (Mr. MCCLELLAN). I am most sympathetic toward him, because I know that he has done everything he could to persuade the House conferees. I know that he has done an excellent job, not only on this subject but also on the other subjects in the bill. It is extremely embarrassing for me not to support my colleague from Arkansas. However, I have made a specific commitment to support the Senator from North Carolina on the issue of the SACB and what is involved in it.

It is not only the SACB. I recognize the validity of the argument that this might not be an effective way to proceed, since the time element is so important. On the other hand, the issue of the right of Congress to legislate and the issue of trying to make Congress again the effective body that I believe it was once was are extremely important. I therefore feel constrained to support the position of the Senator from North Carolina because of my previous commitment.

There is one subject on which I should like to inquire of the distinguished Senator from North Dakota. He said there would be an opportunity in the fall to vote again on this matter. I am not quite clear as to what he refers to. How will this matter come up again in, say, September or October? In some other legislation?

Mr. YOUNG. There will be another supplemental appropriation bill.

Mr. FULBRIGHT. How will it affect the SACB? I thought this bill carried the full amount of SACB funds for the coming fiscal year. I am not clear as to how we will have another opportunity.

Mr. YOUNG. I had reference to the International Labor Organization appropriation.

Mr. FULBRIGHT. Oh. But the appropriation for the SACB is in this bill, and we will have no further opportunity to vote on this matter this fall. I misunderstood the Senator's reference.

I say to my colleague from Arkansas and to the other members of the committee that I think they have been most fair with respect to the other subjects in the bill in which I am interested. I deeply regret that I feel, because of previous discussions and a commitment on the subject of the SACB, that I must vote against the conference report.

I ask unanimous consent to have printed in the RECORD as a part of my remarks a very fine editorial on this subject appearing in the July 29, 1971 edition of the Arkansas Democrat, one of the leading newspapers in my State. It is very pertinent and sums up the argument against the continuation of the Subversive Activities Control Board.

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

[From the Arkansas Democrat, July 29, 1971]

$450,000 FOR NOTHING

Previous Presidents have hesitated to act friendly to China mainly because they feared the reaction of the anti-Communist fear mongers. Mr. Nixon has shown that he does not share that fear. But, oddly enough, he has attempted to expand the activities of the Subversive Activities Control Board, a useless agency that continues to exist because of fear of anti-Communist reaction.

Ironically, the Senate voted to block the expansion but to continue the existence of the board. Leading the fight against expansion was that tough old conservative, Sam Ervin of North Carolina, who labeled it an unconstitutional usurpation of legislative authority.

The board should be abolished. It is wasting $450,000 a year, including $36,000 apiece for the five political appointees who comprise it. One member admitted they heard only three witnesses last year and did nothing else. Everyone in Congress knows it is useless. Its members know it is useless. President Nixon knows it is useless. And now, with the President openly trying to get on good terms with Communists all over the world, why should he be timid about incurring the wrath of the professional anti-Communists by abolishing this board?

The only function the board ever had was to label organizations and individuals as subversive without the due process guaranteed in the Constitution. That's why the courts stripped it of its functions. Mr. Nixon's move would merely have restored some of those functions, at least until ruled unconstitutional again. It was an irresponsible act, trying to expand it.

It also is ironic that the administration would be trying to extend the board's function at the same time it is prosecuting Daniel Ellsberg for leaking Pentagon secrets. The administration just got Otto Otepka appointed to the board, as a reward for his leaking State Department secrets to congressional committees.

The SACB is a useless, expensive board that should be abolished and probably can be without alienating many voters—certainly fewer than will be alienated by Mr. Nixon's China trip. The Senate came close to doing it—the vote was 47-40 on the ap-

propriation. Maybe next time, after another half-million dollars has been squandered, this board will go the way of earlier witch-hunting tribunals.

Mr. JAVITS. Mr. President, may I ask for some time?

The PRESIDING OFFICER. No provision was made for the Senator from New York.

Mr. JAVITS. Mr. President, I shall take just 2 minutes.

I understand that when I was out of the Chamber the argument was made, respecting the ILO, which is one of the two issues before us, that it could be taken care of in a supplemental bill.

The argument against that position is that this seems to be an intransigent position on the part of somebody to wait until the last minute, until we are just about ready to be thrown out, and then pay our dues, which I consider so demeaning to the United States. It seems to me if we are going to swallow this absolute and unreasoned argument, we are going to have the same argument used in a supplemental bill.

What is even worse is the calendar. The governing body of ILO meets this October, and the extent to which the organization will be dismantled or changed is very likely to be decided then out of a sheer sense of outrage that we have taken this position, especially since we have no intention of resigning but are just withholding the payment of dues. Naturally men's backs go up at that kind of attitude.

For these reasons, considering what is involved, I hope the Senate will turn down the conference report so we may have an opportunity to make our contribution.

Mr. KENNEDY. Mr. President, I rise in opposition to the conference report appropriating funds for the Subversive Activities Control Board. The conference rejected the amendment adopted by the Senate by a vote of 51 to 36, an amendment which I believe is critical to maintain the separation of powers prescribed by the Constitution. The amendment would have prohibited any of the funds appropriated to the SACB to be used to carry out new functions grafted to the board by the President's July 8 Executive order. If we accept the appropriations measure without that amendment, then we are giving the President carte blanche to spread his doctrine of "inherent power" through the Government, adding powers to one agency and taking powers from another—all without congressional authority.

The doctrine espoused by the administration now affects only the Subversive Activities Control Board, a vestigial reminder of the hysterical anticommunism of two decades ago, a vestigial reminder of a time when reputations of decent men were tarnished by insinuation and half truth, a vestigial reminder of any all-too-recent failure of our institutions.

But, if we permit this doctrine to gain a foothold today, then it is evident that soon there will be other Executive orders asserting new powers for other agencies and relying on passage of omnibus appropriations measures as adequate congressional authorization.

The distinguished Senator from North Carolina has led the effort to prevent the dissolution of congressional control. We should not have to be urged to this action. We have seen in the recent past in Vietnam what can occur when the Congress gives the President free rein to undertake foreign policy decisions. Now we are being asked to do the same in the domestic arena.

And, it is perhaps most disturbing when we examine the history of the agency which the President seeks to expand with new powers. Since 1950, the SACB has not succeeded in registering a single group or individual as "subversive" without violating the Constitution. Five times, the Supreme Court has found the orders of the SACB to have been issued in the face of clear constitutional prohibitions. Only 2 years ago, the Court ruled that even some of the Board's preliminary factfinding functions were carried out in a manner that abridged the freedom of association protections of the first amendment.

With this unimpressive past, I find it particularly unwise that the President has sought to transfer additional powers to the SACB instead of taking the more rational approach of requesting the dissolution of an agency that has no justification for existing in a free society.

And recent testimony and statements of administration officials seem to indicate that the SACB under its new powers will not be limited to Government security questions. Instead, it will be used to expose individuals and organizations both within and without the Government.

To hold hearings, to conduct trials, and to compile individual dossiers on petition of the Attorney General is to recall the repressive years of the fifties.

In the early 1950's, similar witchhunts cost the Nation the service of its top State Department experts on China, and for nearly two decades our policymaking on far eastern affairs was crippled by the absence of such men as John Marion Davies and John S. Service.

And even beyond the suppression of opinion contrary to official policy that would be the first result of giving this organization free rein, there is the clear indication that this administration sees a need for exposing individuals and groups outside the Government whose ideas Government officials consider to be "subversive."

Thus, in testimony before the Senate Appropriations Subcommittee, John Mahan, Chairman of the Subversive Activities Control Board, testified that the purpose of the SACB was to "expose and disclose," to try individuals and groups.

A week later, Deputy Attorney General Richard Kleindienst stated on a television interview that the way to deal with those he defined as subversives is "* * * by being sure that those who actually advocate this kind of conduct are exposed." Two weeks later Executive Order 11605 was issued.

And then, only this morning in testimony before the House Subcommittee on Internal Security, Assistant Attorney General for Internal Security Robert C. Mardian agreed that the SACB's function is to expose organizations.

Mr. President, the path of a free society should be away from the witchhunt, away from the endless investigation and inquiry into groups which use the right of free speech and association to express strong dissent from Government action, dissent which at times embarrasses and which at times offends. But a free society must accept that dissent as a price it must pay for its freedom.

Therefore, I strongly urge that the Senate vote to return this measure to the conference with the clear instruction to reinstitute the prohibition against the use of any funds for purposes unauthorized by the Congress.

Mr. WILLIAMS. Mr. President, I join with Senators who are opposing Senate acceptance of the conference report on the bill making appropriations for the Department of State, Justice, and Commerce, the Judiciary, and related agencies. This is an action which is somewhat regrettable since it entails the delay of an appropriations measure. However, in this case the issues involved can be said to be sufficiently crucial to warrant this opposition. I refer to the rejection by the House conferees of two important amendments which were desired by the Senate, an amendment by Senator ERVIN to bar the Subversive Activities Control Board from exercising certain additional powers which the President wishes to confer upon it, and a committee amendment to provide money for dues which we owe to the International Labor Organization.

Senator ERVIN's amendment is significant for several reasons. Most importantly, it is an attempt to prevent the Subversive Activities Control Board from assuming a new function, one which was not contained in its original mandate, and one which, if it is to be given at all, should be provided by the Congress, not the President. It is a function which is not only of questionable constitutionality, but one which has an enormous potential for doing grievous harm to the reputations of many innocent people. No one who remembers the hunt for subversives which characterized the period following the Korean war need be reminded of the damage to the lives of many persons who were confronted with an overzealous misuse of a similar mandate for seeking out and labeling subversives. I heartily object to the form of "guilt by association" which attends the arbitrary designation of a group as subversive or disloyal. Our Nation is a society ruled by law. If an individual is shown to be disloyal through the violation of these laws, then the full measures of punishment provided for by these laws should be effected. Mere association of a person with another person or group of people deemed—sometimes arbitrarily—to be subversive, should not be considered a presumption of guilt.

In addition, I do not feel that Congress should be placed in the position of approving an appropriations measure

when that approval would also be interpreted as a sanction for a new administrative function. Not only is this a questionable use of an appropriations measure, but the timing involved represents a considerable circumvention of the Congress. The Executive order purporting to establish this new authority was issued on July 2, and published only on July 8, 2 days after the Senate Appropriations Committee had already held hearings, and a full 10 days after the House had passed the bill. By no stretch of the imagination could the Congress have been said to have had an opportunity to consider this matter.

With respect to the deletion of funds to pay our assessed dues to the ILO, I believe that such action, if accepted by the Senate, would seriously undermine this Nation's influence in that important international organization. The result would be to leave the Soviet Union as the most potent force in the ILO, and provide it with an enhanced opportunity to turn the activities of the ILO to its own purposes.

It is true that certain policies and procedures of the ILO have given cause for concern to those in this country who have supported its mission, but it is clear that substantial improvement in this situation has been evidenced during the past year. It would be a great mistake, at this point in time, to discourage further improvement by putting an end to our effective role in that organization.

Over the years the ILO has made, and continues to make, a most significant impact in the constant struggle to better the human lot throughout the world. Through its technical assistance programs, its encouragement of the growth of free trade unions and collective bargaining, and its fostering of legislation relating to such matters as social security, minimum wages, industrial safety, and human rights, the ILO has been a major force in bringing about sound growth and progress in developing countries, and in enhancing the protections for workers the world over.

The United States has customarily played a most constructive part in these activities through the tripartite system of representation which has permitted the effective participation of labor, business, and government. In my view, it would be a tragic miscalculation for us to now forsake that role and jeopardize the great contribution that can be made by the ILO in the future. It hardly needs saying that the effect of such action would be to seriously tarnish the credibility of our leadership in other international agencies as well.

Mr. President, I believe we must reject the conference agreement because it fails to include these two provisions which have such strong support in the Senate—a support which I know is well grounded in the compelling dictates of good conscience.

Mr. TUNNEY. Mr. President, I am reluctant to take what I consider to be the drastic legislative step of voting against a conference report, but I believe that the situation before us calls for such action.

We are confronted with a situation in which the President has arrogated unto himself the very legislative powers which the Constitution vested solely and exclusively in the Congress. The Constitution of the United States makes crsytal clear the nature of the separation of powers in our Government. The very first section of the first article states, in no uncertain terms—

All legislative powers herein granted shall be vested in a Congress of the United States.

Not "some" or "many" or "all powers not inherent in the President," but "all legislative powers."

Let us make no mistake about the nature of the situation confronting us today. We are presented with an attempt by the President to accomplish, by a blatant end-around run, a vast expansion of the powers of the Subversive Activities Control Board. This extension goes far beyond the powers which Congress defined in the statute creating the Board and is in direct conflict with the power of the Congress to determine by statute the precise powers to be exercised by any agency created by it.

We have seen far too many examples in the past few years of the tragic results of unchecked presidential power in foreign affairs. We are now being asked to stand by idly once more in passive witness to the steady erosion of congressional power. In fact, the President has made this confrontation all the more important by choosing to read congressional approval of this appropriations bill as express ratification and approval of the principle that the President may change the terms of a statute by Executive Order. This assertion of unauthorized executive power is absolutely outrageous, and simply cannot be tolerated by the Senate.

Mr. President, an editorial in this morning's Washington Post makes the point rather clearly, and I ask unanimous consent that it be inserted at this point in the RECORD:

"INHERENT POWERS" AND PRESIDENTIAL GOVERNMENT

The Senate is to vote today, whether its members realize it or not, on a proposition which would put Congress in the position of acting as a mere appendage of the presidency. There were those in the early days of the New Deal who castigated Congress as no more than a "rubber stamp" because in a national emergency it followed vigorous presidential leadership by enacting promptly legislation recommended by President Roosevelt. Today, however, it is being asked to demean itself in a far more drastic and dangerous way. President Nixon has asked it to ratify legislation already "enacted" by himself through executive order and to signify its submission through approval of an appropriation bill. Twenty-eight Senators, in a letter to Senate Majority Leader Mike Mansfield, have characterized the executive order—without any extravagance whatever—as "an outrageous assertion of unauthorized presidential power."

The executive order at issue concerns the Subversive Activities Control Board, that malign and functionless excrescence created by the Internal Security Act of 1950. Mr. Nixon proposed, by a wave of his presidential wand, to transform it from its well-deserved desuetude into a powerful censor of the voluntary associations which American citizens generally and government employees particularly may join; he proposed to do this by giving it functions entirely different from those given to it by Congress. At first, the President paid Congress the courtesy of asking it to enact legislation granting the SACB the powers he wanted it to wield; but finding Congress unwilling to do what he wanted, the President has indicated that he will regard passage of an omnibus appropriation bill (of which the SACB allotment constitutes no more than a tiny fraction) as congressional approval of his executive order.

Fortunately, as so often happens when essential liberty is imperiled, Sen. Sam Ervin rode to the rescue. The President's order, he pointed out, "raises difficult constitutional questions. The most serious issue involves the President's attempt to exercise legislative power by amending the Act of Congress which sets out the board's duties. To assign a new role to an independent board is an exercise of legislative powers which the Constitution gives exclusively to Congress." He is manifestly right, of course. The Constitution says flatly in the very first section of its first article that "*All* legislative powers herein granted shall be vested in a Congress of the United States."

Senator Ervin succeeded, when the appropriation measure embracing the SACB was before the Senate, in attaching to it an amendment which specified that no part of the appropration should be used to carry out the executive order. But his amendment was not included in the House appropriation bill and was deleted in the conference committee report. In view of the interpretation which the President proposes to put upon it, this appropriation bill ought to be defeated. "Congress," as the 28 senators wrote to Mike Mansfield, "cannot allow itself to be put in a position of approving in advance and in ignorance an executive upsurpation of authority which the Constitution gives to Congress and denies to the executive branch."

The pretext for this executive usurpation is once more, as so repetitively in the recent past, an assertion of "inherent" presidential power. "We hear 'inherent power' all the time these days," Sam Ervin thundered. " 'Inherent power' is just the modern equivalent of the divine sovereignty of kings." Congress had better put a stop to it before it puts a stop to congressional power.

I would like to read the first sentence of that editorial:

The Senate is to vote today, whether its Members realize it or not, on a proposition which would put Congress in the position of acting as a mere appendage of the Presidency.

I think that statement puts the situation quite succinctly.

The issue is even more important, however, because of its present context—the particular agency which the President is attempting to expand of his own accord. At a time when our citizens are deeply concerned about the nature and extent of their individual freedoms, the President proposes an incredible extension of the very agency that threatens those freedoms the most—the Subversive Activities Control Board. Americans are deeply concerned over the specter of five men determining what is "American" and "un-American" and creating an official blacklist which slanders those who hold unpopular or even outrageous views. For a Nation which prides itself on freedom of thought, association and expression, there can be no more important issues than the extent to which any Government agency will be allowed to sit in judgment on political beliefs. Yet we are in the position where without a single minute of hearings, without even the briefest opportunity for consideration, we are asked to ratify a fait accompli. I reject that ratification, Mr. President,

and I ask all of my colleagues to do likewise. Regardless of how they may feel on the merits of the SACB itself, we simply cannot allow this "divine right" theory of the Presidency to continue.

Mr. MANSFIELD. Mr. President, if no other Senator wishes to speak, I ask unanimous consent to revise the unanimous-consent agreement by providing that there be a quorum call of 2 minutes, to be followed by the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. To reject the conference report, the vote is "nay." To agree to the conference report, the vote is "yea." Is that correct?

The PRESIDING OFFICER. A "yea" vote is a vote to agree to the conference report; a "nay" vote is a vote against the conference report.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Oklahoma (Mr. HARRIS) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. PROUTY), the Senator from Ohio (Mr. SAXBE), and the Senator from South Carolina (Mr. THURMOND) are detained on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 46, nays 44, as follows:

[No. 190 Leg.]

YEAS—46

Allen	Dominick	McIntyre
Allott	Ellender	Miller
Anderson	Fannin	Montoya
Baker	Fong	Pastore
Beall	Gambrell	Randolph
Bellmon	Griffin	Roth
Bentsen	Gurney	Smith
Bible	Hansen	Sparkman
Brock	Hollings	Spong
Buckley	Hruska	Stennis
Byrd, Va.	Inouye	Talmadge
Byrd, W. Va.	Jackson	Tower
Cooper	Long	Weicker
Cotton	Magnuson	Young
Curtis	Mansfield	
Dole	McClellan	

NAYS—44

Aiken	Hartke	Packwood
Boggs	Hatfield	Pearson
Brooke	Hughes	Pell
Burdick	Humphrey	Percy
Cannon	Javits	Proxmire
Case	Jordan, N.C.	Ribicoff
Chiles	Jordan, Idaho	Schweiker
Church	Kennedy	Scott
Cook	Mathias	Stevens
Cranston	McGee	Stevenson
Eagleton	McGovern	Symington
Ervin	Mondale	Taft
Fulbright	Moss	Tunney
Gravel	Muskie	Williams
Hart	Nelson	

NOT VOTING—10

Bayh	Harris	Saxbe
Bennett	Metcalf	Thurmond
Eastland	Mundt	
Goldwater	Prouty	

So the report was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SALARIES OF SUPPORTING PERSONNEL

For salaries of all officials and employees of the Federal Judiciary, not otherwise specifically provided for, $68,654,000: Provided, That the salaries of secretaries to circuit and district judges shall not exceed the compensation established in chapter 51 of title 5, United States Code for General Schedule grade (GS) 5, 6, 7, 8, 9, or 10, and that the salaries of law clerks to circuit and district judges shall not exceed the compensation established in chapter 51 of title 5, United States Code for General Schedule grade (GS) 7, 8, 9, 10, 11, or 12: Provided further, That (exclusive of step increases corresponding with those provided for by chapter 53 of title 5 of the United States Code, and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by each of the circuit and district judges shall not exceed $39,172 and $30,089 per annum, respectively, except in the case of the chief judge of each circuit and the chief judge of each district court having five or more district judges, in which case the aggregate salaries shall not exceed $50,689 and $38,671 per annum, respectively.

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 26.

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

The motion was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that, notwithstanding the provisions of the Legislative Reorganization Act, the conference report on H.R. 9272 not be printed as a Senate report.

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

Mr. McCLELLAN. Mr. President, I submit a summary of the bill and ask unanimous consent that it be printed at this point in the RECORD.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1971 AND THE BUDGET ESTIMATES FOR FISCAL YEAR 1972—PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority, 1971	Budget estimates of new (obligational) authority, 1972	Increase (+) or decrease (−)
(1)	(2)	(3)	(4)
DEPARTMENT OF STATE			
Payment to Foreign Service retirement and disability fund	$2,530,000	$5,440,000	+$2,910,000
Educational exchange permanent appropriations	353,000	353,000	
International center, Washington, D.C.	250,000	250,000	
Payment to the Republic of Panama	1,930,000	1,930,000	
Total, Department of State	5,063,000	7,973,000	+2,910,000
DEPARTMENT OF COMMERCE			
National Oceanic and Atmospheric Administration: Promote and develop fishery products and research pertaining to American fisheries	7,626,000	7,626,000	
Maritime Administration:			
Operating-differential subsidies	223,800,000	219,159,000	−4,641,000
State marine schools	1,453,000	1,236,000	−217,000
Total, Department of Commerce	232,879,000	228,021,000	−4,858,000
SMALL BUSINESS ADMINISTRATION			
Payment of participation sales insufficiencies	$2,725,000	$2,934,000	+$209,000
Grand total, permanent new budget (obligational) authority, Federal funds	240,667,000	238,928,000	−1,739,000
DEPARTMENT OF STATE			
Foreign Service retirement and disability fund	24,813,000	26,580,000	+1,767,000
Miscellaneous permanent appropriations	381,000	381,000	
Gifts and bequests, National Commission on Educational, Scientific, and Cultural Cooperation	5,000	2,000	−3,000
Educational exchange trust funds	350,000	350,000	
Total, Department of State	25,549,000	27,313,000	+1,764,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1971 AND THE BUDGET ESTIMATES FOR FISCAL YEAR 1972—PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS—Continued

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority, 1971	Budget estimates of new (obligational) authority, 1972	Increase (+) or decrease (−)
(1)	(2)	(3)	(4)
DEPARTMENT OF COMMERCE			
General administration:			
Gifts and bequests	$278,000	$231,000	−$47,000
Special statistical work	3,000	3,000	
Office of Business Economics: Special statistical work	40,000	40,000	
Bureau of the Census: Special statistical work	3,500,000	3,500,000	
Regional action planning commissions	14,701,000	14,796,000	+95,000
Domestic business activities: Special statistical work	16,000	16,000	
International activities:			
Contributions, educational and cultural exchange	1,853,000	1,663,000	−190,000
Special statistical work	5,000	5,000	
National Oceanic and Atmospheric Administration: Miscellaneous trust funds	1,777,000	1,798,000	+21,000
National Bureau of Standards: Clearinghouse for technical information	3,840,000	4,100,000	+260,000
Total, Department of Commerce	26,013,000	26,152,000	+139,000
THE JUDICIARY			
Judicial survivors' annuity fund	$1,620,000	$1,740,000	+$120,000
Operation of the Public Defender Service for the District of Columbia	1,170,000	1,523,000	+353,000
Total, the Judiciary	2,790,000	3,263,000	+473,000
RELATED AGENCIES			
American Battle Monuments Commission: Contributions	15,000	15,000	
U.S. Information Agency: Trust funds	28,000	13,000	−15,000
Total, related agencies	43,000	28,000	−15,000
Grand total, permanent new budget (obligational) authority, trust funds	54,395,000	56,756,000	+2,361,000

Note: Some items are indefinite in amount, and thus are subject to reestimation.

ADMINISTRATIVE EXPENSES OF GOVERNMENT CORPORATIONS

[Limitation on amounts of corporate funds to be expended]

Agency and item	New budget (obligational) authority, fiscal year 1971 (enacted to date)	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in House bill	Amount recommended by Senate committee
(1)	(2)	(3)	(4)	(5)
DEPARTMENT OF JUSTICE				
Federal Prison Industries, Incorporated	($5,178,000)	($7,108,000)	($6,738,000)	($6,738,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1971 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1972—Continued

[Note.—All amounts are in the form of "appropriations" unless otherwise indicated]

Item	New budget (obligational) authority, fiscal year 1971 (enacted to date)	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
TITLE I—DEPARTMENT OF STATE					
Administration of Foreign Affairs					
Salaries and expenses	$233,687,000	$245,500,000	$244,750,000	$244,750,000	$244,750,000
Representation allowances	993,000	993,000	993,000	993,000	993,000
Acquisition, operation, and maintenance of buildings abroad	14,300,000	19,000,000	18,000,000	19,000,000	18,750,000
Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	6,500,000	6,850,000	6,850,000	6,850,000	6,850,000
Emergencies in the diplomatic and consular service	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000
Payment to Foreign Service retirement and disability fund	2,958,000	1,958,000	1,958,000	1,958,000	1,958,000
Total, administration of foreign affairs	260,538,000	276,401,000	274,651,000	275,651,000	275,401,000
International Organizations and Conferences					
Contributions to international organizations	141,319,000	160,680,000	152,774,000	160,680,000	152,864,000
Missions to international organizations	4,627,000	4,815,000	4,793,000	4,815,000	4,793,000
International conferences and contingencies	2,130,000	2,325,000	2,125,000	2,125,000	2,125,000
Total, international organizations and conferences	148,076,000	167,820,000	159,692,000	167,620,000	159,782,000
International Commissions					
International Boundary and Water Commission, United States and Mexico:					
Salaries and expenses	1,072,000	1,135,000	1,135,000	1,135,000	1,135,000
Operation and maintenance	2,716,000	2,810,000	2,810,000	2,810,000	2,810,000
Construction	4,200,000	6,280,000	4,500,000	6,280,000	6,280,000
American sections, international commissions	653,000	768,000	725,000	725,000	725,000
International fisheries commissions	2,543,800	2,918,000	2,900,000	3,318,000	3,100,000
Total, international commissions	11,184,800	13,911,000	12,070,000	14,268,000	14,050,000
Educational Exchange					
Mutual educational and cultural exchange activities	37,176,000	40,466,000	40,000,000	42,000,000	40,500,000
Mutual educational and cultural exchange activities (special foreign currency program)		5,000,000			
Center for cultural and technical interchange between East and West	5,260,000	6,000,000	5,260,000	6,000,000	5,630,000
Total, educational exchange	42,436,000	51,466,000	45,260,000	48,000,000	46,130,000
Total, title I, Department of State	462,234,800	509,598,000	491,673,000	505,539,000	495,363,000

Item	New budget (obligational) authority, fiscal year 1971 (enacted to date)	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
TITLE II—DEPARTMENT OF JUSTICE					
Legal Activities and General Administration					
Salaries and expenses, general administration	$9,332,000	$10,893,000	$10,250,000	$10,250,000	$10,250,000
Salaries and expenses, general legal activities	36,065,000	40,496,000	39,750,000	39,750,000	39,750,000
Salaries and expenses, Antitrust Division	11,079,000	12,060,000	12,060,000	12,060,000	12,060,000
Salaries and expenses, U.S. attorneys and marshals	68,654,000	86,972,000	83,472,000	83,472,000	83,472,000
Fees and expenses of witnesses	6,900,000	6,500,000	6,500,000	6,500,000	6,500,000
Salaries and expenses, Community Relations Service	4,627,000	[1] 6,585,000	5,250,000	6,885,000	5,917,000
Total, legal activities and general administration	136,657,000	163,506,000	157,282,000	158,617,000	157,949,000
Federal Bureau of Investigation					
Salaries and expenses	294,565,000	334,486,000	334,486,000	334,486,000	334,486,000
Immigration and Naturalization Service					
Salaries and expenses	121,940,000	130,578,000	130,578,000	130,578,000	130,578,000
Federal Prison System					
Salaries and expenses, Bureau of Prisons	90,845,000	105,225,000	103,500,000	103,500,000	103,500,000
Buildings and facilities	22,150,000	74,153,000	57,842,000	59,801,000	59,801,000
Support of U.S. prisoners	12,000,000	14,250,000	13,000,000	13,000,000	13,000,000
Total, Federal prison system	124,995,000	193,628,000	174,342,000	176,301,000	176,301,000
Law Enforcement Assistance Administration					
Salaries and expenses	529,000,000	698,919,000	698,919,000	698,919,000	698,919,000
Bureau of Narcotics and Dangerous Drugs					
Salaries and expenses	43,705,000	[2] 66,689,000	57,089,000	65,089,000	65,089,000
Total, title II, Department of Justice	1,250,862,000	1,587,806,000	1,552,696,000	1,563,990,000	1,563,322,000
TITLE III—DEPARTMENT OF COMMERCE					
General Administration					
Salaries and expenses	[3] 7,075,000	7,320,000	7,320,000	7,320,000	7,320,000
Office of Business Economic					
Salaries and expenses	4,114,000	4,763,000	4,400,000	4,400,000	4,400,000
Bureau of the Census					
Salaries and expenses	23,197,000	25,650,000	23,750,000	23,750,000	23,750,000
Nineteenth Decennial Census	40,808,000	13,618,000	13,618,000	13,618,000	13,618,000
1972 census of governments	336,000	1,439,000	1,439,000	1,439,000	1,439,000
1972 economic censuses	1,263,000	4,078,000	3,750,000	3,750,000	3,750,000
Modernization of computing equipment	3,000,000				
Total, Bureau of the Census	68,604,000	44,785,000	42,557,000	42,557,000	42,557,000
Economic Development Administration					
Development facilities	160,000,000	160,000,000	160,000,000	160,000,000	160,000,000
Industrial development loans and guarantees	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000
Planning, technical assistance, and research	20,795,000	20,855,000	20,855,000	20,855,000	20,855,000
Operations and administration	22,520,000	23,700,000	23,500,000	23,500,000	23,500,000
Total, Economic Development Administration	253,315,000	254,555,000	254,355,000	254,355,000	254,355,000
Regional Action Planning Commissions					
Regional development programs	39,000,000	39,054,000	39,054,000	39,054,000	39,054,000
Domestic Business Activities					
Salaries and expenses	[3] 14,256,000	15,438,000	15,250,000	15,250,000	15,250,000
Trade Adjustment Assistance					
Financial assistance		110,000,000	65,000,000	65,000,000	65,000,000
International activities					
Salaries and expenses	[3] 22,862,000	23,446,000	23,350,000	23,350,000	23,350,000
Salaries and expenses (special foreign currency program)	200,000	200,000	200,000	200,000	200,000
Export control	6,394,000	6,111,000	6,111,000	6,111,000	6,111,000
Total, international activities	29,456,000	29,757,000	29,661,000	29,661,000	29,661,000
Foreign Direct Investment Regulation					
Salaries and expenses	2,995,000	2,725,000	2,600,000	2,600,000	2,600,000
Minority Business Enterprise					
Salaries and expenses	2,096,000	3,597,000	3,597,000	3,597,000	3,597,000
National Industrial Pollution Control Council					
Salaries and expenses	307,000	315,000	310,000	310,000	310,000
U.S. Travel Service					
Salaries and expenses	[3] 4,505,000	9,474,000	6,500,000	7,500,000	6,500,000
National Oceanic and Atmospheric Administration					
Salaries and expenses	[3] 163,251,000	187,406,000	180,000,000	186,134,000	183,067,000
Research, development and facilities	[3] 92,793,000	113,460,000	100,000,000	116,430,000	108,215,000
Research and development (special foreign currency program)	[3] 15,000	900,000	500,000	500,000	500,000
Satellite operations	[3] 25,497,000	31,925,000	27,500,000	30,739,000	29,120,000
Administration of Pribilof Islands	[3] 2,892,000	2,914,000	2,914,000	2,914,000	2,914,000
Limitation on administrative expenses, Fisheries Loan Fund	[3] (385,000)	(417,000)	(417,000)	(417,000)	(417,000)
Fishermen's Protective Fund	[3] 60,000	61,000	61,000	61,000	61,000
Total, National Oceanic and Atmospheric Administration	284,508,000	336,666,000	310,975,000	336,778,000	323,877,000

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1971 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1972—Continued

[Note.—All amounts are in the form of "appropriations" unless otherwise indicated]

Item	New budget (obligational) authority, fiscal year 1971 (enacted to date)	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
TITLE III—DEPARTMENT OF COMMERCE—Continued					
Patent Office					
Salaries and expenses	$56,094,00[illegible]	$59,690,000	$59,250,000	$59,450,000	$59,250,000
National Bureau of Standards					
Research and technical services	[3] 44,749,000	48,414,000	46,000,000	47,000,000	47,000,000
Research and technical services (special foreign currency program)	500,000	500,000	500,000	500,000	500,000
Plant and facilities	965,000	590,000	575,000	575,000	575,000
Total, National Bureau of Standards	46,214,000	49,504,000	47,075,000	48,075,000	48,075,000
Office of Telecommunications					
Research, engineering, analysis, and technical services	[3] 4,019,000	5,166,000	4,907,000	4,907,000	4,907,000
Maritime Administration					
Ship construction	187,500,000	229,687,000	----------	229,687,000	229,687,000
Operating-differential subsidies (appropriation to liquidate contract authority)	(273,000,000)	(239,145,000)	----------	(239,145,000)	(239,145,000)
Research and development	20,700,000	25,000,000	----------	23,750,000	23,750,000
Salaries and expenses	22,201,000	22,210,000	----------	22,210,000	22,210,000
Maritime training	7,080,000	7,513,000	----------	7,513,000	7,513,000
State marine schools	977,000	801,000	----------	801,000	801,000
(Appropriation to liquidate contract authority)	(1,453,000)	(1,399,000)	----------	(1,399,000)	(1,399,000)
Total, Maritime Administration	238,458,000	285,211,000	----------	283,961,000	283,961,000
Total, title III, Department of Commerce	1,054,976,000	1,258,020,000	892,811,000	1,204,775,000	1,190,674,000
TITLE IV—THE JUDICIARY					
Supreme Court of the United States					
Salaries and expenses	----------	4,594,000	[4] ----------	----------	----------
Salaries	3,186,500	----------	3,482,000	3,482,000	3,482,000
Printing and binding Supreme Court reports	278,000	----------	317,000	317,000	317,000
Miscellaneous expenses	224,000	----------	318,000	318,000	318,000
Automobile for the Chief Justice	11,800	----------	13,400	13,400	13,400
Books for the Supreme Court	46,000	----------	49,000	49,000	49,000
Care of the building and grounds	502,000	555,00[illegible]	547,600	547,600	547,600
Total, Supreme Court of the United States	4,248,300	5,149,000	4,727,000	4,727,000	4,727,000
Court of Customs and Patent Appeals					
Salaries and expenses	647,000	664,000	664,000	664,000	664,000
Customs Court					
Salaries and expenses	2,274,800	2,355,000	2,355,000	2,355,000	2,355,000
Court of Claims					
Salaries and expenses	2,019,000	2,087,000	2,087,000	2,087,000	2,087,000
Courts of Appeals, District Courts, and Other Judicial Services					
Salaries of judges	24,400,000	25,643,000	25,643,000	25,643,000	25,643,000
Salaries of supporting personnel	60,199,000	72,425,000	----------	69,296,000	68,654,000
Representation by court-appointed counsel and operation of defender organizations	10,000,000	13,300,000	12,000,000	12,000,000	12,000,000
Fees of jurors	15,930,000	17,230,000	15,930,000	15,930,000	15,930,000
Travel and miscellaneous expenses	9,310,000	10,176,000	9,600,000	9,660,000	9,600,000
Adminstrative Office of the U.S. Courts	2,635,000	3,682,000	3,125,000	3,125,000	3,125,000
Salaries and expenses of U.S. magistrates	4,560,000	6,285,000	5,700,000	5,700,000	5,700,000
Salaries of referees (special fund)	6,242,000	6,416,000	6,416,000	6,164,000	6,416,000
Expenses of referees (special fund)	10,100,000	12,012,000	11,375,000	11,375,000	11,375,000
Total, courts of appeals, district courts, and other judicial services	143,376,000	167,169,000	89,789,000	159,145,000	158,443,000
Federal Judicial Center					
Salaries and expenses	700,000	1,255,000	1,255,000	1,255,000	1,255,000
Commission on Bankruptcy Laws of the United States					
Salaries and expenses (special fund)	400,000	----------	----------	----------	----------
Total, title IV, the judiciary	153,665,100	178,679,000	100,877,000	170,233,000	169,531,000
TITLE V—RELATED AGENCIES					
American Battle Monuments Commission					
Salaries and expenses	2,815,000	3,247,000	3,247,000	3,247,000	3,247,000
Arms Control and Disarmament Agency					
Arms control and disarmament activities	8,645,000	9,064,000	9,000,000	9,000,000	9,000,000
Commission on American Shipbuilding					
Salaries and expenses	50,000	660,000	450,000	550,000	450,000
Commission of Civil Rights					
Salaries and expenses	3,397,000	3,960,000	3,400,000	3,400,000	3,400,000
Department of Health, Education, and Welfare					
Office of Education: Civil rights education	19,218,000	----------	----------	----------	----------

Footnotes at end of table.

Item	New budget (obligational) authority, fiscal year 1971 (enacted to date)	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
Equal Employment Opportunity Commission					
Salaries and expenses	$16,185,000	$27,620,000	$22,000,000	$27,620,000	$23,000,000
Federal Maritime Commission					
Salaries and expenses	4,658,000	5,412,000	5,300,000	5,300,000	5,300,000
Foreign Claims Settlement Commission					
Salaries and expenses	710,000	788,000	750,000	750,000	750,000
Payment of Vietnam and U.S.S. Pueblo prisoner of war claims	265,000	100,000	100,000	100,000	100,000
Total, Foreign Claims Settlement Commission	975,000	888,000	850,000	850,000	850,000
National Commission on Fire Prevention and Control					
Salaries and expenses	50,000	[5] 770,000		400,000	300,000
National Commission on Reform of Federal Criminal Laws					
Salaries and expenses	100,000				
National Tourism Resources Review Commission					
Salaries and expenses	50,000	[6] 700,000		300,000	300,000
Small Business Administration					
Salaries and expenses:					
Appropriation	20,012,000	23,800,000	22,300,000	23,000,000	22,650,000
Transfer from revolving funds	(59,859,000)	(60,200,000)	(60,200,000)	(60,200,000)	(60,200,000)
Payment of participation sales insufficiencies	1,340,000	1,487,000	1,487,000	1,487,000	1,487,000
Business loan and investment fund	264,000,000	300,000,000	275,000,000	275,000,000	275,000,000
Disaster loan fund	365,000,000	100,000,000	100,000,000	100,000,000	100,000,000
Total, Small Business Administration	650,352,000	425,287,000	398,787,000	399,487,000	399,137,000
Special Representative for Trade Negotiations					
Salaries and expenses	638,000	968,000	800,000	800,000	800,000
Subversive Activities Control Board					
Salaries and expenses	401,400	467,000	450,000	450,000	450,000
Tariff Commission					
Salaries and expenses	4,495,000	5,526,000	5,036,000	5,336,000	5,186,000
U.S. Information Agency					
Salaries and expenses	172,075,000	180,075,000	179,000,000	179,000,000	179,000,000
Salaries and expenses (special foreign currency program)	13,000,000	13,000,000	13,000,000	13,000,000	13,000,000
Special international exhibitions	[3] 3,578,000	3,549,000	3,400,000	3,400,000	3,400,000
Special international exhibitions (special foreign currency program)	332,000	306,000	306,000	306,000	306,000
Acquisition and construction of radio facilities	600,000	1,200,000	1,100,000	1,100,000	1,100,000
Total, U.S. Information Agency	189,585,000	198,130,000	196,806,000	196,806,000	196,806,000
Total, title V, related agencies	901,614,400	682,699,000	646,126,000	653,546,000	648,226,000
Total, titles I, II, III, IV, and V, new budget (obligational) authority—appropriations	3,823,352,300	[7] 4,216,802,000	3,684,183,000	4,098,083,000	4,067,116,000
Memoranda:					
Appropriations to liquidate contract authorizations	(274,453,000)	(240,544,000)		(240,544,000)	(240,544,000)
Total appropriations, including appropriations to liquidate contract authorizations	(4,097,805,300)	(4,457,346,000)	(3,684,183,000)	(4,338,627,000)	(4,307,660,000)

[1] Includes budget amendment, in the amount of $735,000 (S. Doc. 92-26) not considered by the House.
[2] Includes budget amendment, in the amount of $9,600,000 (H. Doc. 92-133), not considered by the House.
[3] Reflects comparative transfers due to reorganization.
[4] Funds provided in separate appropriations rather than proposed consolidation.
[5] Budget amendment (S. Doc. 92-27) not considered by the House.
[6] Budget amendment (S. Doc. 92-27) not considered by the House.
[7] Includes budget amendments in the amount of $11,805,000 not considered by the House.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

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

FEDERAL ELECTION CAMPAIGN ACT OF 1971

The Senate continued with the consideration of the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

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

The PRESIDING OFFICER. The pending business is S. 382. The pending question is the amendment offered by the Senator from Rhode Island.

Mr. BYRD of West Virginia. I thank the Chair.

Mr. President, I ask unanimous consent that amendment No. 282, offered by the senior Senator from Maryland (Mr. MATHIAS), be called up at this time, that it be stated by the clerk, and that the Senate proceed to its immediate consideration, but that time on that amendment not begin to run until tomorrow morning.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 29, line 11, after "address" insert the following: "(occupation and the principal place of business, if any)".

On page 29, line 20, after "address" insert the following: "(occupation and the principal place of business, if any)".

On page 30, line 1, after "address" insert the following: "(occupation and the principal place of business, if any)".

On page 34, line 9, after "address" insert the following: "(occupation and the principal place of business, if any)".

On page 35, line 3, after "addresses" insert the following: "(occupations and the principal places of business, if any)".

On page 35, line 16, after "address" insert the following: "(occupation and the principal place of business, if any)".

On page 35, line 22, after "address" insert the following: "(occupation and the principal place of business, if any)".

The PRESIDING OFFICER. The understanding of the Chair is that the Senator from West Virginia asks that the amendment be——

Mr. BYRD of West Virginia. Made the pending business, but that the time on it not begin to run until tomorrow morning.

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

U.N. MEMBERSHIP FOR CHINA

Mr. BYRD of West Virginia. Mr. President, U.S. overtures toward the People's Republic of China experienced a major escalation yesterday, when Secretary of State William P. Rogers made the inevitable announcement that American opposition to United Nations membership for mainland China would cease after 21 years.

There have been a number of developments over the past few years that made yesterday's announcement somewhat less surprising. Since October of 1970, at least six countries—Canada, Equatorial Guinea, Italy, Ethiopia, Chile, and Nigeria—have established diplomatic relations with the government in Peking. For its part, the People's Republic of China seems to have fully emerged from the isolation of its "cultural revolution," redispatching ambassadors to at least 28 nations.

But the most significant development was obviously the November 20, 1970, vote in the United Nations General Assembly. For the first time, a majority of the nations voting expressed support for U.N. membership for mainland China—51 in favor, 49 against, and 25 abstentions. The membership drive failed, of course, since, at the request of the United States, the vote was an "important question" and a two-thirds majority was needed.

Given the realities of the world today, no one was shocked by the new U.S. position; and the new policy apparently has been well enough calculated to win the approval of the majority of citizens.

However, we must not let ourselves get carried away by the euphoria of the situation.

Announcing the two-China policy is one thing—making it work is quite another. It can only succeed with the cooperation of both the People's Republic of China and Nationalist China. And neither of these countries has said it will sit with the other.

Mr. President, I have supported efforts to bridge the communications gap between our own Nation and the People's Republic of China. The December 1965 lifting of the travel ban for doctors and medical scientists; the July 21, 1969, automatic validation of U.S. passports for travel to mainland China; the "Ping Pong Diplomacy" event; and the President's decision to visit the People's Republic of China—all of these have contributed to bridging that gap.

But our efforts have gotten little in return from Communist China; and, if this latest move alienates a trusted and important ally—Nationalist China—then the results will be negative.

I support U.N. membership for the People's Republic of China but only if Nationalist China retains its seat, both in the General Assembly and in the Security Council.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session, to consider a nomination on the executive calendar, under Department of Justice.

The PRESIDING OFFICER. (Mr. HART). The nomination on the executive calendar, under Department of Justice, will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of David Luke Norman, of the District of Columbia, to be an Assistant Attorney General.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate resume the consideration of legislative business.

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

ORDER FOR ADJOURNMENT TO 9 A.M. ON THURSDAY NEXT AFTER ADJOURNMENT ON WEDNESDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business tomorrow, it stand in adjournment until 9 a.m. on Thursday next, August 5, 1971.

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

ORDER FOR RECOGNITION OF SENATOR GRAVEL ON FRIDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on Friday, August 6, 1971, immediately following the recognition of the two leaders under the standing order the distinguished Senator from Alaska (Mr. GRAVEL) to be recognized for not to exceed 15 minutes.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I assume that this will be the last quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m. Immediately after the recognition of the two leaders under the standing order—and with no period for routine morning business—the Senate will proceed to the consideration of amendment No. 282 to S. 382, the so-called Federal elections campaign bill. The time on that amendment, which has been authored by the Senator from Maryland (Mr. MATHIAS), will be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill, the Senator from Rhode Island (Mr. PASTORE).

It is assumed that a yea-and-nay vote will occur thereon, although the yeas and nays have not yet been ordered.

It is anticipated that the Senate will work hard to complete action on tomorrow on the Federal elections campaign bill, if at all possible. If action has not been completed by 5 p.m., and if, at that time, it appears that another day will be needed for the disposition of that bill, it is likely that the Senate will then proceed to the consideration of the so-called higher education bill—S. 659—which was reported from the committee today. A time agreement has been entered thereon, and it is anticipated that the Senate will likely work into the evening on that bill.

There should be several rollcall votes tomorrow, and the first such vote could occur as early as 9:30 a.m. if the yeas and nays should be ordered on the Mathias amendment No. 282.

RECESS TO 9 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order until 9 a.m. tomorrow.

The motion was agreed to; and (at 7 o'clock and 12 minutes p.m.) the Senate recessed until tomorrow, Wednesday, August 4, 1971, at 9 a.m.

NOMINATION

Executive nomination received by the Senate August 3, 1971:

DEPARTMENT OF JUSTICE

Robert A. Morse, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years, vice Edward R. Neaher.

CONFIRMATION

Executive nomination confirmed by the Senate August 3, 1971:

DEPARTMENT OF JUSTICE

David Luke Norman, of the District of Columbia, to be an Assistant Attorney General.