man will stagger into combat carrying 600 rounds of ammunition on top of his already burdensome load, to say nothing of a National Guardsman called out on riot duty and probably handed one, or at the most, two clips of ammunition.

4. Without laying any claim to being an ordnance expert, I seriously doubt that the M–16, or any other rifle, would sustain a rate of 600 rounds per minute without overheating and becoming warped or jammed.

Secondly, the inference that there is something nefarious about the National Guard being issued M–16 rifles.

1. The National Guard has a dual role to fulfill. To begin with, they function as state militia under the command of the governors of the various states. Then they are an on-call reserve subject to the call of the President in war, national emergency, or other appropriate times. Because of this, it has long been customary to equip National Guard troops with modern weapons as they become available in sufficient quantity.

2. The M–16 is the weapon being issued to the Regular Army as the standard item of equipment. To impute, even by inference, that National Guardsmen are being equipped with the M–16 rifle for riot duty because it is a more deadly weapon does a dis-service to our government and to our country as a whole. Of course, the M–16 is more deadly to enemy troops than previously used rifles. There would otherwise be no justification for equipping the army with this weapon. Surely you do not think the Guard, as a Federal reserve, should be expected to engage in combat with a weapon inferior to one readily available. And most assuredly, you do not expect the Guard to be equipped with one rifle for general warfare, and another for riot duty. The supply, accounting, and maintenance problems generated by possession of two distinctly different rifles, to say nothing about the difference in caliber of ammunition, would be tremendous.

Again, sir, you screamed loud and long about freedom of speech when Mr. Agnew stood up and exercised his freedom of speech to express his thoughts about network reporting tactics. Again, I favor freedom of speech just as much as you do. But if you are going to tell it, then I say to you, tell it like it is!

Very truly yours,

WILLIAM J. COOPER, Jr.

SENATE—*Thursday, September 10, 1970*

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

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

O Lord, in reverent mood we open our hearts to Thy presence and our minds reach up to Thee for direction. Let that mind be in us that was in the Man of Nazareth. Rule over the deliberations of this body for the welfare of this Nation and the advancement of Thy kingdom.

Through Jesus Christ our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

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

To the Senate:

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

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

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

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

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Ohio (Mr. YOUNG) be recognized tomorrow for 20 minutes after disposal of the unobjected-to items on the calendar.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

PRISONERS ALL

Mr. BELLMON. Mr. President, the tragic hijacking of four airliners has focused the world's attention on a group of captives on a Mideast airfield. Everyone prays for their safe return; all men are appalled by the barbarity of the captors.

But there is another group of prisoners, halfway around the world from that desert landing strip, who also deserve our prayers and support. These are the American soldiers, sailors, and airmen held by the North Vietnamese.

The passengers of the three jets now in Jordan have been held 4 days. Some of our men in Vietnam have been prisoners over 4 years.

We must not allow time to dull our concern for any American illegally detained. The issue of prisoners is again in the spotlight. Let us be certain all Americans held anywhere are remembered.

STATUS OF UNFINISHED BUSINESS WHEN TEMPORARILY LAID ASIDE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the unfinished business, Senate Joint Resolution 1, is temporarily laid aside this afternoon, circa 5 p.m., it remain in that status until the close of morning business on tomorrow.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT OF AGREEMENTS SIGNED FOR FOREIGN CURRENCIES UNDER PUBLIC LAW 480

A letter from the General Sales Manager, Export Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of agreements signed for foreign currencies under Public Law 480 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORTS ON REAPPORTIONMENT OF APPROPRIATIONS

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Interior for "Management of lands and resources," Bureau of Land Management, for the fiscal year 1971, has been apportioned on a basis which indicates a need for a supplemental estimate of appropriation; to the Committee on Appropriations.

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior for "Management and protection," National Park Service, for the fiscal year 1971, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON INTENTION OF THE NAVY TO DONATE CERTAIN SURPLUS PROPERTY

A letter from the Under Secretary of the Navy, reporting, pursuant to law, the inten-

tion of the Department of the Navy to donate two railway flat cars to the Pacific Southwest Railway Museum Association, Inc., San Diego, Calif.; to the Committee on Armed Services.

PROPOSED LEGISLATION RELATING TO BENEFITS FOR EMPLOYEES OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation relating to benefits for employees of the Government of the District of Columbia, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

PROPOSED LEGISLATION TO AMEND THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

A letter from the Chairman, Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, to clarify the authority of the Atomic Energy Commission to authorize the establishment of a material access approval program for individuals having access to certain quantities of special nuclear material, and for other purposes (with accompanying papers); to the Joint Committee on Atomic Energy.

BILLS INTRODUCED

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

By Mr. PEARSON:

S. 4332. A bill for the relief of Farouk Brahimi; to the Committee on the Judiciary.

By Mr. SPONG:

S. 4333. A bill for the relief of Eddie Troy Jaynes and Rosa Elena Jaynes; to the Committee on the Judiciary.

By Mr. GORE:

S. 4334. A bill for the relief of Leticia Ramos; to the Committee on the Judiciary.

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

S. 4335. A bill to deter aircraft piracy by invoking a commercial air traffic quarantine against countries abetting aircraft piracy; to the Committee on Commerce.

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

ADDITIONAL COSPONSORS OF BILLS

S. 5

At the request of the Senator from Minnesota (Mr. MONDALE), the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 5, to promote the public welfare.

S. 4089

At the request of the Senator from Utah (Mr. MOSS), the Senator from Oklahoma (Mr. BELLMON) was added as a consponsor of S. 4089, to amend the Internal Revenue Code of 1954 to clarify the status of certain oil well service equipment under subchapter D of chapter 36 of such Code (relating to tax on the use of certain vehicles).

S. 4092

At the request of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 4092, to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure that U.S. requirements for low-cost energy will be met, and to reconcile environmental quality requirements with future energy needs.

S. 4096

At the request of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Illinois (Mr. SMITH) was added as a cosponsor of S. 4096, to amend the Federal Food, Drug, and Cosmetic Act.

S. 4265

At the request of the Senator from Oregon (Mr. HATFIELD), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alaska (Mr. GRAVEL), the Senator from Vermont (Mr. PROUTY), the Senator from New York (Mr. GOODELL), the Senator from Colorado (Mr. ALLOTT), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 4265, to amend section 306 of the Consolidated Farmers Home Administration Act to increase the aggregate annual limit on grants for water and waste facilities constructed to serve rural areas and to increase the aggregate annual limit on grants for plans for the development of such facilities.

S. 4266

At the request of the Senator from Utah (Mr. MOSS), the Senator from Massachusetts (Mr. KENNEDY), was added as a cosponsor of S. 4266, to amend the Federal Aviation Act of 1958 in order to authorize certain reduced-rate transportation to individuals who are 65 years of age or older.

S. 4297

At the request of the Senator from West Virginia (Mr. BYRD), on behalf of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 4297, to create a health security program.

S. 4331

Mr. HART. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of S. 4331, to amend the National Vehicle Safety Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

Mr. President, it was an oversight on my part that the name of the Senator from New Jersey was not listed with the several original cosponsors when I introduced the bill yesterday.

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

AMENDMENT OF THE CONSTITUTION TO PROVIDE FOR THE DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT—AMENDMENT

AMENDMENT NO. 885

Mr. EASTLAND submitted an amendment, intended to be proposed by him, to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States, which was ordered to lie on the table and to be printed.

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

AMENDMENT OF PUBLIC HEALTH SERVICES ACT—AMENDMENTS

AMENDMENT NO. 886

Mr. DOMINICK. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 3418) to amend the Public Health Services Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine. The purpose of this amendment, which is based on language suggested by the American Medical Association, is to cure what I consider to be an inflexible approach to the problem with which this bill is concerned. That problem is a shortage of general practitioners caused by increasing specialization in the medical profession. I agree with the overall objective of the bill, which is to produce more doctors and other medical personnel who are trained in the field of family practice medicine. But, I think the method proposed to carry out that objective is too rigid.

As presently written, this bill would require medical schools to establish separate departments of family medicine of equal standing with their other departments in order to qualify for grants. My amendment would give medical schools more flexibility by requiring only that they make sufficient administrative arrangements to satisfy the Secretary that grant funds would, in fact, be used for programs designed to train doctors and other medical personnel in family practice medicine.

I ask unanimous consent that the amendment be printed in the RECORD at this point in my remarks.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 886) is as follows:

AMENDMENT NO. 886

On page 2 strike out lines 11 through 16, and in lieu thereof, insert the following:

"(1) to establish or operate, as an integral part of their medical education curriculums, programs to provide teaching and instruction (including continuing education) in all phases of family practice";

Beginning on page 8, line 21, strike out all through page 9, line 17, and insert in lieu thereof, the following:

"(1) a school of medicine to establish or operate a program for the teaching of family practice medicine unless the Secretary is satisfied that such school has made adequate administrative provision for such program, through separate departments, administrative units, or other administrative arrangements that emphasize family practice in the education of medical students, interns and residents."

Mr. DOMINICK. Mr. President, although family practice is itself a specialty recognized by the American Medical Association, it requires training in several of the traditional specialities—internal

medicine, pediatrics, surgery, psychiatry, obstetrics, and gynecology. For that reason, an educational program in family practice medicine is adaptable to a diversity of administrative arrangements.

Many medical schools have programs which emphasize the teaching of family practice medicine. But at present, only nine of these schools administer such programs through separate departments of family medicine. The others administer their programs in a variety of ways, depending on what each school determines to be the most effective utilization of its particular resources. Some schools have established divisions of family medicine within one of their departments. Others have administrative arrangements which draw on the resources of several departments.

My staff has contacted representatives of several of the medical schools which do not have full departments of family medicine, and asked them their opinion regarding the requirement in this bill that each school set up a separate department of family medicine which is of equal standing with its other departments. Each school was strongly opposed to the requirement, and several stated flatly that they would not apply for Federal funds which were subject to that requirement. These are some of the reasons given:

First. Congress should not be legislating the curriculums of medical schools.

Second. Each medical school should be permitted to determine how best to administer its family medicine program, based on its particular resources.

Third. It would be difficult to get top-flight people to staff separate departments of family medicine. It would be better to utilize top people in existing departments.

Fourth. It would be very expensive to establish and operate separate coequal departments of family medicine. The cost estimates ranged from $250,000 to $600,000 per year.

The testimony of Dr. William R. Willard, recent chairman of the Council on Medical Education of the American Medical Association, before the committee which considered the bill, indicates he had the same problem with it that I have. He said:

We are somewhat concerned, however, over the specification in section 761(a)(1) that there must be "separate and distinct departments" established for those purposes. While new administrative units would be desirable, the requirement of "separate and distinct departments" would render ineligible for Federal assistance many otherwise worthy programs of family practice.

He referred to the report of the Ad Hoc Committee on Education for Family Practice of the American Medical Association, which emphasized that separate departments were only one of several ways of satisfying the need for administrative units responsible for carrying out family medicine programs, and went on to say:

In the light of this, surely it would be inadvisable to legislate the organizational structure for teaching family medicine, especially since some medical schools are successfully developing programs without separate departments.

Referring to the requirement that family medicine departments be of "equal standing" with other departments, he pointed out that such requirement is unclear because:

The various clinical departments of medical schools are not equal now in terms of budget, numbers of faculty, patient load, curriculum, or other measurable criteria.

After testifying before the committee, Dr. Willard wrote to Senator YARBOROUGH, the chairman, reiterating his opposition to the separate department requirement. He said:

It would be administratively inappropriate and unworkable.

He suggested an amendment which would eliminate that requirement, and leave it to the discretion of the Secretary of the Department of Health, Education, and Welfare to decide whether a medical school which applies for funds has made adequate administrative arrangements to assure that the funds will be used for a family medicine program. My amendment is based on his suggestion. I ask unanimous consent that a copy of his letter be printed in the RECORD at this point.

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

AMERICAN MEDICAL ASSOCIATION,
Chicago, Ill., July 23, 1970.

Hon. RALPH YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: You will recall that I had the privilege of testifying for the American Medical Association on behalf of Senate Bill 3418, in support of this Bill, which would assist in developing programs of family practice. You will also recall that I took some exception to Section 765(b), which reads:

"(b) The Secretary shall not approve any grant to—

"(1) a school of medicine to establish or operate a separate department devoted to the teaching of family medicine unless the Secretary is satisfied that—

"(A) such department is (or will be, when established) of equal standing with the other departments within such school which are devoted to the teaching of other medical specialty disciplines;

"(B) such department will, in terms of the subjects offered and the type and quality of instruction provided, be designed to prepare students thereof to meet the standards established for specialists in the specialty of family practice by a recognized body approved by the Commissioner of Education; . . ."

Possible language, which would meet my objection, to cover the content might read somewhat as follows:

"(b) The Secretary shall not approve any grant to—

"(1) a school of medicine to establish or operate programs of the teaching of family medicine unless the Secretary is satisfied that there is adequate administrative provision for such programs, either separate departments or other administrative arrangements or units that emphasize family medicine in the education of medical students, interns, and residents."

Section 765(b)(1)(A) and 765(b)(1)(B) and Section 765 (b)(2) should be dropped. Section 765(b)(1)(A) which specifies that the family practice department must be equal to other departments is not realistic, as my testimony pointed out, and would be administratively inappropriate and unworkable. Section 765(b)(1)(B) is inappropriate because medical students cannot be prepared to meet the standards for specialists in family practice. Their training is more generic and is a basis for practice in any specialty. Hopefully, there will be family practice orientation in the undergraduate program, however. Section 765(b)(2), which relates to the type and quality of program for the internship and residency, is redundant because an accredited program in family practice will, by definition, prepare residents for the specialty of family practice.

I appreciate the courtesy of the hearing which you gave me and the American Medical Association. If we can be helpful in any way, please call upon me or Dr. Rube.

Sincerely yours,

WILLIAM R. WILLARD, M.D.,
Immediate Past Chairman, Council on Medical Education.

Mr. DOMINICK. Mr. President, these views are shared by the Association of American Medical Colleges. Dr. Robert M. Heyssel, associate dean for health care programs, Johns Hopkins University School of Medicine, representing the association, testified:

The Association would view with great concern approaches which would have the effect of determining departmental organization and the nature of the curriculum in medical schools by statutory action. We join with the American Medical Association in their reservation concerning the specific language of S. 3418. Medical schools are actively changing their educational programs to meet new challenges. Support for specific programs rather than general support will limit the speed, flexibility, and effectiveness of this process of innovation. The objectives sought through S. 3418 could be well achieved if the bill were modified to provide broad support for all programs that will increase the number of physicians qualified to participate in the delivery of primary health care.

So, in summary, I repeat that I am in favor of the overall objective of this bill—to increase the number of doctors and other medical personnel who are trained in family medicine. But, I am opposed to the method this bill would adopt to achieve that objective. I think the requirement that medical schools establish separate departments of equal standing with other departments is ill advised for two basic reasons. The first is that such an approach is too inflexible. It would discourage the innovation and experimentation by medical schools which is necessary in order to find effective solutions to current and future health manpower needs. The second is that Congress should not be in the business of dictating the organization of, as well as the contents of, medical school curriculums. I think it makes better sense for Congress to establish the overall objective and to leave it to the medical schools, as my amendment would, to decide how best to carry out that objective, restricted only by the discretionary power of the Secretary to determine whether the method chosen would be effective.

ADDITIONAL STATEMENTS OF SENATORS

PLANE HIJACKINGS IN THE MIDDLE EAST

Mr. PEARSON. Mr. President, for the past few days headlines, television, and radio coverage have been dominated by

the crisis caused by recent hijackings in the Middle East. At stake at this moment are the lives of many people and the fate of nations.

Need I remind this body that this desperate situation affecting people and governments around the globe has been caused by a mere handful of determined, demented men. Need I recall that what we dreaded for so long we have now witnessed—the hijacking of a 747, with all its living cargo? Indeed, need I describe what this Nation, in living color, has witnessed—the explosion by sabotage of one of these great ships.

Mr. President, I do not directly address myself today to the underlying causes of war and peace among the belligerent nations of the Middle East. I do not address myself directly to the grave matters of international diplomacy involved. Rather, my emphasis shall be on the prevention and deterrence of the phenomenon of air piracy, the new and most dangerous crime of the 20th century.

It has been my concern that up to the present the American public has treated the problem of hijacking with apathy. In many minds, there has been a pervasive atmosphere of levity about this recurring phenomenon. Perhaps this attitude was understandable in the context of a free ride to Cuba. But where the drama is played against the backdrop of a volatile war torn Middle East where terror and death have become a daily occurrence, hijacking must be recognized for the gravely serious matter that it really is.

Reflective of this apathy, Congress and the Federal agencies have not approached this problem with determination and conviction. Many things could be tried. Many things could be done. The establishment of a joint FAA-industry "strike force" to be available on a moment's notice; development of a prosecution task force from FAA and Justice to assist local U.S. attorneys in the prosecution of apprehended criminals; continued pressure through the Department of State, ICAO, the United Nations, and other international organizations to bring uniformity of post-hijacking handling of criminals and to eliminate sanctuaries—these are but a few of the things which responsible agencies should be doing.

Moreover, figures at my disposal indicate that only one-quarter of 1 percent of the Federal Aviation Administration fiscal 1971 budget was allocated for research and development related to the problem of hijacking and concealed weapons.

But I must be frank to say that I have been struck by the lack of determination to solve the problem on the part of airline management. It is my considered opinion that the airlines have not applied full force of their resources, technology, and resolve toward the prevention of hijacking. With few exceptions, our major air carriers have taken a "maybe it will go away" attitude with regard to this enormously complex problem.

Admittedly, airlines are subject to economic and competitive pressures of not insignificant magnitude. However, at a meeting called at my request following the hijacking of a TWA jet at Dulles during which a pilot—a resident of my State—was wounded, and at which meeting representatives of the airlines, airline pilots, FAA, CAB, Department of Justice and State met to discuss possible solutions to this problem, the general attitude taken by airline management representatives at that meeting was that they have done, are doing, or will do all that is presently feasible to avoid hijackings. But let me remind Senators that there have been 249 U.S. and international hijackings. Think for a moment, if you will, how many lives have been or will be jeopardized if this problem is not soon brought under reasonable control.

As one with some experience in the field of aviation and as one who has studied this problem and offered legislation, it is apparent that a single remedy is not sufficient or possible. We need electronic devices, security guards, more effective screening of passengers, perhaps international boycotts, in addition to strong legislation, effective enforcement and international agreements.

Mr. President, I wish to emphasize that we must attack this problem with our best effort. We must prevent it from happening again. It defies belief that we can build and fly these great planes, but that we are unable to assure the safety of their flight.

THE ACADEMIC COMMUNITY AND WAR

Mr. McGEE. Mr. President, I invite the attention of Senators to an open letter to the President of the United States, written in May of this year by Miller Upton, president of Beloit College, in Wisconsin.

President Upton's letter strikes me close to home. Like him, I have a background as a scholar-teacher. I have been intimately connected with the academic community all of my adult life. Like him, I have been distressed of late by the academic community's collective response to the trials and turmoil facing our country.

Mr. Upton is a man whose own beliefs led him in the past to claim the status of a conscientious objector. Yet, he writes:

> My moral opposition to war, however deeply and conscientiously held, does not entitle me on any ethical or moral grounds to take violent action against those who disagree.

The academic community, he fears, has tolerated excess in the name of dissent, thus violating the transcendent value to which it should be dedicated.

Mr. President, I ask unanimous consent that President Upton's letter to the President of the United States be printed in the RECORD.

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

BELOIT COLLEGE,
OFFICE OF THE PRESIDENT,
Beloit, Wis., May 11, 1970.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As a college president, a past scholar-teacher, and one who has consciously devoted his whole life to the cause of higher education in the conviction that it offers the greatest hope for social progress and the elevation of man to his highest potential, I wish to apologize to you and the nation for the grotesque failure of the academic community at this hour of national trial and turmoil.

I am fully aware of how extremely presumptuous it is for one to represent himself to apologize for the many, but I am constrained to do so nonetheless for the shame I feel for the community with which I have been so intimately related for so long and in which I have placed so much confidence in the past. Those who do not agree with me will, of course, be able and willing to speak for themselves.

Let me establish a point about myself at the outset so that my position can be more accurately interpreted. I was a conscientious objector during World War II, and were I of draft age now I would be a conscientious objector again. But my moral opposition to war, however deeply and conscientiously held, does not entitle me on any ethical or moral grounds to take violent action against those who disagree. I must bear witness to truth as I see it, but I must also respect the right of the other person to do the same. Certainly, I must never hurt or demean another simply because he won't go along with my own conviction.

This commitment to respect for the individual, intellectual openness, and freedom of inquiry is the transcendent value to which an academic community must be subservient. In fact, it is the only value to which the academy can pledge allegiance if it is to be consistent with itself. To elevate any other value is to break faith with this transcendent value and it is at this point that we have violated our public trust as professional educators: we have given in to violence and threats of violence in support of a particular point of view, and in doing so we have allowed the academic integrity of our individual institutions and the academic community at large to be violated.

Being a conscientious objector to war and one who would issue such an open letter as this, I clearly am not opposed to dissent and protest. But I am vigorously opposed to violence in any form and for any reason, and most of all I am opposed to would-be leaders capitulating to intimidation and violence. Those who respect violence when used against them will inevitably employ violence when it suits their cause.

We in colleges and universities have tolerated unspeakable intimidation and thought control on the part of radical students, faculty and others, and yet when Vice President Agnew speaks out forcefully against such the only voices that are heard from the academy are those who castigate him and you for repressing dissent. There are few college campuses, if any, where Vice President Agnew, or any member of your cabinet for that matter, could speak without disruption and even physical abuse and intimidation. But a convicted murderer, dope peddler, or one committed to the forceful overthrow of the government will receive not only a respectful hearing, but will be paid a handsome honorarium in addition. In the light of his high position, I have been embarrassed by some of the Vice President's intemperate language. But surely he has as much right to dissent and to give a respectful hearing as any of the criminal element of our society.

Much of the academic community is now telling you how to settle the war in Vietnam and being critical of your effort to protect lives and shorten the war by moving troops into Cambodia. I find it highly unbecoming of us to presume to tell you how to fight the war in Vietnam when we aren't even able to settle the wars on our own campuses. Nor do I use the word *war* in this context lightly. The throwing of missiles to do physical harm, the throwing of firebombs to burn buildings, the use of guerrilla tactics via arson and vandal-

ism, the shooting and killing of combatants and noncombatants is every bit as much war as that which prevails in Vietnam, Cambodia, and the Near East. I have often wondered sardonically how many protestors of napalm have themselves thrown fire bombs or engaged in arson.

I have also been appalled by a certain arrogance and inconsistency on our part with regard to the way we are free to tell you and others how to handle your jobs but become deeply resentful, insulted, and even hostile when there is any suggestion of your intrusion into "our" domain. I am quite sure that I am able to run Beloit College better than you, but by the same token I am sure that you are able to deal with the issues of the Presidency of the United States, including fighting the war in Vietnam, better than I. The widespread propensity of members of the "intellectual" community to make judgments without benefit of facts is one of my greatest disillusionments and embarrassments.

As a matter of fact, my early naivete led me to embrace the academic life because of my belief that members therein were committed to intellectual honesty, rational behavior and humanistic concern and compassion. Recent incidents have merely confirmed all the more what my life's experiences have suggested. Academic man is as much motivated by vested interest, is as much controlled by base emotion, and reasons as much from prejudice as any other mortal. My readings of Ecclesiastes, the New Testament and the life of Mahatma Gandhi should have prepared me for this, but they didn't.

We who work closely with young people and should know and understand them best have not been very helpful to them or to you and others of the adult community in serving as a vehicle of communication. We have too often taken sides ourselves and been critical of one group or the other and not been sufficiently discriminating in our communicative role.

Maybe we can be forgiven on the grounds that the task is such a difficult one. I know that the great bulk of college students are genuinely concerned about the inhumanity and futility of war and deeply question the legitimacy of a life that sanctions and even glorifies indiscriminate killing and maiming. I also know that the great bulk of adults and members of the establishment are sincere, dedicated individuals with the same hopes and aspirations as the young. But I also know that in each group there are examples that support the worst stereotype of each. The great frustration of the day is that despite this great community of interest and concern there is a growing separation based upon the sinful tendency to judge by stereotype and preconception. We in the academic community are frequently party to this sin even though our training should particularly help us to know better.

Although my own sentiments are basically with the young people, I must admit that there is a general pandering to the young at the present time that is both disgusting and irresponsible. Disgusting because it prostitutes normal respect and affection. Irresponsible because it is creating an unrealistic cleavage between age groups.

Of course, young people on the whole are wonderful, but what's new about that? The great reward of college work is the opportunity it affords to associate regularly with this age group. The idealism, absolutism, intellectual honesty and great aspiration of the young are the eternal attributes of this age group upon which society is dependent to preserve its vital, dynamic quality. These attributes are the standards of behavior to be expected, not glorified as unique in any narrow time span of human history.

Young people are first and foremost people. Those who are young today will be old tomorrow and having to relate to those who are younger then. As people they represent all types, some taller than others, some fatter than others, some with higher IQs than others, some more criminally inclined than others, some more saintly than others, some more hostile than others, some more vocal than others, etc. There is no general virtue attributable to youth any more than there is general evil. We have done all young people a great disservice in recent years by suggesting to them that they are of a different breed from the rest of us and beyond reproach. They are nothing more than the fresh blood being pumped into the human society, just as we were in the past and their children will be in the future. We in Academe should have known this better than anyone else and not have failed them and you in your common need for understanding.

We have been quick to tell you that you are alienating the youth of America, but we seem to pay little attention to the way we are alienating our own constituencies by our failure to protect the authentic academic integrity of our institutions. Implicitly we are also alienating the youth of America over the long run by our failure to be faithful to our leadership responsibilities.

The pain that hurts most of all is the realization that I bear partial responsibility for the unnecessary deaths of four young people on the campus of Kent State University. The National Guard troops should never have been there in the first place, because we shculd never have permitted the conditions to develop which necessitated the presence of troops. Once this die was cast, it was simply a matter of time before tragedy would strike. If fault lies anywhere for the Kent State deaths it lies not with you and the Vietnam War but with the radical acts and excesses we have tolerated in the name of dissent.

I am sure you know, Mr. President, that I do not say these things with tongue in cheek to placate others, to curry favor, to advance partisan interest, or to defend your war policies. Last fall I joined with a number of other college presidents to urge your rapid withdrawal of troops from Vietnam. I reaffirm this plea. But when I consider the whole matter fully and objectively, I have to concede that you have been more faithful to your leadership responsibilities than we in Academe have been to our own.

With respect for the tremendous burdens you must bear for the rest of us and the conscientious way you are bearing them and with apology for the cruel injustices that have been foisted upon you by the professional community of which I am a part, I remain,

Respectfully yours,

MILLER UPTON.

CONTINUED RISE IN TEXTILE IMPORTS

Mr. THURMOND. Mr. President, the continued rise in textile imports was dramatically illustrated early this month when the U.S. Department of Commerce issued figures showing a 12-percent jump for these imports within the last month.

An article entitled "Textile Imports Set Record," listing this information and other facts on textile imports, was published in the September 5, 1970, issue of the State newspaper.

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

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

[From the State, Sept. 5, 1970]

TEXTILE IMPORTS SET RECORD

WASHINGTON.—Textile imports set a record 436 million square yards in July, up 12 per cent from June and 28 per cent higher than July, 1969, the Commerce Department reported Friday.

For the first seven months of this year, imports of cotton, wool and synthetic textiles totaled 2.5 billion square yards, 19 per cent higher than the same period last year.

The value of imports in the first seven months was $1.07 billion, up from $916 million last year. U.S. textile exports totaled $389 million compared to $363 million a year ago. The textile trade deficit was $681 million in the January-July period compared to $553 million a year ago.

Imports from Japan, Taiwan, Hong Kong and South Korea accounted for 52 per cent of the trade during the first seven months of the year.

THE HUMAN SIDE OF THE IMPORT QUOTA QUESTION

Mr. McINTYRE. Mr. President, we are all aware that in the not too distant future the House will act on the import quota bill recently reported by the Committee on Ways and Means. Hopefully it will not be too long before we in the Senate are given an opportunity to vote on this most necessary measure.

There can be no doubt that the issue of protection for the Nation's shoe and textile industries is a delicate one and most deserving of the debate it has engendered. However, the debate has too often become bogged down in theoretic economic puzzles and has ignored the one factor which gave rise to the legislation in the first instance—the thousands of jobs which have already been lost and the thousands more which may be lost in the not too distant future.

It is too easy for the plight of the shoe and textile workers to be lost in the maze of charts and statistics which are used in the continuing debate. It is not easy for me to forget, however, because my State has been one of the most seriously affected by this flood of cheaply made foreign shoes and textiles. Literally thousands of men and women have lost their jobs in New Hampshire, often with little help of gaining retraining or reemployment. I am constantly reminded of this sad situation by the letters I receive every day from men and women who have either lost their jobs or fear that they will soon lose them.

Last week I received an especially moving request for help from Mrs. Evelyn Erickson, of Farmington, N.H. She knows firsthand the misery faced by fellow workers—the sudden closing of factories, the necessity of going on unemployment, the long search for a new job.

I hope that all Senators will read her letter and ponder what will happen if the import quota bill is not acted upon soon.

Mr. President, I ask unanimous consent that the letter from Mrs. Erickson be printed in the RECORD.

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

FARMINGTON, N.H.

DEAR SENATOR MCINTYRE: If our President doesn't realize by now that shoe workers need help with letters and a march on Washington and all that has been done to persuade him then we may soon be out of business for good. I'm afraid much more delay will close our shop. We had business for years even when other shops slacked or closed, but then some other shops making the fancier shoe had so much competition from foreign countries they began to change over and make shoes like ours. Last spring our Mr. Katz filed for bankruptcy. He said this change-over by other shops had cut down orders. We have been terribly hurt this summer by the imports. We used to have all we could handle all summer long. Not so this year.

I'm worried over the flood of imports of *all kinds* into our country. The stores are full and it's difficult to find American-made goods. By the lack of our homemade things and in spite of your determination not to buy them, you find people who didn't want to but couldn't find American goods. To my way of thinking we are going to be hit hard later on. All we hear is talk of unemployment. When asked if shoe imports were responsible they hedged and admitted the imports do have something to do with it. *Why do they* hedge about it? You and I *know* my job has been seriously affected by these imports. The stores are *full* of them.

I have a handful of polite letters in answer to my appeal for help for us. One flow stitch room closed here in Farmington this summer after the 4th of July vacation. They worked one day and closed the next. The main shop said lack of orders was responsible and most officials in the shops said it's the imports.

I asked President Nixon to please listen to you and others who know the situation here in New England and other areas making shoes. Our shops are so small business I guess we aren't considered very important.

I'm *sure* of one thing: one more *"study"* or *delay* will close more shops.

We used to have three, sometimes four on our job. There isn't enough work for one girl now and I need to work. We got little spurts of work for a week or so then the cutters are out again.

I feel very upset about it all. In watching President Nixon, he impresses me as being wrongly informed about imports. I'd like to see him come up here and let our people take him on a tour of towns with many shops closed and people out of work. I'd like him to see the volume of imports in the shopping centers.

I appreciate the efforts of Senators and all who have tried to put through a bill to control the imports. I *know* we need trade but I hate to give up *my job* for them to prosper and we know Japan is prospering at our expense. It would seem the President is more anxious to protect them than to help us Americans. If I don't have more work soon, I'll have to give up my home. It's no longer a pleasure to own it, but a burden to a woman alone and 63 years old. I have tried to have faith that we would get help but I am very discouraged. Many girls didn't send in the clipping to the President, I scolded some and they promised to send them. They want help and their jobs but they feel President Nixon wouldn't help us if they did send it in. The apathy that besets shoe workers over this isn't good. They need their jobs; they don't know what else to do except draw unemployment checks. I don't like doing this if I can work. I would much rather. I'm from a pretty ambitious family and I enjoy working. I'm unhappy when I don't have work.

Keep up the good fight for us. We sure need it.

Sincerely,

MRS. EVELYN ERICKSON.

NIXON ADMINISTRATION FOREIGN POLICY

Mr. BELLMON. Mr. President, one of the great strengths of the Nixon administration is its handling of foreign policy. Because of his wide background and knowledge of international affairs and the deep interest he has demonstrated over the years by his visits to many foreign countries, President Nixon has brought to the White House a new sense of confidence and firm leadership.

While the successes of the administration in reducing American involvement in Vietnam and in launching a new initiative for peace in the Middle East are well known, much progress also is being made in Latin America. This progress is adequately reviewed in a Chicago Daily News syndicated article by Pete Laine.

Mr. President, I ask unanimous consent that an article from the Oklahoma City Times be printed in the RECORD.

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

NIXON'S LATIN POLICY BEGINS TO WORK

(By Pete Laine)

WASHINGTON.—Eighteen months ago U.S. relations with Latin America were roaring downhill toward the edge of a cliff.

The Alliance for Progress had soured. A new wave of coups by Latin militarists had signaled new seizures of U.S. properties. Suspicious of Richard Nixon, many Latins looked for reprisals and were spoiling for a fight.

Today, the Nixon administration, fingers crossed, is well pleased with the way its Latin policy is working. Critics call it a nonpolicy or benign neglect but something is going right for a change.

The picture is still far from hearts and flowers, yet it shows the inter-American family in its happiest—or least combative—condition since the euphoria of the launching of the Alliance in 1961.

Everyone has grown up, said an administration spokesman who has lived and worked with Latins on and off for 25 years. He meant the United States too.

Success may be an impossible dream in terms of U.S.-Latin relations, measurable only by the infrequency of disasters. Even so, the glow through the administration's spectacles as it views the hemispheres is not entirely divorced from reality. Here is what it sees:

A cooling of Latin hostility since Mr. Nixon took the low-key road instead of the retaliation route at the climax of last year's expropriation crisis with Peru.

The channeling of Latin energies into the grindingly slow and highly complex series of negotiations aimed at improving the Latin trade position.

The results may be peanuts, but it is the first time that the United States and the Latins have ever held protracted, business-like discussions on a footing of equality.

Generally tolerable behavior, at least in public, by the Latin dictators. Liberal opinion in the United States and elsewhere has been outraged only by the repeated charges of political torture in Brazil. It is, of course, an important exception.

For the first time in living memory, the absence of U.S. interference in Latin elections. The United States maintains it is not even meddling, let alone picking candidates as it used to.

As a result, the Latins are really beginning to believe Mr. Nixon's promise of a mature partnership.

The Latins are looking to Europe also for trade help, taking some of the heat off the United States by granting the Latin's request for control of their affairs, the United States has also made them responsible for the results.

Cuban Premier Fidel Castro is taking his lumps. Castro's public admissions of failure over the sugar harvest are a poor advertisement for the Communist system.

There are plenty of loud and angry words coming out of Havana, but real subversion is virtually nonexistent.

Pentagon concern over Soviet naval moves in the Caribbean is not shared in U.S. diplomatic circles, where there is doubt that Castro has much to gain from them.

On the other hand, the debit side still has some formidable entries.

The thundercloud of the population explosion darkens the sky more every day, threatening eventually to engulf all cities, to erase all progress. Yet there is little the United States can do about it.

There is the increasing evil of terrorist brutalities; but these are criminal acts directed at diplomats, political only by coincidence. Kidnappings also happen outside of Latin America. The victims are not only from the United States.

Somewhere, sometime, a second Fidel will rise to the surface and there is not much the United States can do about this either. Hopefully, such an emergence will not be followed by an international missile crisis.

In the immediate future, despite a rising wave of protectionism in Congress, the United States must yield some concessions in the Latin trade talks.

But administration officials are optimistic about the talks. Congress has made such a noise about protectionism, they say, that the Latins now appreciate the rough path faced by the free traders in the White House.

Fortune has lent a hand, too. Latin world trade came out of its slump last year, easing the domestic pressure on the Latin negotiators to squeeze the last drop out of Uncle Sam.

McGEE SENATE INTERNSHIP CONTEST

Mr. McGEE. Mr. President, for 8 years it has been my pleasure to conduct for high school juniors in my State of Wyoming the McGee Senate Internship Contest, which brings to the Nation's Capital one boy and one girl for a week planned to enhance an understanding of the mechanisms and the procedures of a democratic society.

The contest is designed to stir up interest among high school students in national and international questions. Three well-known, nonpolitical people from the State served as the panel of judges in the competition. In their judgment, this year brought the highest level of essays that the many years of the contest have produced.

The subject matter of the required essay this year was conservation, quality living, environmental control. For Wyoming to focus on that question is of great relevance. For here is a part of the world that we call God's country in which one would think there were no pollution problems.

I think what it does say to us in the Rocky Mountain West is that the mistakes of the already polluted parts of the United States may have served as a grim warning to those of us from the high altitudes of the Rockies of at least what

to watch for and try to avoid in the future and, at the same time, to come to grips with the first outcroppings of environmental pollution even at the local level.

Of course, it would be impossible for everyone to read all the essays submitted, but I think the most outstanding ones are of interest to us all and should receive wider circulation. For this reason, Mr. President, I ask unanimous consent that two of these essays, written by Connie Sandberg, of Albin, Wyo., and Don Tolin, of Casper, Wyo., which received honorable mention in the McGee Senate Internship Contest, be printed in the RECORD.

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

CONSERVATION: ITS RELEVANCE IN WYOMING

(By Connie Sandberg, Albin, Wyo.)

Conservation in its simplest form means "wise use" and conservation is intensely relevant to the future of Wyoming. When we think of conservation, we think first of natural resources or those things every citizen inherited from nature. These are the soils, clean air and water, forests and grasslands, fish and wildlife, and fuels and minerals in Wyoming.

Fortunately for the purposes of conservation, Wyoming is not a heavily populated state. According to the 1960 census, Wyoming is an empire equal to the combined area of New Hampshire, Massachusetts, Rhode Island, Maine and Pennsylvania—states whose 1960 population was fifty-seven times greater than Wyoming's. This makes the conservation of soil, clean air, waters, forests and grasslands much simpler.

The soil must be conserved to make it possible for the farmers and ranchers to be prosperous. This is made possible through federal agencies such as the Agricultural Stabilization and Conservation Service. Farmers are encouraged to strip farm to prevent the land from blowing in dry years or washing away in wet years. Ranchers are encouraged to build dams and terraces to hold water instead of letting it wash away through gullies and canyons. The farmers and ranchers must put stubbles and fertilizers back into the soil to preserve the lands for future generations if Wyoming is to stay a healthy state economically.

A generation ago very few people would have thought clean air was very relevant to our state because everyone took it so much for granted. However, much is being said and written about air pollution and this makes us ever conscious of the blessing that clean air is in our state of Wyoming. Water pollution is also a great worry in those states relying heavily on industry for their prosperity. As new industry is lured to our state our leaders must forever be on the watch to be sure that our clean air and water are protected for future generations.

Forests and grasslands are two of the greatest resources of Wyoming and their conservation is most important for our economy. Nearly one-half of the land in Wyoming is owned by the federal government so rules and regulations are outside the hands of the people of the state. According to 1960 figures 47.1 per cent of the land is federally owned, 7.1 per cent owned by state and local governments; 3 per cent belongs to Indian tribes, and the rest or 42.5 is privately owned. Most of the federally owned land is confined to mountainous areas of the state and set aside as national parks or national forest, a policy which has preserved most of the primitive beauty of Wyoming's wilderness areas and primed its tourist industry. These beautiful areas may be our greatest asset in years to come. As people in labor and industry work fewer and fewer hours or fewer and fewer days per week, they are going to look around for a place to spend those free hours and days. More of our population is being hemmed into huge cities so when the people get a chance for a few days off, they are going to head for the wide, open spaces where the air and water are clean and the mountains beautiful. Certainly there is no better place for this than Wyoming.

Though we think of our national forests as being things of beauty and drawing cards for tourists, we have to remember that half of the forests in Wyoming are classified as commercial forests and therefore are money makers. Wyoming live sawtimber reserves total more than 26 million M board feet. Total lumber production in recent years has averaged about 100,000 M board feet so it is estimated that Wyoming forests could support an industry of twice the current size. Certainly conservation of these forests is most relevant to the future of our state.

Our grasslands are very important to the future of our state. Someone once said, "All meat is grass." This is partly true because most of the animals which furnish meat for our tables feed on grass. Since we are dependent upon these grasslands for the products which the livestock furnish, we must be interested in their care and use. The number of livestock we put on the rangelands is important because if there are too many and they eat the plants down too near the soil, the surface of the soil is exposed making it easy for the wind and water to carry it away. 70 to 80 per cent of agriculture income usually comes from livestock and livestock products in our state. Agriculture is our second largest industry so our grasslands are very important.

Fish and wildlife should be conserved because of the income to be derived from the tourist trade and out-of-state hunters and fishermen. Wildlife find it hard to live in an area in which good conservation methods are not practiced. Fish cannot live in a stream choked with topsoil. Where the soil is eroding away, the deer, rabbits, raccoon and pheasants do not have the necessary food and cover; good land-use practices are very important to preserve soils for the farmer and rancher and also to preserve our wildlife. Our State Game and Fish Department does much to increase fish habitats. They remove the undesirable fish, improve ponds and streams, enforce limits and other laws and do scientific research and study to make these improvements even better. It is up to each individual to see that our streams and lakes are not littered with trash and garbage.

Wyoming should be very careful of its minerals because these are non-renewable resources. If we are to consume some now and still leave some for future generations, it is imperative that they be dealt with intelligently. Minerals, including oil and gas, were responsible for 30.6 per cent of total Wyoming economic activity, while agriculture was responsible for only 30.6 per cent in 1960. In 1963 the minerals industry employed 8,753 hired workers and distributed a payroll of $60,033.00. About two-thirds of this employment was associated with oil and gas. Under the best conditions today it is estimated that we can take only 70 to 85 per cent of the petroleum in a pool. It might be that science should explore ways in which a greater amount of the petroleum could be extracted from each pool. Our coal supplies, too, are being wasted. About 20 to 25 per cent of the good coal is left in "mined-out" areas. Many thousands of tons of metallic ores have been left in mines. The reason for the waste is that it would not pay the miners to remove the low-grade ore or coal and so it is cheaper to leave it in the ground. As our scientific knowledge increases, we are extracting more and more of these low-grade ores. Industry and the manufacturer may aid in the conservation of the non-renewable resources by using lower-grade ore and by extracting all the minerals from the ore, rather than taking only one and discarding the rest. Another method of conservation is the re-use of as many of these minerals and metals as possible. A trip to any city dump will prove that many metals that might be reused are thrown away. The conservation of non-renewable resources may not be laid at someone else's door. With this group of resources, it becomes every person's job to aid in wise use. Everyone can help.

Conservation is the key word to the future of Wyoming. Rather than rely on our non-renewable resources which can never be replaced, it is well that our leaders are beginning to look to the travel industry. It could be promoted to the leading industry of our state as more and more people look for more recreation. More and more people could be encouraged to stop to spend more time in hunting, fishing, skiing and relaxing. Travel industry pollutes the clean waters to a certain extent but not to the extent that huge manufacturing facilities pollute the air and water. The travel industry is now our third largest industry but shows annual gains of about 4.5 per cent or perhaps more under this year's report.

In addition to conserving the natural resources including soil, clean air and water, forests and grasslands, fish and wildlife, and fuels and minerals, I think there is one other great resource that our state must try to conserve and that is the youth of our state. All over our nation the use of drugs has destroyed some bright young lives. Hopefully, education on the results of drug abuse will help conserve the young people of the state of Wyoming.

In conclusion, conservation is most relevant in Wyoming if we are to have a strong, clean state in the years to come.

CONSERVATION: ITS RELEVANCE IN WYOMING

(By Don Tolin, Casper, Wyo.)

"Be fruitful and multiply, and fill the earth, and subdue it; and have dominion over the fish of the sea, and over the fowl of the heaven, and over every living thing that moveth upon the earth."

This passage from the first chapter of the Bible (Genesis 1:28) illustrates the idea that the Earth was made for man's use. Today man is fulfilling this concept and utilizing the Earth as well. Yet with modern technological advancements, man seems to be living on the principle of "over-kill" or in a denotative sense in regard to this passage and the environment, the principle of overfulfillment. Wyoming is not alien to this principle of "over-kill" or overfulfillment; therefore the relevancy of conservation in the state of Wyoming is of extreme importance and should be of great concern to the interested individual.

When determining what conservation actually means, one finds that the term is quite ambiguous. Connotations that are attached to conservation include the wise use of our natural resources, the protection of our natural resources, and even further the preservation of our natural resources. The term conservation becomes more complicated when analysing what consists of natural resources. In addition to minerals and ores, some people include timber and grasslands to the list of natural resources. This expanding tally can be further amended to include air, water, wildlife, and even people. Confused? Well, interestingly, all of the aforementioned items do share something in common with each other. All possess their own niche in a very vast and complex system, an ecosystem. One can now offer a broad work-

able definition of conservation, that is the protection of an ecosystem, our environment.

In the past, conservationists were stereotyped as little old ladies with nothing better to do but parade around and shout out such catchy slogans as "Save our trees." Perhaps this group of individuals were truly interested in conservation, yet their cries were ignored, ridiculed, and dismissed. Legitimate as their cries might have been, man was in the Industrial Age, and natural resources were being rapidly exploited and developed without any regard to the limited and unreplenishable supplies that existed. Man was interested in progress, and unconscious that he might be disrupting the delicate balance that existed in Nature.

When the Pilgrims came to America, they found it in a rather untouched state. True, there were Indians living throughout the continent of North America, yet the Indians seemed to be able to work with Nature rather than against her. They were able to live with Nature in a peaceful co-existence. Anyway, America was rich in land and resources. The early forefathers saw America as a land whose natural resources would never be exhausted in any length of time. That is, they were under the false impression that there was no chance of running out of the natural resourcse or destroying the earth that provided them. As America aged, she found herself with diminishing wilderness areas and supplies of natural resources, and a growing population. Today, one has only to look around at America—there exists few wilderness areas, very limited supplies of natural resources, problems with air and water pollution, and over-population.

Wyoming can be compared to the pristine state this nation was in two hundred years ago. This state has been relatively unaffected by air and water pollution, which now plagues almost every area of this country, to say nothing of the world. Wyoming has often been referred to as the land of wide open spaces. With the large size of the state and the population of less than 400,000 people.

Wyoming has not been burdened with overpopulation. Except for the oil industry, Wyoming had not been troubled with the concepts that the natural resources would be exhausted. However, within the last decade, industries which utilize the natural resources have been slowly moving into the state. Taking into account these facts, the populace of this state should consider themselves rather fortunate for having only a few problems in the area of the environment. Unfortunately, this great state is not immune from any of the environmental evils and headaches that plague our fellow countrymen. If Wyomingites fail to remember history, and hold the same views that the forefathers of America did in regard to the environment, and ruin and waste resources, pollute the air and water, and over populate, this state will find herself troubled, as the overall nation now is in terms of the environment. Hence, if we desire to avoid all of the evils and problems that would come to Wyoming on a large scale, by failing to learn our lesson and not looking ahead into the future, conservation should be very relevant in Wyoming.

In the last few years there have been several vital issues that have been of concern to the conservationists in Wyoming and should demonstrate that indeed, some wise conservation attitudes do exist in the state. Some of these issues include the proposed Washakie and Laramie Peak Wilderness Areas, the harvesting of many stands of trees indiscriminately throughout the state, the proposed flood control programs in various areas of the state, the over killing of wildlife, and the issues concerning the pollution of the air and water. Also, businessmen and officials have stated that good-will is very important to the state. The one industry that probably affects the entire populace in the state and spreads good-will is the tourist industry. It is surprising the numbers of travelers who come to Wyoming simply to enjoy its natural beauty. Clean air and water, blue skies, and plenty of elbow room are some things of which to be very proud.

Since man is supposedly a thinking creature, it is unfortunate that conservation is ignored by some. For example, at a recent Wyoming Air Resources Council hearing in Casper, one man suggested that there be no air standards until there is a problem. "We shall react to proven hazards." In other words, after our air is dirty, we would then spend money and time to clean it up. Unquestionably, this type of thinking is the antithesis of a wise conservation attitude, and can not be tolerated in this state.

As progress and industry seem to be so vital for our survival, it would be unreasonable to seek discontinuing either. It might be noted here, that conservation IS good business. On an economics basis it can be proven that a conservation attitude is practical and feasible. In fact, industries and businesses can actualy profit in the long run from following a wise conservation policy.

As the interested individual looks around the state, he will note the number of organizations and clubs being formed and the number of voices that are being heard in the name of conservation. Another encouraging note is that conservationists and conservation-oriented groups will be holding the statewide Wyoming Environmental Congress in Casper during the middle of May. These groups that have been organized and this convention that is to be held, further demonstrates that conservation is pertinent in Wyoming.

Man has fulfilled his obligation as set forth in the first chapter of the Bible. However, man can not continue on his uncontrollable path by living on the principle of overfulfillment. He will find himself not as the conqueror, but as the conquered. Elbow room, clean water, blue skies, and high quality recreation would not exist in Wyoming if conservation had no relevance. Wyoming is truly a great state to live in, and if the people of Wyoming desire to maintain such enjoyable qualities that are now present, conservation MUST continue to be relevant in Wyoming!

THE 83D BIRTHDAY ANNIVERSARY OF ALF M. LANDON

Mr. PEARSON. Mr. President, yesterday Alf M. Landon, Mr. Republican of Kansas, celebrated his 83d birthday. This remarkable man continues to make solid, positive contributions to the ongoing dialog about the great issues facing this country today. In particular, he has in recent years made a most significant contribution to the debate about what should be the dimensions of our foreign policy in the decade ahead.

As all of you know, Alf was Governor of the State of Kansas and in 1936 received the Republican nomination for President. Since that time he has continued in the role of citizen-statesman serving the State of Kansas and the Nation as a whole.

On this special occasion I salute a most distinguished American and a close friend. And because so many Senators know Alf personally or know of his great record, I take this opportunity to call this anniversary to their attention.

STATEMENT OF PROF. PAUL J. FREUND OF THE HARVARD LAW SCHOOL BEFORE THE SENATE JUDICIARY COMMITTEE IN OPPOSITION TO SENATE JOINT RESOLUTION 61, THE EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, there is no doubt that the equal rights for women amendment has been subjected to very little analysis. In fact, the House of Representatives did not hold any hearings on this proposal, and the Senate hearings made no attempt to investigate the effects of such a constitutional amendment on the myriad State and Federal laws which make distinctions between men and women. It is a very real testament to the lack of consideration given to this matter that the definitive critical legal statement was written in 1945—25 years ago—by Prof. Paul Freund of the Harvard Law School. Not only was Professor Freund not asked to bring his statement up to date by the House or the Senate subcommittee considering this problem, but very few, if any, legal scholars were asked to comment on the matter by anyone.

In the hearings called this month by the Senate Judiciary Committee to look into the problems posed by this amendment, Professor Freund has been finally asked to bring his views on this matter up to date. I recommend Professor Freund's statement to all Senators. He is an outstanding constitutional scholar, and he has explored in detail for the committee the chaotic legal conditions which will exist if this amendment passes. He realizes the dangers of dealing with the complex legal relationships between men and women by the simplistic approach taken by the House-passed amendment. On this point Professor Freund said:

> The truth is that a motto of four words, however noble in purpose, is hopelessly inept to resolve all the diverse issues of classification by sex in the law. It is as if the Constitution declared "all power to the people," and left it at that.

The equal rights for women amendment is receiving in the Senate Judiciary Committee the first thorough analysis it has received in 25 years. It is no compliment to the concept of equal rights for women that the advocates of this amendment are demanding that it should pass without adequate consideration. If any Senator doubts the seriousness of the changes which the equal rights for women amendment would bring about and the need for adequate consideration, I suggest he read Professor Freund's statement to the Senate Judiciary Committee on September 9, 1970.

Mr. President, I ask unanimous consent that Professor Freund's statement be printed in the RECORD.

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

STATEMENT OF PAUL J. FREUND

I appreciate your invitation to appear and present my views on the Equal Rights Amendment. I am a professor at the Harvard Law School, specializing in Constitu-

tional Law, and I am here in a purely personal capacity, having prepared a statement some twenty years ago in opposition to the Amendment when it was previously before the Senate.

I am anxious that my position not be misunderstood. I am in wholehearted sympathy with the efforts to remove from the statute books those vistigial laws that work an injustice to women, that are exploitative or oppressive discriminations on account of sex. Too many of such laws continue to disfigure our legal codes. I submit, however, that not every legal differentiation between boys and girls, men and women, husbands and wives, is of this obnoxious character, and that to compress all these relationships into one tight little formula is to invite confusion, anomaly, and dismay.

Let me illustrate. Consider two types of laws that differentiate on the basis of sex. One prescribes heavier criminal penalties for men than for women who commit identical offenses. This can only be explained on some moralistic basis that has no rational relation to the purposes of the criminal law. The other type prescribes, or officially approves, different premium rates for life insurance for men and women; based on actuarial statistics of life expectancy, the rates for women are lower. Here is a legal recognition of the facts of life, which happen indeed to favor the position of women. Is there any reason to visit the same condemnation on these two kinds of laws, as if they were equally repugnant to our sense of justice, and to do so by a change in our fundamental law that would leave no freedom of action to any state? Anyone who sees an important difference in these two cases cannot in good conscience, I submit, support the proposed amendment.

It will not do to answer that the courts will make sensible distinctions and will not give a literal meaning to "equal rights under law." If only that were the purport of the Amendment it would be redundant of the equal protection guarantee of the Fourteenth Amendment. The Supreme Court has not held, as is sometimes loosely stated, that women are not "persons" within the meaning of that Amendment. Rather the Court has found in the past that certain laws do not discriminate unfairly against women. Very probably the Court would be less tolerant today in applying the guarantee of equal protection to differences based on sex, as it is less tolerant of unequal treatment in other fields. But it is precisely to avoid the necessity of submitting such questions to the courts, to strip the courts of any latitude of application, that the proponents of the Equal Rights Amendment urge the necessity of its adoption. Their model is not the generally flexible concept of equal protection, but the concept as it has now come to be applied to provisions of law based on race. The law, it is argued, must be sex-blind no less than color-blind.

Let us see whether the analogy to race is a satisfying one. It is now a constitutional principle that public schools and universities may not maintain a dual system for white and black students, respectively. Does it follow that men and women must be admitted without differentiation to West Point and Annapolis—not in separate but equal academies but in the same classes and in the same schol activities? If this is indeed the will of Congress. it can be carried out by simple majority vote, on an experimental basis, without waiting for a binding mandate from three fourths of the states. If it is not the will of Congress, I assume the proposed Amendment will not be approved by this body. The strict model of racial equality, moreover, would require that there be no segregation of the sexes in prisons, reform schools, public rest rooms, and other public facilities. Indeed, if the law must be as undiscriminating concerning sex as it is toward race, it would follow that laws outlawing wedlock between members of the same sex would be as invalid as laws forbidding miscegenation. Whether the proponents of the Amendment shrink from these implications is not celar. It has been stated that equal treatment would not be required if it ran counter to prevailing standards in the present state of our culture. This is an escape valve not found in the Amendment itself and one of very uncertain dimensions. Some may believe that to permit women to work as coal miners offends prevailing mores; but evidently such an exemption from the Amendment's coverage would be strongly repudiated by the proponents.

Subjection of women to compulsory military service, along with men, raises a similar question. Again, the proponents appear to insist that the drafting of women as well as men for suitable military service would in fact be required under the Amendment. They assume, probably correctly, that equal "rights" would include obligations of service; and under the Amendment men could claim that the "right" of exemption from the draft must be applicable without regard to sex. If this major innovation in the draft is truly the will of Congress, it can be achieved, like the opening up of West Point and Annapolis, by simple legislation, and at once, without waiting to be bound by the action of three fourths of the states. Draft policy is, after all, the responsibility of the national government. A change of policy of this magnitude in framing a draft law is customarily the subject of full and informed hearings before appropriate committees and is voted on after well-focused debate. It may or may not be a desirable change to make, but in other circumstances it would surely be thought irresponsible to impose such a reform almost without attention, as a half hidden implication of a motto which, in addition. would be frozen unalterably in the Constitution.

Consider next the field of domestic relations, with its complex relationships of marital duties and parental responsibilities. Every State makes a husband liable for the support of his wife, without regard to the ability of the wife to support herself. The obligation of the wife to support her husband is obviously not identical to this; if it were, each would be duty bound to support the other. Instead, the wife's duty varies from State to State. In some jurisdictions there is no obligation on the wife, even if the husband is unable to support himself. In others, the wife does have a duty of support in such a case. In 1968 a recommendation on the subject was made by a Task Force on Family Law and Policy of the Citizen's Advisory Council on the Status of Women, a group that supports the Amendment. The recommendation was a progressive and equitable one: "A wife should be responsible for the support for her husband if he is unable to support himself and she is able to furnish such support." (Report, p. 9). So far, so good. But under the mandate of the Equal Rights Amendment, what would be the effect on the rule fixing the husband's duty? Some members of the Task Force, but only some, took a position consistent with the principle of the Amendment:

"Some of the task force members believed that a husband should only be liable for the support of a wife who is unable to support herself due to physical handicap, acute stage of family responsibility or unemployability on other grounds."(*Ibid.*) This solution would be dictated by the Equal Rights Amendment but would be contrary to the law of every State. Can it be said that the favorable treatment everywhere accorded to wives in respect of support is a manifestation of male oppression or chauvinism or domination? Can it be expected that all that States will make an about-face on the law of support within a year of the adoption of the Amendment; and if they do not, what will be the reaction of housewives to the Equal Rights Amendment when husbands procure judicial decisions in its name relieving them of the duty of support?

The truth is that a motto of four words, however noble in purpose, is hopelessly inapt to resolve all the diverse issues of classification by sex in the law. It is as if the Constitution declared "All power to the people," and left it at that. A hundred years ago the framers of the Fourteenth Amendment resorted to a high-sounding but unexamined motto when they provided that no State might abridge the "privileges and immunities of citizens of the United States." What those privileges are still is a subject of litigation and debate. We wonder how a phrase so unthought-through could have found its way into the Constitution as a mandate for legislatures and courts. We can at least profit from that experience. We can at least try to think things, not merely words, when amending our fundamental law. Of course no legal provision can anticipate unforeseeable or out-of-the-way problems that may arise. But when a proposal leaves the mind so unsatisfied regarding its effect on ordinary, obvious, recurring relationships, a more specific and concrete approach is clearly called for.

I would not want to leave the subject on a purely negative note. My concern, as I have said, is with the method proposed, which is too simplistic for the living issues at stake. It remains, then, to suggest alternative approaches. A great deal can be done through the regular legislative process in Congress.

Concrete guidelines are set forth in an April 1970 Report of the President's Task Force on Women's Rights and Responsibilities (not the same task force cited earlier). After recommending support of the proposed Amendment, the Report urges that Title VII of the Civil Rights Act of 1964 should be amended to empower the EEOC to enforce the law, and to extend coverage to State and local governments and to teachers; that Titles IV and IX of the Civil Rights Act be amended to authorize the Attorney General to assist in cases involving discrimination against girls and women in access to public education, and to require the Office of Education to make a survey on that subject; that Title II of the Civil Rights Act should be amended to prohibit discrimination because of sex in public accommodations; that the jurisdiction of the Civil Rights Commission be extended to include denial of civil rights because of sex; that the Fair Labor Standards Act be amended to extend coverage of its equal pay provisions to executive, administrative, and professional employees; that various amendments be made to the Social Security Act; and that liberalized provision be made for child care facilities. It is an extensive, important, and thoughtful set of proposals. If a two-thirds majority can be found for the abstraction of the Equal Rights Amendment, it would be puzzling to know why a simple majority could not even more readily be found to approve this concrete program.

In addition, Congress would give a vigorous and valuable lead by enacting model laws for the District of Columbia in the fields of labor legislation and domestic relations.

Moreover, a few significant decisions of the Supreme Court in well-chosen cases under the Fourteenth Amendment would have a highly salutary effect. And decisions under Title VII of the Civil Rights Act will clarify the role of state laws regulating employment with respect to the concept of bona fide occupational qualifications.

Finally—and this may seem to some to be a radical suggestion—Congress can exercise its enforcement power under the Fourteenth Amendment to identify and displace state

laws that in its judgment work an unreasonable discrimination based on sex. This would be done on the analogy of the 18-year old voting legislation.

In this connection let me point out a serious deficiency in the proposed Amendment. Its enforcement clause gives legislative authority to Congress and the States "within their respective jurisdictions." This is a more restrictive authorization to Congress than is to be found in any other Amendment, including the Fourteenth. If the new Amendment is deemed to supersede the Fourteenth concerning equal rights with respect to sex, Congress will be left with less power than it now possesses to make the guarantee effective. This is the final anomaly.

A NOTE ON RULES OF CONSTRUCTION

What would be the effect of the amendment on various laws that are now applicable only to women, or that differentiate between men and women in their provisions? What would be the effect, for example, on state laws setting minimum wages for women only, or the law of dower where it is not equally applicable to men?

The question divides itself into two parts: what is the mandate addressed to legislatures, and what is the mandate addressed to courts?

So far as legislatures are concerned, I assume (perhaps mistakenly) that equality could be achieved by moving in either of two directions; that is, a special minimum wage law or industrial seating law for women could be repealed, leaving no minimum wage or seating law in effect, or it could be extended to men either in its present form or with new standards applicable across the board. If the legislature repeals such laws because of the increased burden on employers to extend them to men as well, equality of rights will have been achieved, but one can only ask, "What price equality?".

Suppose, however, that within the one-year period between adoption of the Amendment and its effective date a legislature does not act to equalize certain differentials based on sex, or acts in a way thought to be still incompatible with the Amendment. The problem then becomes the subject of litigation. Are the courts given the same latitude of direction as I have assumed the legislatures possess to accommodate the law to the Amendment?

The legislative history, such as it is, suggests that certain guidelines should control the action of the courts. Reference has frequently been made, in this connection, to the following passage in the memorandum of the Citizens Advisory Council on the Status of Women, March 1970:

"Where the law confers a benefit, privilege or obligation of citizenship, such would be extended to the other sex, i.e., the effect of the amendment would be to strike the words of sex identification. Thus, such laws would not be rendered unconstitutional but would be extended to apply to both sexes by operation of the amendment. . .

"Where the law restricts or denies opportunities of women or men, as the case may be, the effect of the equal rights amendment would be to render such laws unconstitutional."

This guideline is far from clear. As was pointed out by Congresswoman Mink in the brief discussion in the House (Aug. 10, 1970, CONGRESSIONAL RECORD, pp. 28027–28028), "Under this reasoning, however, both results could occur. For example, the minimum wage law for women only is a special benefit and under the first rationale would be extended to both sexes. But it is also a law which is discriminatory against men [and restrictive, one could add, of women's liberty of contract] and thus could be held unconstitutional."

Mrs. Mink would have liked to insert into the Amendment a clarifying proviso, as follows:

Provided, that any State or Federal law which confers rights, benefits and privileges on one sex only shall be construed to apply to both sexes equally."

However, on the assurance of Congresswoman Griffiths that the proviso was implicit in the Amendment and that Mrs. Mink's concerns were unfounded, she did not press her point and voted for the Amendment as it stands. (*Ibid.*)

But even the proviso as offered by Mrs. Mink would hardly have been adequate as a guide. Consider the case of different ages of capacity to contract or marry: 18 for females, 20 for males, let us assume. From one point of view, only young women are given the benefit or privilege of contracting between 18 and 20, therefore the age should be lowered uniformly to 18. From another point of view, only young men are given the privilege or benefit of disaffirming an obligation between 18 and 20, therefore the age should be raised uniformly to 20. Or consider the problem of rights and duties *inter se,* as in the case of dower, in a state which grants that interest only to wives, or which grants it in larger measure than curtesy can be claimed by husbands. From one point of view, dower is a benefit granted to the woman and so should extend in corresponding measure to the man. From another point of view, the benefit is freedom during marriage of the wife's property from curtesy, so that it is the absence of such a marital property right in one another's property that should be the objective of the decision. How property held by a spouse is to be valued in this uncertainty, and how titles are to be secure when such property is conveyed, are questions that continue to give one pause, even after trying to apply the extrinsic guidelines. Surely the result cannot turn on whether a wife is seeking to convey property free of curtesy, or a widower is claiming the equivalent of dower on his wife's death.

Normally a legislature would focus on such problems of equalization as it revised its law of property or custody or marriage. But when 50 states are put under a new mandate of "equality" with respect to all aspects of law that have been regard to sex differentiation, and where that mandate is self-executing through the courts, wholesale confusion is likely to occur. It should be remembered once more that the intervening hand of Congress, where states are laggard or confused, is precluded, except where Congress would independently have power, under the "respective jurisdictions" clause of the Amendment's enforcing provision.

RISING PROPERTY TAXES THREATEN ELDERLY

Mr. MUSKIE. Mr. President, on behalf of the distinguished Senator from New Jersey (Mr. WILLIAMS), who is absent on official business, I ask unanimous consent to have printed in the RECORD a statement by him entitled "Rising Property Taxes Threaten Elderly" and an article relating to this subject.

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

RISING PROPERTY TAXES THREATEN ELDERLY

Mr. WILLIAMS of New Jersey. Mr. President, today hundreds of thousands of elderly homeowners are finding themselves financially paralyzed by rising property taxes.

In many communities taxes have doubled—and in some instances tripled—within the past ten years.

For aged persons already living on limited fixed incomes, this makes the economic squeeze even more burdensome. Yet, for most overburdened property owners, there is no relief in sight. In every region in our Nation, older Americans whether they live in cities, towns, rural areas or the countryside—are feeling the pinch.

Their problems have now reached crisis proportions and demand immediate and far-reaching attention on all fronts.

My own state of New Jersey has attempted to meet this urgent problem. On November 2 the voters will decide whether the property tax exemption will be raised from $80 to $160 for homeowners 65 and over with earnings not in excess of $5,000. This measure would certainly provide welcome relief for the aged.

But, it should be emphasized that many states are already financially hard-pressed and can only go so far before their revenue sources are exhausted.

Other measures must also be explored. One such proposal is my Housing for the Elderly Act, S. 4154. It would establish an intergovernmental task force to report on several possible measures—such as a Federal income tax credit—to provide property tax relief for the overwhelmed aged homeowner. Moreover, the task force would report on practical means of providing Federal assistance to States or local governments granting tax relief to elderly property owners.

Mr. President, an excellent article in the Newark Evening News describes the severity of this program for the aged. In one example cited, an elderly widow found that her $796 property tax bill had more than doubled during the past six years. Since her total annual income amounted to $1,176, she had only about $7 per week for food, clothing, transportation, health care, maintenance of her home, and other expenses.

Mr. President, this article provides compelling reasons for the enactment of my Housing for the Elderly Act.

PLIGHT OF CALIFON'S "GRANNY" WOLETZ STRESSES TAX BURDEN ON ELDERLY

(By John L. Cavnar)

CALIFON.—Mrs. Bertha Woletz is known affectionately in her Mount Grove farmstead neighborhood as "Granny" because of her quick wit and ready smile.

"I don't feel like smiling, but it's expected of me," said the 68-year-old widow. "I'm just plain scared I won't be able to keep my home, and these taxes are killing me."

Mrs. Woletz received her tax bill Monday. "I didn't sleep at all Monday night," she said, "I was awake all night with worry."

Her tax bill on her old one-time chicken farm where she has lived the last 38 years is $795.80, more than double what it was when her husband died six years ago. And her total income, including interest on a small savings account and Social Security, is but $1,176—a net "profit" of about seven dollars a week.

Mrs. Woletz' problem is similar to that of a lot of people over 65, particularly farmers who worked for years without being included in the Social Security program. And in Hunterdon County, a rural area, some 15 per cent of the residents are over 65.

The Woletzes started their chicken farm in 1932, and continued it until Woletz became ill in 1961. "I guess it's just no use," Mrs. Woletz said in a German accent she has retained the 46 years she has been in this country. "We were always honest and decent and worked hard. We didn't stand around and say 'I want, I want.' I just don't understand this tax business."

Mrs. Woletz stooped slowly to pick up her grandson from a stroller and carry him in her home for a mid-day nap. She struggled because her slight 90 pounds is racked with arthritis from her waist down.

"I'd like to get a job," she said, "but I can't because I have no way to get to work." She is home-bound by lack of transportation and her illness, but her daughter, who lives a few miles away, does her shopping in ex-

change for baby-sitting with her four young children.

Mrs. Woletz rented rooms one year to two students, receiving a total of $25 a week from them.

She apologized for her toes peeking through holes in her shoes, and changed into slippers with the aid of a long handled shoe horn so she wouldn't have to stoop. "Sometimes when I get down," she said, "I have trouble getting up again."

She said "people on welfare have a lot more than I do, but I can't ask for that kind of help. Should I hang myself today or tomorrow?"

It was cases like this that led 72-year-old Harold Van Doren, a retired Bell Labs electrical engineer, to press state legislators for tax relief for the elderly.

Van Doren is comfortable through his pension and real estate holdings, and has a spacious well-kept home in Teetertown Road in Lebanon Township. "I got involved," he said, "because this is such a wonderful place to live, but the taxes are making it unbearable for the people on social security.

"These people are proud," he said. "They don't want to end up, after owning their homes for years, in a bread line or using food ration tickets."

Van Doren submitted a four-step plan to Sen. Wayne Dumont, R-Warren, calling for additional relief as property owners increase in age. He doesn't know how instrumental his proposal was, but shortly after he mailed it Dumont pledged his support to an Assembly bill which would raise senior citizen property tax exemptions from $80 to $160.

In an 11th hour move before the Legislature recessed for the summer, the proposal to grant the exemptions to residents 65 and over, and earning $5000 or less a year, was approved for a statewide referendum in November.

Van Doren's other proposals are, starting at age 69 through 71, property owners earning less than $4,000 annually would be permitted a 25 per cent deduction from their school tax; from 72 through 79, residents earning less than $3,000 would be granted a 50 per cent school tax deduction, and those 80 and over and with incomes of $1,000 or less would have total school tax deduction from their tax bills.

"The problem is," he said, "how to maintain a home in the face of high taxes, particularly school taxes when you're too old to have children in school. It's taxation without representation."

He said the people are holding on to their homes as long as they can, and then they have to go to nursing homes if they can afford to.

Van Doren pointed out that in his home community of Lebanon Township, schools account for 84 per cent of the tax dollar, with $2.80 of the $3.46 tax rate going to the local and regional schools.

NONRATIFICATION OF THE GENOCIDE CONVENTION HAS IMPACT ON WORLD OPINION

Mr. PROXMIRE. Mr. President, I feel I must remind the Senate of the embarrassing fact that our nonratification of the Genocide Convention of 1948 has had a detrimental impact on the opinion of many people of other nations. This tragic delay in ratification of a convention which outlaws the worst human crime has seemingly provided our detractors with propaganda. With our many domestic ills, such as racial strife, student unrest, and a rising crime rate, as well as certain segments of our foreign policy, I can see why some foreign peoples might be questioning our commitment to fundamental principles.

In this regard, Mr. President, I ask unanimous consent that a portion of the remarks in support of the Genocide Convention of Ambassador Charles W. Yost, U.S. Representative to the United Nations, before the special subcommittee of the Foreign Relations Committee be printed in the RECORD.

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

IMPACT ON WORLD OPINION

As regards world opinion, this convention has attained over the years since it was first drafted a position of unique symbolic importance as an act of worldwide condemnation of what is perhaps the most dreadful crime men can commit.

In the context of modern history it also stands for another principle of fundamental importance; namely, that whatever evils may befall any group or nation or people are a matter of concern not just for that group but for the entire human family.

It is almost needless to remind this subcommittee that these principles and human feelings lie very deep in the American tradition, and indeed express our Nation at its best. How exceedingly frustrating it is, therefore, that our country should for so long have stood aloof in the community of nations from this treaty which gives such powerful historic expression to our own feelings and principles!

I can assure the subcommittee that in my diplomatic life, at the United Nations and elsewhere, no question has ever been asked me about the policy of my country which has been more difficult to answer than questions about American inaction on this convention.

To answer once and for all such questions, to remove such a needless source of ambiguity and confusion from our foreign relations, would not, I believe, fail to serve the interests of the United States.

HIJACKINGS BY ARAB GUERRILLAS

Mr. HARRIS. Mr. President, I join with other Senators in expressing shock and dismay over the series of plane hijackings by Arab guerrillas during the past several days. The men and women who did this are guilty of inhuman crimes against innocent men, women, and children.

Whatever we do hereafter to prevent hijackings—and we must act to prevent them—the United States must now do everything in its power to insure that the hostages held by guerrillas are released as soon as possible, and that no harm comes to them in the meantime. I fully support the efforts of the President and of Secretary Rogers to try to accomplish both aims.

Beyond this, I hope that our Government and the international airlines involved will explore many ways of preventing these barbaric acts in the future.

Our Government ought to explore with other nations the creation of an international compact requiring armed guards on international airlines, and, if necessary, providing subsidies to pay for them.

I would also support an international boycott of air travel to and from those nations where the guerrillas are based and operated, until those nations themselves act effectively to bring those of their citizens who are responsible to justice. Possibly an agreement might be reached immediately between our Government and American-owned airlines under which flights would be indefinitely suspended to and from nations which harbor air pirates. As others have suggested, the United States might also refuse landing rights to airlines of nations which have permitted guerrillas to operate within their borders.

I would hope also that our Government would seriously consider other sanctions against such nations, including the suspension of any economic and military aid they might be receiving.

Clearly, few of these preventive measures can be effective unless they are adopted internationally. For this reason I believe President Nixon should seek to convene an emergency international conference, sponsored if possible by the United Nations, to consider these and other ways to stop international air piracy.

The agenda of such a conference should certainly include the possible use of armed guards on international flights; sophisticated electronic means of searching passengers in order to detect weapons; restriction or prohibition of international air travel to and from nations which continue to permit guerrilla terrorists to operate freely; and international economic sanctions.

I am bringing these suggestions to the attention of President Nixon.

MOTOR VEHICLE INFORMATION ACT

Mr. HART. Mr. President, yesterday I introduced the Motor Vehicle Information Act, which is aimed at reducing the damage to vehicles in low-speed crashes and reducing the costs for motor vehicle insurance premiums. The bill was inadvertently omitted from the CONGRESSIONAL RECORD following my floor remarks, so I ask unanimous consent the full text of the bill be printed at the conclusion of these remarks.

As the senior Senator from Michigan, I am pleased to note that the automotive industry is responding to the public need for less fragile cars and more substantial bumpers which will protect these vehicles in the low-speed accidents where most of the insurance losses occur.

Mr. Ed Cole, president of General Motors, has indicated that his company "is making quite an effort to improve our front and rear end bumper problems by pulling the bumpers further away from the sheet metal and providing a uniform height and surface for contact." He also has indicated that GM is evaluating energy absorbing devices which can withstand car-to-car collisions with perfect matching bumpers up to 10 miles per hour. However, these devices, according to Mr. Cole, are expensive and many problems remain to be solved before they can be economically adapted to mass production of motor vehicles.

Additionally, the Chrysler Corp., commenting on the Motor Vehicle Information Act, said:

We believe there is merit in permitting the consumer to make an economic choice as between specific makes and models of automobiles based on data with respect to their crash worthiness.

I have been advised informally that both Chrysler and Ford are engaged in extensive research programs in an effort to develop property protection features for their vehicles.

Secretary Volpe has advised me that the Department of Transportation's experimental vehicle contracts provide "for designs that will prevent vehicle damage—either front or rear—in collisions up to 10 miles per hour. He goes on to say:

At low speeds, therefore, we do expect to eliminate damage, bringing significant economy to the motorist-consumer of the near future.

If the Department of Transportation moves swiftly to develop standards for vehicles in use and Congress provides the necessary financial assistance to the States to implement the authorized safety programs, we can expect to see significant reductions in economic losses now being experienced as a result of the millions of motor vehicle accidents occurring on our streets and highways annually.

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

S. 4331

A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes

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 "Motor Vehicle Information Act."

PURPOSE

SEC. 2. (a) It is the purpose of this Act, (1) to amend the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter referred to as "the Act") to promote competition among motor vehicle manufacturers in the design, production, and sale of motor vehicles which are less susceptible to damage in traffic accidents occurring at normal operating speeds and which lessen the risk of injury and death to occupants of motor vehicles and pedestrians involved in traffic accidents, and (2) to provide for the augmentation and implementation of certain Federal Motor Vehicle Safety Standards.

(b) The first section of the Act (15 U.S.C. 1381) is amended to read as follows:

"That the Congress finds and declares that—

"(1) it is necessary to establish motor vehicle safety standards for motor vehicles and equipment moving in interstate commerce, to establish testing procedures for passenger motor vehicles, to undertake and support necessary safety research and development, and to expand the national driver register; and

"(2) it is the purpose of this Act to reduce the number and severity of traffic accidents, the number of deaths and injuries resulting from such accidents, and extent of property damage resulting from such accidents."

DEFINITIONS

SEC. 3. Section 102 of the Act (15 U.S.C. 1391) is amended by—

(1) inserting in paragraph (1) after "injury to persons" the following: "and unnecessary damage to motor vehicles";

(2) adding at the end thereof the following new paragraphs:

"(14) 'Make', when used in describing a motor vehicle, means the manufacturer's trade name or other designation for a particular line of motor vehicles.

"(15) 'Model' means a particular size and style of body of any make of motor vehicle, including distinctive sizes of sedans, convertibles, station wagons, and trucks, and such other classifications as the Secretary may prescribe.

"(16) 'Passenger motor vehicle' means any motor vehicle manufactured primarily for the transportation of its operator and passengers upon the public streets, roads, and highways."

PUBLIC DISCLOSURE OF COMPARATIVE SAFETY OF PARTICULAR MOTOR VEHICLES ADDITIONAL STANDARDS

SEC. 4. Title I of the Act (15 U.S.C. 1391 et. seq.) is amended by adding at the end thereof the following new sections:

"SEC. 124. (a) The Secretary shall develop and prescribe by regulations issued not later than July 1, 1972, a system of tests and testing procedures designed to allow a determination and comparison of the susceptibility to damage of passenger motor vehicles involved in traffic accidents which reasonably may be anticipated to occur at normal speeds and under normal operating conditions, including, but not limited to, collisions at speeds of 5, 10, and 15 miles per hour.

"(b)(1) The Secretary shall undertake a study of the feasibility of developing tests and testing procedures designed to allow a determination and comparison of the risk of personal injury or death to occupants of passenger motor vehicles resulting from traffic accidents which reasonably may be anticipated to occur at normal speeds and under normal operating conditions. The Secretary shall report the results of such study, and his findings and recommendations, including any recommendations for additional legislation he deems necessary, to the President and the Congress by July 1, 1972.

"(2) If the Secretary finds that such tests are feasible he shall develop and prescribe by regulations issued as soon as may be practicable such a system of tests and testing procedures.

"SEC. 125. (a) Each manufacturer of motor vehicles shall test production models of every make and model of passenger motor vehicle manufactured or imported by him in accordance with the regulations promulgated by the Secretary under the provisions of section 124 of this title, and shall furnish the results of such testing, including such data as the Secretary deems necessary, to the Secretary.

"(b) No manufacturer shall sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States—

"(1) any passenger motor vehicle manufactured on or after November 1, 1972, unless production models of the make and model of such motor vehicle have been tested in accordance with the regulations promulgated by the Secretary under section 124(a) of this Act; or

"(2) any passenger motor vehicle manufactured on or after a date 180 days to one year after the date on which regulations governing tests and testing procedures are promulgated by the Secretary under the provisions of section 124(b) of this Act unless a production model of the make and model of such motor vehicle has been tested in accordance with such regulations.

"SEC. 126. (a) The Secretary shall compile information submitted to him under testing programs carried out under the provisions of section 124 of this Act, and furnish it to the public in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger motor vehicles with respect to the factors analyzed by such testing programs. The information shall include, but not be limited to a comparative analysis of the cost of repairing motor vehicles under section 124(a). The Secretary shall require that the results of such testing be made available to prospective purchasers of passenger motor vehicles by the manufacturer of such motor vehicles prior to their sale."

"(b) The Secretary shall—

"(1) make such information available to insurance companies and business organizations engaged in the business of selling or underwriting motor vehicle insurance in interstate commerce, for use in determining premium rates for insurance covering property damages and personal injury related to the factors tested under the provisions of section 125 of this Act. Information furnished shall include, but not be limited to, identification of parts, components, systems, and subsystems damaged or displaced in the motor vehicles tested; and

"(2) report to the President and the Congress on February 1, 1973, on the extent to which the motor vehicle insurance industry is utilizing such information in the determination of insurance premium rates, together with such additional findings and recommendations, including recommendations for additional legislation, as he deems appropriate. The Secretary is authorized to conduct such studies and surveys as may be necessary to carry out the purposes of this Act.

"SEC. 127. The Secretary shall, as soon as practicable, promulgate a Federal motor vehicle safety standard which requires that all motor vehicles manufactured after January 1, 1975, and offered for sale in the United States, are so designed and constructed as to facilitate periodic motor vehicle inspection, and to facilitate the repairs necessary to meet the requirements of such inspection."

JUDICIAL REVIEW

SEC. 5. Section 105(a)(1) of the Act (15 U.S.C. 1394(a)(1)) is amended by inserting after the words "any order under section 103" the following: "or 127, or any regulation issued under section 124."

SAFETY RESEARCH

SEC. 6. Section 106(a) of the Act (15 U.S.C. 1395(a)) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and inserting immediately after paragraph (1), the following new paragraph:

"(2) collecting data from any source for the purpose of determining the relationship between passenger motor vehicle performance and design characteristics and (A) property damage resulting from motor vehicle collisions, and (B) the occurrence of personal injury or death resulting from such accidents;"

COOPERATION WITH OTHER AGENCIES

SEC. 7. Section 107 of the Act (15 U.S.C. 1396) is amended by striking out the period at the end thereof, and inserting in lieu thereof a semicolon and the following:

"(3) tests and testing procedures established under section 124, and methods for inspecting and testing to determine compliance with such tests and testing procedures.".

PROHIBITION AND EXCEPTIONS

SEC. 8. Section 108(b) of the Act (15 U.S.C. 1397(b)) is amended by—

(1) inserting in paragraphs (1), (3), and (5) of such section, immediately after the words "subsection (a)" wherever they appear in such paragraphs, a comma and the words "and section 125(b),"; and

(2) amending paragraphs (2) and (3) of such section 108 to read as follows:

"(2) Paragraph (1) of subsection (a), and section 125(b) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment is not in conformity with applicable Federal motor vehicle safety standards or, in the case of a passenger motor vehicle, is not of

a make and model which has been tested in accordance with the requirements of section 125(b), or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such motor vehicle or motor vehicle equipment, to the effect that such vehicle or equipment conforms to all applicable Federal motor vehicle safety standards, and (in the case of a passenger motor vehicle) is of a make and model which has been tested in accordance with the requirements of section 125 (b), unless such person knows that such motor vehicle or motor vehicle equipment does not so conform or (in the case of a passenger motor vehicle) is not of a make or model which has been so tested.

"(3) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1) of subsection (a), or section 125(b), shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, authorize the importation of such vehicle or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety standard prescribed under this title, brought into conformity with the requirements of section 125(b), or will be exported or abandoned to the United States.".

PENALTIES

SEC. 9. Section 109(a) of the Act (15 U.S.C. 1398(a)) is amended to read as follows:

"SEC. 109. (a) Whoever—

"(1) violates any provision of—

"(A) section 108 (relating to motor vehicle safety standards);

"(B) subsection (c) or (d) of section 112 (relating to keeping records and reporting data);

"(C) section 114 (relating to certification); or

"(D) section 125 (relating to passenger motor vehicle testing); or

"(2) refuses to permit an inspection authorized under section 112 (a) and (b) shall be subject to a civil penalty of not to exceed $5,000 for each such violation or refusal. A violation of a provision of such sections or regulations issued thereunder, shall constitute a separate violation with respect to each motor vehicle sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States in violation of such provisions or regulations, and with respect to each failure or refusal to allow or perform an act required thereby. A refusal to allow an inspection authorized under section 112 (a) and (b), or a refusal or failure to allow or perform an act required thereby, shall constitute a separate violation with respect to each day such refusal or failure continues."

INJUNCTIVE RELIEF

SEC. 10. Section 110(a) of the Act (15 U.S.C. 1399(a)) is amended by inserting in the first sentence thereof, immediately after the words "standards prescribed pursuant to this title", a comma and the following: "or to the requirements of section 125(b)".

REPURCHASE OR REPLACEMENT

SEC. 11. Section 111(a) of the Act (15 U.S.C. 1400(a)) is amended by inserting immediately after the words "applicable Federal motor vehicle safety standards" the following: "or the requirements of section 125(b)."

INSPECTION OF MANUFACTURING FACILITIES

SEC. 12. Section 112(b) of the Act (15 U.S.C. 1401(b)) is amended by inserting, immediately after the words "or are held for sale after such introduction", a comma and the following: "or are held after being tested in accordance with the requirements of section 125(b)".

CERTIFICATION OF CONFORMITY

SEC. 13. Section 114 of the Act (15 U.S.C. 1403) is amended by inserting before the period at the end of the first sentence a comma and the following: "and that the particular make and model of such motor vehicle has been tested in accordance with the requirements of section 125(a)".

AMENDMENT OF INSPECTION AND REGISTRATION STANDARDS

SEC. 14. (a) The Secretary shall, not later than January 1, 1937, amend Highway Safety Program Standard number 1, relating to periodic motor vehicle inspection, issued June 27, 1967, under the provisions of section 402(a) of title 23, United States Code, to include the following additional provisions:

(1) The standard shall require inspection of a motor vehicle whenever the title to the motor vehicle is transferred for purposes other than resale, and whenever the motor vehicle sustains damage if any safety-related mechanism, subsystem, or functional non-operational part, as defined by the Secretary, is damaged.

(2) The standard shall require that a certificate of safe operating condition shall be prepared and signed by an inspector trained to perform this duty. The inspector shall be certified by the State in accordance with provisions established by the Secretary. No motor vehicle inspector may be certified by any State if he owns or receives any benefit in or from a business or enterprise engaged in the repair or sale of motor vehicles, automotive repair parts or accessories. *Provided*, a State may approve a motor vehicle inspector receiving such benefit where the vehicle population to be served is insufficient to make independent motor vehicle inspectors feasible and such State makes provision for protecting the public from any conflict of interest resulting from such certification.

(3) The standard shall be expressed in terms of motor vehicle safety performance applicable to all used motor vehicles.

(b) The Secretary shall, not later than January 1, 1973, amend Highway Safety Program Standard number 2, relating to motor vehicle registration, issued on June 27, 1967, under the provisions of section 402(a) of title 23, United States Code, to include requirements for a State motor vehicle registration and uniform certificate title program similar to the registration and title program contemplated by the Uniform Motor Vehicle Certificate of Title and Antitheft Act promulgated by the National Conference of Commissioners on Uniform State Laws.

REPORTS ON IMPLEMENTATION

SEC. 15. (a) The Secretary shall report to the President and Congress by January 1, 1972, the extent to which the States have implemented programs in accordance with the provisions of Highway Safety Program Standards numbered 1 and 2, relating to periodic motor vehicle inspection and motor vehicle registration, respectively, as issued on June 27, 1967, and make legislative recommendations for Federal financial and other assistance, as he deems necessary in order to facilitate compliance by the States by January 1, 1973.

(b) The Secretary shall report to the President and Congress by January 1, 1974, the extent to which the States have implemented programs in accordance with the provisions of section 14 of this Act, and make legislative recommendations, for Federal financial and other assistance, as he deems necessary to facilitate compliance by the States by January 1, 1975.

(c) Not later than January 1, 1975, the Secretary shall—

(1) certify each State program of periodic motor vehicle inspection and motor vehicle registration which meets the requirements of the applicable standard;

(2) the Secretary shall not approve any State Highway Safety Program under this section which does not establish a program of periodic motor vehicle inspection or motor vehicle registration meeting the requirements of the appropriate Federal Highway Safety Program Standard; and

(3) funds authorized to be appropriated to carry out the provisions of section 14 and this section shall be used to aid the States to conduct the Highway Safety Program approved in accordance with subsection (a) hereof. Federal aid highway funds apportioned on or after January 1, 1975, to any State which is not implementing a Highway Safety Program approved by the Secretary in accordance with this section shall be reduced for the first year of noncompliance by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of title 23, United States Code, with the reduction of an additional 10 per centum for each succeeding year of noncompliance, but not in excess of a total of 30 per centum, until such time as the State is implementing an approved Highway Safety Program certified by the Secretary in accordance with this subparagraph (c). Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States.

(d) In order to carry out the provisions of this section, the Secretary may—

(A) assist, by contract, grant, or any other arrangement, any State in establishing or improving programs of periodic motor vehicle inspection and motor vehicle registration;

(B) use the personnel, facilities, and information of Federal agencies, and of State and local public agencies, with the consent of such agencies, with or without reimbursement for such use;

(C) enter into contracts or other arrangements and modifications thereof, and make advance, progress, and other necessary payments;

(D) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(E) issue, amend, and repeal such rules and regulations as may be necessary; and

(F) take such other appropriate action as may be necessary.

SEC. 16. There are authorized to be appropriated to the Department of Transportation such sums as may be necessary to carry out the provisions of this Act.

HIJACKING OF INTERNATIONAL CIVILIAN AIRPLANES

Mr. PELL. Mr. President, the hijacking of international, civilian airplanes is a heinous and dastardly deed and a crime for which drastic remedies are necessary. More than the appointment of another study commission is needed.

I would suggest that the United States take the lead in immediately canceling the service of its airlines to any country not willing to extradite hijackers who are within its boundaries.

I realize such an action would cause some economic hardship to our airlines, and I believe that we should do all possible to ease their load in any other ways that we can. But I do believe that

such a boycotting procedure would achieve the result we wish by discouraging future hijackings.

If this policy were adopted, hijackers soon would discover that they would not be welcomed at the country to which they divert an airplane. Indeed, hijackers would quickly learn that their actions would be a source of embarrassment and concern to that country for which the hijacker feels some bond of sympathy. Under these circumstances, I believe we would see a rapid decrease in the incidence of airline hijacking.

I must add, too, that I admire the technique the Israeli airlines have used. It has proved very effective and has prevented any hijacking of any of their airplanes. However, I think their complete technique might prove too draconian for us. The Israeli airline procedure is not only to have armed guards on each flight, but also to separate completely the cockpit from the cabin with bullet-proof material. Then, even if hijackers were successful in overpowering people in the passenger cabin, they still could not get into the cockpit. This would leave to the pilot the choice as to whether to follow the hijackers' instructions or risk his airplane being destroyed. Presumably, the Israeli pilots might prefer this latter alternative to landing in an Arab country.

THE PROPOSED EQUAL RIGHTS AMENDMENT

Mr. GORE. Mr. President, I wish to announce my endorsement and active support of the proposed equal rights amendment to the Constitution. There has been a great deal of discussion of proposed changes in the language approved overwhelmingly by the House of Representatives on August 10, 1970. I understand that when this matter comes before the Seante, efforts may be made to alter the House-approved language:

> Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Political, social, and economic equality for all citizens must be a continuing goal of any democratic government. Today, we have not completed the task of securing equal rights for women. Though passage of a constitutional amendment may not automatically bring about equality, as has been the case with other guarantees, but it should certainly be of material assistance, and this step should be taken.

In 1848, a group of women began the battle which, in a sense, will be culminated by the adoption of this amendment. These early Suffragettes believed women should participate in our governmental process as full-fledged citizens and voters. Today, I think no one would want to deny to women the right to vote.

But full citizenship involves much more than the right to vote. American women contribute toward their national economy, making up 38 percent of our labor force, but few would argue that women are treated with full equality in securing jobs and in being compensated for their work.

Women today do not have the opportunity to share fully the rights, privileges and duties of men. There are current State laws which restrict the contractual and property rights of married women. Women and men are treated differently when juries are impaneled and some States may arbitrarily provide greater penalties for female than male violators of the law.

Of course, some State laws and some Federal laws are specifically designed for the true protection of women. I think women can be properly protected without being restricted and discriminated against.

The language of the proposed amendment as approved by the House appears adequate. I support that language.

THE CABLE VERSUS SATELLITE ISSUE

Mr. GRAVEL. Mr. President, I wish to bring to the attention of the Senate a growing apprehension that the benefits of a hard-won space technology shouldered by a patient American taxpayer will continue to be denied the general public.

The Nation's largest commercial utility, the American Telephone & Telegraph Co., recently announced its intention to lay another high-capacity, underwater transatlantic cable. Ironically, the announcement comes at a time when large groups of transatlantic satellite circuits are unused. It also comes at a time when several high-capacity communications satellites soon will be launched.

These latest international communications satellites, manufactured under the stewardship of the Communications Satellite Corporation, face an uncertain financial future should this cable be approved.

Are the dice loaded against the public? I think they are.

Congressional action in 1962 created the Communications Satellite Corporation—Comsat. Common carriers were given the option to exercise as much direct influence in its management as the public. Yet, in the case of Comsat's financial life and death, its primary competitor—A.T. & T.—has several seats on Comsat's board of directors. There is no question that A.T. & T. has access to important cost information and marketing strategy that otherwise would be denied a competitor. Were it denied, as normally expected in an unregimented economic society, the public would benefit from free competition. As things now stand, however, the cable versus satellite issue is not one of free competition. Instead, it is like playing with a set of loaded dice. The public has no chance but to come up snake eyes on the first throw.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business which will be stated by title.

The title was read as follows: A joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The Senate resumed the consideration of the joint resolution.

Mr. EASTLAND. Mr. President, we again take up the very serious and complex question of whether and how to change our method of electing the President and Vice President of the United States. No more important issue will confront us during this Congress than this one.

The resolution reported by the Judiciary Committee, over the objections of six other members of the committee and myself, would substitute the system given us by the framers of the Constitution of electing our highest officials with a national plebiscite.

In my judgment, it would be extremely detrimental to the Nation and the political processes which have served us so well to make such a drastic revision in our method of electing the President and Vice President. This proposed constitutional amendment has been mislabeled as "reform." I believe that its passage by the Congress and ratification by the States would accomplish radical change, not reform. I completely agree with the statement made by Prof. Charles Black of Yale Law School during his testimony before the Judiciary Committee:

> I think a case can be made for the proposition that direct election, if it passes, will be the most deeply radical amendment which has ever entered the Constitution of the United States.

There is great wisdom and truth in Professor Black's statement. It should be self-evident that when we alter the formula for victory in presidential campaigns, there will naturally result great changes in the type and style of campaign waged by the candidates. The primary objective of a presidential election campaign is to win the election. Within the bounds of propriety and legality candidates and their managers will say and do whatever is necessary to achieve that end. We should never lose sight of these basic facts.

Under the present system the formula

for victory is to carry a sufficient number of States to produce a majority in the electoral college. This compels candidates to make broad national appeals to the voters. While it is highly desirable to carry populous States with large electoral votes, the successful candidate does not alienate the less populous States with a small number of electoral votes, because those votes might be needed to produce a winning majority in the electoral college. In fact, this has been the political history of our two-party campaigns for the Presidency under our present system.

The winning formula under the proposed direct system of election would be to attain a 40-percent plurality of the votes in a national plebiscite. There would be no compulsion or necessity to assemble a coalition of States; it would only be necessary to receive a 40-percent plurality of the popular vote.

It is not possible to say with certainty just how this drastic change would affect our presidential campaigns. It can be said with certainty, however, that its effect would be great.

Mr. President, while this resolution provides for the election of the President, in reality it provides for minority rule.

In my judgment, the tendency of candidates and their managers would be to maximize their margins in the heavily populated States even at the expense of losing some votes in the rural, less populated States. Under the present system it makes no difference whether a candidate carries the State of New York by a margin of 100 thousand votes or 1 million votes. He receives all of New York's 45 electoral votes regardless of the margin. Part of the winning formula under the present system is to make a national appeal designed to carry such States as New York by a moderate margin, but at the same time to make an appeal to the farm States of the South and West with the hopes of carrying some of them.

Under the system of direct popular election, I believe that there would be no such incentive to take a balanced approach. Rather, there might be an irresistible temptation to adopt a platform and develop issues designed to carry New York by 1,500,000 votes, Massachusetts by 750 thousand votes, California by 1 million votes, and Illinois and Michigan and Pennsylvania by 500,000 votes each.

With an aggregate popular vote lead of 4,750,000 in those six States, a candidate could afford to settle for a minority ideological vote in the small States.

The 1970 census figures confirm what we already knew about the accelerating tendency of rural and small town areas to lose population to the great urban and suburban portions of the Nation.

The political effects of this process would certainly bring about the radicalization mentioned by Professor Black. There are many troubling questions raised by the prospect of this radical revision of our system of electing the President. Among these questions are:

Will the political power of the smaller States be diminished by the adoption of this proposed amendment? Specifically, will the political power of the States and the people who produce and mine the food, fabrics, and minerals of the Nation be diminished?

Will the adoption of the proposed amendment create an irresistible temptation to electoral fraud?

Will the adoption of the proposed amendment lead to interminable electoral recounts and challenges?

Will the adoption of the proposed amendment necessitate national direction and control of every aspect of the electoral process?

I believe that the answer to each of the questions is "Yes."

However, before we examine these important aspects of the proposed drastic change in the method of electing the President and Vice President, there is one feature of this matter which I think it is of crucial importance to discuss. I do not think it wise nor proper to abandon our present system of electing the President and Vice President in favor of a national plebiscite system. However, if we are to elect our highest officials in a a national plebiscite, it is extremely important that the candidates elected obtain a clear popular mandate of the voters of this Nation.

This proposed constitutional amendment as now drafted provides that a President and Vice President can be elected with a 40-percent plurality of the popular vote. If we are to have a plebiscite, it is imperative that we make certain that the will of the majority will be done, not the will of the minority.

Mr. President, at this time I send to the desk an amendment to change the requirement for election from a 40-percent plurality to 50 percent of the total popular vote cast. Under my amendment, in the event no pair of candidates attain 50 percent of the vote, then a runoff election shall be held in which the choice of President and Vice President shall be made from the two pairs of persons who received the highest number of votes.

I ask unanimous consent that this amendment be printed in the RECORD at this time.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

AMENDMENT NO. 885

On page 5, line 3, strike "40 per centum" and insert in lieu thereof "50 per centum".

Mr. EASTLAND. Mr. President, I offered this amendment in the Judiciary Committee when this matter was being considered by it. This amendment failed by a vote of 9 to 7.

There are many theoretical and practical reasons for the adoption of my amendment.

In theory, the requirement that candidates receive at least 50 percent of the vote in order to be elected is preferable to the 40-percent plurality requirement. The stated purpose of this constitutional amendment is to place directly in the hands of the voters all power in the election of the President and Vice President. Another stated purpose of the amendment is to give effect to the "one person—one vote" rule and make it apply to presidential elections. The goal of these purposes is to assure that the national popular will is expressed in the selection of the President and Vice President.

Surely, these purposes would be better served by making certain that the President and Vice President represent the will and votes of a national majority, not merely a national 40-percent plurality.

The 40-percent-plurality rule could easily result, not in the expression of the national popular will, but its perversion. Under that system candidates for President and Vice President could be elected whom a clear majority of the American voters expressly wished to be defeated. In order to illustrate this point, and without dealing in personalities, one can examine the results of the last presidential election and make reasonable speculation about the 1972 presidential election.

Suppose that the 40-percent plurality is in effect when the 1972 elections are held and that the candidates are President Nixon, the Democratic nominee, and a candidate of the Urban Coalition Party or a Peace Party. Let us further suppose that the thrust of the Democratic campaign and the third party campaign is that the President has failed to deal adequately with important foreign and/or domestic problems. The basic thrust of the Nixon campaign would be that the President has done a good job in dealing with these problems.

These are not unreasonable assumptions.

If the results of that election give President Nixon 43 percent of the vote, the Democratic nominee 42 percent of the vote, and the third party candidate 15 percent of the vote, President Nixon would be reelected. Would this be an adequate expression of the national will? In my judgment, it would not.

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

Mr. EASTLAND. Yes, I yield for a question.

Mr. BAYH. I would like to pose one very simple question to the distinguished chairman of the full Committee on the Judiciary. The percentages that he quotes as a speculation for the 1972 election have a familiar ring. Are not those the same percentages of the nationwide popular vote that occurred in the 1968 election?

Mr. EASTLAND. I think approximately, yes.

Mr. BAYH. I only raise this question because if we are trying to point out the weaknesses and the strengths it would seem to the junior Senator from Indiana that if we have a President sitting in the White House now who received 43 percent, while his opponents received 42 percent and 15 percent, and we do not question his credibility or his credentials of office when he is chosen by the electoral college, that we would have similar reason not to be inclined to question his credibility if elected by the popular vote.

Mr. EASTLAND. The people in 1968

voted for a change and got their change. If these percentages are correct, the people in 1972 would vote for a change and would not get the change.

Mr. BAYH. I appreciate the response of the distinguished chairman, my friend and colleague from Mississippi. There can be some questions as to the type of change that has transpired since 1968.

I share the concern of the distinguished Senator from Mississippi that we maximize the popular will, and for that reason I have insisted that we have a runoff provision in Senate Joint Resolution 1. In fact, I suppose I am responsible for having it in there because of my concern that we not proliferate the party structure and because of my belief that a runoff would minimize such proliferation.

I differ with my friend and colleague where the runoff should be struck, whether at 40 or 50 percent. But we concur in the basic premise that we should have a runoff when the candidate who gets the most votes gets less than a certain amount of votes.

Mr. EASTLAND. Do not get the idea that if this measure provided for 50 percent I would be for it.

Mr. BAYH. The Senator from Indiana was going to ask that question of my friend from Mississippi, but he beat me to the punch.

Mr. EASTLAND. No; I would still be against it, because it would destroy the federal system.

Mr. BAYH. I was hoping that we would have the prestige and advice and counsel of the Senator from Mississippi.

Mr. EASTLAND. I thank my good friend, but under no conditions could I support this constitutional amendment.

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

Mr. EASTLAND. I yield for a question.

Mr. CURTIS. I am sorry I did not hear the Senator's full statement. Due to the hour the Senate is meeting, we cannot be everywhere at once, but I shall peruse it in the RECORD.

How long does the Senator think it would take to hold a runoff election if this amendment were to become a part of the Constitution? The elections are held, the votes are counted, presumably in the States, or somewhere. Anyhow, they are certified nationally. Various contests or objections are filed, which is not unusual. A final determination is made. Then an announcement is made that there must be a runoff. There must be some opportunity for the parties and candidates to prepare for the runoffs and campaigns.

My question is, How soon after the November election would that be?

Mr. EASTLAND. I think some part of June of the next year. In the meantime nobody would know who the President was. This country would be floundering in a hopeless sea of uncertainty.

Mr. CURTIS. Even if it would not take that long, it would mean disaster in many situations in our foreign policy, as well as domestic problems.

Mr. EASTLAND. Why, it would be disastrous if it took only until January.

Mr. CURTIS. Exactly.

I wanted to make another inquiry of the distinguished Senator. Because of the high position he holds as chairman of the Judiciary Committee, I value his opinion.

I direct the Senator's attention to section 2 of the joint resolution, relating to qualifications of electors. This section carries some of the language contained in the Constitution at the present time. It reads:

> The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

That fits into the present system of counting the electoral vote, but then the language continues:

> Except that for electors of President and Vice President, the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice President the Congress may establish uniform residence qualifications.

Should the Supreme Court rule against the recent voting act allowing 18-year-olds to vote, if the pending amendment were to become a part of the Constitution any State could choose as they might wish. Is that not correct?

Mr. EASTLAND. Certainly.

Mr. CURTIS. Could the political forces in charge of State government in a given State secure an unfair advantage for their national ticket by changing the voting age?

Mr. EASTLAND. This proposal has several hearts, but let me tell my distinguished friend from Nebraska that he has gone to the very heart of the thing. Yes, it would be an unfair advantage.

Mr. CURTIS. When I raised this point the other day I received the reply, well, they would not lower the age down to 13 or 14. They would not have to do that. They could do otherwise to change it. If the idea becomes generally accepted that 18-year-olds should vote, someone is going to suggest, well, if they are closer to 18 than they are to 17, then they are 18.

Mr. EASTLAND. That is right.

Mr. CURTIS. And the legislature of a State could not be criticized for taking that view.

Mr. EASTLAND. And I think we would have just that in some States in the country.

Mr. CURTIS. Is there anything in the Federal Constitution at the present time prohibiting a State from extending the right to vote to citizens?

Mr. EASTLAND. No.

Mr. CURTIS. Does the distinguished chairman happen to know whether or not aliens do vote in some of the States?

Mr. EASTLAND. That I do not know.

Mr. CURTIS. Would it not be possible for a State to grant the right to vote to all aliens, or perhaps to aliens who had filed their first papers to become citizens? From the standpoint of the Federal Government, they could do it; could they not?

Mr. EASTLAND. Yes, that would be true, except I think it would throw the election, and could throw the election, into court.

Mr. CURTIS. Probably so, but what I am trying to illustrate is this: This amendment is based on the premise of casting individual votes and totaling them from a national standpoint and at the same time preserving that part of the Constitution which gives the States authority, within some limitations, of determining the qualificaitons of voters. Is that not correct?

Mr. EASTLAND. That is correct.

Mr. CURTIS. Are those two ideas compatible?

Mr. EASTLAND. I do not think so.

Mr. CURTIS. Could it be likened to a situation where a State, in reference to statewide elections, permitted counties or other subdivisions to determine the qualifications of voters?

Mr. EASTLAND. Well, of course, a State could delegate to a county——

Mr. CURTIS. I mean the area we are getting into could be as ridiculous as that?

Mr. EASTLAND. As that; that is correct.

Mr. CURTIS. I have changed my mind about one matter. Some months ago I was of the opinion that it was not important to require the President-elect to have a majority. I have changed my mind on that. I believe that the President, in order to furnish leadership in domestic matters when crises come along, or in world affairs, should represent a majority.

Mr. EASTLAND. That is what this amendment provides——

Mr. CURTIS. The amendment of the Senator from Mississippi.

Mr. EASTLAND. Correct.

Mr. CURTIS. Without the amendment of the Senator from Mississippi, that would not be the case; would it?

Mr. EASTLAND. No. We would have a minority President, one that received as low as 40 percent of the vote.

Mr. CURTIS. Under our present system, is it not to the advantage of both major parties to discourage third, fourth, and fifth party candidates from getting into the race for President, because it lessens their opportunity to get a majority of the electorial vote?

Mr. EASTLAND. Mr. President, I am going to be frank with my friend from Nebraska. I do not see anything holy in the two-party system. Now, three parties, yes. I would say that what we have to keep away from is a multitude of small parties. That would weaken and destroy this country—destroy the effectiveness of our Government. It would be just like the French Government and the German Government——

Mr. CURTIS. I could agree with the Senator on that, because——

Mr. EASTLAND. Between wars. But I cannot say that three, now, would do that.

Mr. CURTIS. Well, that may be true, because if we get too harsh on the third, it might reach a situation in this country where the formation of a new party could

never be brought about. Let me state my question in another way.

If this amendment is agreed to as written, without any change, then is it not true that there would be little or no restraint from preventing politicians from stirring up a lot of candidates and putting them into the race, and getting them onto the ballot, because they have nothing to lose; they do not need more than 40 percent, if they have the most votes? Is that not correct?

Mr. EASTLAND. Why, certainly. And if you have a very strong candidate in one of the parties, I think it would be done.

Mr. CURTIS. It very likely would be done. I thank the distinguished Senator. I feel that the proposal before us is the most significant proposal to come before Congress in a long time.

Mr. EASTLAND. In this century.

Mr. CURTIS. And I thank the distinguished chairman of the Committee on the Judiciary for his contribution to the discussion.

Mr. EASTLAND. I thank my friend from Nebraska.

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

Mr. EASTLAND. For a question.

Mr. BAYH. I would like to clarify one point made by the Senator from Nebraska.

Mr. EASTLAND. Mr. President, I ask unanimous consent to yield to the Senator from Indiana without losing my right to the floor, and without my subsequent remarks being counted as a second speech on this legislative day.

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

Mr. BAYH. I appreciate the courtesy of our distinguished chairman of the Committee on the Judiciary. Did I understand my friend from Nebraska to say that he thought we should have a President who had the support of the majority of the people in troubled times, particularly in times of foreign intrigue such as we are going through now.

Mr. CURTIS. I think that would be much better.

Mr. BAYH. I think the record should show that the present President was elected by 43 percent of the voters and that he was elected under the electoral college system, which has been enthusiastically supported by our friend from Nebraska.

Mr. CURTIS. No, I did not say that.

Mr. BAYH. There is no guarantee, under the present system, that we will have a majority President. In fact, we have had a number of Presidents who had less than a majority; in fact, some of them were outstanding Presidents.

Mr. CURTIS. No, no. President Nixon did get a majority of the electoral vote. That is the only vote recognized under our Constitution, and the present Constitution requires him to get a majority of that vote.

Mr. BAYH. I thought I heard the distinguished Senator from Nebraska say he should have the support of a majority of the people.

Mr. CURTIS. No. I do not think I said any such thing. In fact, I think the only vote for the President we have, in reality, is the electoral vote.

Mr. BAYH. Does it concern the Senator from Nebraska at all that it is possible for a President today to get a majority of the electoral votes and still have less than a majority, and in fact, have even fewer votes than his principal opponent? Does that concern the Senator from Nebraska at all?

Mr. CURTIS. No, it does not, because—and I have history on my side—the country has gotten along under such a system, and no one has been sworn in as President without having a majority of the electoral vote.

The Senator is urging the country to depart on a course of action where they would not need any majority of any kind, where the electoral vote is out, and no majority of the popular vote is required. This is an invitation to minority candidates, and it is an invitation for campaigning and campaign strategy to splinter the vote and end up with a minority President.

Mr. BAYH. I suggest to my friend from Nebraska that he looks at one part of this animal and I look at another, and we reach a different conclusion as to what the overall appearance is. It is not unusual for men of good faith to look at similar facts and come up with different conclusions.

The facts of the matter are that the present system allows the electoral college to put into high office a man who receives many fewer votes than the man he is running against. We do not have to speculate to a very great degree; we have only to look back to, let us say, 1948, when President Truman was running in a situation very similar to that in 1968. As we will recall, we had the Henry Wallace candidacy, the Strom Thurmond candidacy, and Dewey and Truman. In 1948, President Truman had a 2 million popular vote plurality. Yet, if there had been a change of less than 28,000 votes in the right three States, the electoral college would have put Governor Dewey into the Presidency, despite the fact that 2 million more Americans throughout the country thought Harry Truman should be the President.

I concur in the judgment of the Senator from Nebraska that we need to maximize support for the President in the serious times in which we find ourselves. But, is the Senator from Nebraska telling us, in this day and age, that he does not have some concern over the President's ability to govern if he had 2 million fewer popular votes than the man he has just defeated for the Presidency?

Mr. CURTIS. As the distinguished Senator said the other day, in opening debate, there is not any perfect plan. The plan I am defending has worked for a long time. It provides that no one would become President unless he has a majority of the electoral college vote. I do not think we should depart from that.

Mr. BAYH. The Senator did not answer the question posed by the Senator from Indiana.

Mr. CURTIS. All right. State it again.

Mr. BAYH. Pardon me.

Mr. CURTIS. State it again.

Mr. BAYH. I do not wish to prolong this discussion. We have been imposing on the time of the Senator from Mississippi. But I think it is important to ask ourselves how the President can have the maximum amount of credibility today. It seems that only God can give a President the necessary power, strength, courage, and foresight to be President. I do not think any mortal man really has such qualifications. Given the troubled times in which we live, does the Senator from Nebraska feel it would be possible for a President to have maximum credibility, maximum faith of the country, if he is elected President of the United States by the mathematics of the electoral college, even though 2 million more people throughout the country supported the man he ran against? That is exactly the situation that we almost had in 1948.

Mr. CURTIS. The Senator is citing hypothetical cases that almost happened.

Mr. BAYH. I am talking about the specifics of the 1948 election.

Mr. CURTIS. Well, they did not happen that way. Under the present circumstances, no one can be sworn in as President unless he has a majority of the electoral vote, and that is the right way to count the vote. Granted that in a close election, the one with the greatest electoral vote might be a little behind in the popular vote, still, not only in the outcome tied to a majority concept, but the campaign and the campaign strategy will be tied to the concept of a needed majority, and all of that is being abandoned in Senate Joint Resolution 1.

Mr. BAYH. May I just say to the Senator——

Mr. CURTIS. I do not want to impose upon the distinguished Senator from Mississippi.

Mr. BAYH. I will not impose further, except that I would still like to have an answer to the question.

The Senator suggests that there is something wrong about asking hypothetical questions. Yet, I have heard him ask every speaker in the last 2 or 3 days a series of hypothetical questions about runoffs and about qualifications of voters. I have been more than willing to try to answer these and to listen to others answer them. If the Senator from Nebraska feels that it is not a proper question to ask, that is fine; or, if he does not want to answer it, it is fine. But I should like to ask him once again, respectfully, whether he feels that you can maximize the credibility of the President of the United States if he is asked to govern this country when elected only by the mathematics of the electoral college system, if the man he ran against and defeated had the support of 2 million more Americans than the President himself had.

Mr. CURTIS. I will try to answer it. The term "maximize" is a relative term. I would say that that system would establish more confidence in the presidential election than the one the Senator from Indiana proposes. We are going

to elect no President who has the confidence of every citizen or the confidence of all the people around the world.

One difference in reference to these hypothetical questions is this: The Senator from Indiana is proposing a new, untried proposal. The evidence of how the system that he would replace would work is a matter of history, and that is quite a difference.

Mr. BAYH. I suggest to the Senator from Nebraska that to say that direct popular vote is untried completely ignores the fact, if I may say so, with all respect, that direct popular vote is used in every other election, on every election day, in every State, in every municipality, in every State legislature district, in every congressional district. We have ample knowledge of how this works. And I hope we can pursue the runoff question a little further.

Mr. CURTIS. All except in a Federal system. This is the United States of America. Our country is made up of 50 sovereign States. There has been no pattern for a popular election in that respect. The matter is just filled with complications and problems. If the distinguished Senator really believed in this popular election business, I cannot understand why he is not suggesting Federal qualifications for voters. I am against Federal qualifications for voters, but I believe that section 2 is in contradiction with the theme of the Senator's proposal for direct election and for runoff.

Mr. BAYH. I appreciate the fact that the Senator has brought up that point for the third time in 3 days. I will be glad to repeat the answer that I have given on the 2 previous days, but for the sake of the time of the Senator from Mississippi as well as the expense of reprinting the same answer, I will not do so. Perhaps those who want the answer will dig through the RECORD of yesterday and the day before and find the opinion of the Senator from Indiana.

To get back to the same question: the Senator is saying to the Senate and to the country that he is not concerned about a credibility gap and a confidence gap that would result in the White House——

Mr. CURTIS. I never said that.

Mr. BAYH. If the man occupying the White House had 2 million votes less than the man he ran against.

Mr. CURTIS. I never said that. I said it would be a lesser evil than what the Senator from Indiana proposes, and I cited the words of the distinguished Senator from Indiana which he used when he opened the debate, that there was no perfect system.

Mr. BAYH. But the Senator is not concerned about a President trying to govern if he has 2 million popular votes fewer than the man he ran against?

Mr. CURTIS. No one ever said that at all. I said that it would have a lesser impact on credibility than to embark upon what the Senator from Indiana proposes.

Mr. EASTLAND. If the Senator will yield for a question, when has that happened?

Mr. CURTIS. A difference of 2 million votes? I do not have all the figures at my fingertips. I do not think it ever has happened.

Mr. EASTLAND. I do not think it has, either.

Mr. BAYH. If the Senator will permit me to add one addendum, there have been three times when we have elected a President who had fewer popular votes than the man he was running against; 1948 is a typical example of the gap that can exist between a popular vote and an electoral vote.

No system, of course, is perfect. But it is a serious and grievous shortcoming of the present system that it has permitted the election to the top office of this land a man who had fewer votes than the man he was running against. This is a serious fault. Only one system guarantees that the man who sits down at 1600 Pennsylvania Avenue will be the man who has the most votes. That is the system supported by the distinguished Senator from Oklahoma, who gave a very eloquent defense of Senate Joint Resolution 1 yesterday. I recommend his remarks to anyone who is concerned about certain arguments that have been raised by the opponents. I wish they would read the remarks of the distinguished Senator from Oklahoma, because he has been studying this matter longer than almost any other Member of the Senate. He outlined his tortuous process of study in his speech yesterday, and I think he lays to rest very well the questions that have been raised.

The Senator from Mississippi has been very indulgent. I apologize. I will not ask him to further stretch his patience.

Mr. EASTLAND. Fifty-seven percent of the American votes would have mandated that a change be made, but the advocates of repudiated policies would have been reelected to another 4-year term.

Similarly, let us assume that the 40-percent plurality direct election system had been in effect for the 1968 presidential elections and that there had been a shift of 250,000 votes from President Nixon to Vice President Humphrey.

Incidentally, it is not unreasonable to assume that this shift might have occurred out of a total of more than 73 million votes cast in that election. In my opinion, it is more reasonable to assume such a shift than it is to make certain assumptions about past presidential elections under the present electoral system. Thus, when the statement is made that in the 1960 election a shift from Kennedy to Nixon of 15,600 votes would have given Nixon a majority in the electoral college even though President Kennedy would have received a plurality of the popular vote, the true postulate and assumption should be broken down to state that there would have had to be a shift from Kennedy to Nixon of 4,500 votes in Illinois, 5,000 votes in Missouri, and 6,100 votes in Minnesota. As can be seen, this is not one assumption, but three, which would have had to occur in conjunction with each other in order to reach the result of Nixon being elected over Kennedy.

In the event of such a shift of 250,000 votes from Mr. Nixon, Vice President Humphrey would have been elected President.

One of the fundamental issues in the 1968 election was the record of the Johnson-Humphrey administration. Vice President Humphrey carried the banner of that administration during his campaign.

He ran on what he regarded as the achievements and accomplishments of the administration. On the other hand, both Mr. Nixon and Governor Wallace attacked the record of the administration and strongly urged that it should be turned out of office. They specifically stressed certain foreign and domestic issues which were of concern to the American people and with which they contended the Johnson-Humphrey administration had dealt in an unsatisfactory manner. Both called for a repudiation of certain of these policies and of those who had executed them.

Would it have been an expression of the national will, under these circumstances, for Vice President Humphrey to have been elected President, even though almost 57 percent of the American people had voted "no"?

Those who feel that President Nixon has an uncertain and difficult mandate from the American people as a result of the last election should consider these two reasonable hypotheticals. Each would result in a much more difficult and uncertain mandate than President Nixon now has.

As a practical matter, we must consider the possible political impact of the 40-percent plurality rule. Whose political interests would be benefited by such a system? It is not easy to answer these questions with certainty but some clues may be had by examining the results of the elections for mayor in 1969 of our two largest cities.

In Los Angeles, if the 40-percent plurality rule had been in force, Thomas Bradley, not Sam Yorty, would be the mayor of that city today. In the first election, Bradley received approximately 41.7 percent and Yorty 26 percent of the vote. Los Angeles has a majority requirement for election, and in the runoff election Yorty defeated Bradley by more than 55,000 votes. Clearly the 40-percent plurality system would have resulted in frustration of the majority will in the Los Angeles election.

Mr. BAYH. Mr. President, will the Senator from Mississippi yield for a moment there?

Mr. EASTLAND. I yield for a question.

Mr. BAYH. I should like to make one observation, if the Senator would care to comment on it. I am struck again by the 41-percent figure. Mr. Bradley in Los Angeles obtained about the same percentage of the vote as did Woodrow Wilson when he was first elected President. If we are going to be consistent, I suppose that if Mr. Bradley could not have been a good mayor of Los Angeles with his 41 percent, then Woodrow Wilson could not have been a good President of the United States, either, with his 41 percent.

Mr. EASTLAND. I am not talking about qualifications. I am talking about

the frustration of the national will—of the will of the people, of a majority of the people. That is what I said.

In New York City, which has a simple plurality requirement, Mayor Lindsay was reelected with less than 42 percent of the vote. He would have been reelected under the 40-percent plurality system. His two principal opponents vigorously attacked his administration, and made it the chief issue of the campaign. Those who are familiar with the New York City political scene have stated that the only reason Mayor Lindsay was reelected was that the opposing vote was split. It is widely believed that if he had been forced into a runoff election he would have been defeated.

Mr. President, right there I think we have seen a very good instance of the frustration of the national will in the past few days in the Republic of Chile, which had two anti-Communist and anti-Socialist candidates which split the vote and, as a result, the candidate of the Communist Party was elected President of Chile, against the popular will of its people, so that it is now on the road to becoming a Marxist state.

Mr. BAYH. If the Senator from Mississippi will yield just there for a moment, what percentage of the vote did the Communist candidate receive in Chile?

Mr. EASTLAND. I cannot tell the Senator what the percentages were. It was a close election. As I recall, he beat one of his opponents by 39,000 votes.

Mr. BAYH. If my memory is accurate, I believe that the winner received in Chile about 34 percent. If the winner had received 34 percent under the provisions of Senate Joint Resolution 1, there would have to be a runoff. With a runoff the majority of the people in Chile might have chosen someone else.

Mr. EASTLAND. Well, it is just a matter of figures. That identical thing could happen in the future in this country under the Senator's 40 percent——

Mr. BAYH. I hate to keep imposing on the Senator, but what I was trying to say——

Mr. EASTLAND. Let me finish my sentence—40 percent of the vote in his resolution.

Mr. BAYH. The Senator has been patient. I think it is important for us to put in proper perspective what may happen and what may not happen. I did not look with great favor on the election of a Communist in Chile. I was hoping that that would not happen.

Mr. EASTLAND. As a result, we will have a nationalization of the copper industry and the other basic industries in that country. That could happen here, too, under what my friend from Indiana is proposing.

Mr. BAYH. I suppose it could also happen under the 50-percent system that the Senator from Mississippi is proposing or under the electoral college system.

Mr. EASTLAND. I do not think so. But the Senator is on much stronger ground when one has a majority of the vote.

Mr. BAYH. I am suggesting that it seems to be just a bit inconsistent to suggest that a candidate in Chile who is elected with a 34-percent vote, would have been elected under Senate Joint Resolution 1, or could not possibly have been elected under Senate Joint Resolution 1, because Senate Joint Resolution 1 provides that there has to be another election if a candidate gets only 34 percent of the vote. The runoff gives the people a chance to prevent that result. It was that very possibility that prompted us to establish the 40 percent requirement in Senate Joint Resolution 1.

Mr. EASTLAND. But the same thing could happen under the 40-percent requirement.

Mr. BAYH. But such a candidate would have to get more than 40 percent of the vote, which did not happen in Chile. Is that accurate?

Mr. EASTLAND. As I recall now, he got 36 percent.

Mr. BAYH. Thirty-six percent. It did not happen in Chile, then. Is that accurate?

Mr. EASTLAND. That is correct, but it could happen here under the Senator's provision.

Mr. BAYH. It could happen here only if the candidate got more than 40 percent of the vote, if he got 43 percent, like Nixon, or 41 percent like Woodrow Wilson, or if he got——

Mr. EASTLAND. If it is split up and we get a number of candidates and we get a strong Marxist candidate, as we had in Chile, it is just the same thing. It could happen in this country. We could have a Communist state, as they will have in Chile——

Mr. BAYH. I respectfully suggest——

Mr. EASTLAND. I mean, it is possible. I am not predicting that.

Mr. BAYH. Perhaps it is not the best of decorum in the Senate, but I would like to suggest that the Senator's persuasive argument can be used to argue the other possible outcome. The Senator has been stressing that in the 1968 election, 50 some percent of the voters voted for a change and voted against the candidacy of Mr. Humphrey. I would like to suggest that some 66 percent or 64 percent of the people of Chile, those who voted for opposition candidates, would be inclined to vote against the Communist candidate.

So, if we had a runoff candidate under Senate Joint Resolution 1, the chances would be very great that the runoff provision would have insured that the Communist was not elected.

Mr. EASTLAND. Mr. President, I hope my friend, the Senator from Indiana, is correct.

Mr. BAYH. There is no way that we can know.

Mr. EASTLAND. I do think that we have a system that could lead us down the road in the direction the Republic of Chile has gone.

Mr. Richard Scammon, who is acknowledged to be one of the foremost experts on the American political system, characterized the New York City mayor's election in the following language:

> In fact you might say there was a referendum on John Lindsay in New York and John Lindsay lost.

I am certain that we would not want to have the same thing said about an election for President and Vice President of the United States—that there was a referendum on a President and a Vice President and that they were still in office although they lost.

The conservative political elements in the United States are not going to accept a change in the electoral system which gives every indication of working to their disadvantage. The direct election system appears to be biased against the conservative political forces in the Nation, and this bias is reinforced by the requirement that the successful candidates have to poll only a 40-percent plurality of the vote.

There is no way to know with certainty which minor parties might run candidates for President and Vice President in the future. However, at the present time the most likely minor party in the field for the 1972 presidential election is the American Independent Party of former Gov. George Wallace. A Gallup poll of March 21, 1970, reveals that Governor Wallace has apparently held on to almost all the political strength he exhibited in 1968. He is now rated at 12 percent of the national popular vote in a three-way race between himself, President Nixon, and Hubert Humphrey.

It is highly significant that the persons who chose Wallace were asked:

> Suppose Wallace were not included, which candidate would you prefer—Nixon or Humphrey?

Of those who gave an answer, 76 percent of the Wallace voters in the Nation expressed a preference for Nixon and 24 percent preferred Humphrey. Outside the South, Nixon got the support of 67 percent of the Wallace voters as a second choice, and Humphrey received 33 percent. In the South, 83 percent of the Wallace vote went to Nixon and 17 percent to Humphrey.

The Washington Post of March 22, in reporting this poll, aptly headlined it: "Wallace Still Thorn to the GOP."

Although the Gallup poll showed President Nixon leading Mr. Humphrey by 54 percent to 34 percent, the New York Times of March 22, in reporting on this poll, stated:

> Although Mr. Humphrey loses now in this test race, experience shows that candidates often have greater recuperative powers, especially candidates who have the backing of a major party.
>
> A look back to early 1962, after President Kennedy's first year in office, shows that Mr. Nixon, who then was in the position that Mr. Humphrey is in now, trailed the incumbent by 35 to 52 percent, which is similar to the present Nixon-Humphrey results.

We must take every precaution to assure that any revision of our electoral system not result in a perversion of the national popular will accomplished in the name of democracy.

Apparently, the chief objection of the proponents of the 40-percent plurality system to the proposition that candidates must obtain a majority of the popular vote in order to be elected is that the 50-percent requirement would increase the likelihood of runoff elections. The prospect of runoff elections is deemed undesirable for a number of reasons:

First. Splinter parties would be encouraged to enter candidates in the first

election in the hope of denying both of the major party candidates 50 percent of the total vote cast, so as to force a runoff election. In such a runoff election, the leaders of the splinter party or parties could bargain with the remaining major party candidates for the votes they received in the first election. These votes would be crucial to the outcome of the runoff election, and the leaders of the splinter party or parties could extract promises from one of the remaining major party candidates for the delivery of their votes;

Second. An appeal must be made in the runoff election to the voters who supported the splinter party or parties in the first election. Persons who supported the candidate of a splinter party in the first election are likely to be political extremists. It would be undesirable for the candidates of the major parties in a runoff election to tailor their campaigns to the goal of obtaining this extremist vote. If this should happen, an extremist minority could exercise disproportionate leverage on American presidential politics;

Third. In the event of a runoff election, the American people would be in doubt and uncertainty between the first election and the runoff election as to whom the next President and Vice President would be. This doubt and uncertainty would have a bad effect upon the country. The voters would be tired of politics and would likely be less attentive to the issues in the runoff election.

In my judgment, these objections have no great substance or merit.

As to the first two objections, I believe that they overlook some realities of American politics. These objections are based on misguided notions of the American electorate.

It is a matter of historical fact that splinter parties in America are issue-oriented. There are times when both major parties have failed to present issues to the satisfaction of a significant segment of American voters. When this happens splinter parties are formed, which embrace one great issue or set of issues. These parties frequently nominate candidates for President and Vice President. Thus, the Greenback Party, the Progressive Party of 1912, the Progressive Party of 1924, the Progressive Party of 1948, the States Rights Party of 1948, and the American Independent Party of 1968.

Traditionally, these parties have disappeared because one or both of the major parties would embrace in whole or in part the issue advocated by the supporters of the splinter party, or because social or economic conditions which caused the emergence of this issue changed.

We can expect this to hold true in the future.

It is unrealistic and unreasonable to think that the candidate of such a splinter party, or its leaders, could instruct their followers how to vote in a runoff election. These people voted on the issues in the first election, and they would vote on the issues in the runoff election. They would vote for the major party candidate in the runoff election who more nearly embraced their ideas and expressed their feelings. For instance, in the 1968 election, if there had been a runoff between President Nixon and Vice President Humphrey, does anyone think that Governor Wallace could have told more than a handful of his supporters who to support in the runoff? If Senator McCarthy had been a splinter party candidate, does anyone think he could have instructed more than a few of his supporters who to vote for in the runoff?

Our whole political history suggests that even in personality-oriented elections it is very hazardous for an eliminated candidate to advise his supporters which of two remaining candidates to support. The normal human reaction is to resent such instruction. How much more true in issue-oriented elections, especially where the advice given is contrary to the natural feelings and instincts of the persons who supported the splinter party candidates in the first election.

It was reported in the press during the last election that a number of electors pledged to Governor Wallace stated that under no circumstances would they vote in the electoral college for one of the major party candidates, regardless of the suggestions or advice offered by Governor Wallace.

If the candidates or leaders of the eliminated splinter parties can deliver only a few votes in the runoff election, rather than millions of votes, there would be no reason or incentive on the part of the major party candidates in the runoff to make concessions or promises to such persons.

But, it is said, even if this is true it would be most unfortunate to have the major candidates in the runoff election competing for fringe or extremist votes. I am in agreement with this proposition, but, again, our political history tells us that the likelihood of such a thing happening is very remote. Such thinking is fallacious because it is based either on the premise that only the persons who supported the eliminated splinter party candidate would vote in the runoff election, or on the premise that every voter who supported one of the major party candidates in the first election would be frozen into support of the same candidate in the runoff election.

Both suppositions are palpably without any foundation.

Let us assume that those who supported the eliminated splinter party candidate or candidates are members of fringe or extremist groups. While it is perfectly true that each of the major party candidates in the runoff election would be happy to get as many of these votes as possible, neither could afford to leave the middle of the road and embrace any extreme or fringe ideas espoused by the followers of the eliminated splinter party, because to do so would create a great danger of a massive defection of his supporters in the first election.

Thus, the fear of a runoff election degenerating into a bid for extremist support is more fanciful than real.

As a matter of fact, I am convinced that the possibility of secret wheeling and dealing is much greater under the 40-percent plurality system than it would be under a majority system of direct election. Suppose, for instance, we convert to a 40-percent plurality system of direct election and that a public opinion poll taken in the spring of a presidential election year showed that in a two-party race, the prospective Republican nominee would receive 52 percent of the vote and the prospective Democratic nominee would receive 48 percent. Suppose that the same poll showed that in a three-party race with a splinter party candidate, the prospective Democratic nominee received 44 percent, the prospective Republican nominee 43 percent, and the splinter party candidate 13 percent of the national party vote.

It should go without saying that the supporters and managers of the Republican Party would do everything legally and honorably possible to persuade the splinter party candidate not to enter the field; likewise, the Democratic Party's supporters and managers would offer every encouragement for the splinter party candidate to run.

The splinter party candidate would then be in the position of having a choice of making a deal with one of the major parties or proceeding on his own course.

In this hypothetical example, the splinter party candidate could decide not to run for President, thus making it easier for the Republican nominee to be elected. In order to persuade the splinter party candidate to reach this decision, the Republican leaders and managers might well be required to make secret promises or commitments to the splinter party candidate. These promises or commitments might pertain to future policies of a Republican administration or appointments to be made by the Republican nominee after he was elected.

By the same token, in this hypothetical case, if the splinter party candidate decided to run for President, and thereby measurably help the chances of the Democratic Party of capturing the Presidency, the Democratic leaders and managers might have to pay for this benefit not only by making promises and commitments about future policies and appointments, but they might also be compelled to arrange for considerable campaign financing of the splinter party candidate.

I think that this hypothetical example of what could happen under a 40-percent plurality popular vote system is very reasonable.

In my judgment the American people do not want this kind of political game played with the Presidency.

It is quite true that under the 50 percent direct popular vote system deals and promises can be made in the runoff election to obtain the support of eliminated candidates. However, the great difference between the two situations is that in the runoff under the 50-percent system, any deals would be open deals openly arrived at. By the nature of things the entire voting public would know about any effort of one of the two candidates in the runoff to obtain the support of certain groups. Any promises made to these groups to obtain their

support would be public promises designed to attract their support.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. EASTLAND. I yield for a question.

Mr. BELLMON. As one who served on the American Bar Association Commission that worked up the study that finally resulted in the drafting of Senate Joint Resolution 1, I was impressed with the arguments made during those discussions that setting a 40-percent plurality as the vote necessary for the President to be elected rather than 50 percent would tend to discourage splinter parties.

The feeling expressed by those who testified before the commission was that, if we would require a 50-percent plurality, many splinter party groups would be encourged to develop and participate in elections, because they would feel they could draw off the small percentage of votes necessary to throw the election into a runoff. But if the percentage were 40 percent, it would mean that splinter parties would need to siphon off 20 percent in order to keep one of the candidates from being declared winner and named President.

Does the Senator disagree with that feeling?

Mr. EASTLAND. Yes.

Mr. BELLMON. The Senator from Mississippi feels 50 percent would discourage splinter parties?

Mr. EASTLAND. I believe it is necessary that a man be elected President of the United States by a majority of the people. I think that is the overriding consideration. I have never been worried about splinter parties.

Mr. BELLMON. My experience in government certainly is not as lengthy as that of the distinguished Senator from Mississippi, but if I remember correctly, in 1948, our President received less than 50 percent of the votes. Also, in 1960 President Kennedy received less than 50 percent of the votes. In 1968 President Nixon received only about 43 percent. So it is nothing new in this country to have a President who received less than 50 percent of the vote.

Mr. EASTLAND. I think when we go to a 40-percent provision we are inviting splinter parties to come in in order to try to hold the vote under 40 percent.

Mr. BELLMON. In order for a splinter party to have any effect at all, it would be necessary for the total of the splinter parties to syphon off at least 20 percent of the vote under the 40-percent provision, whereas if we required a 50-percent majority for the President to be declared the winner, the splinter parties would have a much less arduous task. They would have to syphon off only 1 or 2 percent in order to throw the election into a runoff.

Mr. EASTLAND. Yes. I know it has happened in our history a few times, but I think the man who is elected President ought to be the choice of the majority of the people of this country.

Mr. BELLMON. I certainly agree with the Senator that it would be far more desirable if the President could be the choice of the majority of the people of the country.

Mr. EASTLAND. Well, it usually happens.

Mr. BELLMON. In my lifetime that has not been the case, since I have been an adult. President Eisenhower has been the only one who has served as President who received the majority vote of the people during the time I have been an adult, except for President Roosevelt, who became President before I was old enough to vote.

Mr. EASTLAND. Well, he certainly received 50 percent of the vote.

Mr. BELLMON. He did, but neither President Truman, President Kennedy, nor President Nixon succeeded in getting 50 percent or more of the vote.

Does the Senator say he is not concerned about the development of splinter parties

Mr. EASTLAND. I say that. We have the Prohibition Party and the Women's Rights Party. We have the Labor Party in New York State. I have never been concerned about them. I do not think they have made any impact in a presidential election in this country. With the case of Governor Wallace, Senator THURMOND, and former Secretary of Agriculture and Vice President Henry Wallace, I think they made an impact.

Mr. BELLMON. I believe the Senator from Nebraska (Mr. CURTIS) expressed concern that we not allow our political system to develop into a large number of splinter parties, as has happened in Germany, France, and other European countries, where government is able to operate only as a result of coalitions which may collapse at any time. Is the Senator concerned that that may happen here?

Mr. EASTLAND. No. As I said, I would be opposed to a great number of splinter parties that would make an impact and would weaken our Government, but I see nothing holy about the two-party system. There would be just as many under a 40-percent provision as under a 50-percent provision.

Mr. BELLMON. That is the point on which the Senator from Mississippi and I differ. I agree with the Senator that it would be disastrous if we adopted some change in our law that allowed a large number of splinter parties to grow up; but, as I have already stated, it was the consensus of many witnesses that testified before the American Bar Association Commission that the 40-percent rule would be less conducive to splinter parties than a 50-percent rule.

Mr. EASTLAND. I am sure they are sincere. Were those gentlemen college professors?

Mr. BELLMON. There were 18 members on the Commission, including two Members from the House of Representatives, two Senators or former Senators, two Governors, and a wide variety of other representatives from both the academic community and other communities. Walter Reuther was a member of it. They were not all college professors.

Mr. EASTLAND. I am pretty sure they were conscientious, but what they knew about American politics is something else.

Mr. BELLMON. There was a large and varied representation.

Mr. EASTLAND. I am sure they were conscientious.

Mr. BAYH. Mr. President, would the Senator from Mississippi permit me to interrupt the Senator from Oklahoma briefly?

Mr. EASTLAND. Mr. President, I ask unanimous consent to yield to the distinguished Senator from Indiana without losing my right to the floor or without my remarks counting as more than one speech on the joint resolution.

Mr. BAYH. Mr. President——

Mr. EASTLAND. Mr. President, is that request granted?

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

Mr. BAYH. I appreciate the usual courtesy of the Senator from Mississippi, my distinguished committee chairman.

I thought perhaps it was incumbent upon the Senator from Indiana to make one brief statement out of deference to the modesty of our colleague from Oklahoma. I think the point raised by the Senator from Mississippi is a legitimate one. Just because a panel is established does not mean its members have any political sophistication. However, I think that this particular panel had a rare combination of intellectual capacity, political sophistication, and diversity of philosophy, region of the country, and profession.

I say this because I am sure the Senator from Oklahoma would not brag about his own credentials, but I think it significant that at the time the Commission was meeting the Senator from Oklahoma was the Governor of his State. Also on that panel was another Governor, or a former Governor, of Illinois, Mr. Kerner.

I do not think there is a great deal to be gained by putting labels or tags on the various members of the panel. I would, however, suppose that, as Governor of the State of Oklahoma, the present Senator from Oklahoma (Mr. BELLMON) probably represented a more conservative view, than did Governor Kerner.

We did have a diversity of representation on that panel. Indeed, the Governor of Oklahoma represented the Republican Party and the Governor of Illinois represented the Democratic Party. Walter Reuther represented labor and Bill Gossett, of the Ford Motor Co., represented management.

That was the type of constituency represented across the board by that Commission.

As the lead-off witness before the Commission, and as one who was making a hard pitch for direct election, I must say that when I left the witness chair I said, "Boy, oh boy, if such a diverse panel can reach agreement on anything, the Senator from Indiana will be greatly surprised." This panel studied the question diligently for 10 months, and did reach a conclusion. I think that speaks very well for the results—the measure which is now before the Senate, Senate Joint Resolution 1.

I appreciate the tolerance of the Senator from Mississippi.

Mr. EASTLAND. Well, Mr. President, as I have said, I am sure they were fine gentlemen. They are entitled to their opinions, but they did not influence the Senator from Mississippi.

By way of contrast, the deals made with a "spoiler" or splinter party candidate under the 40-percent plurality system to induce him to run or not to run would be secret and not known to the public. The public would learn about those deals too late, after the election was over, and after the successful candidate was in office and delivering on his promises and commitments.

One reason that this kind of political game is much more likely to be played under a 40-percent plurality system of direct election than under the present system is the nature of public opinion polls in the United States. Public opinion polls are highly accurate at judging national public opinion. They are much less accurate at dealing with the impact of a third-party candidacy upon the two major parties in each of the 50 States. For example, many students of the 1968 Presidential election are of the opinion that, on the whole, Governor Wallace's candidacy hurt President Nixon more than it did then Vice President Humphrey. However, there is keen speculation that in certain individual States which went one way or the other by a relatively close margin, Governor Wallace's candidacy might have been decisive in throwing the States' electoral votes to Mr. Humphrey. Since the name of the game under the present system is to carry States, it is very hazardous for a major party candidate to have any dealings with a third-party candidate.

It is imperative to understand that if we switch to a 40-percent plurality system of direct election, all this will change. Since third-party candidacies are almost always issue oriented, the public opinion polls can give the managers of the two major parties a clear reading of the political impact of a third-party candidacy under a system of direct election.

Mr. Richard Goodwin, who was an adviser to Presidents Kennedy and Johnson, told the Judiciary Committee of his experiences with New York State politics and the manner in which minor parties operate in that State. Part of Mr. Goodwin's testimony is as follows:

To see that this is more than a theoretical possibility let us look at the experience of New York. That State is as close to a miniature nation, in terms of diversity of population and interests, as any in the Union. It is as large as some countries. New York now has four parties. The two smaller parties—liberals and conservatives—cannot carry a single city or borough, but within a State that does not matter. Popular vote is everything in statewide contests. The result is that both minor parties are important, and can make a decisive difference in a close race. They behave, on the State scale, exactly as we speculated that minor parties might act on the national scale: offering endorsements, making deals, and running their own candidates. For their members a separate party has proved the surest route to real power. If we move to direct election, there is no reason whatsoever why the same will not be true at the national level. In fact, operating just in New York both the liberal and conservative parties receive more votes than the total margin of national victory in two of our last three presidential elections.

Mr. Goodwin used his knowledge of New York politics to make the point that splinter parties and spoiler candidates would have every incentive to run or threaten to run for the Presidency under a system of direct popular election, even though he knew he had no chance to win. This was brought out in a colloquy with Senator BAYH, as follows:

Senator BAYH. Of course, you are not very powerful if you cannot win in this political process, and I think that is the thing that would be in a person's mind, in the leaders' minds when setting up this plan. Are we ultimately going to win and affect the outcome? And the chances are that the more you proliferate the less chance you are going to have of winning.

Mr. GOODWIN. You can be very powerful if you have the capacity to make others win or lose, witness Alex Rose in New York, even though you can never win yourself.

Without making any political or any other kinds of judgments of Mr. Alex Rose, it is well known that he is one of the political kingpins of New York City and New York State. He does not run for public office himself and probably could not be elected, but as Mr. Goodwin says, he has the "capacity to make others win or lose."

I am convinced that a system of requiring only a 40-percent plurality to win a direct popular election would result in the emergence of one or more "kingmakers." I do not think that this would be good for the Nation.

As to the third objection, that doubt and uncertainty would exist in the minds of Americans between the first and second elections as to who the next President and Vice President would be, this, too, is based on a misunderstanding of American politics and the American people. It is based on the unspoken premise that the American people are so emotionally and intellectually immature, that the doubts in the minds of the people during the interim between the first and second elections would be so great as to cause stresses, strains, and ruptures in our social and political fabric. In my opinion, the American people are mature and stable enough to participate in a runoff election without causing undue stresses or strains. The American people have shown their spirit and fortitude under recent crises of much greater magnitude, such as the assassination of the late President John F. Kennedy.

The people of other nations, such as France, have recently undergone the experience of choosing their national leader in a runoff election. This was accomplished without any great strain or upheaval. I believe that the American people are more stable than the French, and would be even better equipped for this situation.

Finally, it should be noted that the 40-percent plurality system would not assure that the American people would be free from doubt and uncertainty as to who the next President and Vice President would be.

If the popular vote totals were close and charges were made of fraud or irregularity in the voting or vote-counting process, a recount of all of the votes in the challenged precincts would be necessary in order to determine the winner. This could well entail the recounting of hundreds of thousands or even millions of votes. All of the more than seventy million votes cast in the Nation might have to be recounted in order to get a true and fair result.

During this time, which would doubtless be weeks, the American people would be in doubt and uncertainty as to the identity of the winners.

The doubt and uncertainty caused by a recount of the votes might result not only in the usual two-party presidential race, but could also result in a multi-party race. The recount in the event of the multi-party race could involve the question of which candidate received the most votes, but it could also involve the question of whether any candidate received the necessary 40 percent of the votes.

As to the argument that the American voters might grow weary of politics in a runoff election and might be less attentive to the issue, our recent political history suggests that this contention has little support. A runoff election campaign often sharpens the issues and, consequently, there is a greater turnout of voters in the runoff election than in the first election. For example, in the 1969 mayor's election in Los Angeles, the number of votes cast in the runoff election exceeded the number of votes in the first election by more than 130,000 votes.

This has happened in a number of other elections in the States or cities where runoffs in the absence of a majority are required in primary or general elections.

In conclusion, whatever arguments might be made in favor of the 40-percent plurality system and against the 50-percent requirement, they are, in my judgment, far outweighed by the compelling necessity to have our President and Vice President elected by a true popular mandate of a majority of the electorate.

Mr. President, another compelling reason why this proposed amendment to the Constitution should be rejected by the Senate is that it would have the effect, if adopted, of further diminishing the political power of the people of the less populous States. The political power of the great urban States would be increased even more than it is under the present system.

According to a 1969 study, 34 States and the District of Columbia would lose Presidential influence in a switch from the electoral college to the direct popular vote. Only 15 would gain, and one State, Oregon, would neither gain nor lose influence.

Every State that would gain power from the direct popular vote is an industrial State of the North or West, with the sole exception of Florida.

Ten of the 11 Southern States would lose significantly—from 10 percent, Texas, to 39 percent, South Carolina—under a popular-vote system. Four of the five border States would also lose.

There are 17 States with five electoral

votes or fewer, all outside the South and border. All 17 would lose substantially—from 21.5 percent—Nebraska—to 80 percent—Alaska.

The Southern and Border States would lose power because their voters, white and black, tend to vote far less frequently than Northern and Western voters. A popular-vote election would tend to reward voter turnout, rather than actual population.

The smaller States would lose because under the electoral college they have a bonus of two votes each, based on the number of Senators. While the larger States also get this bonus, in their case it represents a much smaller increment in percentage terms. Thus, Wyoming's presidential influence is marked up 200 percent—from one to three electoral votes—by its two-vote bonus, while Pennsylvania gains only 7 percent—from 27 to 29. In a switch to the popular vote, taking all variables into consideration, Pennsylvania's presidential influence would rise by 20 percent, while Wyoming's would decline by 70 percent.

A shift to the popular vote would profoundly alter the tone of future campaigns. Party platforms will move away from concessions to the South and the non-Southern small States, and candidates will concentrate their campaign efforts and appeals in the Northern industrial States which have the major concentrations of voters. Deemphasized by presidential candidates and platforms of the future will be: the South, the border, the Mountain, and Plains States, the farm belt, plus small States like Alaska, Hawaii, Vermont, Maine, New Hampshire, Rhode Island, and Delaware that fall into none of these categories.

In addition, national convention delegation assignments will tend to reflect this profound political shift. In all conventions through 1968, delegates have been assigned to the States on the basis of their electoral votes. If the electoral-vote system is repealed, delegates will undoubtedly come to be assigned on the basis of popular vote turnout. In the case of the Democrats, the McGovern Commission has already recommended changes along these lines. Once again, the big losers will be the South and border States—where vote turnout is comparatively low—and the smaller States of the North and West, whose percentage of the national popular vote is so much smaller than their percentage of the electoral vote.

Thus, the South, the border, and the smaller States will have considerably less influence in writing platforms and choosing presidential and vice presidential candidates of the future. And once the convention is over, these candidates will pay considerably less attention than presently to the South and border and Western States, and will tend to bypass the smaller States altogether.

The central presidential battleground in conventions as well as elections, will encompass a high-population belt of States ranging from lower New England and the middle Atlantic out to the industrial States of the Great Lakes. The only significant counterweight to this battleground will be the larger Sun Belt States of California, Texas, and Florida, which will have a decidedly subsidiary influence owing to their lesser numbers and to voter turnout in Texas and Florida, which is considerably below the national average.

In the 1968 election, California, Texas, and Florida cast 17.1 percent of the national popular vote. The largest 11 States of the Northeast and Great Lakes cast 48.4 percent. The remaining 36 States combined cast only 34.5 percent—little more than a third of the national vote.

In the 1968 electoral college, by contrast, the other 36 States cast a plurality of the total vote—44.6 percent. The 11 largest Northeastern and Great Lakes States cast 40.7, while the Sun Belt trio cast 14.7.

The Sun Belt's apparent gain under the popular vote is misleading; most of this represents its larger-than-average population increase since the 1960 census on which the present electoral college is based. These heavy gains will be reflected in electoral college apportionment following the 1970 census.

Based on estimated 1970 census figures, the three Sun Belt States would gain only marginally by a switch to popular voting. The nine remaining Southern States would lose an average of 22 percent of their present strength, while the 11 Northeast and Great Lakes States would gain 20 percent. The 17 smallest States—not counting the District of Columbia—would decline from an estimated 1972 electoral vote share of 11.88 percent to 6.69 percent of the popular vote—a drop of nearly 45 percent.

Under a direct popular vote, presidential and vice presidential candidates of the future would be ill advised to expend much of their time or attention outside the 11 large urban States of the Northeastern quadrant of the country.

And it goes without saying that any President elected by popular vote would be compelled to devote a far bigger share of his programs and concerns to the politically crucial population centers of this same Northeastern quadrant.

This is why repeal of the electoral college, and its replacement by a direct popular vote, would affect revolutionary changes not only in the national political process, but in the entire thrust and emphasis of the Nation itself.

Mr. President, I ask unanimous consent at this time that a table showing the effect on the political power of the States in Presidential elections, in the event the direct election system is adopted, be printed in the RECORD.

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

IF PRESIDENTS ARE ELECTED BY POPULAR VOTE—EFFECT ON STATES

15 STATES WOULD GAIN POLITICAL POWER

State	Percent of electoral votes	Percent of popular votes cast in 1968	Difference	Percent of change
New York	7.99	9.49	1.50	+18.77
California	7.43	9.89	2.46	+33.10
Pennsylvania	5.39	6.47	1.08	+20.03
Illinois	4.83	6.30	1.47	+30.43
Ohio	4.83	5.40	.57	+11.80
Michigan	3.90	4.51	.61	+15.64
New Jersey	3.16	3.92	.76	+24.05
Florida	2.60	2.98	.38	+14.61
Massachusetts	2.60	3.18	.58	+22.30
Indiana	2.42	2.90	.48	+19.83
Missouri	2.23	2.47	.24	+10.76
Wisconsin	2.23	2.31	.08	+3.58
Minnesota	1.86	2.17	.31	+16.66
Washington	1.67	1.78	.11	+6.58
Connecticut	1.49	1.71	.22	+14.76

34 STATES AND THE DISTRICT OF COLUMBIA WOULD LOSE POLITICAL POWER

Texas	4.65	4.20	0.45	−9.67
North Carolina	2.42	2.16	.26	−10.74
Virginia	2.23	1.85	.38	−17.04
Georgia	2.23	1.70	.53	−23.76
Tennessee	2.04	1.70	.34	−16.66
Maryland	1.86	1.68	.18	−9.67
Louisiana	1.86	1.50	.36	−19.35
Alabama	1.86	1.42	.44	−23.65
Iowa	1.67	1.59	.08	−4.79
Kentucky	1.67	1.44	.23	−13.77
Oklahoma	1.49	1.29	.20	−13.42
South Carolina	1.49	.91	.58	−38.92
Kansas	1.30	1.19	.11	−8.46
West Virginia	1.30	1.03	.27	−20.76
Mississippi	1.30	.89	.41	−31.53
Colorado	1.12	1.10	.02	−1.78
Arkansas	1.12	.83	.29	−25.89
Nebraska	.93	.73	.20	−21.50
Arizona	.93	.66	.27	−29.03
Utah	.74	.58	.16	−21.62
Maine	.74	.54	.20	−27.02
Rhode Island	.74	.52	.22	−29.72
New Mexico	.74	.45	.29	−39.18
New Hampshire	.74	.40	.34	−45.94
Idaho	.74	.40	.34	−45.94
South Dakota	.74	.38	.36	−48.64
Montana	.74	.37	.37	−50.00
North Dakota	.74	.34	.40	−54.05
Hawaii	.74	.32	.42	−56.75
Delaware	.56	.29	.27	−48.21
District of Columbia	.56	.23	.33	−58.92
Vermont	.56	.22	.34	−60.71
Nevada	.56	.21	.35	−62.50
Wyoming	.56	.17	.39	−69.64
Alaska	.56	.11	.45	−80.35

1 STATE WOULD HAVE NO CHANGE

Oregon	1.12	1.12	0	0

Mr. EASTLAND. Mr. President, these figures are startling with relation to the political power of the small States as against the large States. The States whose political influence in the election of the President and Vice President would be increased more than 15 percent in the event we change to a direct popular system are: New York, California, Pennsylvania, Illinois, Michigan, New Jersey, Massachusetts, Indiana, and Minnesota. The States whose political power would be diminished by 15 percent or more are: Virginia, Georgia, Tennessee, Louisiana, Alabama, South Carolina, West Virginia, Mississippi, Arkansas, Nebraska, Arizona, Utah, Maine, Rhode Island, New Mexico, New Hampshire, Idaho, South Dakota, Montana, North Dakota, Hawaii, Delaware, Vermont, Nevada, Wyoming, and Alaska.

The last eight named of these States would sustain a loss of 50 percent or more in the influence they had in the election of the President and Vice President.

Mr. President, even if the Congress should unwisely adopt this proposed amendment to the Constitution, I am of the firm belief that it would have little or no chance of being ratified by the States. When the people and the legislatures of the small, less populous

States realize that one of the political effects of this change would be to minimize their political power still further, then there will be very little chance of securing ratification by the necessary 38 States.

The proponents of the direct election system have tried to appease the concern of those of us who are worried about the loss of small-State influence by relying on the testimony of one Dr. John F. Banzhalf and his computers. Dr. Banzhaf testified before the Subcommittee on Constitutional Amendments that he had programed a great many figures into his computer and that the results conclusively proved that the people in the smaller, less populous States would gain a political advantage as a result of change to the direct popular election system.

With all respect to Mr. Banzhaf and his computers, I believe that flesh and blood human beings are better able to perceive what is in their own political interests, or what is to their own political detriment, better than any computer.

The New York Times published a very interesting survey of sentiment in the 50 State legislatures on the issue of substituting popular election of the President for the electoral system. I ask unanimous consent that this survey from the New York Times of October 8, 1969, be printed in the RECORD.

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

STATES' SENTIMENT ON ELECTION PROPOSAL

State	Sentiment	Next session
Alabama	Strongly opposed	May 1971.
Alaska	Somewhat favorable	January 1970.
Arizona	Somewhat opposed	Do.
Arkansas	Somewhat favorable	January 1971.
California	do	January 1970.
Colorado	Strongly opposed	Do.
Connecticut	Strongly favorable	January 1971.
Delaware	Undecided	January 1970.
Florida	Somewhat favorable	April 1971.
Georgia	Undecided	January 1970.
Hawaii	Somewhat favorable	February 1970.
Idaho	Somewhat opposed	January 1970.
Illinois	Somewhat favorable	April 1970.
Indiana	do	January 1971.
Iowa	do	January 1970.
Kansas	Strongly opposed	Do.
Kentucky	Somewhat favorable	Do.
Louisiana	Undecided	May 1970.
Maine	Somewhat favorable	January 1971.
Maryland	Strongly favorable	January 1970.
Massachusetts	do	Do.
Michigan	Undecided	Do.
Minnesota	Strongly favorable	January 1971.
Mississippi	Somewhat opposed	January 1970.
Missouri	Somewhat favorable	January 1971.
Montana	Somewhat opposed	Do.
Nebraska	Strongly opposed	Do.
Nevada	Somewhat opposed	Do.
New Hampshire	Somewhat favorable	February 1970.
New Jersey	Strongly favorable	January 1970.
New Mexico	Somewhat favorable	Do.
New York	Strongly favorable	Do.
North Carolina	Somewhat favorable	January 1971.
North Dakota	Strongly opposed	Do.
Ohio	Undecided	February 1970.
Oklahoma	Somewhat favorable	January 1970.
Oregon	Strongly favorable	January 1971.
Pennsylvania	Somewhat favorable	January 1970.
Rhode Island	Strongly favorable	Do.
South Carolina	Strongly opposed	Do.
South Dakota	do	Do.
Tennessee	Somewhat favorable	Do.
Texas	do	January 1971.
Utah	Strongly opposed	Do.
Vermont	Somewhat favorable	January 1970.
Virginia	Somewhat opposed	Do.
Washington	Undecided	January 1971.
West Virginia	Somewhat favorable	January 1970.
Wisconsin	Strongly favorable	January 1971.
Wyoming	Somewhat favorable	Do.

Note: Total—Strongly favorable, 9; somewhat favorable, 21; undecided, 6; somewhat opposed, 6; strongly opposed, 8.

Mr. EASTLAND. Mr. President, it is very significant that the eight State legislatures which were listed as strongly opposed to the direct election plan as of October 1969, were Alabama, Colorado, Kansas, Nebraska, North Dakota, South Carolina, South Dakota, and Utah. On the other hand, the nine State legislatures that were listed as "strongly favorable" to the direct election plan are: Connecticut, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Rhode Island, and Wisconsin.

It is striking to me that all of the legislatures listed as "strongly opposed" are Mountain States, Southern States, or Plains States, and that each of these States is basically small in population with relation to the other States, whereas of the nine States listed as "strongly favorable" all but one, Oregon, is located in the Northeast quadrant of the Nation and tend to be highly populated.

Mr. President, I am thoroughly convinced that when the members of many of the State legislatures listed as "somewhat favorable" in the New York Times survey are fully appraised of the political setback that would be suffered by their respective States if we convert to a direct election system, many of these legislatures would decide to oppose this amendment if it were submitted to them for ratification. We must remember that this New York Times survey was made in the summer and fall of 1969, in the full flush of enthusiasm for the direct election plan. I have no doubt that many members of these State legislatures have had a chance to reflect upon this proposition and now oppose it.

I hope and trust that if, by some mischance, this proposal is submitted to the States, that a greater effort will be made to inform the members of the State legislatures as to the detrimental effects upon their States.

Mr. President, I am from a particular region whose political influence will be diminished by the adoption of this proposed amendment to the Constitution. These are the Southern States.

The 1968 presidential elections demonstrated one clear fact, and that is, under the electoral college system it is politically dangerous in the long run to attack or kick around a group of States. Prior to the 1968 presidential elections a certain type of politician in the country perceived that political profit could be made by attacking the Southern States. The 1968 election showed that this is not correct. Two very interesting developments occurred during that campaign and election. First, the people of the Southern States were actively courted by two of the candidates for the Presidency. In the past, one major party candidate would be willing to actively seek southern votes, but the other condidate would carry such Southern States as he could based on party organization or tradition. In the 1968 election, however, there was active competition for these southern electoral votes.

The other interesting development of the 1968 election is that southern electoral votes were crucial to President Nixon's electoral vote majority.

If we retain our present electoral system, the political message from the Southern States to the leaders of both political parties will be read loud and clear:

Do not tread on us; do not abuse us. If you do, you will be defeated.

However, if we adopt the direct elective system and the Southern States lose a great deal of their weight in the election of the President and Vice President, then some of these politicians above mentioned might again perceive political profit in attacking the Southern States and southern people.

We do not intend to let this happen. I hope that other Senators from the South will join with us in helping to defeat this unwise proposal.

Mr. President, another strong reason for opposing this proposed constitutional amendment is that a system of direct election of the President and Vice President would necessitate strict Federal control of those elections. There is no question that rigid uniformity must be an integral part of the direct election proposal if the one-man, one-vote rule is to be truly implemented. If the President is to be elected by popular vote in a nationwide election, State boundaries and jurisdictions will become inconveniences. All States would, of necessity, have to conform their election laws to a single Federal standard.

Serious questions must be raised concerning the new election machinery and standards which must be created in order to have a smoothy run national plebiscite.

Federal laws or guidelines would have to be enacted to regulate, among other things, the eligibility of parties and candidates; the counting of ballots and the declaration of the winner; the validating and counting of absentee ballots; the penalties and prohibitions applicable to elections; the rules concerning recounts; the forum for the consideration of contested elections; the registration deadlines and a host of related matters now covered by State laws. Indeed, it is possible to envision a Federal election board charged with total responsibility for running the election down to and including the staffing of 180,000 polling places. The proponents of the direct election system seek to answer our concern of the probability of complete Federal control and supervision of Presidential elections by assuring us that Senate Joint Resolution 1 only grants Congress a "reserve power" to enact legislation, and that the States are allowed to retain their primary authority in the conduct of presidential elections. Let us examine this so-called reserve power that Senate Joint Resolution 1 would vest in Congress and see how innocent that power is. Section 2 of Senate Joint Resolution 1 provides that: The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President, the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice Presi-

dent the Congress may establish uniform residence qualifications. Section 4 provides that:

> The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law, the time, place, and manner in which the results of such elections shall be ascertained and declared.

It can be seen that although the provisions of sections 2 and 4 pay lipservice to the principle of State control of elections, that vast plenary power is vested in Congress at its pleasure to completely overturn State laws pertaining to residency qualifications for electors and the times, places, and manner of holding presidential elections and entitlement to inclusion on the ballot. Congress is granted the authority at any time after the adoption and ratification of this amendment to enact a complete body of general law dealing with these vital matters which had been thought or properly left with the States. For example, the "times, places, and manner of holding such elections" would certainly encompass and include such Federal functions as determining the mode of voting, deciding who will count the votes, providing supervision to prevent fraud, and promulgating a system whereby the results of the balloting could be determined and publicly proclaimed.

This is the nature of the so-called reserve power which this proposed amendment would vest in the Congress.

I venture to predict that if we adopt the system of direct election of the President and Vice President, no more than one presidential election would be held under State standards prescribing the times, places, and manner of holding the elections and entitlement to inclusion on the ballot and residency qualifications. After that, the pressure would be irresistable for uniform Federal standards. In fact, probably not even one election would be held under State standards.

The whole thrust of Senate Joint Resolution 1 is that the States should have no role in the election of the President and Vice President. Uniformity is the keystone of the direct election system. If all else is to yield to the slogan. "one-person, one-vote" in the election of the President and Vice President, then how can one justify the various States having different residency qualifications? How can one justify one State being permitted to impose a literacy test as a requirement for voting, while other States do not have such requirements? How can one justify a situation in which a voter of one State might be denied the privilege of voting for the candidates of his choice because they were not eligible for inclusion on the ballot under the laws of the State, while citizens of other States who wish to vote for these candidates are able to do so under more lenient State standards?

Obviously, none of these variations in State laws can be justified under the logic of "one-person, one-vote," the same logic which would underlie the adoption and ratification of the direct election system. Under all of these situations, the right of a citizen to vote, or to vote for the candidates of his choice, will be denied by operation of the differences of the various State laws. This difference in treatment can only be cured by the adoption of uniform Federal laws.

My friend, the esteemed junior Senator from Michigan, has taken a great interest in this matter in the Judiciary Committee, and has added a great deal to our enlightenment. He wrote some individual views on Senate Joint Resolution 1 which are found on pages 22 and 23 or the committee report. I cannot agree with the conclusions drawn by Senator GRIFFIN in the individual views, but the thoughts he expresses have a compelling logic. During committee consideration of this measure Senator GRIFFIN offered amendments to make sections 2 and 4 of Senate Joint Resolution 1 read as follows:

> The Congress shall prescribe the qualifications for electors of President and Vice-President in each State and the District of Columbia, which qualifications shall be uniform throughout the United States.
>
> The Congress shall prescribe, by provisions of law uniform throughout the United States, the days for such elections, the requirements for entitlement to inclusion on the ballot therein; the times, places, and manner of holding such elections within each of the several States and the District of Columbia; the times, places, and manner in which the results of such elections shall be ascertained, certified and declared; and the manner in which and the period for which ballots cast in such elections shall be preserved.

I would like to quote from certain provisions of the individual views of Senator GRIFFIN:

> In addition to my reservations outlined in "Separate Views" concerning the runoff election, I am concerned because Senate Joint Resolution 1 does not require that uniform election procedures and voter qualifications be established as part of the plan to elect the President by direct popular vote.
>
> To make each vote cast for President anywhere in the United States equal to every other vote is a commendable goal. But it would make no sense under such a system to count the votes of 18-year-olds in some States, 19-year-olds in others, and 21-year-olds in yet others. Of course, the current attempt to lower the voting age to 18 by statute may provide a partial answer—if the statute is held to be constitutional by the Supreme Court.
>
> Furthermore, it would be inconsistent and self-defeating to leave each State with jurisdiction, as Senate Joint Resolution 1 does, to determine which candidates for President will appear on the ballot and the circumstances under which ballots for President will be counted.
>
> In light of the premise on which the direct popular vote is founded—that is, making every vote count—it is essential to guard against any device which would tend to dilute the vote of any individual or class of individuals. To leave each State with jurisdiction to determine voter qualifications and inclusion on the ballot would invite discredit on the claim that every citizen has an equal opportunity to participate in the election of the President.
>
> Consequently, I believe Sections 2 and 4 of Senate Joint Resolution 1 should be amended in accordance with the amendments which I proposed in committee. The result of adopting such amendments will be to confirm the public expectation of equal participation in the selection of a President.

Mr. President, I cannot agree with the Senator from Michigan that the Federal Government should take over these State functions of holding elections, but I must agree with his logic in carrying the thrust of Senate Joint Resolution 1 to its logical consequences.

My esteemed colleague, Senator CURTIS, honored the hearings held by the Judiciary Committee on Senate Joint Resolution 1 by giving some extremely interesting and pertinent testimony. During the course of his testimony, Senator CURTIS read from a statement submitted by an eminent attorney of his State, Hon. Clarence A. Davis. This statement is one of the best I have read concerning the inevitable Federal control of the election machinery in the unhappy event Senate Joint Resolution 1 is added to the Constitution. Mr. Davis also dealt with other unsatisfactory results of direct popular election of the President and Vice President.

The portions of Mr. Davis' statement as quoted by Senator CURTIS are as follows:

> It is impossible to go to the system of direct voting without that being followed by other Federal controls of our elections, and what other things I know not. But if we are to have direct election of presidents, we obviously will have to have Federal election laws covering the times and places of voting, qualifications of voters, and the enforcement of election laws.
>
> We clearly would have to set up a Federal bureau of elections to hold and supervise all presidential elections. We would have to have Federal clerks, Federal counting boards, Federal snoopers, and I suspect we would end up with not less than 25,000 additional Federal employees to run our elections. We will have Federal inspectors and Federal clerks of election, Federal counting boards in every county and sizable municipality within the United States.
>
> It is a small wonder that we have now some 5 to 6 million Federal employees and they have all grown out of just such innocent sounding phrases and direct election of presidents.
>
> Furthermore, we would have obliterated the voice of the States in the selection of the presidents. State lines would mean nothing and the candidates would obviously confine their campaigns to the vast metropolitan areas which, under this system of pooling of votes, would control the elections completely. The remaining States, for practical purposes, are disenfranchised and of no real consequence.
>
> The operation of such a plan, obviously, would require a Federal compilation of voter lists. In other words, a list of all citizens entitled to vote. And once we have started down this road, how long will it be before there is a movement for a nationwide Federal referendum on the Acts of Congress utilizing these same Federal voting lists; and how long before we will have initiative proposals from these same voting lists; and how long will it be before there will be a campaign to the effect that these little states are not entitled to two senators but senators should be proportioned to the number of voters in the state?
>
> In other words, do we change the basic government of the United States of a re-

public of sovereign states into a nationwide democracy knowing that attempted pure democracy throughout history has sown the seeds of its own destruction?

But it is said the electoral college has a couple of weaknesses, so we burn down the barn to get a couple of rats. On the contrary, we could prevent those weaknesses by electing the members of the electoral college by congressional districts compelled by the law to vote as their district voted, without losing the identity of the states or the areas within the states or permitting them to be engulfed by the votes of metropolitan areas which in turn would perish in 30 days if Nebraska and small states didn't feed them.

And what about election contests? Do we tie up the whole question of who is elected president because somebody starts an election contest in Texas or Chicago? Under the present system at least, that contest only affects the result of that particular state and the rest of the nation can proceed normally. But a contest in New York or Chicago with their millions of votes under the direct election plan can tie up the whole election of a President of the United States.

Suppose a total recount was called for. The term of the President could expire before that could ever be completed. Admittedly there is localized fraud or at least irregular voting in many of our large cities regardless of political party, but the localized fraud can only affect the vote of that particular city or that particular state. Under a national totalizing system, it can infect the whole country.

Another witness who testified before the Judiciary Committee, Mr. Alexander M. Bickel, professor of law, Yale School of Law, made the same point. Mr. Bickel testified as follows:

Well, I was thinking as Mr. White was testifying that it seems to me inevitable if you go to the popular election system to set up, not only on an ad hoc basis, but on a permanent basis, national vote counting, and I for one, although I have not really thought about this aspect of the thing as much as some have, as much as some of your future witnesses have, am not all that happy about central vote counting. "Honest men," when centrally in charge of a computer in Washington may be under even stronger temptation than "honest men" in this or that county.

But, I quite agree with you that it will follow as night follows day, that you will have a permanent central vote-counting operation in Washingon, D.C., if you go to the popular election, undoubtedly.

Mr. President, I am not through with my speech on the resolution. I shall yield the floor at this time and speak again at a later time.

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

Mr. EASTLAND. I yield.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senator may yield to me without losing his right to the floor.

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

Mr. GRIFFIN. Mr. President, the distinguished chairman of the Committee on the Judiciary made reference to individual views of the junior Senator from Michigan, as set forth in the committee report. Although the distinguished chairman and I do not reach the same conclusions concerning the merits of the pending resolution, I must say that I share his view that it will be necessary and logical if we are to elect the President by direct popular vote, for Congress to establish uniform voter qualifications and procedures for conducting such elections. Indeed, I believe Congress would be derelict in its duty if it did not establish such uniform standards in connection with, or directly following, adoption of a constitutional amendment to elect the President by popular vote.

We may, and we do, differ in our conclusions as to whether such a development would be good for the country—but the logic is unassailable. Furthermore, I can agree that the people of the several States should realize, as we consider this popular vote amendment, that uniform voter qualifications and election procedures will be a necessary and logical result. No one should be fooled on that point.

Mr. EASTLAND. Of course that is the logical result. It is what will happen. I think it is bad for the country. My friend disagrees with me.

Mr. GRIFFIN. I am glad to reaffirm the position and the reasoning set forth in my individual views contained in the committee report.

And, I might say that I believe the amendment referred to in those views, and rejected by the committee, should be presented for the Senate's consideration. I do not know what the Senate will do. But I believe it would be consistent with adoption of the direct election amendment to the Constitution to include a provision requiring such uniform standards.

I thank the Senator for yielding.

Mr. EASTLAND. I think the Senator's logic is unassailable.

Mr. President, I yield the floor.

Mr. BAYH. Mr. President, the distinguished Senator from Mississippi raised some very legitimate questions about the direct election proposal that I, as the chief sponsor and one of the authors of this amendment, would like to have the opportunity to address myself to.

These are legitimate questions. I think most questions are relevant and legitimate when a body such as the U.S. Senate contemplates a major constitutional reform. I do not think that a measure should be rammed down the throat of the U.S. Senate. It is not going to be.

The House carefully considered this measure and passed the measure by a vote of 339 to 70. This process has involved several years of study. Thus, I appreciate the fact that the Senator from Mississippi has raised these questions. I am glad to have the opportunity to address myself to them.

In a colloquy, the distinguished Senator from Nebraska asked the Senator from Mississippi, as he has been asked by several of us, how long he anticipated a runoff might take. I think this is a reasonable question.

I must say that the response of the Senator from Mississippi is a different response than I would have made and did make. Each of us can give his own judgment. The Senator from Mississippi judged that it would possibly take until June.

I would like at this time to reiterate that the historical record of runoffs in the United States would lead one, I think, reasonably to reach a different conclusion.

The State of Alabama has a runoff today. This runoff must be held within 4 weeks.

The State of Arkansas has a runoff provisions in both the primary and general elections. That runoff must occur within 2 weeks.

The State of Florida has a runoff provision. That runoff must be held within 3 weeks.

The State of Georgia has a runoff provision in both the primary and the general elections. That runoff must occur within 2 weeks.

The State of Louisiana has a runoff provision. That runoff must occur within 6 weeks.

The State of Mississippi—the State of our distinguished Judiciary Committee chairman—has a runoff provision, and the runoff there must occur within 3 weeks.

North Carolina has a runoff provision, and that runoff must occur within 4 weeks.

The State of Oklahoma has a runoff provision, and that runoff must occur within 4 weeks.

The State of Rhode Island has a runoff provision in both the primary and general elections. That runoff must occur within 4 weeks.

The State of South Carolina has a runoff provision, and that runoff must occur within 2 weeks.

The State of Texas has a runoff provision, and that must occur within 4 weeks. Texas has a runoff provision in both the primary and general elections.

Virginia has a runoff provision, and that must occur within 5 weeks.

I bring this to the attention of the Senate again only because I think that questions about a runoff are legitimate questions. The suggestion this body and the other body could not establish a runoff timetable that would prohibit unnecessary delay in choosing a chief executive, it seems to me, falls upon fallow ground.

If our States have been able reasonably to cope with the runoff timetable, I am confident that the U.S. Senate can do likewise. To suggest that these are just State runoff provisions and that we are talking about a national runoff is not a good argument. If France can provide for a runoff in selecting their chief executive in a 2-week period, as happened last year, I am confident that the Senate of the United States and the people of the United States can do as well.

I would like to deal very quickly, if I might, with another point that has been raised, by our distinguished committee chairman. Again we have an example of how men in good faith can look at the facts and reach different conclusions.

I think the concern of the Senator from Mississippi about the proliferation of parties necessitated by a popular vote is very legitimate.

In colloquy with the Senator from Nebraska, he expressed concern that a popular vote plan for electing a chief executive would lead to the proliferation of party structure that exists in France.

I would like to point out that there is a significant distinction between the runoff provision contained in Senate Joint Resolution 1 and the runoff provisions contained in the French national election code. The French require a runoff if no candidate receives 50 percent of the vote.

This is the proposal that is made in all sincerity and good faith by the Senator from Mississippi. The proposal of the Senator from Indiana and some 41 other sponsors requires a runoff if no candidate receives 40 percent of the popular vote.

One of the major reasons, if not the major reason, for lowering the runoff provision in Senate Joint Resolution 1 to 40 percent was to prevent the very proliferation that has existed under the French system.

If a splinter party can deny major party candidates a majority of 50.01 percent of the popular vote, the chance of participating in national politics and establishing splinter parties is going to be significantly greater. Indeed, this has been the French experience.

If we require a majority vote of 50.01 percent, then even an insignificant splinter party can prevent one of the major parties from winning and can put them in a position of having a runoff and they can then wheel and deal before the runoff.

If, on the other hand, the splinter party or parties must accumulate a minimum of 20 percent—and I should point out that this is a minimum and that under most circumstances the necessary splinter party vote would have to be more than 20 percent—if they have to carry this burden to trigger a runoff, the likelihood of involving themselves in the splintering tactics and of establishing new parties, in the judgment of the Senator from Indiana and the American Bar Association and the other organizations that have studied this matter, is going to be significantly less.

I should point out that in the last French election, where a runoff was required, if the 40-percent provision of Senate Joint Resolution 1 had been in effect instead of the 50-percent provision, no runoff would have been required. The same man would have won after the first election who won in the runoff election in France.

Perhaps I should add another word about the 40-percent runoff provision.

The Senator from Indiana has admitted before and he will admit again his concern lest we have a proliferation of parties. I do not believe the two-party system is necessarily sacrosanct, or at least that the present two parties are sacrosanct. If we had said a number of years ago that we had to have the same two parties existing ad infinitum, we would not have had the Republican Party candidate who is now sitting in the White House. That party started as a splinter party and then became a dominant party in American politics. We must not foreclose the possibility that a major force may develop in this country. I do not want to impose on my grandchildren the system we use today, although I think it is a pretty good system. Rather, I hope we maximize the Government stability that has been brought to our system by two major parties.

After expressing this concern, I feel the 40-percent provision will minimize possible deterioration of the two-party system. That is why the 40-percent provision is in the measure.

In the judgment of the Senator from Indiana, and many others who have studied this matter, the 40-percent provision strikes a delicate balance between two factors important to an acceptable electoral process in this country.

On the one hand it seems to me that it does minimize the proliferating effect as described a moment ago. On the other hand it requires a minimum level of support before one could be elected President. Presidents with such a mandate have been generally accepted prior to this time by our country. We have accepted a number of Presidents who had received votes in the 40- to 50-percent bracket and have not disputed their credibility. The present incumbent had 43 percent, Woodrow Wilson had 41 percent, and John Kennedy was less than a majority winner. So we have accepted the credentials of those candidates who received less than a pure majority.

On the other hand, if a President receives less than 40 percent of the popular vote I think we have to ask ourselves rather serious questions about his ability to govern. Does a candidate who has 35 percent, 30 percent, or conceivably 25 percent of the popular vote effectively represent a large enough constituency to govern effectively? In my judgment, the answer is no. Mr. President, if you get below the 40-percent mark, then, in the judgment of the Senator from Indiana and in the judgment of most of us who have studied this proposal, the best way of rectifying that decreasing support would be to go again to the public and let them make a determination as to who their national leader should be.

I think the Senator from Mississippi made a very compelling argument sustaining the importance of a runoff. The Senator from Mississippi and the Senator from Indiana do not agree on the relative merits of the overall provisions of Senate Joint Resolution 1, but I certainly agree with several aspects of the Senator's very compelling argument about the importance and validity of the runoff.

As we have studied this matter I have tried my best to study carefully the well-intentioned alteratives suggested by some of our other colleagues. Not the least significant and perhaps the most significant of those was made by the Senator from Michigan (Mr. GRIFFIN) and the Senator from Maryland (Mr. TYDINGS). This is a matter the Senate will have an opportunity to discuss, debate, and vote upon. I am not unalterably opposed to this contingency, but I would like to suggest that if one will look at the shortcomings of the runoff provisions and look at the shortcomings of the Griffin-Tydings proposal, there are less shortcomings in the runoff provision than under the other proposal.

If a candidate receives less than 40 percent of the public vote I would much prefer to have the final decision on who becomes President rest with the voters of this country and not on the decision made in a joint session of Congress or by some other formula proposed by some other Senators.

As the Senator from Mississippi pointed out, and I concur in his judgment, in a runoff I suggest there would be very little possibility for any third or fourth party candidate to deliver, carte blanche, large blocs of their voters. Indeed, this decision should be made, and under Senate Joint Resolution 1 would be made by the public. It should not be made in a smoke-filled room and it should not be made in the Halls of Congress, where some might make the decision on the basis of who carried congressional districts or States, where others would make it on the basis of how their party would be affected, and some might succumb to the temptation of other pressures.

I would much prefer that this decision be made by the people at large.

I would like to point out in this context that I hope there would be no runoff. I hope we would have a final decision on the first vote. History will speak rather kindly to this hope, I think, when we look at the past 200 years of our history. Under the 40-percent provision of Senate Joint Resolution 1, there has been only one President of the United States who received less than 40 percent of the public vote. That was Abraham Lincoln in 1860. In 1860 Abraham Lincoln received 39.76 percent of the popular vote and he was not on the ballot in 10 States. If he had been on the ballot of those 10 States it would be fair to say that in the entire history of our country no President would have been elected with less than 40 percent of the popular vote. Therefore, no runoff election would have been required if Senate Joint Resolution 1 had been operative. It is fair to suggest the future record will follow the same course of history.

But in the event forces might develop that we cannot anticipate, I strongly support the idea that if a candidate for President of any party should receive less than 40 percent of the popular vote there should be another election. Then the people of the country could go to the polls and elect the man who had a pure majority of support, and he would truly be a National President.

There was some reference in the colloquy with my distinguished colleague from Mississippi about the Chilean election. A quick check of the record will show that the Marxist candidate who won in Chile had 35 percent, that the second candidate had 34 percent, and that the other candidates collectively had approximately 31 percent. I certainly do not hail this as a great victory for democracy.

I am concerned about this picture, but if the provisions of Senate Joint Resolution 1 had been in effect, it is the judgment of the Senator from Indiana that those who voted other than Communist would have gone into the voting booths in the second runoff election and would not have elected a Communist.

If we are really concerned about eliminating the possibility that a candidate

with 34 or 35 percent, or even less, of the popular votes may be elected, from our election system, the Senator from Indiana would like to suggest that the present system contains a higher degree of possibility that a candidate with a very small percentage of the popular vote can be elected.

Let me explain that in a little more detail. It is now possible for a candidate to be elected President of the United States by carrying the 11 largest States of the Union, according to the 1970 census figures. Before the 1970 census figures, he would have had to carry the 11 most populous States and the smallest. But under the 1970 census figures, a candidate can win the election, carrying only the 11 largest States by the slightest popular vote margin.

Now let us look one step further. The census will show that it is possible for a candidate to carry those 11 States by a small popular vote margin and amass no more than 25 percent of the total national vote. In other words, let us suggest a hypothetical situation in which a candidate has enough popularity to carry the 11 large industrial States, but only enough popularity to carry them by a slight margin. He may be defeated by a landslide vote in the other, smaller States. So we have the definite possibility of electing a President who has a minimum amount of support in a very few areas of the country.

If we are really concerned about broadening the base of support for the President, creating a system which guarantees or maximizes the possibility of a national candidate and a national campaign with relatively uniform support throughout the country, then we have to get rid of the electoral college and go to the direct popular vote. Then a vote in a small State would amount to just as much as a vote in a large State and a candidate could not be elected President of the United States by carrying just 11 States of the Union.

Another point that was raised, I think very appropriately, by our distinguished colleague from Mississippi was the present political structure of our great State of New York. Having been in New York on more than one occasion, I am still amazed at the political structure in New York, which is unique among the States. But the Senator from Mississippi suggested that the direct popular vote system in New York was responsible for the proliferation of the party structure in New York.

All of us can guess the reason for the proliferation of the party structure in New York. The Senator from Indiana would suggest that the Liberal Party has been able to maintain viability in the State of New York not because of the direct popular vote system, but because in New York the Liberal Party can endorse either the Democrat or Republican candidate and thus, under the unit rule, throw all of those votes into New York State's electoral votes. If it plays a balancing role, a small splinter party like the Liberal Party of New York can determine how all New York's 43 votes shall be cast. Therefore, the unit system permits small groups of voters to have more influence than they are entitled to at the ballot box and more influence than they would have under a direct, popular vote system.

So if we are concerned about giving every voter one vote, and not giving to some voters more weight than they are entitled to, I suggest to my colleagues in the Senate that direct popular vote for President is the only system which guarantees equality of votes and which minimizes the proliferation of splinter parties.

In my judgment, and the judgment of several others, the unit rule under the electoral college system has given those splinter parties more than their proportionate weight in determining the outcome of the New York elections and that has permitted them to exist so long.

The Senator from Mississippi expressed concern that the direct election plan would not be supported at the State legislative level. As a former member of the Indiana General Assembly for some 8 years, I must say that nobody can predict what is going to happen in our State legislatures. If there is anything more unpredictable than what is going to happen in the U.S. Senate, it is what is going to happen in 99 State legislative bodies.

The polls conducted by the Senator from North Dakota (Mr. BURDICK) and the Senator from Michigan (Mr. GRIFFIN) do, however, show strong support for direct popular election. In both of those States a majority of the legislators who responded were in favor of direct popular elections.

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

Mr. BAYH. I yield.

Mr. LONG. I do not want my remarks to be construed as meaning that I have closed my mind on this question. I have not decided how I am going to vote on passage, but I must say I was impressed by an editorial in this morning's Washington Post which, in effect, made the point that if our present system works, it is just by accident; that it was not intended to work that way. It would seem that the intention of the present system is one whereby the various States would select electors; that they would have available to them a number of outstanding men; that the electors—many of whom would not even know the man who might be President—would then meet, go over the qualifications of the the men who received the most electoral votes to start with, and were available, and try to pick the best man for the job.

The system was not at all designed to foresee what the present situation would be. Today people actually know and decide for themselves directly which man might be the best man for the office. They can do this in these days of television when voters can see the person, look him over, hear what he stands for, hear him asked a lot of questions, mail their own questions in, determine his position, and decide for themselves what they think of the man and of his platform, his program, and the record upon which he is running.

It is certainly a far cry from what we have in the Constitution, which was designed for a day when there was very little communication at all, when one could hardly expect to know for sure what the candidate looked like when he voted for someone to be an elector, who in turn would vote for someone to be President.

So it does seem to me that what we are using today as a system for electing a President is something that occurred entirely by accident, without the Founding Fathers at all anticipating how it would work today, and no one at that time could possibly have anticipated how the system would evolve.

Mr. BAYH. I appreciate that the Senator from Louisiana, who has, of course, been a great student of our governmental process, has pointed this out.

In fact, as I am sure the Senator knows, the great architect of the electoral college, Alexander Hamilton, said that he wanted the electors to be an elite group of independent citizens. I am sure Mr. Hamilton would be surprised by the present system.

Mr. LONG. Can the Senator tell me, under the system we have today, from a mathematical viewpoint, what is the smallest percentage of the popular vote that a candidate could have and be elected President, if the electors did as they should do, and voted for the person under whose name their names appeared on the ballot?

Mr. BAYH. I am glad the Senator raised that point, because when the distinguished chairman of the Judiciary Committee and I were involved in a colloquy earlier, he expressed concern about the election of a President in Chile who received only 35 percent of the popular vote. I was about to suggest—and I appreciate the Senator bringing the matter up again—that under the present-electoral college system, we operate under the unit rule, which was not anticipated by our Founding Fathers, as the Senator knows. Under the unit rule, a man can be elected President of the United States by carrying only the 11 largest States of the country by slight popular vote margins. So, if a candidate zeroes his campaign in on those 11 States, and manages barely to squeak by in them, he can be elected with about 25 percent of the popular votes.

Mr. LONG. Does he receive the electoral votes of a State if he has a mere plurality in that State?

Mr. BAYH. A mere plurality. I am sure the Senator from Louisiana is familiar with this, perhaps more familiar than I. About a year ago last spring the Senator from Indiana had the good fortune of addressing a joint session of the Arkansas legislature, in that beautiful, ornate hall in Little Rock. Suddenly, in the middle of my remarks on this subject, I realized that all those men and women in that chamber were either Democrats or Republicans. Yet, under the electoral system that we have, it was possible for every Democratic voter in Arkansas and every Republican voter in Arkansas, for every man and woman who voted for either Mr. Nixon or Mr. Humphrey in Arkansas, to have lost their votes. Governor Wallace received all of the electoral votes of Arkansas, although he received only about 38 percent of the

popular vote. He got all of Arkansas' electoral votes by getting only about 38 percent of the popular vote; and, with the totals for the major parties more equally divided, the percentage required to carry the State's entire electoral vote would have been even smaller.

Mr. LONG. If the Senator will yield, it seems to me it would be possible, under our present system, for a man to be elected President even though his opponent might have received 10 or 15 million votes more than the successful candidate.

Mr. BAYH. The Senator is absolutely right.

Mr. LONG. If we permitted that to happen, I should think the people of the country would ask what was the matter with the people up here in Congress, that they would insist on retaining a system that would make that possible. Would that not be a very severe threat to this Republic during a period of turmoil, when a man might be elected who might have been soundly defeated at the polls?

Mr. BAYH. Yes. The Senator has hit upon the point that has been the keystone of the concern of the Senator from Indiana. Today we are going through trying times, and they could well be worse when our grandchildren are here; we do not know. I do not know of anything that could do more to shake the confidence of the people than to have to be governed by a President who was soundly defeated under the criteria by which every other officer in the land is normally elected.

Mr. LONG. When you talk to the average citizen, unless this has been explained to him, and a lot of people do not know about it, it comes as a shock to him to find that a man could be elected President even though the other candidate receives a lot more votes.

Mr. BAYH. That is my key point, and I think that is another reason why about 80 percent of the people, when polled, respond by saying, "Why should I not have a chance to vote for my choice for President? I vote for my Senator, my Governor, my school board member, and for the lowest elective office." We have township trustees in Indiana; what is the lowest elective office in Louisiana?

Mr. LONG. Police jury commissioner.

Mr. BAYH. Police jury commissioner. The people say, "We vote for all these other officials, why not the President?"

Mr. LONG. I recognize that while people might vote for a third party candidate for President, knowing he had no chance to be elected, how does the Senator think the people of the country would feel about it if a third party candidate received about 20 electoral votes, and, after the election was over, those 20 votes could determine the outcome, and the candidate who received those 20 votes opened negotiations with the other candidates, requiring that they come to his terms in order to become President of the United States? Can the Senator conjure up the consternation that that would cause in the minds of a lot of people as to whether they would be sold out during the course of those negotiations?

Mr. BAYH. Mr. President, the Senator from Louisiana, in his inimitable fashion, has hit upon another key point that concerns the Senator from Indiana. This almost happened, of course, in 1968. If there had been a change of less than 42,000 votes, we would have had that very thing happen. I, too, think this would seriously shake the confidence of the people. Not only the man on top, but the system would be questioned.

Would the Senator permit the Senator from Indiana to explore one further point with him, inasmuch as he has been a Member of this body and has been a public servant for so many years?

Mr. LONG. Twenty-two.

Mr. BAYH. Twenty-two years, and I say this with admiration. Let the Senator think on this point, if he will. It was a matter to which I was addressing myself when the Senator addressed his question to me.

There has been some speculation raised about what will happen to the direct popular vote plan when it gets to the State legislatures. The Senator from Indiana had just said that it is pretty difficult to predict what State legislatures will do. I would like for the Senator from Louisiana to give the Senate his opinion. If we feel there are some basic shortcomings in the present system, and if we feel they need to be changed, would the Senator feel that a plan that was endorsed, in poll after poll, by about 80 percent of the people, that had been endorsed by the League of Women Voters, the U.S. Chamber of Commerce, the AFL–CIO, the UAW, the American Bar Association—does not the Senator think that a plan that had that broad a base of support would have as good chance, if not a better chance, of passing a State legislature than some other well-intentioned plan that did not have this broad-based support?

Mr. LONG. It would seem so. Of course, I have no idea whether the State legislatures can all be persuaded to agree to a plan, but I did vote, when I first came to the Senate, for the so-called Lodge-Gossett plan, and that plan failed to become law; and one reason that it failed to become law was that, while it did correct some of the shortcomings of the existing system, it created certain additional problems, and it failed to assure the operation of the democratic process in assuring that the man who had the most votes would win.

So those who opposed that Lodge-Gossett amendment, after it passed the Senate, were in a position to argue, "Well, even if we did that, we would still have no assurance that the man who has the most votes wins."

Commonsense would dictate that in a democracy, the man who gets the most votes ought to be elected President. That is why this Senator thinks that the average American would think that if the electoral system is going to be reformed, the logical way to do it would be simply to say that the man who gets the most votes wins. That is the idea in his city, in his State, and in his county. I think it comes as a shock and as a surprise to someone to be told that it does not work out that way at all. It could be that one man could be defeated 2 to 1 in the popular vote and be elected President, and that does not make sense to many people. Frankly, if it had not been explained to me how it came about, I would have difficulty understanding it that way.

Mr. BAYH. As the Senator from Louisiana has pointed out, the present system can depend on accidents. It could not be worse. I appreciate the contribution that the Senator from Louisiana has made.

The Senator from Indiana has been deeply concerned about three basic shortcomings of our present system. One is the point stressed so cogently by the Senator from Louisiana, that the present system permits the election of a President—and three times we have had this situation—who has fewer votes than the man who ran against him.

Second, the present system does not count all votes the same; half are not counted at all, because in each State the votes for the losing candidate are thrown away.

Third, the present system does not permit us to vote for our public officials, for the President and the Vice President. We vote for the electors. As the Senator from Louisiana pointed out, they are not part of the original intention of our Founding Fathers.

If we are concerned about these three shortcomings, as the Senator from Indiana is, there is only one system, only one plan, that will guarantee their correction, and that is the plan we are now debating.

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

Mr. BAYH. I am glad to yield to the distinguished Senator from Florida.

Mr. HOLLAND. As the Senator knows, the Senator from Florida does not favor the present system, and he does favor the so-called fractional system, because he has appeared three times before the Senate's subcommittee to be heard on that subject in past years. I am not in my question at this time, though, discussing the fractional system.

I have had more complaints, from my own thinking and from others, about one feature in Senate Joint Resolution 1, which I want to explore, and that is the feature that would have the District of Columbia, because of its population, given more weight in a presidential election than each of 11 sovereign States; whereas, the District of Columbia has no sovereignty of its own—it does not control the many aspects of daily life which are controlled by State law in the various States; and whereas this very Congress, only yesterday, took what was regarded as a sizable step—by some, at least—by giving to the District of Columbia a nonvoting delegate in the House of Representatives.

The Senator from Florida would simply bring up this question: How can the Senate, in good conscience, regard the District of Columbia as so far from being a State or anything like a State that it would give it only one nonvoting delegate in the House to represent it in Congress, and at the same time, under Senate Joint Resolution 1, put it into a position in which, because of its population, it will outvote 11 sovereign States, each of them, and in several different

combinations will outvote two of those States together? How does the Senator support this very large inconsistency in attitude of the Senate, shown not only by the vote yesterday but also by the consideration of this feature in the Senator's resolution today?

Mr. BAYH. I respect the distinguished Senator from Florida's difference of opinion with the Senator from Indiana over the relative merits of direct election. No one expressed the proposition more eloquently and supported the proportional plan more eloquently before the Senator from Indiana's Subcommittee on Constitutional Amendments than did the Senator from Florida.

I really do not see any inconsistency in this. We are talking about two different things. The nonvoting delegate proposition we took up yesterday and the proposals that some of us have to provide actual voting representation deal with the prime manifestation of statehood—namely, representation in Congress, and particularly in the U.S. Senate.

I can see how a person can make a good argument that representation in the Senate gives the attributes of statehood. But what we are talking about here, if I may say, with all due respect to the Senator from Florida, is not the attributes of statehood, of citizenship for a State, but the attributes of citizenship in a nation.

When we give to the citizens of the District of Columbia the right to vote for President, we are only perfecting what we have already given those citizens when we gave them the right to vote for President under the electoral college system. They now have the chance, as the Senator from Florida knows, to elect three electors under the electoral college system. We are really giving to each voter in the District the same weight, the same opportunity, to determine who his President shall be, as we give each voter in every other of the 50 voting units, or the 50 States.

The Senator from Indiana would respectfully suggest that there is not the inconsistency that the Senator from Florida seems to feel exists.

Mr. HOLLAND. If the Senator will yield further, the Senator from Florida voted for the constitutional amendment under which the District of Columbia is given the same electoral weight in presidential elections as the smallest State is given. But the Senator from Florida is not willing to even think about voting for a plan which gives the District of Columbia greater voting weight than each of 11 of the sovereign States. The Senator from Florida thinks there is no better illustration to be found than in the matter I am talking about of the fact that Senate Joint Resolution 1 is a radical departure from anything we have ever had heretofore, in that it proposes to change our form of government, insofar as presidential elections are concerned, from a republic with representation for the people into a direct democracy in which every person votes. There could hardly be a more revolutionary change than that.

The Senator from Florida would simply like the Senator from Indiana to discuss that feature, because it seems such a clear illustration here made that it is proposed actually to give the District of Columbia not just equal voting strength with the smallest of our States but, because of its population, to give it greater voting strength than 11 of our States and greater voting strength than several pairs of our States taken together. The Senator from Florida cannot conceive of States in that position ever approving this resolution. Neither can he conceive of anybody failing to see, when they look at this situation, that this proposal is a radical one, because it proposes to change so completely our federal form of government from a republic to a direct democracy in the field of the election of President and Vice President.

I thank the Senator for yielding.

Mr. BAYH. I appreciate the contribution of the Senator from Florida. Unless he insists, I will not go into a complete analysis of the points he has made, because the Senator from Indiana has already made them before.

Some have said that the popular vote system destroys the federal system. The Senator from Indiana disagrees with this. Although he feels that the federal system should be protected as it is an indispensable part of our form of government, he is of the opinion that this body, the U.S. Senate, was the body that Madison and Monroe and Jefferson and other of our Founding Fathers intended to support the federal system. The electoral college system, which is not really protecting the small States, was not the major compromise of the federal system.

Mr. HOLLAND. If the Senator from Indiana will yield for one more comment, the Senator remembers, of course, that under the Constitution the power of passing upon articles of impeachment is lodged in the Senate on a two-thirds basis. That is a very great power. It is a power which if applied to President and Vice President is the exact antithesis of the power of election. The Senator from Florida cannot see any justification for the refusal to regard the Senate, and the Senate and House together, as an appropriate body to pass upon the final election of President, if less than 40 percent of the vote is received in the first race.

As a matter of fact, in connection with impeachment, the House votes impeachment by a majority vote and then the trial is held before the Senate and the Senate can find guilty the defendant under that impeachment only by a two-thirds vote. That is exactly the antithesis of election. It is the matter of termination, as that term is applied to President and Vice President. The Senator sees no great difficulty at all in supporting both the theory and the traditional soundness of the principle of allowing Members of the House and Senate, acting together, each having a vote, to elect from the three high candidates, the President and Vice President, in the event no candidate receives 40 percent of the vote.

The Senator from Florida just calls that to the attention of his friend from Indiana because he thinks he has detected that the Senator from Indiana is unduly disturbed about the thought of vesting such power in the Members of Congress. We have already vested exactly the antithesis of the power of election in the Members of Congress. No one has complained of it at all. As a matter of fact, when a President was sought to be convicted in an impeachment trial here, the Senate reacted with very great patriotism and sound judgment when several Members refused to do what they had indicated previously they had intended to do, after all the facts were in and after all the implications had been made clear.

Thus, the Senator from Florida finds no justification for the objection to the election of President and Vice President from among the three top candidates, in the event no candidate gets 40 percent in the first election.

The Senator from Florida was a little surprised to hear his friend from Indiana indicate he did not feel that would be a sound program, to vest such power in the Members of Congress when, under the Constitution, the very powers we have been talking about in connection with voting impeachment and voting a verdict of guilty upon the trial are given to Members of Congress by the Constitution.

Mr. BAYH. I am glad that the Senator from Florida brought up that aspect of the contingency provision of the direct popular plan now before the Senate. I do not recall my exact remarks, but I believe I said I had no absolute objection to the alternative plan of going to a joint session of Congress. In fact, as the Senator from Florida may remember, the original direct election plan introduced by the Senator from Indiana contained that as a contingency. So I am not irreconcilably opposed to that. But what I am trying to point out is that if we are going to have a popular vote plan, I would much prefer to have the people make the final choice, in the event that no candidate gets more than 40 percent of the vote. This would effectively deal with the problem of proliferation discussed by my colleague from Louisiana and intimated by our colleague from Mississippi, the chairman of the Judiciary Committee.

If there is such a proliferation, the Senator from Indiana would feel much more comfortable if the people of the country had the opportunity to make the final choice, rather than to have the final choice rest upon the shoulders of the House and Senate. It is a better alternative, but the alternative suggested by the Senator from Florida is not beyond consideration.

Mr. HOLLAND. I have one more comment. I want to call attention to the fact that the program electing Presidents and Vice Presidents in the event no candidate gets 40 percent in the first election, is contained in the fractional program so strongly supported by the Senator from Florida, the Senator from North Carolina, and others. There is nothing new in it. It has been offered many times. The Senator from Florida is a little surprised to hear the Senator from Indiana indicate he feared some dire wrong results in the event Congress was to get the power to act finally, in the event no candidate received 40 percent of the vote. The Senator from Flor-

ida does not feel that way about it. He thinks that Senators and House Members come nearer representing a majority rule in our Nation than any other group that can be found.

House Members have all been elected by the votes of the voters in their district. Senators have all been elected by the votes of the voters in their States. To have them representing the people of this Nation carries on the tradition of this country as being a Republic and not a straight out democracy. The Senator from Florida wanted to call attention to that.

Mr. BAYH. I appreciate the Senator's bringing that up again. If I gave the inference I was unalterably opposed or felt that some diabolical results might follow the contingency plan discussed by the Senator from Florida, let the record show that I do not have that strong a concern. I would find that an acceptable alternative. But if we are going to have a horse, let us have a horse; let us not have the first half a horse and the back half a camel.

In like manner, if we are going to have the direct popular vote scheme, I would prefer to have the original choice as well as the contingency choice made by the people. I completely agree with the Senator from Florida, and this is why I supported that contingency plan earlier, that I feel this body, together with the House, is the best representative of the majority of the people, save one. No one can dispute that the majority of the people themselves most accurately represent the majority of the people.

For that reason, and only that reason, I prefer the contingency plan in Senate Joint Resolution 1 to the earlier contingency in my earlier direct popular vote plan and that plan supported by the Senator from Florida.

Thus I appreciate the fact that the Senator has brought this to our attention.

Now, Mr. President, I shall not proceed further on the District plan discussion. I thought perhaps I might say that the size of the vote in any election, whether in Wyoming, New York, or the District, is rather speculative because it all depends on the number of voters who come to the polls on any election day. It would seem to me, and I certainly respect the difference of opinion of our colleagues and the Senator from Florida, that if we believe the citizens of the District of Columbia are sufficiently citizens of the United States to permit them to vote for free electors regardless of the turnout on election day, we should also feel that they are sufficiently citizens of the United States to permit whatever numbers wanted to come to the polls on election day to vote for a President on a direct popular vote.

Rather than share the concern of the Senator from Florida over the relative size of the unit, I am concerned that the weight of each voter in the District be the same as that of each voter in New York or Alaska. Of course, that attribute is contained only in the direct popular vote plan.

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

Mr. BAYH. I yield.

Mr. HOLLAND. Mr. President, as the Senator from Florida understands the position of the Senator from Indiana, he is not disturbed by the fact that the District of Columbia would be given greater weight in a presidential election than 11 separate sovereign States in the Nation under the plan which he is espousing.

Mr. BAYH. No. The Senator from Indiana is not concerned about that. As I said earlier in our discussion with the Senator from Louisiana and the Senator from Michigan, I am concerned about having a system that would guarantee to every voter the same voice in the outcome, not every county or every State. The direct popular vote plan is the only one that would do that.

Mr. President, I have one other passing reference to the splendid speech made by our friend, the Senator from Mississippi. The Senator from Mississippi expressed concern that although there were shortcomings in the presidential system, we were in effect, by going to the direct popular vote plan—to use his words—burning down the barn to get two or three rats. We can argue about the relative concern being given to the various shortcomings of the present system.

I am concerned about three basic shortcomings:

First, under the present system, we do not guarantee that the man who wins is the man who gets the most votes.

Second, we do not guarantee under the present system that everyone's vote will count the same in the final tally. About half of the votes are discarded in each election under the unit rule system and really cast for the candidate whom the voter actually opposes.

Third, we, as citizens of this country, do not vote for a President or a Vice President. We vote for these electors that are completely free to do their own will, not the will of the constituency that chose them.

If we are concerned about these three shortcomings, these three rats in the barn, the only way to eliminate those three shortcomings is to pass the direct popular vote plan and eradicate those particular rodents.

I say with all respect to those who have well-intentioned ideas about what should be done, that only the direct popular vote plan guarantees that the winner is the man with the most votes, that each citizen's vote has the same weight in the outcome of the election, and only the direct popular vote plan permits us to go into the voting booth and vote for the President and Vice President the same way we vote for Senators, Representatives, and every other officeholder in the land.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. McINTYRE) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 16542. An act to amend title 39, United States Code, to regulate the mailing of unsolicited credit cards, and for other purposes; and

H.R. 17809. An act to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 18725) to establish a Commission on the Organization of the Government of the District of Columbia and to provide for a Delegate to the House of Representatives from the District of Columbia, and it was signed by the Acting President pro tempore (Mr. ALLEN).

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The Senate continued with the consideration of the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

Mr. HART. Mr. President, I rise to support Senate Joint Resolution 1, now pending.

The proposed amendment to the Constitution of the United States would abolish the electoral college and provide in its place direct popular election of the President. In the direct election the candidate winning the plurality of at least 40 percent of the votes would become President. If no candidate received 40 percent, there would be a runoff between the two top candidates.

I realize that, in the several days during which we have begun development of the proposition, much of this analysis has been stated for the record. I should like the opportunity, however, for myself, to reassert some of the points already made, inasmuch as I think most of us in the Senate will be anxious to have in a concise form, available for distribution to those constituents of ours who express concern, our point of view.

Although some opponents of direct election seek to portray it as a hastily considered amendment to our Constitution, they are wrong.

Senate Joint Resolution 1 was reported out of the Senate Judiciary Committee by a vote of 11 to 6. This followed several years of extensive hearings in the Subcommittee on Constitutional Amendments under the able leadership of the Senator from Indiana (Mr. BAYH).

The Special Commission of the American Bar Association on Electoral College Reform, composed of eminent political scientists, lawyers, and public officials, studied the issue for almost a year, and concluded that the present system was archaic, undemocratic, and dangerous. Indeed Senate Joint Resolution 1—and this has been commented upon in the press rather frequently—has the almost unprecedented coalition support of the American Bar Association, the Chamber of Commerce, the AFL-CIO, the United Auto Workers, the League of Women Voters, and the National Association of Small Business. Public opinion polls and the canvass of State legislators by some of our Senate colleagues, including my distinguished colleague from Michigan (Mr. GRIFFIN) also reveal broad national preference for direct election. Last fall, the House of Representatives approved Senate Joint Resolution 1 by a landslide 339-to-70 vote.

In short, Mr. President, direct election is an idea whose time has finally come. Those of us who were privileged to sit with the late delightful Senator from Illinois, Everett Dirksen, will recognize the point I have just voiced. Senator Dirksen often reminded us of his willingness to support an idea whose time had finally come, and I think he might agree that this is such an idea and this happens to be the time.

The history of the electoral college reveals its dangers. There have been 46 presidential elections. In these elections, two Presidents were chosen by the House of Representatives; one Vice President was chosen by the Senate, and one President gained office only upon the vote of a special commission appointed by Congress. Most important, on three separate occasions, the popular vote winner was denied the presidency.

Recent elections have spotlighted the time bombs ticking away in our present system: The possibility of a minority President, or an electoral college deadlock followed by bargaining in the House of Representatives.

This danger of a "second choice" President is, I suggest, central to the debate. Opponents of direct election may suggest that precisely because the Nation has survived this situation three times in the last century, it is a risk we can live with.

I am less sanguine. Today, our social fabric is beset with tensions. We are sensitized by opinion polls to the popular will. The President possesses awesome powers of rapid, momentous decision. Particularly in times of crisis, a minority Presidency now could put an intolerable strain on our democratic system.

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

Mr. HART. I shall be glad to yield.

Mr. BAYH. Mr. President, I compliment our distinguished colleague from Michigan and fellow member of the Committee on the Judiciary for the part he has played prior to this moment in helping us move forward with this major constitutional reform. I know how busy he has been and is, and I think it speaks well, though in typical fashion, of our colleague from Michigan that he would be here at this hour, voicing his concern over the real flirtation with tragedy we have had because of the present electoral system.

I must say that the Senator from Indiana feels that the priority placed by the Senator from Michigan on the weaknesses of the system is the same priority that the Senator from Indiana places upon them. One of the deepest concerns that the Senator from Indiana has is that it would be impossible for the President to govern effectively if he were not the choice of most of the people. As the Senator points out, on three occasions we have had a minority President. Further there have been seven times in this century alone where a change of less than 1 percent of the popular vote, would have resulted in cases similar to those the Senator has pointed out.

I should like to address one quick question to the Senator. Earlier today, in colloquy with our distinguished colleague the Senator from Nebraska, the Senator from Indiana repeatedly addressed himself to the following question, and was not fully satisfied with the answer that our distinguished friend and colleague gave. I would like to get the opinion of the Senator from Michigan on the situation that existed in 1948. If there had been a change of less than 28,000 votes in three States in that year, we would have seen the election victory go from President Truman to Governor Dewey, despite the fact that President Truman, who then would have been the loser, would have had a 2-million-vote plurality. That is different from the malfunctioning that really occurred in 1968, where, with the change of a few votes, neither candidate would have had a majority of the electoral college.

The question I pose somewhat circuitously to my friend from Michigan is this: Would he give the Senate his judgment as to the effectiveness of a President who was forced to accept the mantle of national leadership although the man whom he opposed had 2 million more votes than he had received in the election?

Mr. HART. Mr. President, I shall attempt to respond. But first let me thank the Senator from Indiana for his kind reference to me. If there is one thing history will not be obscure about, it is that we are at this moment deliberating the adoption of this resolution only because in the Senate at this time was one BIRCH BAYH. The several years of careful development of the record, the insistence within the Judiciary Committee that this record be carried to the Senate, the solid majority action of the Judiciary Committee in support of the resolution, each and all of those steps was led by the Senator from Indiana. Without him, I have very serious doubts that this really basic question, which has enormous implications for our future, would now be raised. I say that, and welcome the opportunity to say it.

Mr. BAYH. Mr. President, if the Senator will permit me to interrupt these very kind and highly appreciated accolades, I want to reemphasize that had it not been for the Senator from Michigan and several of our colleagues, this point could not have been reached. This has been a team effort, and I appreciate the cooperation of my colleagues.

Mr. HART. Mr. President, any team has to have a boss, and I was grateful to be able to turn to the Senator from Indiana and say, "There is the boss."

I think we can cite two very distinguished Presidents in replying to the question the Senator from Indiana has raised. As he notes, if in 1948 there had been that minimum switch, Governor Dewey would have assumed the Presidency, although President Truman would have been preferred by 2 million more Americans for that office. John Kennedy, whose qualities those of us who were permitted to serve with him recognized long before the country had an opportunity to make its judgment, also came into office in 1960 on a rather narrow plurality. His first years in office, so we are told by those who are writing history books, popular and academic, and who were a part of that administration, President Kennedy sometimes refrained from seeking to move the country in directions he felt deeply it should be persuaded to move because, indeed, he said he had assumed this office on so narrow a margin. Imagine the restraint and the inhibition on the President, himself, had John Kennedy assumed office as second man on the popular vote.

This, in a sense, personalizes the answer, and it limits it only to the personal inhibitions that would attach to the President. It does not address itself to the broader concern of national support raised by the Senator from Indiana.

Even if a minority President sought to give leadership, what kind of response could he get from the country? I think for that answer we should turn to the present incumbent, President Nixon. Very early in this debate, the Senator from Indiana pointed to the statement of President Nixon in 1968, when he was the Republican candidate for the office. Then candidate Nixon said:

> If the man who wins the popular vote is denied the Presidency, the man who gets the Presidency would have very great difficulty in governing.

As I have on some other issues, on this one I agree with President Nixon.

It is, indeed, a sobering, alarming prospect which the Senator from Indiana points up by his question and which he and I believe to be the key reason, the basic reason, for the adoption of the change which is reflected in the pending resolution. President Nixon very effectively, in a short sweep of words underscored the danger that we seek to avoid.

Mr. BAYH. I appreciate very much the Senator's response, and I appreciate his permitting me to interrupt his very fine speech. I know of the Senator's deep concern for the currents that are sweeping across this country today. Therefore, I am not surprised that he shares the

concern of the Senator from Indiana that the tremendous responsibilities that are placed on any human being who is called upon to be President would become even more difficult to carry were he not the choice of the people he is called upon to govern. I do appreciate the Senator's permitting me to interrupt.

Mr. HART. I wonder whether we could discuss this in terms a little closer to home right here in the Senate. Perhaps we can persuade some of our colleagues here that this is indeed a very compelling argument in support of the resolution by asking them how this establishment would operate if we selected as leader a man who had run second. Yet, this is a relatively—I was going to say this is a relatively manageable institution. More precisely, I should say that this is an institution made up of a very small number of men and women. Its management is a severe test of any leader. Can one conceive of the performance of this Senate, now subject to criticism on all sides, if the leadership was assumed by someone who was the choice of fewer of us than a man who would be in the background?

Mr. BAYH. I think the comparison of the Senator from Michigan is well taken. It speaks for itself, and it is excellent.

EQUAL VOTE

Mr. HART. Mr. President, in addition to what the Senator from Indiana and I suggest as the really most persuasive point in this debate—the danger of the second choice being President—in addition to the risk of a minority President, the system now presents an Orwellian world in which some voters are more equal than others. Its allocation of electoral votes among the States does not fairly reflect either the population in each State or the actual number of ballots cast there for the candidates.

Moreover, the unit rule "wastes" all of the votes cast within a State for anyone but the winner of that State. In States dominated by one party, it—I am convinced—also maintains weak second parties and discourages voter turnout of both parties.

Some argue that the present allocation gives voters in small States disproportionate influence; others claim that citizens in large States have greater real leverage under the unit rule, under the present system. At most, these alleged advantages present what Prof. Paul Freund has termed an "uneasy tension between opposing distortions of the popular will."

In fact, the benefits of both are problematical. Small States do have at least three electoral votes regardless of population. But the candidates still focus on the larger States where thin pluralities can earn large blocs of electoral votes.

At the same time, the future effects of the unit rule are hard to foresee. With burgeoning suburban interests in large States, it is not clear which group will provide the decisive swing vote—or on what issue. Projections of the past may prove mischievous. But our concern should be that no unit—large or small—has an advantage. We should insure that each American has his vote count equally with every other.

THE RUNOFF

Mr. President, I know of the concern that has been voiced about the runoff provisions of Senate Joint Resolution 1. I believe it makes good sense. The 40-percent plurality requirement will assure a reasonable national mandate to govern the country, and still render remote the likelihood of a runoff. In every Presidential election, save one, some candidate has received 40 percent of the vote—including the multiparty races of 1912 and the one that the Senator from Indiana just discussed, in 1948. In 1860 we had an exception. In that year, President Lincoln received only 39.79 percent, but his name was not on the ballot in 10 States. Fifteen Presidents, on the other hand, have been elected with less than a majority of the total vote.

Some suggest that a 40-percent plurality might be an insufficient mandate if the front runner wins the vote in only one or two States, losing the other States by razor margins.

This argument is based on the assumption—wrong, I suggest—that a voter would prefer his State's first choice for President to his own first choice. On the contrary, even in such hypothetical situations, the winner would have garnered millions of votes from citizens of the other 48 or 49 States. Certainly, those voters would be happy with the outcome, whether or not the winner had carried their respective States. Thus, he would still have broad national support.

The other main objections which have been raised against Senate Joint Resolution 1 are that it would weaken federalism, undermine the two-party system, or increase the incentive for vote fraud.

As our able majority leader has emphasized, and I repeat, our federal system is preserved in Congress, particularly in this body, and in the powers provided the States under the Constitution. It is neither preserved nor enhanced by perpetuating inequities in voting power, pitting groups of States against each other, and failing to guarantee that the people's choice is elected President.

Nor will direct election unleash a proliferation of splinter parties and undermine our two-party system. Critics admit that few third parties would hope to win the required 40-percent plurality. Instead, they argue such parties would hope to require a runoff and then bargain with the major candidates.

First, it is important to reemphasize the conclusion of the American Bar Association Electoral Reform Commission that the two-party system is rooted in the election of Congress, State, and local officials, not in the electoral college.

As for the threat of bargaining, the major parties would have the incentive, as now, to accommodate diverse interests. But a runoff candidate who openly bargained with a splinter candidate for support would face the possibility of thereby losing an equal or greater number of moderate voters in the runoff. Moreover, it is doubtful that a third party candidate could deliver enough of his supporters to influence a nationwide popular election as easily as he might influence a few critical votes in the House following an electoral college deadlock.

The bargaining position of several divergent—possibly antagonistic—parties would certainly be less than that of a strong third party candidate holding the balance of power in the electoral college or the House.

Above all, it is particularly important in a close election that the popular choice, the choice of the people, becomes President. This requires a direct vote in both the main election and any contingency procedure.

The specter of fraud is the most easily dispatched of these objections. Presently, the shift of a few votes in each insulated State can shift large blocs of electoral votes. That provides, I would suggest, far greater incentive to commit fraud than direct popular election in which several thousand votes would be a mere drop in the bucket in a nationwide pool of millions of ballots.

Nor are the mechanical problems of large vote certification and recounts particularly awesome. They have been effectively handled by the bigger States in elections for Senator and Governor for years.

Mr. President, critics of Senate Joint Resolution 1 challenge its supporters to demonstrate a clear need for such an important change in our electoral system. Those who study the Senate committee hearings and the report of the Judiciary Committee will find, I admit, that burden has been met.

The committee report summarizes the three requisites of a stable and fair system:

> First, it must guarantee that the candidate with the most votes is elected President. Second, it must count every vote equally. Third, it must provide the people themselves with the right directly to make the choice. Only direct popular election meets all three tests. (p. 9)

I urge my colleagues to support Senate Joint Resolution 1. Direct popular election will eliminate all inequities in the weight given votes from different parts of the country. It will promote the most democratic electoral results and truly implement the ultimate principle: "Let the people decide."

Mr. BAYH. Mr. President, I reiterate my gratitude to the Senator from Michigan for taking the time to make the contribution he has in his cogent arguments. This type of battle is never easily won. It is not the type of battle that has the emotional appeal of some of the more visceral issues. But in his own inimitable fashion, the Senator has pointed out the critical nature of this issue as few others have. He has captured the importance of it.

As one of his colleagues in the Senate, the Senator from Indiana wants to say to him, in capital letters, thank you very, very much.

Mr. HART. I thank the Senator from Indiana again. I repeat, we are at this point in history because of the leadership of the Senator from Indiana over a period of several and, I suspect, rather dry years.

Mr. President, as I conclude, let me read in part from a letter addressed to

me, dated August 13, 1970, from Harry R. Hall, president of the Michigan State Chamber of Commerce.

He writes:

It is my understanding that discussion and action will occur at an early date on Electoral College Reform (S.J. Resolution 1). The Michigan State Chamber strongly supports the Electoral College Reform that will permit election of the President and Vice President by nation-wide popular vote. We think the present system is completely anachronistic. It has inherent dangers that could thwart the democratic process and encourage the extreme dissidents to destroy our present political system. The obviously close division between political parties today makes it necessary to have a system whereby voters are guaranteed that the candidate with the most votes nationwide will be elected and that we have an election method that provides an equal vote to all citizens.

Mr. President, I express my appreciation to Mr. Hall and to the distinguished membership of the Michigan State Chamber of Commerce for its awareness of the problem and its willingness actively to participate in this effort to resolve the problem.

Mr. President, I ask unanimous consent to have the full letter from Mr. Hall printed in the RECORD.

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

MICHIGAN STATE CHAMBER OF COMMERCE,
Lansing, Mich., August 13, 1970.

Senator PHILIP A. HART,
U.S. Senate,
Washington, D.C.:

It is my understanding . . . that discussion and action will occur at an early date on Electoral College Reform (S. J. Resolution 1). The Michigan State Chamber strongly supports the Electoral College Reform that will permit election of the President and Vice President by nation-wide popular vote. We think the present system is completely anachronistic. It has inherent dangers that could thwart the democratic process and encourage the extreme dissidents to destroy our present political system. The obviously close division between political parties today makes it necessary to have a system whereby voters are guaranteed that the candidate with the most votes nationwide will be elected and that we have an election method that provides an equal vote to all citizens.

Although I know that you support the bill, I do want you to know that you have the hearty support of the Michigan State Chamber in supporting the issues urged for Electoral College Reform that are long overdue.

Sincerely,
HARRY R. HALL, CCE,
President.

Mr. MILLER. Mr. President, a year and a half ago, I testified before the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee on the subject of electoral college reform.

I noted the weakness of our present system of electing a President and recalled that one of the framers of the Constitution had remarked that adoption of a plan for doing so was "in truth the most difficult of all on which we had to decide." And I suggested that the difficulty was no less today than it was in 1787. The controversy within the full committee and now within the full Senate bears witness to my statement.

I deeply regret that, by a split vote, the Senate Judiciary Committee has placed before the Senate a proposal which, in its impact on our Nation's system of divided powers of government, I liken to the Supreme Court packing proposal of the late President Roosevelt. Only a filibuster prevented that proposal from undercutting the independence of the judicial branch of our Government, and there are few historians or political scientists today who do not agree that the proposal was unwise.

The diffusion of political power—among the three branches of the Federal Government, between the Federal Government and the 50 States, among the three branches of each State, and between the individual States and their local levels of government—is a complex and highly sophisticated system which, along with our Constitution, is well calculated to prevent dictatorial control over the people. At the same time, changing times and circumstances bring about a constant series of pressures from all points within the system for the purpose of meeting the needs of the people. Striking a balance is the art of good government.

The electoral college system of electing a President was intended to strike a balance between the Federal and State Governments. This it has done, but its imperfections have led to abuses which have caused great anxiety among the people. The specter of a member of the electoral college voting contrary to the expressed will of the electorate of his State and the "winner take all" electoral votes from each State are abuses which should be removed. I have cosponsored legislative proposals to do so. But while the direct election of the President proposal would do away with these abuses, it would, at the same time, jeopardize the balance between the Federal Government and the States. Indeed, it does not require great imagination to say that adoption of this proposal by the Congress and its ratification by three-fourths of the States would mark the beginning of the end of the viability of the States as political institutions.

For this reason, I fully agree with the President's prediction that the necessary three-fourths of the States would not agree to ratify the proposal if the Congress submits the question to them. And so it seems to me that we are now engaged in another of the typical exercises in futility which seem to be the trademark of this session of the Senate.

The pending proposal, Senate Joint Resolution 1, would allow 7 years for ratification by three-fourths of the States, and this would mean that meaningful change to remove the present abuses would be delayed 7 more years at least.

The proponents make much of a Gallup poll some time ago which purported to show a very large majority of the people in favor of direct election of the President. I can understand such a reaction, because I, myself, joined as a cosponsor of this proposal 3 years ago after it had been endorsed by the American Bar Association—albeit by a closely divided vote in the association's house of delegates. Since that time, however, I have had an opportunity to study the matter in greater depth and to understand the implications of the proposal. It would be more indicative of public attitudes, I believe, if the Gallup poll would ask questions such as these:

1. Do you favor changing the system of electing a President to a system under which one candidate for President could carry 49 of the 50 states by 1,000 votes each and still lose the election because the other candidate for President carried a single state by 50,000 votes?

2. Do you favor changing the system of electing a President to a system which would encourage an end to the two-party system and a proliferation of political parties, thus laying a foundation for a run-off election because no candidate received the required 40% of the vote and laying the further foundation for all kinds of promises and trade-offs by either or both of the candidates involved in the run-off in order to pick up support from the other parties?

3. Do you favor a system which would enable widespread fraud in one or two large states to result in election of a candidate who lost most of the other states, but by margins too small to prevent his winning margins in the fraudulent states from putting him on top?

These and other questions would reveal the implications of the pending proposal, and my best judgment is that, thus informed, public opinion would be opposed. And this is why I suggest that should the proposal be referred to the States, the required three-fourths ratification will not be forthcoming. Let these implications be publicly aired within the States, when the legislatures are in session, and the public would be far better informed on the subject than it now is.

If it be suggested that my question relating to one candidate carrying 49 States by 1,000 votes each and the other candidate carrying a single State by 50,000 votes is far fetched, let me point out that 16 of the smaller States cast a total of 7,600,000 votes in 1968 and gave a combined majority to President Nixon of 691,000. In the State of Massachusetts, 2,236,000 votes were cast with a majority of 702,000 for Vice President Humphrey—sufficient to more than wipe out the Nixon margin in those 16 States if this pending proposal had been the law.

Another serious defect in the pending proposal, as I see it, is the provision that empowers the Federal Government to establish uniform residence and election procedures for election for President and Vice President. This could well result in differences within each State between such residence and election procedures in the case of elections for President and Vice President and elections for all other candidates—Governor, U.S. Senator, Congressmen, and other officials. The people are confused enough over some of these requirements now without adding another set of requirements for them to follow.

The 18-year-old vote question is very much up in the air, and not until the Supreme Court issues a ruling will we know whether or not the simple statute passed by the Congress is constitutional. I do not believe it is, and that is why I voted against it. If it is declared unconstitutional, the long process of a constitutional amendment must be followed, and the outcome of ratification of that would be in doubt—especially because so many State referendums on this point

have resulted in its defeat. Meanwhile, however, States which have granted the franchise to those under the age of 21 would have more say in electing a President under the pending proposal than would those States which retain the 21-year age requirement. This is not fair and underscores the desirability of retaining the electoral vote system while abolishing the obsolete electoral college itself.

The electoral system has seen the people of our country elect a President on 46 occasions during our history, and the transition between Presidents has been orderly. Granted that the orderliness could become fraught with controversy if the matter had gone to the House of Representatives in the elections of 1968, even that would not be fraught with the peril of a national runoff where, under the pending proposal, no candidate received 40 percent of the total vote. Moreover, even under the unfair winner-take-all system, it has been rare indeed when the President who has been duly elected by receiving a majority of the electoral vote has received a minority of the total vote cast.

On that point, Mr. President, I ask unanimous consent to have inserted in the RECORD appendix A of the minority views, set forth on pages 52, 53, and 54 of the committee report on the pending proposal.

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

APPENDIX A

HAS A POPULAR VOTE WINNER EVER LOST THE PRESIDENCY?

It is frequently said that the electoral college makes it possible for a candidate to be elected who receives fewer popular votes than his chief opponent. It is alleged that this has happened three times: in 1824, in 1876, and in 1888. We propose to examine this charge to see whether it is worthy of the attention it has received.

While it is theoretically possible for an electoral vote winner to be a popular vote loser, it is highly unlikely that such an event will occur. It is theoretically possible for the simple reason that there is not a perfect mathematical proportion between the size of the popular vote and the size of the electoral vote. That disproportion is due to the fact that each State has at least three electoral votes regardless of size—a concession that the Framers saw as necessary to shore up the federal system. So long as we believe it wise or useful for the States as States to have a say in the selection of Presidents, and so long as we believe that the smaller States ought properly to have a minimum representation, it will remain theoretically possible for an electoral winner to be a popular loser. Whether we have "winner-take-all" or some other system of awarding electoral votes, so long as the concept of electoral votes is retained with a minimum representation for small states, that theoretical possibility remains.

The decisive policy question is whether the risk of this theoretical possibility is worth running. And the most important factor in determining the worthiness of the risk is the likelihood of its occurrence. On the basis of past election results, the risk would appear to be minimal. Indeed, it is our belief that the much-feared result has never occurred.

Let us now turn to consider the three elections, which it is alleged, did produce the unwanted result.

(A) THE ELECTION OF 1824

In the election of 1824, Gen. Andrew Jackson obtained a plurality of both the popular and the electoral vote but, failing a majority in the electoral count, lost to John Quincy Adams in the House of Representatives.

The experience of 1824, however, is hardly relevant to present-day elections. None of the machinery we now possess to prevent such an outcome existed at the time; indeed, the growth of the party system and the birth of national conventions can both be directly attributed to the experience of 1824. The absence of nominating and other party machinery in 1824 accounts for the two facts which vitiate the election of 1824 as a relevant example: (1) unaffiliated a multiplicity of candidates, made it impossible for anyone to garner a majority of the electoral vote—a fact which, incidentally, was conceded by all prior to the election; (2) voters were not organized in any major sort of way on behalf of any of the candidates, with the result that voter turnout was minimal.

While accurate figures are especially difficult to obtain for early 19th century elections, most authorities are agreed that something like 350,000 votes were cast in the election of 1824, out of a total population of roughly 11 million, of whom roughly 3 to 4 million were white adult males. Of the small number of votes which were cast, Jackson obtained a total of roughly 150,000—more than any other candidate, but it was not even a majority of those voting. Jackson's plurality can in no sense be termed a "victory," nor can it be said to have constituted a "mandate."

Further, there were four candidates in that election. Of the 24 States in the Union at the time, the four candidates appeared together on the ballots of only five States; in six States, only three were on the ballot; and in seven only two. Moreover, six States (including New York, at that time by far the most populous State) had no popular election at all, the electors being appointed by the State legislatures.

The Presidency, in short, had yet to be conceived of as an elective office in the sense that we now understand it. Anyone who ventures to claim that Jackson's popular plurality represented the "will of the people" or that his defeat in the House was a "frustration of the popular will" understands neither the election of 1824 nor why its inconclusiveness cannot be repeated today. In the words of Prof. Eugene Roseboom, "The popular will had been so dimly revealed in 1824 that the House could not have subverted it." (*A History of Presidential Elections*, 1957, p. 88).

(B) THE ELECTION OF 1876

It is claimed that in the election of 1876, Samuel Tilden carried the popular vote by 250,000 but had the election "stolen" from him by a "packed" special electoral commission which had been assembled to investigate vote-fraud allegations in a number of States. The only difficulty with this argument is that, in order to have any significance at all one must adjudge every decisive vote-fraud allegation in Tilden's favor—an act of naive generosity that even Tilden's most vociferous supporters at the time dared not make. The very thing which brought the matter to the special commission in the first place—and the matter which occupied its members for days on end—was the clear and present incidence of fraud. The accuracy of the popular vote or the credentials of electors were challenged in at least 10 States. No one but no one has any idea of what the actual popular vote count was in 1876.

(C) THE ELECTION OF 1888

In the election of 1888, it is alleged, Grover Cleveland received a plurality of the popular vote but lost the electoral vote and therefore the Presidency to Benjamin Harrison. Of the three examples used by critics of the electoral college, this is the strongest; but it remains a very weak reed indeed. Even if the tabulated popular vote were taken as wholly accurate, less than 1 percentage point (actually, 0.7) separated the two candidates in the popular vote. But the popular vote totals ought not be taken as accurate. There is considerable evidence of fraud on both sides, involving both the size of the popular vote and the distribution of the electoral vote. The late Prof. Edward S. Corwin, perhaps the most distinguished constitutional authority of his generation, acknowledged that Cleveland's popular plurality (roughly 100,000) could be attributed entirely to the shenanigans of Tammany Hall alone. Neither man received a majority of the popular vote. As between two men, one receiving 48.6 percent of the vote, the other 47.9 percent, is it really possible to say that one is the clear choice of the people and the other not? Would the country have been ungovernable by either man? What is decisively important in presidential elections, as we have said before, is not so much the size of a majority as its distribution and character.

In any event, even if the election of 1888 is the strongest of the three examples used by electoral college critics, it provides no basis for condemning the electoral system as a whole. The record otherwise is clear and unmistakable: the popular winner has always been the electoral winner.

Mr. MILLER. Mr. President, apportioning the electoral votes according to the vote received in each State would not only be more fair, but it would further diminish the possibility of having a President who received a minority of the total vote. Far better, it seems to me, to run the rare risk of having a President who has received a few thousand fewer votes than the loser than to run the more likely risk of having a President who is elected because of large majorities in a few large States and is, therefore, a regional type rather than a national type official.

Even with its defects, the present system encourages national campaigning by the candidates, because electoral votes in smaller States are important—even if the winning margin of votes cast is not great. But in a direct election system, those smaller States and small margins would tend to be ignored so that campaigning could be centered in the large population areas where large margins could more than wipe out many of the totals in smaller States—as in the case of Massachusetts to which I have previously referred.

Mr. President, I hope that the pending proposal will be either defeated or amended so that the abuses in the present system will be removed. I believe that is the prudent way of meeting the problems that face us under the present system.

It can be argued that since we have gotten along for so many years under the present system, there is no need for reform. I believe that reform is indicated. Reform does not mean destruction of the present system.

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

Mr. MILLER. I yield for a question.

Mr. BELLMON. I would like to inquire of the Senator from Iowa if he feels a direct vote would be more conducive to fraud than the present winner-take-all system in the electoral college.

Mr. MILLER. I think it would for this reason. While the winner-take-all system has an abuse to which I have already alluded, the electoral vote in large States is somewhat diluted, as the Senator knows, by the fact that every State, no matter how small, does have two electoral votes because every State has two Senators. To this extent I suggest that the electoral vote in large States is somewhat diluted. That does not mean the electoral vote in a winner-take-all State is not an extremely desirable plum, and it does not mean the basis for fraud in getting a large chunk of electoral votes is not there. The point is that it would be worse under a direct election situation.

Mr. BELLMON. Mr. President, if the Senator will yield further, I would like to pursue this point.

The PRESIDING OFFICER. Does the Senator yield?

Mr. MILLER. I am pleased to yield to the Senator.

Mr. BELLMON. I am sure the Senator is well aware of the situation in States such as Illinois and New York. In Illinois the vote divides fairly evenly between the downstate voters, the generally Republican area, and the Cook County voters, who tend to be Democratic. I am sure he realizes that in some past elections there were situations in which the Democratic machine in Cook County went to great ends to bring out a maximum vote by whatever means in Cook County to overcome the disadvantage the organization faced from downstate voters. They would do this because it was the means used by the Democratic organization to secure the total electoral vote of that State.

It occurs to me that this is a greater pressure for fraud than if those votes were counted singly. If it meant one vote there would be a lot less pressure to produce that vote than when the organization secures the total bloc of electors of the entire State.

Mr. MILLER. I think the Senator has a good point in a State where there is a very close election and, let us say, a large State where an extra few votes would mean, with the winner taking all, all the votes of that large State. I would agree that in that particular instance the situation would be ripe for fraudulent action.

However, I believe if the Senator will look at the results of previous elections he will find that the number of those large States where there is that narrow a margin is relatively small compared to the number of large States in which there were sweeping majorities, and it is the sweeping majorities that I think result in the direct election of the President, laying a foundation for even more encouragement. But I think it is a mixed situation; I agree. The best answer I can give is where there are smaller States with two electoral votes for each State, the aggravation is not as great from an overall standpoint.

But this is not an unmixed situation. The Senator knows that in the example he cited this is one of the abuses of the winner-take-all system which the Senator from Iowa long advocated be done away with either by the district plan, which has been offered for many years by the distinguished Senator from South Dakota (Mr. MUNDT), or by what in my judgment is the preferable proportional plan which currently is offered by the Senator from North Carolina (Mr. ERVIN).

Mr. BELLMON. If the Senator will yield further, I would like to say that apparently the feeling of the Senator from Oklahoma and the feeling of the Senator from Iowa are not too different. I think both of us desire improvements in the present system. Apparently the difference is that as the Senator from Oklahoma studied the present system and the alternatives, he came to the conclusion that really the only viable way to improve the electoral system is to abolish it, because when one goes to the proportional system, he simply multiplies the winner-take-all arrangement into about 535 entities rather than the 50 we have now, and when we go to the proportional system, we get bogged down in mathematics that would make it possible for a President to be elected with fewer votes than the candidate who opposed him.

With the tensions we have in this country and with the tremendous responsibilities that reside in the office of the President, it seems to me that the man who holds that position should be the choice of the majority, or at least of the larger percentage of the votes of the people who voted for the two top candidates. I do not think we will get that if we go to the proportional system.

Mr. MILLER. Let me comment, when the Senator from Oklahoma says that we are both reasonable men, that the Senator from Iowa concedes that. It illustrates that reasonable and honest people can arrive at different conclusions. The Senator from Oklahoma in effect says he is an abolitionist and the Senator from Iowa is a reformer. That points up the difference.

The Senator from Iowa thinks that by reforming what we have now and doing away with the two abuses I have referred to, namely the winner-take-all abuse and the electoral college, which lays the foundation for an elector to go contrary to the wishes of the people of his State, we will arrive at a better system than we have now; whereas the Senator from Oklahoma believes a direct election—which, of course, will cure the abuses—is the better approach.

To me, curing those abuses by such a revolutionary system as this is not indicated. The Senator from Oklahoma argues, as all the proponents for direct election argue, that we could have a minority President. I think we have had three minority Presidents in the history of this country, and there is some question as to that point.

In that connection, Mr. President, I shall later ask that appendix A to the minority views in the committee report, starting at page 52 and ending at page 54, be printed in the RECORD. That analysis shows that the three elections referred to—the election of 1824, the election of 1876, and the election of 1888—while sometimes popularly referred to as elections of minority Presidents, are subject to grave questions on that point. But, for the sake of argument, under the winner-take-all system, in the history of our elections, there are three, and the margins there are minute. Under the proportional plan, the opportunity for that to happen would be greatly reduced.

So I suggest that what the proponents are arguing for here is something that is almost impossible to happen. If it happened, it would be by such a slim margin that I do not think anybody would be too disturbed about it. To me, the risks of that happening are far overshadowed by the risks of electing a President as a result of carrying a handful of States.

I have already pointed out, as an extreme example, what this proposal lays the foundation for—namely, one candidate for President carrying 49 States by 1,000 votes and the other candidate carrying only one State by 50,000 votes and becoming President of the United States.

The Senator from Oklahoma, and others, will say that is an extreme example; that it can never happen. I would be perfectly willing to admit that, but it could happen if two or three or four States were carried by such margins. I shall refer shortly to the situation in Massachusetts in the last election, which substantiates the point I am making.

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

Mr. MILLER. I yield.

Mr. BELLMON. I agree that both the situations the Senator from Iowa has described are remote and very unlikely to happen, but we have situations now where Presidents have been elected by fewer votes than the losing candidate received. For instance, in 1960 President Nixon actually received more popular votes than did President Kennedy if we consider the votes case in Alabama. Always, when there is a mechanism like the electoral college, there is going to be the possibility for these kinds of situations to arise.

I am of the opinion that if President Nixon had not been very generous and a big man, he could have thrown the country into turmoil by asking for a recount and taking the election into court, and perhaps created a great damage to this country. This could happen again, and the next candidate may not be so magnanimous as President Nixon was and he could create a crisis.

That was one reason why I became interested in electoral college reform.

The Senator from Iowa has referred to the direct vote as a revolutionary system. I frankly cannot agree with him on that, because the Senator holds his position in the Senate as a result of a direct vote. All the Governors are elected by direct vote. This simply means extending a system which works very well for other offices in this country to the highest office in the country.

Mr. MILLER. But the Senator makes that point and attempts, in doing so, to ignore the difference between the election of a President and the election, within a State, of its own Representatives in Congress, its own U.S. Senators, and its own Governor. That is the crux of the whole thing.

The Senator suggests, just forget about the State entities, just let the tabulation be run by a computer or an adding machine in voting for President. When he does that he lays the foundation for one candidate carrying 49 States by 1,000 votes and the other candidate carrying only one State by 50,000 being elected President.

To me, a foundation for that extreme situation, even to a lesser degree, is unthinkable, and that is why I think the proposal would be revolutionary in our system of government.

Our system of government was founded not on having one monolithic, centralized system of government, but on carefully separated and diffused powers of government as between the Federal Government and its three branches and the State governments and their three branches.

When we come along with this proposal and deprive the States of any of their rights as entities with respect to electing a President, and provide further, as this proposal does, federalizing residents requirements and other procedures in electing a President, I suggest to my friend from Oklahoma he is laying a foundation for the beginning of the end of the federal system of our country.

I know that my friend from Oklahoma would not want to do that. If he thought that this would actually happen, he would not be a proponent. But granted that good faith exists, the foundation is being laid. We have already seen this happen earlier in this session of Congress, when those in control of this body decided to take unto themselves the decision that 18-year-olds would have the right to vote. As I said at the time, I could support a constitutional amendment which would go out to my State for the consideration of my people, but for a group of people here in the U.S. Senate or in Congress, all of us Federal officials, to undertake, in effect, to say, "The State legislatures do not know what they are doing, and the people of the respective States do not know what they are doing, we are the all-knowing people here, and we are going to make that decision" is to me revolutionary.

I am for reform, not revolution. I am not suggesting that my friend from Oklahoma is a revolutionist, although he had admitted that he is an abolitionist. But I think this is a revolutionary type of proposal in its essence, and that, to me, is not the way to do away with the abuses.

Mr. BELLMON. Mr. President—if the Senator will yield—I am flattered by his description of the Senator from Oklahoma, but I want to remind the Senator from Iowa that Senate Joint Resolution 1 does require the approval of the legislatures of three-fourths of the States, and thus is not similar to the vote on the 18-year-old question in that respect.

Mr. MILLER. Yes, indeed; the Senator from Iowa is very much aware of that. That is why I have suggested that I agree with the President of the United States that we are not going to get three-fourths of the State legislatures to ratify this proposal.

I find it inconceivable that there would not be far more than 13 State legislatures that, after considering all of the implications of this proposal, would turn thumbs down on it. In fact, once the people understood the implications, and if we put it to a referendum suggested that we turn to a system whereby, as I shall point out later in my statement, the votes in 16 Middle Western States would be wiped out by the votes in the single State of Massachusetts, if the Senator from Oklahoma does not think that the State legislatures in the States are going to turn thumbs down on that, I do not think he knows State legislatures; and I think, after having been the Governor of his State, and a very successful one, he does know State legislatures.

I think we are going through an exercise in futility here, which will delay by seven years the opportunity to cure some of the abuses on which we are all in agreement as needing to be cured.

Mr. BAYH. Mr. President, will the Senator permit me to interrupt briefly?

Mr. MILLER. I am pleased to permit the interruption by my friend from Indiana.

Mr. BAYH. I have listened with a great deal of interest to the colloquy between my friend from Iowa and my friend from Oklahoma. As a former State legislator, I must say I look at these legislatures a little bit differently than my friend from Iowa.

I do not think any of us can guarantee what a State legislature is going to do. But as I recall my experience in the Indiana Legislature—and I have heard the Senator from Oklahoma discuss the Oklahoma Legislature—if we have a plan that would pass Congress and a plan that has been endorsed repeatedly by about 80 percent of the people in poll after poll, a plan that is supported by the American Bar Association, the Chamber of Commerce, the AFL–CIO, the UAW, the League of Women Voters, and on and on, I would think a plan with that kind of support would have a better chance than other plans, well-intentioned as they might be, that do not have that kind of support.

But of course that is speculation; we do not know.

Mr. MILLER. Mr. President, may I respond briefly to that? I think the Senator from Indiana did not hear my comment about this Gallup poll.

The Senator probably knows that 3 years ago, when this proposal was first advanced, after the American Bar Association first endorsed it, the Senator from Iowa became a cosponsor. I thought about it briefly, and it sounded pretty good to me—direct election of the Presdent, one-man, one-vote, and all of that—and I became a cosponsor.

At that time, I did not realize that it had been endorsed by the American Bar Association by a very closely divided vote in its house of delegates. So to say that the American Bar Association endorses it is overstating the matter a little bit, I think. We can say that the American Bar Association house of delegates, by a very closely divided vote endorsed it.

The point I want to make, if I may continue, is that if you go around as a pollster and ask the average person, "Do you favor direct election of the President," they will probably react about like the Senator from Iowa did when it was first brought to his attention and suggested that he might like to be a cosponsor of this proposal: "Yes; it sounds pretty good to me; put me down."

But believe me—and the Senator from Indiana has gone through the same procedures that the Senator from Iowa has during his State legislative service—let the proposal be aired, and let the implications be brought out in the local newspapers and on the floors of those legislative halls, and let the question be asked of the man on the street this way: "Do you favor changing the system of electing the President to a system under which one candidate for President could carry 49 of the 50 States by 1,000 votes each, and still lose the election because the other candidate, who carried only one State, happened to carry it by 50,000 votes," and my guess is that the Gallup poll results would be a lot different.

Mr. BAYH. Mr. President, if I may indulge upon the courtesy and patience of the Senator from Iowa just a bit further, I would be the first to agree that polls are not conclusive. What concerns the Senator from Indiana is not that everything is not going to go well as long as the outcome of the popular vote and the electoral college results are the same. What concerns me is that, while any system is going to work if you have a big majority, the true test of the value of the system and its ability to function properly is what happens in a close election.

I think the legislatures will respond somewhat differently than the Senator from Iowa thinks, but I have no way of proving it. I think the Senator from Iowa would have to agree he does not, either.

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

Mr. BAYH. I yield.

Mr. MILLER. The Senator from Iowa knows that the senior Senator from Nebraska (Mr. HRUSKA) has done a good bit of research on this point, and has noted that in the election of the President under the present system, some 20 States—in fact, I think it is more than that—would, under the pending proposal, find their influence in electing a President to be considerably diminished.

When you put that up to a group of State legislators—and I would include the Indiana State Legislature as an example, because I do not think it is a great deal unlike the Iowa State legislature, either as to the size of the State or as to many of its problems—I think you will find those State legislators are going to begin to wonder about the advisability of giving four or five of the giant States of this country the power to elect a President, along with a handful of others, and have, as a result, a regional type President instead of a national type President.

Mr. BAYH. If I might make just one further point.

First of all, the ABA endorsement on this issue was 3 to 1. Second, although I have the greatest respect for my distinguished colleague and fellow member

of the Judiciary Committee (Mr. HRUSKA) relative to his judgment on what happens under the present system and what would happen under the electoral college system under given circumstances, I must say that my distinguished colleague from Oklahoma comes from one of those States that the Senator from Nebraska says are going to lose a lot of votes. The Senator can ask the Senator from Oklahoma himself how he feels about that. Interestingly enough, we have a number of small State sponsors on this proposal.

Alaska, our least populous State, according to the Hruska doctrine, is going to lose the most. Both Senators from Alaska are supporting this proposal. This would make one believe that perhaps there might be some fallacy.

Mr. MILLER. Yes. And the Senator from Iowa was a cosponsor 3 years ago. So one might conclude at that time just as the Senator from Indiana has concluded. But the Senator from Iowa has had an opportunity since that time to study this matter in considerable detail and to see the implications and to look at some of the writings by scholars in this area.

The Senator from Iowa has been a strong proponent of one man, one vote in certain cases, such as the House of Representatives, which I thought for years was being handled contrary to the best intentions and the meaning of the Constitution of the United States. It was not until the Supreme Court rendered a decision that we finally had a foundation, which is now being realized, whereby we can look over at the House of Representatives and we will know that just about every one of its Members represents approximately the same number of people; whereas, it was not very long ago when we had some Representatives representing 200,000 people and others representing a half-million people, and still it was called the House of Representatives.

But that background does not lead me to tear away the diffusion of power between the Federal Government and the States. I must say that I think this emphasis on Presidents being elected with fewer popular votes than their opponents is greatly overdone. It has been rare in the past. It would be even rarer under a proportional system of allocating the electoral votes.

I suggest, further, that under the pending proposal if we got into a runoff situation—and I think that is more likely by far than the possibility of having a President elected under the present system by fewer popular votes than his opponent—then we will have the finalists, each of whom will represent under 40 percent of the vote. The eventual winner will, of course, receive a majority of the vote, but he will not be the first choice of even 40 percent of the people. There are imperfections in this proposal so far as majority will is concerned.

Mr. BAYH. Will the Senator permit me to interrupt one further time? I promise not to interrupt again.

Mr. MILLER. The Senator from Iowa will not hold the Senator from Indiana to that promise. I will yield to him any time he wishes me to yield.

Mr. BAYH. I should like to ask the Senator to continue to study this problem. The Senator from Indiana would be the first to suggest that his judgment is not always infallible. But I have found that as I continue to study the various aspects and intrigues and intricacies of the electoral college system and how it actually has worked, not how some people say it has worked, I have changed my mind on this.

I ask unanimous consent to have printed in the RECORD an article which lists the percentage of votes, the vote tabulation of our large and small States, in the last election. We can at a later date introduce a composite of the last several elections.

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

PRESIDENTIAL RACE RETURNS

WASHINGTON, December 11.—Following, state by state, are the official returns in last month's Presidential race between Richard M. Nixon, Republican; Hubert H. Humphrey, Democrat, and George C. Wallace, of the American Independent party:

State	Electoral vote	Nixon	Percent	Humphrey	Percent	Wallace	Percent	Others	Percent
Alabama	10	146,923	14.1	[1] 194,388	18.6	689,009	66.0	13,857	1.3
Alaska	3	37,540	45.2	35,411	42.7	10,024	12.1		
Arizona	5	266,721	54.8	170,514	35.0	46,573	9.6	3,128	.6
Arkansas	6	189,062	31.0	184,901	30.3	235,627	38.7		
California	40	3,467,644	47.8	3,244,318	44.7	487,270	6.8	52,335	.7
Colorado	6	409,345	50.8	331,063	41.0	60,813	7.5	5,762	.7
Connecticut	8	556,721	44.4	621,561	49.5	76,650	6.1		
Delaware	3	96,714	45.1	89,194	41.6	28,459	13.3		
District of Columbia	3	31,012	18.2	139,556	81.8				
Florida	14	886,804	40.5	676,794	30.9	624,207	28.6		
Georgia	12	366,611	29.7	334,439	27.0	535,550	43.3		
Hawaii	4	91,425	38.7	141,324	59.8	3,469	1.5		
Idaho	4	165,369	56.8	89,273	30.7	36,541	12.5		
Illinois	26	2,174,774	47.1	2,039,814	44.2	390,958	8.5	13,878	.2
Indiana	13	1,067,885	50.3	806,659	38.0	243,108	11.4	5,909	.3
Iowa	9	619,106	53.0	476,699	40.8	66,422	5.7	5,704	.5
Kansas	7	478,674	54.8	302,996	34.7	88,921	10.2	2,192	.3
Kentucky	9	462,411	43.8	397,541	37.6	193,098	18.3	2,843	.3
Louisiana	10	257,535	23.5	309,615	28.2	530,300	48.3		
Maine	4	169,254	43.1	217,312	55.3	6,370	1.6		
Maryland	10	517,995	41.9	538,310	43.6	178,734	14.5		
Massachusetts	14	766,844	32.9	1,469,218	63.0	87,088	3.7	8,602	.4
Michigan	21	1,370,665	41.5	1,593,082	48.2	331,968	10.0	10,535	.3
Minnesota	10	658,643	41.5	857,738	54.0	68,931	4.3	3,198	.2
Mississippi	7	88,516	13.5	150,644	23.0	415,349	63.5		
Missouri	12	811,932	44.9	791,444	43.7	206,126	11.4		
Montana	4	138,853	50.6	114,117	41.6	20,015	7.3	1,437	.5
Nebraska	5	321,163	59.8	170,784	31.8	44,904	8.4		
Nevada	3	73,188	47.5	60,598	39.3	20,432	13.2		
New Hampshire	4	154,903	52.1	130,589	43.9	11,173	3.8	535	.2
New Jersey	17	1,325,467	46.1	1,264,206	44.0	262,187	9.1	23,536	.8
New Mexico	4	169,692	51.8	130,081	39.7	25,737	7.9	1,771	.6
New York	43	3,007,938	44.3	3,378,470	49.8	358,864	5.3	44,800	.6
North Carolina	13	627,192	39.5	464,113	29.2	496,188	31.3		
North Dakota	4	138,669	55.9	94,769	38.2	14,244	5.7	200	.2
Ohio	26	1,971,014	45.2	1,700,586	42.9	467,495	11.8	603	.1
Oklahoma	8	449,697	47.4	306,658	32.3	191,731	20.3		
Oregon	6	408,433	49.8	358,865	43.8	49,683	6.1	2,640	.3
Pennsylvania [2]	29	2,090,017	43.9	2,259,403	47.5	387,582	8.1	19,922	.5
Rhode Island	4	122,359	31.8	246,518	64.0	15,678	4.1	383	.1
South Carolina	8	254,062	38.1	197,486	29.6	215,430	32.3		
South Dakota	4	149,841	53.3	118,023	42.0	13,400	4.7		
Tennessee	11	472,592	37.8	351,233	28.1	424,792	34.1		
Texas	25	1,227,844	39.9	1,266,804	41.1	584,269	19.0	489	
Utah	4	238,728	56.5	156,665	37.1	26,906	6.4	180	
Vermont	3	85,142	52.8	70,255	43.5	5,104	3.2	873	.5
Virginia	12	590,315	43.4	442,387	32.5	320,272	23.6	6,950	.5
Washington	9	588,510	45.1	616,037	47.2	72,560	9.6		
West Virginia	7	307,555	40.8	374,091	49.6	72,560	9.6		
Wisconsin	12	809,997	47.9	748,804	44.3	127,835	7.6	4,902	.2
Wyoming	3	70,927	55.8	45,173	35.5	11,105	8.7		
Total		31,770,237	43.4	31,270,533	42.7	9,906,141	13.5	239,908	.4

[1] Includes 141,124 under listing of Alabama Independent Democratic Party and 53,264 under listing of National Democratic Party of Alabama.

[2] Pennsylvania total based on figures submitted to State election board and scheduled to be certified later this week.

MINOR PARTY CANDIDATES

E. Harold Munn Sr., Prohibition party—Alabama 3,420, California 59, Colorado 275, Indiana 4,616, Iowa 362, Kansas 2,192, Massachusetts 2,369, Michigan 60, Montana 510, North Dakota 38, Ohio 19, Virginia 599. Total: 14,519.

Eldridge Cleaver, Peace and Freedom party—Arizona 217, California 27,707, Iowa 1,332, Michigan 4,585, Minnesota 935, Washington 1,609. Total: 36,385.

Hennings Blomen, Socialist-Labor party—Arizona 75, California 341, Colorado 3,016, Illinois 13,878, Iowa 241, Massachusetts 6,180, Michigan 1,762, Minnesota 285, New Jersey 6,784, New York 8,432, Ohio 120, Pennsylvania 4,977, Virginia 4,671, Washington 488, Wisconsin 1,338. Total: 52,588.

Fred Halstead, Socialist Worker party—Arizona 85, Colorado 235, Indiana 1,293, Iowa 3,377, Kentucky 2,843, Michigan 4,099, Minnesota 808, Montana 457, New Hampshire 104, New Jersey 8,668, New Mexico 252, New York 11,851, North Dakota 128, Ohio 69, Pennsylvania 4,862, Rhode Island 383, Vermont 294, Washington 270, Wisconsin 1,222. Total: 41,300.

Eugene J. McCarthy, New party—Arizona 2,751, California 20,721, Colorado 305, Minnesota 585, Oregon 1,496. Total 25,859.

New party without candidate—Montana 470, New Hampshire 431, Vermont 579. Total: 1,480.

Dick Gregory, New party—California 3,230, Colorado 1,393, New Jersey 8,084, New York 24,517, Ohio 372, Pennsylvania 7,821, Virginia 1,680. Total: 47,097.

Charlene Mitchell, Communist party and Free Ballot party—California 260, Minnesota 415, Ohio 23, Washington 377. Total: 1,075.

Others: 19,606.

Mr. BAYH. One thing that has come to the attention of the Senator from Indiana is that historically the vote in the large States has been much closer than the vote in the small States, although the Senator from Iowa can take the Massachusetts vote and compare it with 16 small States.

I ask the Senator to take this into consideration, because these figures will show that even in the 1968 election—leaving aside the one example of Massachusetts—in the other States there were closer contests. It is in the big cities, the big States, with the blocs of electoral votes, that we have the highest degree of development of the two-party system, where the contests are the closest and political activity is the most heated.

Mr. MILLER. Mr. President, will the Senator yield on that point?

Mr. BAYH. I will stop interrupting the Senator from Iowa.

Mr. MILLER. Would the Senator mind if I interrupt him at that point?

Mr. BAYH. I am the one who is interrupting.

Mr. MILLER. The Senator is in effect arguing for retention of the present system, because what he is saying is that this fight over these electoral votes in a close contest makes more viable the two-party system, and this is one of the arguments for what we now have. If we have a close election in the direct election of a President and we have only perhaps a thousand or 2,000 votes difference in the giant State—and the Senator from Oklahoma indicated Illinois as an example in the last election—then we dilute the desirability of the two-party system in comparison to what we have now.

So I think the Senator inadvertently has made an argument for retaining what we have.

Mr. BAYH. The Senator from Iowa has attributed a certain meaning to my remarks that I did not intend.

The Senator from Iowa expressed one of his concerns, and I think it would be a legitimate concern, that there would be a wide margin, a wide disparity, between winners and losers in the popular vote. I think he made this statement earlier.

Mr. MILLER. Will the Senator permit an interruption?

Mr. BAYH. Yes.

Mr. MILLER. When the Senator talks about these close elections as revealed by the table he has placed in the RECORD, is he talking in terms of percentages or is he talking in terms of numbers?

Mr. BAYH. I am talking in terms of percentages.

Mr. MILLER. That is just the point I was afraid of, because 1 or 2 percent in a giant State such as New York or California may sound like a very, very razor-thin edge or margin by the time we take into account the total number of votes that are there and compare those to the total number of votes in another 14 or 15 small States. They can well overshadow the total number of votes in the smaller States.

So I think that we are going to get sidetracked if we talk in terms of close elections in terms of percentages. What counts under the pending proposal is numbers. I am much more interested in whether or not a candidate, out of 12 million votes in New York State, wins or loses by a million votes than whether it is a difference of a few percentage points.

Mr. BAYH. If the Senator is really interested in numbers of voters, I think that direct popular vote will enhance the two-party system all over the country. It is the only system in which all the numbers count. Only in direct popular vote is there an incentive for both the dominant party and the lesser party in a one-party State to get active. Take the State of Indiana. In 1968, the Democrats wrote it off and the Republicans took it for granted. There was no incentive to get in there and participate at each precinct level.

I invite the Senator from Iowa to share the opinion of the Senator from Indiana that only in direct popular vote does one know in each precinct, for each Democratic and Republican precinct committeeman, that if we get those extra 50 votes out, that we get them counted, and they are going to count in the final return. If you are going to lose a State by a thousand votes, you might as well lose it by 100,000. If you are going to carry it by 100,000 votes, there is no incentive to carry it by 200,000.

I appreciate the patience of the Senator from Iowa.

Mr. MILLER. The Senator from Iowa always welcomes a discussion with the Senator from Indiana.

I just want to add to what the Senator from Indiana has said. Being a seasoned politician, he well knows that the votes in the precincts are got out not by the presidential candidates but by the local officials or certainly the State officials who are running for office. That is the answer to that.

With respect to tables, I should like to counterbalance the table introduced by the Senator from Indiana by asking unanimous consent that the tables appearing on pages 19 and 20 of the hearing record on the pending proposal be printed in the RECORD.

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

IMPACT OF DIRECT ELECTION ON VOTING STRENGTH OF MIDLAND, SOUTHWESTERN, AND SOUTHERN STATES

State	1968 estimated population	1968 electoral vote: Number of electors	1968 electoral vote: Percent of all electors	1968 direct vote: Number of votes cast	1968 direct vote: Percent of all popular votes	Voting strength lost in percent
Midlands:						
North Dakota	627,000	4	0.74	248,000	0.34	
South Dakota	656,000	4	.74	281,000	.38	
Nebraska	1,439,000	5	.93	537,000	.73	
Kansas	2,293,000	7	1.30	873,000	1.19	
Montana	693,000	4	.74	274,000	.37	
Wyoming	315,000	3	.56	127,000	.17	
Colorado	2,043,000	6	1.12	807,000	1.10	
Total	8,066,000	33	6.13	3,147,000	4.31	29.7
Southwest:						
New Mexico	1,006,000	4	.74	327,000	.45	
Arizona	1,663,000	5	.93	487,000	.67	
Utah	1,034,000	4	.74	423,000	.58	
Nevada	449,000	3	.56	154,000	.21	
Total	4,152,000	16	2.97	1,391,000	1.90	37.0
South:						
Virginia	4,595,000	12	2.23	1,360,000	1.86	
North Carolina	5,122,000	13	2.42	1,587,000	2.17	
South Carolina	2,664,000	8	1.49	667,000	.91	
Georgia	4,568,000	12	2.23	1,250,000	1.71	
Florida	6,151,000	14	2.60	2,188,000	2.99	
Tennessee	3,975,000	11	2.04	1,249,000	1.71	
Alabama	3,558,000	10	1.86	1,044,000	1.43	
Mississippi	2,344,000	7	1.30	655,000	.90	
Arkansas	1,986,000	6	1.12	610,000	.83	
Louisiana	3,726,000	10	1.86	1,097,000	1.50	
Texas	10,977,000	25	4.65	3,079,000	4.21	
Total	49,666,000	128	23.79	14,786,000	20.23	15.0

IF PRESIDENTS ARE ELECTED BY POPULAR VOTE—EFFECT ON STATES

State	Percent of electoral votes	Percent of popular votes cast in 1968	Difference (percent)	Percent of change
15 STATES WOULD GAIN POLITICAL POWER				
New York	7.99	9.49	1.50	+18.77
California	7.43	9.89	2.46	+33.10
Pennsylvania	5.39	6.47	1.08	+20.03
Illinois	4.83	6.30	1.47	+30.43
Ohio	4.83	5.40	.57	+11.80
Michigan	3.90	4.51	.61	+15.64
New Jersey	3.16	3.92	.76	+24.05
Florida	2.60	2.98	.38	+14.61
Massachusetts	2.60	3.18	.58	+22.30
Indiana	2.42	2.90	.48	+19.83
Montana	2.23	2.47	.24	+10.76
Wisconsin	2.23	2.31	.08	+3.58
Minnesota	1.86	2.17	.31	+16.66
Washington	1.67	1.78	.11	+6.58
Connecticut	1.49	1.71	.22	+14.76
34 STATES AND THE DISTRICT OF COLUMBIA WOULD LOSE POLITICAL POWER				
Texas	4.65	4.20	.45	−9.67
North Carolina	2.42	2.16	.26	−10.74
Virginia	2.23	1.85	.38	−17.04
Georgia	2.23	1.70	.53	−23.76
Tennessee	2.04	1.70	.34	−16.66
Maryland	1.86	1.68	.18	−9.67
Louisiana	1.86	1.50	.36	−19.35
Alabama	1.86	1.42	.44	−23.65
Iowa	1.67	1.59	0.08	−4.79
Kentucky	1.67	1.44	.23	−13.77
Oklahoma	1.49	1.29	.20	−13.42
South Carolina	1.49	.91	.58	−38.92
Kansas	1.30	1.19	.11	−8.46
West Virginia	1.30	1.03	.27	−20.76
Mississippi	1.30	.89	.41	−31.53
Colorado	1.12	1.10	.02	−1.78
Arkansas	1.12	.83	.29	−25.89
Nebraska	.93	.73	.20	−21.50
Arizona	.93	.66	.27	−29.03
Utah	.74	.58	.16	−21.62
Maine	.74	.54	.20	−27.02
Rhode Island	.74	.52	.22	−29.72
New Mexico	.74	.45	.29	−39.18
New Hampshire	.74	.40	.34	−45.94
Idaho	.74	.40	.34	−45.94
South Dakota	.74	.38	.36	−48.64
Montana	.74	.37	.37	−50.00
North Dakota	.74	.34	.40	−54.05
Hawaii	.74	.32	.42	−56.75
Delaware	.56	.29	.27	−48.21
District of Columbia	.56	.23	.33	−58.92
Vermont	.56	.22	.34	−60.71
Nevada	.56	.21	.35	−62.50
Wyoming	.56	.17	.49	−69.64
Alaska	.56	.11	.45	−80.35
1 STATE WOULD HAVE NO CHANGE				
Oregon	1.12	1.12		

Source: Testimony before the House Judiciary Committee, May 16, 1969.

Mr. MILLER. Mr. President, I yield the floor.

CLOSED SESSION

Mr. MANSFIELD. Mr. President, pursuant to rule XXXV, I move that the doors of the Chamber be closed and that the Presiding Officer direct that the galleries be cleared.

Mr. ALLOTT. I second the motion.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXXV, now directs the Sergeant at Arms to clear the galleries, and close the doors of the Chamber.

Thereupon, at 3 p.m., the doors of the Chamber were closed.

LEGISLATIVE SESSION

At 4:29 p.m. the doors of the Chamber were opened, and the open session of the Senate was resumed.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The Senate resumed the consideration of the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside, and that it remain in that status until the close of morning business tomorrow.

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

ELIMINATION OF REDUCTION IN ANNUITIES OF EMPLOYEES OR MEMBERS WHO ELECTED REDUCED ANNUITIES

Mr. BYRD of West Virginia. I ask unanimous consent that the Senate proceed to the consideration of Calendar 1103, S. 437.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: A bill (S. 437) to amend chapter 83, title 5, United States Code, to eliminate the reduction in the annuities of employees or members who elected reduced annuities in order to provide a survivor annuity if predeceased by the person named as survivor and permit a retired employee or Member to designate a new spouse as survivor if predeceased by the person named as survivor at the time of retirement.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Post Office and Civil Service with an amendment to strike out all after the enacting clause and insert:

That (a) section 8341(a) of title 5, United States Code, is amended—

(1) by inserting "and" after paragraph (2);

(2) by striking out paragraph (3); and

(3) by renumbering paragraph "(4)" as paragraph "(3)".

(b) Section 8341(d) of title 5, United States Code, is amended—

(1) by striking out "dependent widower" wherever it appears and inserting "widower" in place thereof;

(2) by striking out paragraph (2); and

(3) by renumbering paragraphs "(3)" and "(4)" as paragraphs "(2)" and "(3)", respectively.

(c) Section 8341(e)(2) of title 5, United States Code, is amended by striking out subsection "(a)(4)" and inserting subsection "(a)(3)" in place thereof.

SEC. 2. (a) Section 8344(a) of title 5, United States Code, is amended by inserting after the fourth sentence the following new flush sentence: "If the annuitant on termination of employment is married to a spouse potentially entitled to annuity as surviving spouse under section 8341 of this title, the supplemental annuity payable under the fourth sentence of this subsection is reduced by 10 percent and the spouse is entitled to an annuity equal to 55 percent of the supplemental annuity commencing and terminating at the same times as the survivor annuity payable under section 8341 of this title, unless at the time of claiming the supplemental annuity the annuitant notifies the Civil Service Commission in writing that he does not desire his spouse to receive this annuity."

(b) Section 8344(a) is further amended by striking out the following: "The employment of an annuitant under this subsection does not create an annuity for or affect the annuity of a survivor."

SEC. 3. (a) Section 8339(i) is amended by striking out "his spouse" and inserting in lieu thereof "any spouse surviving him."

(b) Section 8341(b) is amended—

(1) by inserting after "to whom he was married at the time of retirement," "or who qualifies as a widow or widower under section 8341(a)," and

(2) by striking out "does not desire his spouse" and inserting in lieu thereof "does not desire any spouse surviving him," and

(3) by adding at the end thereof the following new sentence: "A spouse acquired after retirement is entitled to a survivor annuity under this paragraph only if he elects to receive it instead of any other survivor annuity to which he may be entitled under this subchapter or another retirement system for Government employees."

(c) Section 8339(j) of title 5, United States Code, is amended by renumbering section "8339(j)" as "8339(j)(1)" and adding the following paragraph (j)(2):

"(j)(2) An employee or Member who is unmarried at the time of retiring or an annuitant who is unmarried at the time of sepa-

ration and who later marries may, within one year after he marries, elect a reduced annuity with benefit to surviving spouse as provided in section 8341(b). His annuity is recomputed and paid under the provisions of section 8339(j) effective the first day of the month after his written election is received in the Civil Service Commission. An election under this paragraph voids prospectively any election previously made under paragraph (1) of this subsection."

SEC. 4. (a) The amendments made by sections 1 and 3 of this Act shall not apply in the cases of employees, Members, or annuitants who died prior to the date of enactment of this Act. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(b) The amendments made by section 2 of this Act shall apply only with respect to reemployed annuitants whose employment terminates on or after the date of enactment of this Act.

Mr. MOSS. Mr. President, the bill now before the Senate is a bill to change the law regarding annuities for the spouse of a retiree who has passed on. There is a technical amendment to the bill. I send the amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows: The Senator from Utah (Mr. Moss) for the Senator from Wyoming (Mr. McGEE), proposes an amendment as follows:

On page 5, strike out lines 6 through 8 and insert in lieu thereof the following:

"(1) by inserting '(1)' after the subsection designation '(j)'; and

"(2) by inserting at the end thereof the following new paragraph:

"'(2) An employee or Member who is unmarried at the time of retiring or an annuitant who is unmarried at the time of separation and who later marries may, within one year after he marries, elect a reduced annuity with benefit to surviving spouse as provided in section 8341(b). His annuity is recomputed and paid under the provisions of section 8339(i) effective the first day of the month after his written election is received in the Civil Service Commission. An election under this paragraph voids prospectively any election previously made under paragraph (1) of this subsection.'"

Mr. MOSS. Mr. President, this amendment, as I say, is simply a technical and perfecting amendment discovered by the legislative counsel on the last review of the legislation. It has no substantive effect, but simply makes the language conform with the existing statute and the purpose of this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOSS. Mr. President, under present law when an employee retires he may elect to receive a reduced annuity so as to provide a lifetime survivor benefit equal to 55 percent of this reduced annuity for his spouse if he dies before his spouse dies. The election to take a reduced annuity or a single-life annuity at the time of retirement is irrevocable. If a retiree's spouse dies first, his reduced annuity continues and he may not designate a subsequent spouse as beneficiary.

Experience in the retirement program shows that more than one-third of the time the male retiree outlives his wife, continuing to receive a reduced annuity for which there can never be a beneficiary.

S. 437 provides that if an annuitant elects a reduced annuity that designation shall remain irrevocable. But it amends existing law to give to the retiree the absolute right to leave a survivor annuity to any spouse to whom he is married at the time of his death. The marriage must have been of 2 years' duration or the spouse must be the parent of issue from the marriage.

This bill is a major step toward providing adequate income for older citizens. In its inquiry the committee has found no evidence to indicate that the spouse to whom a retiree was married at the time of his retirement should be his sole beneficiary under law.

The bill is partly retroactive. The opportunity to designate a subsequent spouse or the opportunity to designate a first spouse is offered to any employee or any retired employee on the active or retirement roles on the date of enactment but the surviving subsequent spouse of a retired Federal employee who dies before the date of enactment will not be entitled to any of the benefits of the measure.

That means that a person who is on retirement now may make the determination, but no surviving spouse can come in now and say, "I should have been designated."

I think this is simple equity, Mr. President. A retiree who elects to take a reduced annuity is therefore paying something, for the option of naming his spouse, to retire. Under the present law, however, if that spouse dies, he still continues to pay and pay, because his reduced annuity goes on as long as he lives. This bill simply provides that if his spouse dies and he remarries, he or she—it applies either way—may then designate the second spouse to take the annuity should he then predecease that person to whom he is married.

It still has the limitation of being married 2 years, to get around some deathbed cases, perhaps, or if there is issue of that marriage; either of those circumstances establishes the qualification. I think it is eminently fair, and takes care of something that has been a gap in the retirement system for Federal employees for a considerable period of time.

The committee was unanimous in reporting this bill, I know it has been carefully studied by the Senators who are concerned, and I believe that we are ready to vote. I am not aware that there is anyone in opposition to the bill at this time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 437

An act to amend chapter 83 of title 5, United States Code, relating to survivor annuities under the civil service retirement program, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8341(a) of title 5, United States Code, is amended—

(1) by inserting "and" after paragraph (2);

(2) by striking out paragraph (3); and

(3) by renumbering paragraph "(4)" as paragraph "(3)".

(b) Section 8341(d) of title 5, United States Code, is amended—

(1) by striking out "dependent widower" wherever it appears and inserting "widower" in place thereof;

(2) by striking out paragraph (2); and

(3) by renumbering paragraphs "(3)" and "(4)" as paragraphs "(2)" and "(3)", respectively.

(c) Section 8341(e)(2) of title 5, United States Code, is amended by striking out subsection "(a)(4)" and inserting subsection "(a)(3)" in place thereof.

SEC. 2. (a) Section 8344(a) of title 5, United States Code, is amended by inserting after the fourth sentence the following new flush sentence: "If the annuitant on termination of employment is married to a spouse potentially entitled to annuity as surviving spouse under section 8341 of this title, the supplemental annuity payable under the fourth sentence of this subsection is reduced by 10 percent and the spouse is entitled to an annuity equal to 55 percent of the supplemental annuity commencing and terminating at the same times as the survivor annuity payable under section 8341 of this title, unless at the time of claiming the supplemental annuity the annuitant notifies the Civil Service Commission in writing that he does not desire his spouse to receive this annuity."

(b) Section 8344(a) is further amended by striking out the following: "The employment of an annuitant under this subsection does not create an annuity for or affect the annuity of a survivor."

SEC. 3. (a) Section 8339(i) is amended by striking out "his spouse" and inserting in lieu thereof "any spouse surviving him."

(b) Section 8341(b) is amended—

(1) by inserting after "to whom he was married at the time of retirement,", "or who qualifies as a widow or widower under section 8341(a)," and

(2) by striking out "does not desire his spouse" and inserting in lieu thereof "does not desire any spouse surviving him," and

(3) by adding at the end thereof the following new sentence: "A spouse acquired after retirement is entitled to a survivor annuity under this paragraph only if he elects to receive it instead of any other survivor annuity to which he may be entitled under this subchapter or another retirement system for Government employees."

(c) Section 8339(j) of title 5, United States Code, is amended—

(1) by inserting "(1)" after the subsection designation "(j)"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) An employee or Member who is unmarried at the time of retiring or an annuitant who is unmarried at the time of separation and who later marries may, within one year after he marries, elect a reduced annuity with benefit to surviving spouse as provided in section 8341(b). His annuity is recomputed and paid under the provisions of section 8339(i) effective the first day of the month after his written election is received in the Civil Service Commission. An election under this paragraph voids prospectively any election previously made under paragraph (1) of this subsection."

SEC. 4. (a) The amendments made by sections 1 and 3 of this Act shall not apply in the cases of employees, Members, or annuitants who died prior to the date of enactment of this Act. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(b) The amendments made by section 2

of this Act shall apply only with respect to reemployed annuitants whose employment terminates on or after the date of enactment of this Act.

The title was amended, so as to read:

An Act to amend chapter 83 of title 5, United States Code, relating to survivor annuities under the civil service retirement program, and for other purposes.

Mr. MOSS. Mr. President, I have a statement that I ask unanimous consent to have printed in the RECORD at this point.

The PRESIDING OFFICER. Is there objection?

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

STATEMENT OF SENATOR MOSS

Mr. President, it is with great pride today that I welcome Senate passage of my bill S. 437 which will amend the Civil Service Retirement Act to provide survivor benefits for second spouses of Federal annuitants.

Under the existing law a Civil Service retiree may elect to take a reduced annuity and provide a lifetime survivor benefit equal to 55 percent of his reduced annuity for his spouse in the event he dies first.

Statistics indicate that in most cases the male retiree dies first and the annuity automatically goes to the wife. However, in the cases in which the wife designated as beneficiary dies before the male retiree there has been a substantial problem in that the male retiree would continue to receive a reduction in his annuity to provide a survivor benefit for which there is, by law no beneficiary.

My bill which has just passed the Senate will give the retiree the right to designate a second spouse as beneficiary. This result is only fair and just and one wonders why this legislation was not enacted long ago.

I would like to express my thanks to the Chairman of the Senate Post Office and Civil Service Committee, Senator Gale McGee, for his support and assistance in getting this bill passed. I'm sure our Nation's 997,000 Civil Service retirees share my gratitude.

While I am joyful about the passage of this bill, Mr. President, I would just like to take a moment and indicate that there is much left to do to restore our 20 million elderly their proper place in American abundance.

Starting again with our 997,000 retired Federal employees we should make note that some 276,000 receive less than $100 per month; 515,000 receive less than $200 a month; and 619,000 (more than 60 percent) receive less than $250 per month which puts them below the so-called poverty level of $3,000 per annum. In my own State of Utah there are 7,318 annuitants and survivors and the average monthly annuity is $175.

These facts point up the clear need for support of such bills as S. 421 which grants a general increase in all Civil Service annuities on a graduated basis with the greatest increases going to those with the present lowest annuities.

But this need of senior citizens for greater incomes has a broader scope than Civil Service pensions. The U.S. Senate Special Committee on Aging of which I am a member, through a comprehensive study has noted inadequate income as the number one problem of our seniors. Most of our seniors have only their Social Security checks to rely on and thousands try to exist on less than $100 a month. Low incomes mean inevitably that they must make choices between food or medicine, clothes or recreation or transportation. This turns many into recluses with little social contact or contribution to society.

Last year the 15 percent increase in Social Security payments, and the 15 percent increase in Railroad Retirement pensions signed into law on August 12 were encouraging but we must do much more.

I believe that old age should be a time of reward and satisfaction; those who have devoted their lives to building our society deserve recognition. We should not rob our seniors of their pride—we should spare them the indignity of falling into poverty simply because of their advanced age.

It is for these reasons that I have called for a national program of rewards and incentives for our elderly to offset their low incomes. This program anticipates discounts to the elderly including reduced fares on buses and subways, discounts on prescription drugs and senior citizen discounts for entertainment such as baseball games and movies.

At the time when I first made this proposal there were only four major cities that offered reduced fares on mass transit for seniors. Today there are over 35 major cities who give seniors a substantial discount—most fares are about a dime.

I hope that the idea of senior citizen discounts will snowball and that similar programs will be instituted all across America. I would like to see beauty and barber shops give discounts to seniors during slack hours and more restaurants offering meals to seniors at reduced rates during the time that business is slow.

Last October, I wrote to the Presidents of all the major airlines asking that they provide reduced fares for senior citizens on the airlines. I received the information that three airlines had tried to institute such fares but had been blocked in their efforts by the Civil Aeronautics Board. The CAB argued the lack of legislative authority for senior citizen reduced fares.

As a result I have introduced a bill, S. 4266, with 18 cosponsors, which would give the airlines the requisite legislative authority to institute a program of reduced fares for seniors. I anticipate a direct discount of perhaps 50 percent and a guaranteed seat. I do not believe that the stand-by principle has an application to senior citizens.

Senior citizens are precisely the group who can make use of those empty middle of the week seats. I am sure that some people were surprised to learn that even our best and most profitable airlines averaged only 50 percent of capacity last year. With our airlines only half full, I see no reason why we couldn't make room for some of our senior citizens who would make greater use of their airlines if they had the income. At the present time, I am told that those over 65 constitute only 5 percent of all airline passengers.

It is also important that we give consideration to the health and medical needs of our elderly. Unfortunately some members of the Congress feel that we have fulfilled our obligation fully with the passage of Medicare. Medicare was perhaps the single most important piece of legislation affecting our elderly to pass the Congress; however, Medicare still only pays for 45 percent of the health needs of our seniors. We must broaden the scope of Medicare to include eye glasses, dental care and out-of-hospital prescription drugs.

As Chairman of the Subcommittee on Housing for the Elderly of the U.S. Senate Special Committee on Aging, I know only too well that the present lack of reasonable housing for the elderly is another serious problem. With advancing age many seniors find that they are living in a large residence, much in need of repair and often in the oldest part of the City. Many would gladly move to smaller and newer quarters. Many would choose apartment living to escape escalating real estate taxes which represent the efforts of states to provide needed revenues for services.

The solution seems to be more and better housing specifically designed for seniors and some provision for programs of community volunteers to aid in the repairing of older homes.

It is my hope that S. 4154 which I introduced with Senator Williams of New Jersey will become law since it will provide for congregate living facilities—a type of housing for the elderly we need desperately. Seniors could move into an apartment setting with central dining facilities. At the present time far too many move into nursing homes simply because they can no longer prepare their own meals. I also favor programs of community volunteers such as "Meals on Wheels" that bring food into these seniors who cannot readily prepare their own meals.

This same bill, S. 4154 would authorize a study to explore alternatives to the current increasing real estate taxes which are such a great problem to seniors. There is a trend toward exempting seniors from these taxes if their incomes fall within certain limits. Seniors tell me that it is unfair that they should have to continue to pay taxes for roads they don't use or for the cost of providing education for other people's children. On the other hand the States are reluctant to give up any present source of revenue. Hopefully the Federal study authorized by the bill would give us some answers.

Another major area of concern for our seniors are our nursing homes. As Chairman of the Subcommittee on Long-Term Care of the Senate Aging Committee I have worked hard to bring about an improvement in the kind of care our seniors receive and to protect the Federal dollar which pays for these services. My 1967 amendment to the Social Security Act had this express purpose.

In recent months my Subcommittee on Long-Term Care has been conducting hearings on nursing home problems across the country. We have seen substantial improvements since our last hearings but there is much still to be done. When these hearings are complete, I will issue a report to the Congress with my recommendations. This report will reflect what we learned from our hearings on the Marietta, Ohio, nursing home fire in which 32 patients died and from our recent inquiry into the Baltimore Salmonella epidemic which claimed 25 lives.

In closing, Mr. President, I want to express the hope that the current Administration will adjust its present priorities to reflect some greater concern with problems of the elderly. I would hope that we could adjust our national attitude toward our senior citizens. There is no question that at present we have a youth-oriented society. Perhaps this is as it should be and we should continue to look toward the future rather than toward the past. But I do not think that we should ignore either. We welcome the future, but we learn from the past.

No where in the United States is age more venerated and respected than in my State of Utah. The current and consistently capable leadership of the L.D.S. Church certainly disproves the popular notion that old age is synonomous with senility.

In summation, Mr. President, today is happy day for me since S. 437 has passed the Senate; it also gives pause for looking ahead realizing how much more there is to be done. The task ahead is formidable and I ask the support of good men everywhere in bringing to our seniors a share of the "good life" which most of us enjoy.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 1933) to provide for Federal railroad safety, hazardous materials control and for other purposes, disagreed to by the

Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. FRIEDEL, Mr. DINGELL, Mr. SPRINGER, and Mr. DEVINE were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 11833) to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such act, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. JARMAN, Mr. ROGERS of Florida, Mr. SPRINGER, and Mr. NELSEN were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the amendments of the Senate to the text of the bill (H.R. 16968) to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, and for other purposes, with an amendment, in which it requested the concurrence of the Senate; and that the House had agreed to the amendment of the Senate to the title of the bill.

LT. COL. ROBERT L. POEHLEIN

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1123, H.R. 13810.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: A bill (H.R. 13810) for the relief of Lt. Col. Robert L. Poehlein.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the bill be returned to the calendar.

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

RATES OF PAY FOR RATE EMPLOYEES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1173, S. 4227.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: A bill (S. 4227) to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. WILLIAMS of Delaware. What is going to happen to Calendar No. 1123, the Poehlein bill?

Mr. BYRD of West Virginia. By virtue of the request I have made, Calendar No. 1123 will go back on the calendar.

Mr. WILLIAMS of Delaware. And not be disposed of today?

Mr. BYRD of West Virginia. That is correct. It will not be disposed of today, and not until such time as it is brought back before the Senate by unanimous consent.

The PRESIDING OFFICER. Is there objection to the present consideration of S. 4227?

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

Mr. FONG. Mr. President, I send to the desk an amendment on behalf of the Senator from Wyoming (Mr. MCGEE) and myself, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

(a) (1) On page 6, line 11, strike out the figure "5" and insert in lieu thereof the figure "4";

(2) on page 6, at the end of line 13, insert the word "and";

(3) on page 6, line 14, strike out all after the word "prevailing" down through the word "prevailing" in line 15;

(4) on page 7, line 2, strike out "steps 3 and 4" and insert in lieu thereof "step 3".

(b) (1) on page 7, line 12, strike out "(A)";

(2) on page 7, line 16, strike out all down through line 22.

Mr. FONG. Mr. President, this is an amendment presented by the distinguished Senator from Wyoming and myself and other members of the committee. We have discussed this matter subsequent to the presentation of this bill to the Senate.

We have eliminated the 7½ percent differential for regularly scheduled nonovertime work, the majority of hours which occur between 3 p.m. and 12 midnight. We have also eliminated a 10 percent differential for regularly scheduled nonovertime work, the majority of hours which occur between 11 p.m. and 8 a.m. At the present time, they are based on prevailing wages.

We have also decreased the fourth step in the increase, which gives an increase up to 112 percent, so that now it is up to 108 percent, a reduction of 4 percent.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOSS. Mr. President, as one of the initial sponsors of a bill to get the wage board system under law, I want to say how delighted I am that a bill is now before the Senate. I know the many hours of hard work in both the Senate and the House which have gone into hearings and report on the bill, and I commend all of those who are responsible for bringing it before this body for a vote.

I have long been concerned about wage board and nonappropriated fund employees, and the bill I introduced last year—similar in many respects to the bill actually reported out—was one evidence of that concern. Wage board employees have been exceedingly patient in waiting for the establishment of an equitable system for fixing and adjusting their rates of compensation, and I trust we will not keep them waiting much longer.

These Federal employees, numbering some 800,000 have been discriminated against in countless ways over the years. On the average, for example, they earn 16 percent less than the classified or postal workers. Moreover, under the present wage board system, there were only three ingrade steps as opposed to 10 for white-collar employees and 12 for the Postal Field Service. The severe limitations of such a system is well illustrated by the fact that the pay differential between the first and last instep for wage board employees was 8 percent, as compared to 30 percent for classified employees. Yet, another discrimination arose from the fact that supervisors were treated more equitably than those they oversaw. In the light of such discrimination, I think it is high time that we meet the legitimate demands of these "forgotten men."

The bill now before us remedies the abuses of the prevailing wage system without destroying the concept and procedures of that system. It contains a number of important provisions, one of which is to include nonappropriated fund employees under the wage board system. In addition five steps ingrade are provided, which insures that an employee can still reap continuing financial rewards over his years of service. A further significant provision is for 7.5 and 10 percent shift differentials and for "saved pay" for workers who have been downgraded during a reduction in force.

Early enactment of this bill will be in keeping with the postal reform legislation which we passed in June. With its passage, like pay will be given for like work for all employees who work under similar conditions of employment in all departments and agencies of the Federal Government. I cannot stress too strongly how vital I think it is that we support a just and equitable system for these employees, who represent one-fourth of the total Federal labor force.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MCGEE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 17809.

The PRESIDING OFFICER laid before the Senate H.R. 17809, an act to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes, which was read twice by its title.

Mr. MCGEE. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

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

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

Mr. McGEE. Mr. President, I move to strike out all after the enacting clause and insert in lieu thereof the text of S. 4227 as amended.

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

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The bill, H.R. 17809, was read the third time, and passed.

Mr. McGEE. Mr. President, I move that S. 4227 be indefinitely postponed.

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

The motion was agreed to.

THE WELFARE PROGRAM

Mr. WILLIAMS of Delaware. Mr. President, today, five Governors representing the National Governors Conference testified before the Finance Committee in connection with the welfare bill.

The United Press, UPI–73, carries some interesting comments on that, and I ask unanimous consent that they be printed in the RECORD.

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

WASHINGTON.—Missouri Gov. Warren Hearnes, chairman of the National Governors Conference, today said that Nixon's administration should delay its attempt to add 14 million "working poor" to the Nation's welfare rolls.

Hearnes led four other Governors in slashing criticisms of the administration's house-passed 1970 welfare bill during a mass hearing before the Senate Finance Committee.

"It occurs to me that the administration has simply picked a figure out of the air—some $4.1 billion—and attempts to compress too many major and costly reforms into this figure," Hearnes said.

"I would suggest that the committee delay the adoption of legislation at this time which would draw into the welfare system some 14 million citizens now in the ranks of the working poor or under-employed," he said.

Hearnes said this was his personal criticism, not that of the national governors conference. He summed up a conference policy statement that urges the Federal Government to take over the entire welfare costs, making it a uniform, national program.

Other chief executives testifying were Govs. Robert D. Ray of Iowa, Frank Licht of Rhode Island and Tom McCall of Oregon. The committee also called in two House Members and other witnesses.

The witnesses generally agreed the Nation's present welfare program is a failure. It has failed to break the poverty cycles that keep families dependent on assistance, generation after generation.

McCall said the administration bill proposes "wrong solutions for agreed-upon needs," especially in its "inadequate" work incentives. He said any program is "doomed" if it allows employables any choice other than working.

Iowa's Gov. Ray predicted the program would cost states far more than projected figures. He said little valid information about cases of welfarism is available.

"It seems incredible that in a program in which the spending exceeds $10 billion a year less than one-tenth of 1 per cent has been spent on research . . . " Ray said.

Rhode Island's Gov. Licht said the present welfare program in 35 years "has not succeeded in breaking the cycle of poverty in any part of our Nation."

Clarence Mitchell, director of the NAACP Washington Bureau and chairman of the Leadership Conference on Civil Rights, supports the administration bill but wanted safeguards added to insure that no hostile state or other jurisdiction can block the program.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SAXBE). The clerk will call the roll.

The 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.

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1002, S. 5.

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

The legislative clerk read as follows:

A bill (S. 5) to promote the public welfare.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Full Opportunity and National Goals and Priorities Act."

TITLE I—FULL OPPORTUNITY

DECLARATION OF POLICY

SEC. 101. In order to promote the general welfare, the Congress declares that it is the continuing policy and responsibility of the Federal Government, consistent with the primary responsibilities of State and local governments and the private sector, to promote and encourage such conditions as will give every American the opportunity to live in decency and dignity, and to provide a clear and precise picture of whether such conditions are promoted and encouraged in such areas as health, education and training, rehabilitation, housing, vocational opportunities, the arts and humanities, and special assistance for the mentally ill and retarded, the deprived, the abandoned, and the criminal, and by measuring progress in meeting such needs.

SOCIAL REPORT OF THE PRESIDENT

SEC. 102. (a) The President shall transmit to the Congress not later than February 15 of each year a report to be known as the social report, setting forth (1) the overall progress and effectiveness of Federal efforts designed to carry out the policy declared in section 101 with particular emphasis upon the manner in which such efforts serve to meet national social needs in such areas as health, education and training, rehabilitation, housing, vocational opportunities, the arts and humanities, and special assistance for the mentally ill and retarded, the deprived, the abandoned, and the criminal; (2) a review of State, local, and private efforts designed to create the conditions specified in section 101; (3) current and foreseeable needs in the areas served by such efforts and the progress of development of plans to meet such needs; and (4) programs and policies for carrying out the policy declared in section 101, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the social report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 101.

(c) The social report, and all supplementary reports transmitted under subsection (b) of this section, shall, when transmitted to Congress, be referred to the Committee on Labor and Public Welfare of the Senate and the Committees on Education and Labor and Interstate and Foreign Commerce of the House of Representatives. Nothing in this subsection shall be construed to prohibit the consideration of the report by any other committee of the Senate or the House of Representatives with respect to any matter within the jurisdiction of any such committee.

COUNCIL OF SOCIAL ADVISERS TO THE PRESIDENT

SEC. 103. (a) There is created in the Executive Office of the President a Council of Social Advisers (hereinafter called the Council). The Council shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, and each of whom shall be a person who, as a result of his training, experience, and attainments, is exceptionally qualified to appraise programs and activities of the Government in the light of the policy declared in section 101, and to formulate and recommend programs to carry out such policy. Each member of the Council, other than the Chairman, shall receive compensation at the rate prescribed for level IV of the Executive Schedule by section 5315 of title 5 of the United States Code. The President shall designate one of the members of the Council as Chairman who shall receive compensation at the rate prescribed for level II of such schedule.

(b) The Chairman of the Council is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for the carrying out of its functions under this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and 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, and is authorized, subject to such provisions, to employ such other officers and employees as may be necessary for carrying out its functions under this Act, and fix their compensation in accordance with the provisions of such chapter 51 and subchapter III of chapter 53.

(c) It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the social report;

(2) to gather timely and authoritative information and statistical data concerning developments and programs designed to carry out the policy declared in section 101, both current and prospective, and to develop a series of social indicators to analyze and interpret such information and data in the light of the policy declared in section

101 and to compile and submit to the President studies relating to such developments and programs;

(3) to appraise the various programs and activities of the Federal Government in the light of the policy declared in section 101 of this Act for the purpose of determining the extent to which such programs and activities contribute to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop priorities for programs designed to carry out the policy declared in section 101 and recommend to the President the most efficient way to allocate Federal resources and the level of government—Federal, State, or local—best suited to carry out such programs;

(5) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation to carry out the policy declared in section 101 as the President may request.

(6) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation as the President may request in appraising long-range aspects of social policy and programing consistent with the policy declared in section 101.

(d) Recognizing the predominance of State and local governments in the social area, the President shall, when appropriate, provide for the dissemination to such States and localities of information or data developed by the Council pursuant to subsection (c) of this section.

(e) The Council shall make an annual report to the President in January of each year.

(f) In exercising its powers, functions, and duties under this Act—

(1) the Council may constitute such advisory committees and may consult with such representatives of industry, agriculture, labor, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the direct participation in the Council's planning of such interested parties;

(2) the Council shall, to the fullest extent possible, use the services, facilities, and information (including statistical information) of Federal, State, and local government agencies as well as of private research agencies, in order that duplication of effort and expense may be avoided;

(3) the Council shall, to the fullest extent possible, insure that the individual's right to privacy is not infringed by its activities; and

(4) (A) the Council may enter into essential contractual relationships with educational institutions, private research organizations, and other organizations as needed; and

(B) any reports, studies, or analyses resulting from such contractual relationships shall be made available to any person for purposes of study.

(g) To enable the Council to exercise its powers, functions, and duties under this Act, there are authorized to be appropriated (except for the salaries of the members and officers and employees of the Council) such sums as may be necessary. For the salaries of the members and salaries of officers and employees of the Council, there is authorized to be appropriated not exceeding $900,000 in the aggregate for each fiscal year.

TITLE II—NATIONAL GOALS AND PRIORITIES

DECLARATION OF PURPOSE

SEC. 201. The Congress finds and declares that there is a need for a more explicit and rational formulation of national goals and priorities, and that the Congress needs more detailed and current budget data and economic analysis in order to make informed priority decisions among alternative programs and courses of action. In order to meet these needs and establish a framework of national priorities within which individual decisions can be made in a consistent and considered manner, and to stimulate an informed awareness and discussion of national priorities, it is hereby declared to be the intent of Congress to establish an office within the Congress which will conduct a continuing analysis of national goals and priorities and will provide the Congress with the information, data, and analysis necessary for enlightened priority decisions.

ESTABLISHMENT

SEC. 202. (a) There is established an Office of Goals and Priorities Analysis (hereafter referred to as the "Office") which shall be within the Congress.

(b) There shall be in the Office a Director of Goals and Priorities Analysis (hereafter referred to as the "Director") and an Assistant Director of Goals and Priorities Analysis (hereafter referred to as the "Assistant Director"), each of whom shall be appointed jointly by the majority leader of the Senate and the Speaker of the House of Representatives and confirmed by a majority vote of each House. The Office shall be under the control and supervision of the Director, and shall have a seal adopted by him. The Assistant Director shall perform such duties as may be assigned to him by the Director, and, during the absence or incapacity of the Director, or during a vacancy in that office, shall act as the Director. The Director shall designate an employee of the Office to act as Director during the absence or incapacity of the Director and the Assistant Director, or during a vacancy in both of such offices.

(c) The annual compensation of the Director shall be equal to the annual compensation of the Comptroller General of the United States. The annual compensation of the Assistant Director shall be equal to that of the Assistant Comptroller General of the United States.

(d) The terms of office of the Director and the Assistant Director first appointed shall expire on January 31, 1973. The terms of office of Directors and Assistant Directors subsequently appointed shall expire on January 31 every four years thereafter. Except in the case of his removal under the provisions of subsection (e), a Director or Assistant Director may serve until his successor is appointed.

(e) The Director or Assistant Director may be removed at any time by a resolution of the Senate or the House of Representatives. A vacancy occurring during the term of the Director or Assistant Director shall be filled by apointment, as provided in this section.

(f) The professional staff members, including the Director and Assistant Director, shall be persons selected without regard to political affiliations who, as a result of training, experience, and attainments, are exceptionally qualified to analyze and interpret public policies and programs.

FUNCTIONS

SEC. 203. (a) The Office shall make such studies as it deems necessary to carry out the purposes of section 201. Primary emphasis shall be given to supplying such analysis as will be most useful to the Congress in voting on the measures and appropriations which come before it, and on providing the framework and overview of priority considerations within which a meaningful consideration of individual measures can be undertaken.

(b) The Office shall submit to the Congress on March 1 of each year a national goals and priorities report and copies of such report shall be furnished to the Committee on Appropriations of the Senate and of the House of Representatives, the Joint Economic Committee, and other interested committees. The report shall include, but not be limited to—

(1) an analysis, in terms of national goals and priorities, of the programs in the annual budget submitted by the President, the Economic Report of the President, and the Social Report of the President;

(2) an examination of resources available to the Nation, the foreseeable costs and expected benefits of existing and proposed Federal programs, and the resource and cost implications of alternative sets of national priorities; and

(3) recommendations concerning spending priorities among Federal programs and courses of action, including the identification of those programs and courses of action which should be given greatest priority and those which could more properly be deferred.

(c) In addition to the national goals and priorities report and other reports and studies which the Office submits to the Congress, the Office shall provide upon request to any Member of the Congress further information, data, or analysis relevant to an informed determination of national goals and priorities.

POWERS OF THE OFFICE

SEC. 204. (a) In the performance of its functions under this title, the Office is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Office;

(2) to employ and fix the compensation of such employees, and purchase or otherwise acquire such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and as may be appropriated for by the Congress;

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code; and

(4) to use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(b) (1) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Office, upon request made by the Director, such information as the Director considers necessary to carry out the functions of the Office.

(2) The Comptroller General of the United States shall furnish to the Director copies of analyses of expenditures prepared by the General Accounting Office with respect to any department or agency in the executive branch.

(3) The Office of Management and Budget shall furnish to the Director copies of special analytic studies, program and financial plans, and such other reports of a similar nature as may be required under the planning-programing-budgeting system, or any other law.

(c) Section 2107 of title 5, United States Code, is amended by—

(1) striking out the "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) adding at the end thereof the following new paragraph:

"(9) the Director, Assistant Director, and employees of the Office of Goals and Priorities Analysis.".

JOINT ECONOMIC COMMITTEE HEARINGS

SEC. 205. The Joint Economic Committee of the Congress shall hold hearings on the national goals and priorities report and on such other reports and duties of the Office as it deems advisable.

PAYMENT OF EXPENSES

SEC. 206. All expenses and salaries of the Office shall be paid by the Secretary of the Senate from funds appropriated for the Office upon vouchers signed by the Director, or in the event of a vacancy in that office, the Acting Director.

Mr. GRIFFIN. 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. MONDALE. 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. MONDALE. Mr. President, the pending bill, S. 5, was reported from the Committee on Labor and Public Welfare on July 1, 1970. This measure had 24 cosponsors from both sides of the aisle. Since that time, the Senator from Illinois (Mr. PERCY) has asked to have his name added as a cosponsor.

Mr. President, I ask unanimous consent that the name of the Senator from Illinois (Mr. PERCY) be added as a cosponsor of the pending bill (S. 5).

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

Mr. MONDALE. Mr. President, a predecessor bill was extensively considered by the Subcommittee on Government Research of the Government Operations Committee under the distinguished leadership of the Senator from Oklahoma (Mr. HARRIS) during the 90th Congress. In this Congress, a number of hearings were held on the bill during 1969 and 1970.

The bill has been strongly supported by a broad spectrum of leading public figures in the Nation. Among them have been two former Secretaries of Health, Education, and Welfare—John Gardner and Wilbur Cohen—Whitney Young, Dr. Ernest Hilgard who headed a special study for the National Academy of Science's National Research Council on Social Indicators, a number of other former officials of the executive branch such as former Budget Director Zwick, former Secretary of the Treasury Barr, and former Special Assistant to the President Califano. I am delighted to have had the strong backing of the distinguished Senator from New York (Mr. JAVITS) who has contributed a most important amendment to the bill which is included as title II.

Title I of the bill establishes full social opportunity as a national goal. The goal is more fully described in the bill as embracing such areas as educational and vocational opportunities, access to housing and health care, and provision of special assistance to the handicapped and other less fortunate members of society. It establishes institution and procedures for advancing this broad social goal, including a new Council of Social Advisers in the Executive Office of the President, and a requirement for an annual social report to be submitted by the President to the Congress.

The bill is patterned generally after the Employment Act of 1946 which, for the first time, established as a national goal the achievement of maximum employment, production, and purchasing power. To assist in achieving that goal, the Employment Act established the Council of Economic Advisers, provided for the annual economic report of the President, and established a Joint Economic Committee in the Congress.

It is our belief that this legislation will accomplish for the broad range of social policies what the Employment Act has done so well in the economic sector. By declaring a new national objective and increasing the quantity, quality, and visibility of information needed to pursue that objective, we should markedly advance our prospects for effective social action.

Mr. President, by now we have had a series of studies by prestigious commissions which have told us about the gap which remains in our society between the promise of full opportunity and the realities of deprivation, powerlessness, and poor fortune into which millions of our citizens are born. The increasing affluence of great segments of our society has merely sharpened the division between them and those who have not yet benefited from the phenomenal growth in our economy, in our technological and scientific base, and in our educational systems. As a result, the demands of the deprived for their fair share in the benefits of our society and the responsiveness of our political institutions have both increased dramatically. At the same time, however, we have also become acutely aware of the fundamental inadequacy of the information upon which social policies and programs are based.

One consequence of our information gaps is that national problems go nearly unnoticed until they suddenly are forced upon us by some significant development and we learn of widespread hunger in America, of the rapid deterioration of our environment, of dangerous tensions and unrest in our great urban centers, of the shocking conditions under which migrant farmworkers live, and of the absence of decent medical care for tens of millions of our citizens. We desperately need ways to monitor our social health and to identify such problems before they destroy our society.

Another tremendously expensive consequence of our lack of adequate information is that we devise and operate programs based on myth and ignorance. The Congress is now groping with the problem of welfare reform, but it is painfully evident that we lack some of the basic information which we need in order to design a system in which we could all have confidence. Similar problems are presented with respect to urban renewal, mass transportation, air and water pollution and health delivery systems.

Finally, after years of experimenting with such techniques as program planning and evaluation systems, we still are quite ill equipped to measure what our existing programs do accomplish. And we have no adequate means to compare the costs and effectiveness of alternative programs. A Council of Social Advisers, dedicated to developing indicators of our social problems and progress, could well be a source of enormous savings to the taxpayer as well as of more effective solutions to the problems we face. Such a Council, taking full advantage of new developments in planning programing and budgeting systems, in computerized data collection and statistical methodology, in systems analysis and social accounting, could unlock the enormous potential of the social sciences to assist the Congress and the Executive in developing and administering public policy.

A Council of Social Advisers would not, itself, be a new decisionmaking forum. Rather, as a social monitoring, data gathering, and program evaluation agency, it would provide the new Domestic Council with much of the information which that body will need to make its policy and program recommendations to the President. The Domestic Council will have available to it the broad range of economic information now furnished by the Council of Economic Advisers. The Council of Social Advisers would fill a significant gap in the information system which is needed to butress the policymaking apparatus recently established under the President's reorganization authority.

While title I of the bill, with its new Council of Social Advisers and its new social report, should greatly augment the capacity of the Congress to make intelligent policy decisions, title II of the bill is even more significant with respect to strengthening the Congress. I was delighted to cosponsor the amendment to the bill which was offered by the Senator from New York (Mr. JAVITS) to create a new congressional staff office of Goals and Priorities Analysis.

Mr. President, I have now served in the Senate for nearly 6 years. Along with many of my colleagues, I spend most of my time dealing with the human problems with which the average American is confronted.

I never cease to be amazed by the abundance of evidence concerning how little we seem to know at the Federal level about what is really going on.

As one person observed, we have a natural strategy of suboptimization at the Federal level where we do better and better at little things and worse and worse at big things.

Thus, something as elementary as decent nutrition, something as essential to a sound body and a sound mind, adequate and decent nutrition was something about which the Federal Government was almost totally ignorant in 1967. We knew how many soy beans were grown. We knew how much money was being spent on the direct commodity distribution program, the food program, and so on. But no one had the slightest idea whether there was widespread hunger and, if there was, where it was to be found and why, what the cost of feeding the hungry was, what the cost of not feeding them was, what the cost of the program was, or any of the other fundamental questions directly related to the issue of the most basic necessity of American life itself. The same was true with respect to decent housing.

In 1967, even though we should have been warned earlier, the major American cities began to explode in our faces. Newark, Detroit, and one community after another literally blew up in an astonishing and cataclysmic explosion causing the widespread loss of human life, and human injury, and millions and millions of dollars in property damage,

and an emotional and cultural shock to Americans which we are still in the throes of. None of this was anticipated by the Government.

When hearings were started, this Nation was thrashing around; Congress and the Senate were thrashing around; members of the Cabinet and leading members of the executive branch were thrashing around, all trying to find out what was causing such a fundamental occurrence as this outrageous, heartbreaking phenomenon in American life.

We could go from this example to other examples. To demonstrate, in the federal system we lack an institution which takes not a tactical approach but a strategic approach to human problems which this society faces. We need to chart the social health of this country and seek to go forward; not, as John Gardner said, stumbling into the future, but trying to come up with the analysis, facts, and figures, and, as someone said, the "hot data" to help us understand our society and what we must do to make it more effective than it is in meeting this Nation's human problems.

One of our most impressive witnesses was Mr. Joseph Califano who formerly served as adviser on domestic programs to President Johnson. More than any other man he was in the Nation's hot seat trying to develop a program to advise the highest official in the land on domestic programs.

He recounted several instances of the phenomena to which I have made reference. For example, on one occasion, the Secretary of Health, Education, and Welfare was in conference with Mr. Califano. He was asked how many people were on welfare, who they were, and all the rest. Since we are spending several billions of dollars one would have thought that information would be immediately available. The Secretary thought the information would be available to him as soon as he returned to his office. He said that he had the information and that he would send it right back. As a matter of fact, it took HEW more than a year to find out who was on welfare. Mr. Califano said this was a common experience with basic and fundamental human problems, to find that not even the President would have available to him the basic data necessary to make the choices upon which the very civilization depends.

He commented in this way about the issue of hunger:

> The even more shocking element to me is that no one in the federal government in 1965 knew how many people were hungry, where they were located geographically, and who they were. No one knew whether they were children, elderly Americans, pregnant mothers, black, white, or Indian.

Unless something of which I am unaware has been done since January 20, 1969, I believe we still do not know where hunger in America is with the kind of precision that is essential for an effective program to feed all the hungry among us.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield with the understanding he does not lose his right to the floor for the purpose of asking for the yeas and nays on the bill?

Mr. MONDALE. I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, then Mr. Califano concluded with this statement:

> The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate or expand vast social programs more nearly resembles the intuitive judgment of a benevolent tribal chief in remote Africa than the elaborate sophisticated data with which the Secretary of Defense supports a major new weapons system. When one recognizes how many and how costly are the honest mistakes that have been made in the Defense Department despite its sophisticated information systems, it becomes frightening to think of the mistakes which might be made on the domestic side of our Government because of lack of adequate data.

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

Mr. MONDALE. I yield.

Mr. PROXMIRE. I have been very concerned about this bill for some time. I understand it has been revised from the original bill which the Senator introduced. Originally he contemplated having a congressional joint committee on social goals. We were concerned because those of us on the Joint Economic Committee thought there would be duplication.

We have been trying to explore this matter. We felt this committee would have to be in direct conflict with our committee.

As I understand it, and I have had only a brief opportunity to look at this new legislation, this would not create a new committee but it would create a new office and a council in the executive branch and an office in the legislative branch.

Mr. MONDALE. That is correct.

Mr. PROXMIRE. It seems that the office is modeled after the Comptroller General's Office, but it is a little confusing to me in trying to determine under what committee or committees this office would operate.

Mr. MONDALE. I thank the Senator from Wisconsin. I was aware of the concerns of the Senator. In reporting this legislation the committee finally decided it would be preferable not to call for the establishment of a Joint Social Committee as my bill originally proposed. Instead of that, on page 11 of the bill, subparagraph (c) provides that the social report, which is an annual report of the President,

> shall, when transmitted to Congress, be referred to the Committee on Labor and Public Welfare of the Senate and the Committees on Education and Labor and Interstate and Foreign Commerce of the House of Representatives. Nothing in this subsection shall be construed to prohibit the consideration of the report by any other committee of the Senate or the House of Representatives with respect to any matter within the jurisdiction of any such committee.

In other words, we tried very hard to avoid a situation in which we were trying to designate jurisdiction over any subject matters that might come forward out of this Council of Social Advisers.

Mr. PROXMIRE. I notice later on in the bill, on page 21, lines 6 through 9, there is reference to the Joint Economic Committee.

Mr. MONDALE. That is correct. I was talking about title I up to this point. Title II, which is the proposal of the Senator from New York (Mr. JAVITS), does refer to the Joint Economic Committee responsibility for holding hearings on national goals and priorities.

I might refer the Senator's question in that regard to the Senator from New York.

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

Mr. PROXMIRE. I yield.

Mr. JAVITS. I am the ranking minority member of the Joint Economic Committee and, of course, my intention was that we should have that jurisdiction. I have discussed this matter with the Senator from Wisconsin.

Mr. PROXMIRE. Yes.

Mr. JAVITS. I thought that the best way would be to spell it out specifically, which we have done.

Another matter is important. I was rather anxious that we should not be faced with diverse consideration of the economic report and the social report. It will be noticed that under the bill the social reports are made available contemporaneously with the economic report.

My disposition was to have the entire matter go to the Joint Economic Committee. The Senator from Minnesota (Mr. MONDALE), whose proposal is in title I, felt it should go in this case to the legislative committee which will actually act, in view of the fact it is a separate piece of legislation and deals with a separate subject from that which is dealt with in the Employment Act of 1946 where the Joint Economic Committee has primary jurisdiction.

We agreed that although the report should be referred to the standing legislative committees with jurisdiction to report implementing legislation—to the general caveat that the report could also go to any other committee which would enable the Joint Economic Committee to complement its work on the economic report with whatever it chose to take from the social report which would be available at the same time.

Accordingly the two aspects of that are: First, the element of time which makes it possible for the Joint Economic Committee to use that material in its own report, which is statutorily required under the Employment Act of 1946; and, second, the general privilege accorded by the law to make a reference as well to that committee.

Mr. PROXMIRE. I think certainly it is appropriate that when the Joint Economic Committee holds its hearings on the economic report it will have the witnesses testify on both reports. That would be helpful.

Mr. JAVITS. I think they should.

Mr. PROXMIRE. This legislation is of the most historic importance. For the first time that legislation has been considered by the Senate, the way of get-

ting at the difficult job of priorities is spelled out. It is done in a sensible way. It is tied into the economic report. The principal determination of priorities has been through the budget and the consideration of the budget and the impact the budget has on the economy, and so forth. So I think this bill constitutes a most useful contribution.

I think it may be a workable combination of the diverse and contradictory responsibilities which a joint economic committee might have and a joint social goals committee might have. We have these tremendous social needs. Nowhere are they put together. We should have hearings. We should have some organized ways to get at the social conscience of the Congress and of the country, and to translate social goals into a coherent program.

I did not read the revised bill until a few minutes ago, but it seems a very good way of achieving that objective.

I congratulate both authors, the Senator from New York and the Senator from Minnesota, for what appears to be a constructive piece of work.

Mr. JAVITS. One of my concerns was the proliferation of units. The administration is not very happy with the Council of Social Advisers for that reason. Of course, it did not really have anything especially to say about the Office of Goals and Priorities Research since it is an office for Congress itself, but the administration was not happy with the idea of another Council of Social Advisers.

We have tried to deal with that subject by not setting it up in the same way as we did the economic report, requiring a special report of a congressional committee on it, and by making the time element such that the President could, if he chose, include it with the economic report so they would not be different.

I went along with the Senator from Minnesota (Mr. MONDALE), finally, after consulting with people in the executive department, who disagree even now, because I believe when one reads, as I have for so many years, having served with the Senator from Wisconsin on the Joint Economic Committee, the efforts of the Council of Economic Advisers to assess social needs—they try but it is always so limited and so obviously a fifth wheel to the things they are really interested in—it only highlights the essentiality, especially in this day and age, of a specialized appraisal of those priorities.

Second, I was motivated by the fact that I had thought the initiative during the Eisenhower administration, which was very close to the heart of President Eisenhower himself—in having a special commission to deal with national priorities—was a very gifted initiative. Of course, those were heavily in the social field. I actually tried for a long time to bring about a national commission which would deal with priorities both in the social and economic fields.

Failing that, I think this is, for practical purposes, the same approach, and therefore I supported the Senator from Minnesota (Mr. MONDALE) in it, though, naturally, being the ranking minority member, it is my duty to do everything I could to go with the President of my own party. I was reluctant to, but finally came to the conclusion that it was the only way to handle the matter.

I think the office which has been established, which gives the Congress a counterpart of the new Presidential office, headed by former Secretary of Labor Shultz, achieves a very desirable balance in the bill.

I might say to my colleagues, especially on this side of the aisle, that again I sought to avoid a proliferation of agencies and inquiry was made to the Comptroller General as to whether it would be advisable for the Comptroller General to extend his office to deal with the same problem.

I have a letter from the Comptroller General, which is dated February 17, 1970, and is incorporated in the hearing record at page 259. Although it might be unnecessary to place it in the RECORD since it appears in the record of hearings, I think perhaps it had better be placed in the CONGRESSIONAL RECORD to complete the record, I ask unanimous consent to make the Comptroller General's letter a part of these proceedings.

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., February 17, 1970.

Hon. RALPH YARBOROUGH,
Chairman, Committee on Labor and Public Welfare, U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your request received February 9, 1970, for our comments on Amendment No. 428 to S. 5. This amendment would establish within the Congress an Office of Goals and Priorities whose functions would be to provide more detailed budget data and economic analysis to enable the Congress to make informed priority decisions among alternative programs and courses of action. These functions are more specifically spelled out in section 203 of the amendment.

While we believe that there is a need for the Congress to have the kind of information and assistance which is contemplated in Amendment No. 428, the question of whether the establishment of the proposed Office is the best organizational vehicle for obtaining such information and assistance is a matter of policy for determination by the Congress.

While the main thrust of the proposals in Amendment No. 428 relate to the assessment of national goals and priorities and the development of recommendations concerning spending priorities, a function for which the General Accounting Office does not have primary responsibility and one which it should not seek, the Office does have the capability for rendering assistance and making analyses of ongoing programs. We have created within the Office staff capability to make systems analyses and have, from time to time, during the past several years made such analyses at the request of congressional committees and in consequence of legislation.

We have also used these staff resources in connection with work undertaken on our own initiative related to the costs and effectiveness of ongoing programs. While the resources of this staff are now rather meager, we plan to enlarge its capability as the demands warrant.

In view of the fact that the problem of information needs of the Congress have been under study for some time by other committees of both Houses in the Congress, we suggest that this matter be given consideration in the light of all of the studies and proposals that have been made and are pending. For example, S. 844, "The Legislative Reorganization Act of 1969" includes provisions relating to the gathering of information and the making of analyses to assist the Congress in its deliberations. A similar bill is being developed in the House of Representatives.

Other proposals relating to specific features, such as development of automatic data processing accumulation of information are being developed or are under study. It would seem highly desirable that all of these activities be given consideration in the light of the overall requirements of the Congress for information, analyses, and assistance.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. JAVITS. I would just like to say to the Senator that it is very clear to me that the Comptroller General—while he could contribute to and help this new office—was not equipped to do the job that needs to be done, nor did he indicate any great interest in taking it over. For those reasons we proposed the separate office.

Mr. PROXMIRE. Mr. President, I am concerned with one section of the bill, the declaration of purpose which appears on page 15, and then later the functions, which appear on pages 18 and 19.

On page 15 of the bill, under "National goals and priorities, declaration of purpose," it is stated:

> The Congress finds and declares that there is a need for a more explicit and rational formulation of national goals and priorities, and that the Congress needs more detailed and current budget data and economic analysis in order to make informed priority decisions among alternative programs and courses of action.

Of course, this is exactly what our committee, and my particular subcommittee, have been concerned with in holding hearings on priorities over the last 2 years. This is a matter of expertise and economic competence in being able to evaluate the programs in the economic field. It is true there is a social element which is missing and which does not get enough emphasis in the economic report.

Then, under the "Functions" on page 18, line 1 and on to page 19, line 10, there is a staff operation here that could simply parallel and duplicate the staff activities of the Joint Economic Committee unless it is carefully coordinated. We tried to get the funds for the Joint Economic Committee so we could make economic analyses of various programs which would be helpful. We started this year. We received $30,000, which is a small beginning. We are going to have to have $250,000 a year for the staff that can do systems analysis, economic analysis, but I think the job must be done by the Congress of the United States. We should have a clear understanding of the social goals and a staff set up to do it in the same sense that an economic staff would have the responsibility to do its work. But the social goals analysis would not be a substitute for the professional economic evaluation and analysis we seek.

Mr. JAVITS. We are doing precisely in this bill what the Senator from Wisconsin wants done. We are giving him his $250,000 staff. That is just what the Senator wants, and that is what the result will be.

The Senator, in referring to these functions and in referring to the purpose, is dealing now not with the Council of Social Advisers.

That office is a congressional office, and it is a service staff agency for the Joint Economic Committee and the Congress. It is precisely what the Senator from Wisconsin has requested. It does not make the decision; it furnishes the expertise for the committee, and the committee is tied directly into its work, because its report goes to the Joint Economic Committee.

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

Mr. JAVITS. I yield.

Mr. DOMINICK. I thought the report went directly to HEW from the Committee on Labor and Public Welfare.

Mr. JAVITS. No; the report of the Council of Social Advisers goes to the Committee on Labor and Public Welfare; the report of the Office of National Goals and Priorities goes to the National Economic Committee, precisely what the Senator from Wisconsin has referred to. We therefore will be giving ourselves expertise which is both staff and line. The staff is the Office of National Goals and Priorities, and the line is the Joint Economic Committee; accordingly, exactly what the Senator has sought, if this becomes law, will go into effect.

Mr. PROXMIRE. I thank the Senator, and again I congratulate both the Senator from Minnesota (Mr. MONDALE) and the Senator from New York (Mr. JAVITS) on what may become a useful accomplishment.

(Mr. PROXMIRE assumed the Chair as Presiding Officer at this point.)

Mr. DOMINICK. Mr. President, since we have ordered the yeas and nays on this bill, I think some of the points on the other side ought to be pointed out. I think the Senator from Wisconsin ought to listen to this, so I am glad to see that the Senator is present and has taken the chair as Presiding Officer.

What we are doing here is setting up in the Office of the President, by law, a council which the administration says it does not want; and furthermore, we are authorizing $900,000 a year for a council of three. This means, obviously, that this council of three is going to have a big staff, because even under our current spending programs, assuming the Appropriations Committee should ever appropriate that much—and I hope they would not—that is not going to be spent just by the three advisers. They are going to have an enormous staff, and they are going to be doing exactly what every committee in Congress is supposed to be doing, only they are going to oversee it for the White House, as far as I can see. They are going to oversee the activities of every State and local government—and are directed to do so in title I of the bill—to review State, local, and private efforts designed to create the very conditions specified in section 101.

Section 101, on pages 9 and 10, covers almost every single thing that the Government is involved with. So it is just a kind of general overseer group designed to establish for the White House and for Congress, presumably, the "social order," as they see it as a group of three, at $900,000 a year.

The next thing that I think is interesting is that, in conjunction with the Council at that price per year, we are also creating an office in Congress, at an unspecified cost. This has to be taken out of legislative funds if appropriations are asked, because this, I gather, is a legislative agency. Is that correct, may I ask the Senator from New York?

Mr. JAVITS. Yes, I intentionally did it that way, because I did not wish to see any bureaucracy established which was not exactly responsive to the cost-benefit ratio that the Appropriations Committee and Congress would see in it. So all we are committed to by this bill is set up an office, and what we will spend for it will depend on the kind of presentation which can be made.

Mr. DOMINICK. I thank the Senator from New York.

Mr. President, the Council, proceeding on that first, will in fact be asked to do what every major department of Government has been asked to do for a long period of time, in preparing the state of the Union message or in preparing a budget message. They are to assist and advise on the following matters: "to promote and encourage such conditions as will give every American the opportunity to live in decency and dignity."

That obviously means a whole group of social welfare programs, all of which are intertwined, and many of which are now under the jurisdiction of various departments of the Government. Then: "to provide a clear and precise picture of whether such conditions are promoted and encouraged in such areas as health, education and training, rehabilitation, housing, vocational opportunities, the arts and humanities, and special assistance for the mentally ill and retarded, the deprived, the abandoned, and the criminal, and by measuring progress in meeting such needs."

We would therefore be setting up an overview council to take in the jurisdiction of the Department of Health, Education, and Welfare, the Department of Transportation, the Department of Labor, and even the Justice Department, since it would also include criminal problems and the like.

So almost every department I can think of—and I would presume even the Defense Department, because it gets into the educational field—would be under the supervision, or at least under the review control, of this special council which we would be setting up, not only without the request of the White House, but against their will.

This is not a limited bill. It sets the council up on a permanent basis, at $900,000 a year; and if we have to go to this extent, to set up a group of overseers of every part of the Government, we are going to have to go much higher than that in order to make it really effective.

The next thing is the coordination. The President is required, under title I, to provide a report to the committees of Congress—specifically, the Labor and Public Welfare Committee on our side, and the corresponding committees on the House side—by February 15, on all these problems. The Council's report does not specifically go to the joint committee, but it can. It primarily goes to us first, and we do not try to take jurisdiction from any other committee, as I gather, but we get it first.

At the same time, we shall have created this Office in Congress, and the Office in Congress also delves into the same subjects, and is to give us a report on whether it thinks that the executive department has been doing a good job, and whether in fact the legislators have been doing a good job, and to give us that by March 1.

The question is, How is that coordination going to work? Is the Office, within the jurisdiction of Congress going to work together with the Council, within the jurisdiction of the White House? Obviously, they would have some commingling of authority and cooperation between them. But the beauty of the thing is that the purpose of the Office, as set up under congressional authority, is to have them responsible to Congress and not to the White House; but here we are asking for two separate reports, from two groups, that I would think obviously are going to be corresponding. To the extent that they will be disagreeing, they have 2 weeks to analyze the Presidential report and get together a report and submit it to Congress.

I simply say I do not see how that is going to work. That is what I would call a problem in the interrelationship between the White House and Congress, which I think will be further complicated by this particular bill.

Frankly, we do not know how much we are dealing with here. And we do not know what jurisdiction we are taking away. Our committee, the Committee on Labor and Public Welfare, has a very expanded jurisdiction. The committee of which the Senator from Wisconsin is now the chairman has a very extensive jurisdiction.

I would say to the Senate that almost without exception, the problems that are outlined here have been or should be looked into by one of those committees, or by our Select Committee on Nutrition and Human Needs, on which the Senator from Minnesota (Mr. MONDALE) and I both serve, and which has done quite a job in bringing these problems of nutritional needs and hunger to the attention of the American people, and should be dealt with through legislation.

So my question here—maybe it is not particularly appropriate at this time of night, and I am not going to go much farther—is why we do need this bill now? Why can we not work it out through our own committees? Why should we impose on the White House another council which they do not want, and additional expenses for which are not budgeted? Why should we continue going these routes time after time, when what we are trying to do is achieve a coordinated and hopefully better expertise in carrying out existing programs? That is the thing it seems to me that we need.

I have said to the Senator from Minnesota, if I may just finish this one thought, over and over again, that one of the problems with all of the legislation we have been putting in is that the taxpayers' money goes to the staffing of programs rather than to the people who need it. Here is another $900,000 that is going to go into the White House for staffing of personnel there rather than to the people in this country, who are needy, poor, sick and so on. This is another objection I have to the bill.

Mr. MONDALE. If the Senator will yield, I will comment only briefly. First, a number of improtant units in the Executive Office have been established by the Congress over the objections of the President. I think the record will show that this applies not only to the National Security Council, but also, to the Council of Economic Advisers. The President also opposed the establishment of a Council on Environmental Quality but, Congress had passed the bill, he signed it with pleasure, announcing that it was the first step in a new war on environmental problems.

The Senator is correct in stating that the sphere of interest of the Council of Social Advisers is very broad. But it will not duplicate the work of the CEA or of the new Office of Management and Budget, or of the new Domestic Council. Just as does the CEA, the new Council will provide analyses which will be helpful to the President and the Domestic Council in making decisions. The LSA will not be a decisionmaking body but one which will collect and review social data to put it into meaningful form. Further, it will identify gaps in our social data system and assure that these gaps will be filled.

Finally, and most significantly, the Council of Social Advisers will initiate a new public process of analysis and discussion of social problems. The Domestic Council and OMB are "in-house" staff offices producing analyses for the President which he badly needs. But they are not principally concerned with educating the public or informing the Congress. Such a new council, composed of distinguished social scientists, will insist on a public report which is candid and enlightening to the Congress. It will, as did the CEA before it, stimulate new and imaginative thinking about current problems and their measurement. Academicians and Congressmen, alike, will be drawn into the debate and we will all be the better and wiser as a result. Surely, no one would now contend that the CEA and the Employment Act of 1946 have not contributed greatly to the sophistication and value of economic analysis in America.

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

Mr. DOMINICK, I yield.

Mr. GRIFFIN. I commend the Senator from Colorado for a very excellent statement and analysis of this bill. He has asked a number of questions about it. Another question might be, How in the world could a bill like this be entitled "the Full Opportunity Act" and also described as "A bill to promote the general welfare"?

I would not wish to use the word "ridiculous" because I know the motives and intentions of those who sponsor this legislation are the highest. But certainly such a title does not give one much of an idea of the real import of this legislation. I agree with the Senator from Colorado that this bill duplicates functions already performed by the Council of Economic Advisers and the newly established Domestic Council in the executive branch of Government.

This bill could create a new bureaucracy in the executive branch which the President does not want, and which would cost the taxpayers another $900,000 per year at a minimum, and probably much more.

I hope the arguments presented by the distinguished Senator from Colorado will be considered carefully by this body and that this bill will be voted down.

Mr. DOMINICK. I sincerely thank the Senator from Michigan.

Mr. GRIFFIN. I have a copy of a letter which the distinguished Senator from Delaware received, and I should like to read into the RECORD several paragraphs which relate to this bill:

> The Administration has opposed this bill because it would create another separate unit in the Executive Office that would largely duplicate on-going activities, and would confuse further the identification of responsibilities within the Executive Office. For example, in spite of the provisions of the bill, it would be difficult to make a meaningful distinction in many areas between the social health concerns of the proposed Council of Social Advisers and the economic health concerns of the Council of Economic Advisers.
>
> The proposed Council would overlap many of the intended functions of the Domestic Council in the areas of priority development and resource allocation. Also, it would be concerned with areas intended to be the responsibility of the Office of Management and Budget—gathering of information and statistical data, the development of "social indicators," and the evaluation of programs.

I have read into the RECORD part of a letter from Mr. Weinberger of the new Office of Management and Budget, dated August 30, 1970, addressed to the Senator from Delaware (Mr. WILLIAMS).

Mr. DOMINICK. I thank the Senator from Michigan.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. WILLIAMS of Delaware. I congratulate the Senator from Colorado for his analysis of this bill, and I agree with the remarks of the Senator from Michigan.

It is difficult to reconcile the bill itself with the title, which is "to promote the public welfare," but the report has "The Full Opportunity Act." The thought occurred to me that perhaps they got the titles from the fact that it would give an opportunity to the commissioners to promote their own welfare by giving them a job. Apparently, they are out of work now, because this is another unnecessary job, and theirs would be about the only welfare promoted by the passage of this bill.

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

The committee amendment in the nature of a substitute was agreed to.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. 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 bill having been read the third time, the question is, Shall it pass? 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 Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from New Jersey (Mr. CASE), the Senator from New Hampshire (Mr. COTTON), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Wyoming

(Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), and the Senators from Illinois (Mr. PERCY and Mr. SMITH) are necessarily absent.

The Senator from Nebraska (Mr. CURTIS) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), and the Senator from Maryland (Mr. MATHIAS) are absent on official business.

If present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

(On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 31, nays 24, as follows:

[No. 288 Leg.]

YEAS—31

Anderson	Inouye	Pell
Byrd, W. Va.	Javits	Proxmire
Church	Mansfield	Randolph
Cooper	McGee	Schweiker
Eagleton	McGovern	Scott
Fong	McIntyre	Spong
Goodell	Mondale	Stevens
Gore	Moss	Symington
Gravel	Nelson	Young, Ohio
Harris	Packwood	
Hatfield	Pearson	

NAYS—24

Allen	Ervin	Saxbe
Allott	Griffin	Smith, Maine
Boggs	Gurney	Sparkman
Brooke	Holland	Talmadge
Cook	Jordan, N.C.	Thurmond
Dole	Jordan, Idaho	Tower
Dominick	Long	Williams, Del.
Ellender	Miller	Young, N. Dak.

NOT VOTING—45

Aiken	Fannin	Metcalf
Baker	Fulbright	Montoya
Bayh	Goldwater	Mundt
Bellmon	Hansen	Murphy
Bennett	Hart	Muskie
Bible	Hartke	Pastore
Burdick	Hollings	Percy
Byrd, Va.	Hruska	Prouty
Cannon	Hughes	Ribicoff
Case	Jackson	Russell
Cotton	Kennedy	Smith, Ill.
Cranston	Magnuson	Stennis
Curtis	Mathias	Tydings
Dodd	McCarthy	Williams, N.J.
Eastland	McClellan	Yarborough

So the bill (S. 5) was passed.

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

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

The motion to lay on the table was agreed to.

AMENDMENT OF TITLE 39, U.S. CODE, TO REGULATE THE MAILING OF UNSOLICITED CREDIT CARDS—HELD AT THE DESK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that H.R. 16542, to amend title 39, United States Code, to regulate the mailing of unsolicited credit cards, and for other purposes, be held at the desk. This request has been cleared on both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. BYRD of West Virginia. Mr. President, for the purpose of laying before the Senate the business which will be considered in the late afternoon tomorrow, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1079, S. 3418.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: A bill (S. 3418) to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with amendments.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate, there will be no more rollcalls today.

Mr. DOMINICK. Mr. President, will the Senator yield to me?

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, on the pending bill, which will be considered tomorrow, there will be a rollcall vote on an amendment which will be printed and on every Senator's desk.

Mr. BYRD of West Virginia. The Senator is correct.

STATUS OF UNFINISHED BUSINESS, SENATE JOINT RESOLUTION 1, WHEN TEMPORARILY LAID ASIDE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, no later than 5 p.m., the unfinished business, which is Senate Joint Resolution 1, be laid aside temporarily and that it remain in that status until the close of the morning business on Monday morning next and that at the time it is laid aside temporarily on tomorrow afternoon, the Senate then proceed to the consideration of the business which I have just had laid before the Senate with that purpose in mind.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAMS of Delaware. Mr. President, reserving the right to object, and I will not object, I ask the acting majority leader if it would not make better sense to conduct the business of the Senate and do our voting in the daytime and then, if we have a filibuster, do the filibustering in the nighttime?

This matter of having filibusters from 10 a.m. to 5 p.m., with a gentlemen's agreement that there will be no business but a lot of talk and that we will all go fishing tomorrow and then come back tomorrow night, seems to me to be a funny way to run a railroad. I wonder if we could not get back to the business of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be excused from attendance in the Senate tomorrow afternoon in order that I may participate in personal and political business.

If I were present tomorrow afternoon, I would vote "yea" on the first bill to be considered, the Public Health Service Act Amendments (S. 3418), and "nay" on the second one, an act for relief of Lt. Col. Robert L. Poehlein (H.R. 13810). I hope that the Senate will give me permission to leave.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. So, I am officially excused.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR CONSIDERATION OF H.R. 13810 TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow afternoon, following the disposition of the bill, S. 3418, the Public Health Service Act Amendments, the Senate then proceed to the consideration of Calendar No. 1123, H.R. 13810, an act for the relief of Lt. Col. Robert L. Poehlein.

I make this request so that Senators will be on notice with respect to the business that will be considered tomorrow afternoon after we have finished our session anent the unfinished business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

REQUEST THAT IT BE IN ORDER TO ORDER THE YEAS AND NAYS ON S. 3418 AND H.R. 13810

Mr. BYRD of West Virginia. Mr. President, one of these bills is not yet before the Senate, but I ask unanimous consent that it be in order to order the yeas and nays on both S. 3418 and H.R. 13810 at this time.

I do this so that Senators will be on notice that there will be rollcalls on both of these bills tomorrow afternoon.

Mr. DOMINICK. Mr. President reserving the right to object, there will be a rollcall vote on my amendment tomorrow. Would this bar that under any procedure?

Mr. BYRD of West Virginia. No, it would not.

Mr. ALLOTT. Mr. President, I must say that I feel that this is not good procedure. I must be compelled to object to the present consideration of rollcalls on those bills. I think it is bad procedure. So I will object, although I join in the request for the rollcall.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Objection is heard.

Mr. BYRD of West Virginia. Mr. President, I want to make sure I have not been misunderstood. I am not asking unanimous consent for a rollcall. I am merely asking unanimous consent that it may be in order now to ask for the yeas and nays.

Mr. ALLOTT. It amounts to the same thing.

Mr. BYRD of West Virginia. Except the first would be unconstitutional.

Mr. ALLOTT. It amounts to the same thing.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR YEAS AND NAYS ON S. 3418

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield to me, I ask for the yeas and nays on the pending bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, Senators are on notice that when S. 3418 is disposed of tomorrow we have unanimous consent to proceed to the consideration of the relief bill; and it is the intention of the Senate to have a rollcall vote on that bill tomorrow afternoon.

Mr. WILLIAMS of Delaware. Mr. President, why not proceed with this bill tonight, or is it the order of business that we quit now?

Mr. BYRD of West Virginia. The reason for not proceeding with this bill at this point is that the able Senator from Texas (Mr. YARBOROUGH), chairman of the Committee on Labor and Public Welfare, could not be present to handle the bill.

Mr. WILLIAMS of Delaware. As one who opposes the bill I would be glad to present his argument. [Laughter.]

HOSTAGES OF HIJACKED AIRPLANES

Mr. JAVITS. Mr. President, in this deplorable and really ghastly situation of hijackings, there is a matter that I wish to bring to the attention of the Senate.

Many Americans have been deeply concerned over reports that the administration refuses to rule out a possible agreement with the Arab hijackers which would agree to the release of Americans of other faiths while Americans of the Jewish faith continued to be held hostage. In this connection, Mr. Zeigler, the White House press spokesman, has personally confirmed to me that U.S. policy does not and will not countenance a distinction between American citizens on the basis of religion in this or any other matter. In view of the apparent misunderstanding which has arisen on this question, I urge the White House to make it clear officially so that this insidious notion may be laid to rest once and for all.

ORDER FOR THE RECOGNITION OF SENATOR NELSON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, immediately following the remarks to be made by the able Senator from Ohio (Mr. YOUNG), the able Senator from Wisconsin (Mr. NELSON) be recognized for not to exceed 20 minutes.

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

ORDER FOR ADJOURNMENT FROM FRIDAY TO 10 A.M. MONDAY, SEPTEMBER 14, 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business tomorrow, it stand in adjournment until 10 o'clock on Monday morning next.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, following the disposition of unobjected-to items on the calendar, if there be any, the able Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 20 minutes.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow at the conclusion of the special orders for the recognition of Senators, there be a period for the transaction of routine morning business with statements therein limited to 3 minutes, and that at the conclusion of that period the unfinished business, Senate Joint Resolution 1, be laid before the Senate.

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

S. 4335—INTRODUCTION OF THE AIR PIRACY QUARANTINE ACT

Mr. GOODELL. Mr. President, I am today introducing a bill, entitled the "Air Piracy Quarantine Act." The bill is designed to deal with the very excruciating problem we face in air hijackings that have occurred during the last 3 years, and, particularly, in the last few days.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The bill will be received and appropriately referred.

The bill (S. 4335) to deter aircraft piracy by invoking a commercial air traffic quarantine against countries abetting aircraft piracy, introduced by Mr. GOODELL (for himself and Mr. JAVITS), was received, read twice by its title, and referred to the Committee on Commerce.

Mr. GOODELL. Mr. President, the tragic epidemic of air piracies must cease.

Despite repeated past hijackings, the international community has stood idly by and done almost nothing. The multiple piracies of this weekend must, at last, galvanize us to action.

I believe we must turn to the ultimate sanction of the boycott or quarantine. Nations which intentionally harbor hijackers should be banned from international air commerce. Only that drastic step will induce them to take action to apprehend the criminals and return the aircraft, passengers and crew.

Until now, the only discussion of boycotts has been in the context of an international conference or agreement. However, there still is very little incentive for the parties to agree to this approach. The airlines are unwilling to lose their routes; the nations involved are unwilling to risk their alliances. Thus, despite the many hijackings of the past years, there are still no effective international sanctions.

This logjam would swiftly break were it to become evident that the greatest and wealthiest nation in the world, the United States, were about to impose a unilateral boycott. The drastic impact of such a boycott on international commerce—the disruption of routes, the risks of retaliation, in fact, all the negative effects—would create precisely that incentive for effective international sanctions which now is so sadly lacking. Faced with the chilling implications of unilateral action, the airlines and nations involved should swiftly agree upon an effective international method of discouraging and preventing hijacking.

To accomplish this end, I announced yesterday that I would introduce a bill in the Senate that invokes the unilateral boycott.

Today, I am introducing this bill. I am pleased that my distinguished senior colleague from New York (Mr. JAVITS) has joined me as a cosponsor of my bill.

My bill would require the President to declare a commercial air traffic quarantine against a country, if he finds that a country has aided or abetted an air piracy; has provided sanctuary to its perpetrators; has refused to take steps to apprehend the perpetrators; or has refused to take steps to secure the safe return of the plane, the passengers and the crew.

Once the quarantine takes effect, the quarantined country can virtually be banned from international air traffic. All direct air routes from the United States to that country will automatically be revoked. Any other country may, in the President's discretion, also be banned from commercial air traffic with the United States, unless it imposes its own quarantine on the offending country.

The quarantine would remain in effect until ended by joint action of the President and Congress. Alternatively,

the quarantine could be ended by the President alone, subject to veto by either House of Congress.

The quarantine would not affect any emergency landings made to protect an airplane, passengers, and crew.

Mr. President, the mere pendency of this proposal—provided it gains the support that I anticipate it will attract—will be a powerful incentive for the nations of the world to start negotiating effective international hijacking controls. And if such international agreement fails to materialize, we ourselves can help halt the hijacking epidemic by enacting this legislation.

I am introducing my proposal today in bill form. After providing an appropriate period of time to enable a committee, if it desires, to hold hearings on it, I intend to offer the same legislation in the form of an amendment on the Senate floor. This will insure that the Senate can vote up or down on it.

The New York Times, in an editorial this morning, has endorsed the proposal I have made for a unilaterally imposed quarantine.

Mr. President, I ask unanimous consent that the text of my bill and the New York Times editorial be printed in the RECORD.

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

S. 4335

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 "Air Piracy Quarantine Act".

SEC. 2. (1) If the President shall find—

(a) that an act of aircraft piracy (as defined in subsection (6) of this section) has been committed against any commercial aircraft; and

(b) that a country has aided or abetted the act of aircraft piracy, has provided sanctuary to or has refused to apprehend (or take reasonable measures to apprehend) the individual or individuals who committed the act of aircraft piracy, or has refused to secure and return (or to take reasonable measures to secure and return) the aircraft and its passengers and crew—

he shall forthwith declare a commercial air traffic quarantine against that country. He shall notify the Congress of the quarantine; and he shall direct the Secretary of State to notify the government of the country against which the quarantine has been declared, as well as the government of any other country that maintains commercial air traffic with that country.

(2) Notwithstanding the provisions of any other law or Executive agreement, if the President declares a commercial air traffic quarantine against any country (the "quarantined country"), then, within ten days after the declaration of quarantine and with due notice to the air carriers affected:

(a) the President shall revoke the rights of any air carrier of the quarantined country to land in the United States; and

(b) the President shall revoke the rights of any air carrier of the United States to land in the quarantined country.

(3) Notwithstanding the provisions of any other law or executive agreement, if the President declares a commercial air traffic quarantine against any country (the "quarantined country") and any other country maintains commercial air traffic with that country, and unless the other country within thirty days after the declaration of quarantine shall effect a similar quarantine (by revoking the rights of its air carriers to land in the quarantined country and revoking the rights of air carriers of the quarantined country to land within its borders), then, following the expiration of such thirty-day period and with due notice to the air carriers affected:

(a) the President may revoke the rights of any air carrier of such other country to land in the United States; and

(b) the President may revoke the rights of any air carrier of the United States to land in such other country.

(4) A commercial air traffic quarantine declared pursuant to this section shall remain in effect until such time as:

(a) the President recommends to the Congress that the quarantine be terminated, and the Congress approves such recommendation by joint resolution; or

(b) the President gives notice to the Congress of his intention to terminate the quarantine in the absence of objection by either House of the Congress, and fifteen calendar days of continuous session of the Congress elapses during which there has not been passed in either the Senate or the House of Representatives a resolution stating in substance that it does not approve the proposed termination of the quarantine.

(5) A commercial aircraft quarantine declared pursuant to this section shall in no event preclude any emergency landing made in order to ensure the safety of an aircraft or any of its passengers or crew.

(6) The term "aircraft piracy" means any seizure, detainment, or exercise of control (or attempted seizure, detainment, or exercise of control), without lawful authority, of any commercial aircraft, its passengers or crew, regardless whether or not such action constitutes a criminal offense under the laws of the United States or any other country.

(7) For purposes of paragraph (b) of subsection (4) of this section, there shall be excluded, in the computation of such fifteen-day period, the days on which either the Senate or the House of Representatives is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under such paragraph, except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purposes of this section to refer to a resolution of disapproval under such paragraph.

[From the New York Times, Sept. 10, 1970]

BOYCOTT NEEDED

The continuing ordeal of an augmented company of international air travelers held captive on the Jordanian desert by Palestinian desperadoes is the savage consequence of the failure of the community of nations to have acted decisively long ago on the crime of aerial hijacking.

This latest and most barbaric wave of hijackings should never have been possible if interested nations, airlines and crews had moved urgently and forcefully to strengthen security arrangements—which remain pathetically primitive—and to forge binding international agreements for dealing with hijackers and with those who abet air piracy.

We save long advocated action, now so tragically overdue, to impose boycotts on the air terminals of nations which in any way offer aid or encouragement to air piracy, and to deny landing privileges to planes of such countries. This should be done on an international basis for maximum effect and because all civilized countries have a stake in curbing this threat to their citizens' safety. Belated efforts to tighten security at airports and on planes must also be accelerated on a worldwide basis, regardless of any temporary inconvenience.

The United States should be prepared to take the lead and impose boycotts unilaterally, if necessary, as Senator Goodell and others have suggested. Failing such national or international action, the hesitant airline pilots have the right and duty to impose their own boycott in the interest of the passengers for whom they are responsible.

The immediate concern of everyone must be for the safety of the desert hostages. The appeal issued by the U.N. Security Council yesterday is a limited first step toward bringing the force of world opinion to bear against the pirates and anyone who might be tempted to condone their actions. The temptation to move at once to more forceful action is great, but where so many innocent lives are at stake diplomacy must be given every chance.

It must not be forgotten that the desperate aim of the Palestinian extremists is to wreck the revived Middle East peace talks which they have hysterically opposed. Unless this objective is frustrated, there will be diminishing security for everyone in the Middle East, and for many outside the area, for years to come.

With this larger issue in mind, it is essential that the current situation be met with restraint and the closest cooperation of all parties, including the Arab states whose vital interests are as directly threatened by the guerrilla action as are those of Israel and the rest of the civilized world.

Mr. GOODELL. Mr. President, we cannot deal with this problem from weakness or timidity. This country must make it clear and the civilized world must make it clear to hijackers, whoever they are and for whatever reason they hijack, that we are not going to bend our knees, that we are not going to abide by a situation where hijackers are made heroes with impunity.

I do not mean in any way by the introduction of this bill to intervene in the very delicate and sensitive negotiations that are going on with respect to the innocent passengers now being held hostages in Jordan by the Arab terrorists.

But the bill will create a powerful deterrent against future hijackings.

We have had negotiations underway for several years now attempting to get the nations of the Western World to agree on a procedure and actions to deal with hijackers. They have never gotten off dead center for a variety of reasons.

Our allies too often are hesitant to take strong antihijacking measures because of various economic interests, or because of certain diplomatic ties with the Arab world or other nations which harbor hijackers.

In addition, the airlines are reluctant to enter into any agreements for boycotting which might interfere with their business and their air traffic to given countries.

So the international negotiations have gone nowhere. I think it is time that the Congress of the United States and the President indicated that we mean business on this subject.

We have vast powers short of any military application of force. Our powers should be used. The President should clearly have the support of Congress in utilizing what power is available to him, and Congress should go on record giving him clearly the authority to take action

against those countries which continue air commerce with nations which harbor hijackers.

My bill would utilize this power.

Where a foreign country has given sanctuary to hijackers, the President would be required to impose a "commercial air traffic quarantine" against the country.

Thereafter, that country would no longer have air service to or from the United States. Its direct air routes to our country would automatically be canceled.

An additional provision of my bill gives the President the additional authority, in his discretion, to apply a quarantine against any nation that continues to service, through air commerce, a nation that harbors hijackers. In brief, if any nation of Europe, for instance the French, were to continue to provide air service to an Arab country that we had quarantined, the President could deny our airports to French planes.

I do this advisedly. I recognize that it is a very extreme action to take. I recognize that the President would have great hesitancy to take such action, what might be called secondary boycott in the international arena. I think he should have that power. I think with that power in his hands, it is quite likely that international negotiations would be moved off from dead center. We would be more likely to get an agreement of all the major nations in the Western world on how they are going to deal in a unified fashion and coordinated fashion with hijacking situations.

I introduce this bill because I think it supports the President of the United States in the present situation. I do this because I believe very deeply that it can strengthen our hand in the present situation with reference to hostages. I think a reasonable warning to the Arab terrorists of other actions that can be taken in retaliation by this Nation is reasonable and desirable at this point.

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

Mr. GOODELL. I yield to the senior Senator from New York.

Mr. JAVITS. I would first like to commend my colleague from New York on the initiative which he took immediately upon the happening of the hijacking in suggesting a course which can be pursued by our country in so delicate and dangerous a situation, and which he has put into bill form, in view of the discretionary power given to the President in respect of the so-called third countries, which I thought was essential in order to have a balanced measure.

This is not only a matter of tremendous humanitarian importance. Brigandage and piracy have been known to mankind almost from the beginning of history, but it seems to all of us so extraordinary that it should happen in a modern day. Yet when there is an area which is completely incapabale of controlling lawlessness, such as this particular area in Jordan, a matter like this is bound to follow. Therefore, I think the United States has to consider remedial measures.

We are speaking here in terms of a relatively mild measure compared to the history of our country in regard to matters of this nature. Back at the foundation of this country President Jefferson employed the Armed Forces of the United States against the Barbary pirates, and in very recent times President Eisenhower, notwithstanding his enormous reluctance to use the Armed Forces of the United States abroad, sent the marines into Lebanon when grave disorder threatened there, on the invitation of that government. The same thing took place in Santo Domingo, with the understanding that it was necessary in order to preserve American lives and deal with the presence of the Americans who were in Santo Domingo at the time.

There is a very dangerous and inflammatory situation, and no one here wants to increase it in any way by use of military action or military force. I agree with Senator GOODELL in that respect.

Also, I wish to commend, as I did yesterday, and do so again today, the President and the Secretary of State for their actions in respect to Americans lives and their egalitarian outlook as to the fate of all the Americans involved, and indeed, the people of all the nations. The President has handled this matter with great tact and great skill.

I would also like to take a moment to commend the representative of the International Red Cross, Mr. Andre Rochat, who has handled the matter with high patriotism and tremendous ability as a true international servant of all the people.

Finally, with the Senator's permission, if I may—I am detaining him too long—I want to say I have lived with the problem of the Arab refugees in all the years I have been in the Congress, beginning in 1947, so I have a very long history in that. I was one of the first to urge the United States to join in support of the various United Nations agencies which supported the refugees. On many occasions I have made recommendations for resettlement, repatriation, compensation. Indeed, I have made some recommendations which have very deeply disturbed the government of Israel itself because of my ideas as to what should be the repatriation scheme and the numbers to be involved. I fought battles for equal opportunity for Arabs in Israel, and I am very proud of that. I think it is very sound statesmanship.

It is, therefore, with a very heavy heart that I see these commandos, largely Palestinean Arabs, driven literally to madness, as I can see only harm to those who are legitimately refugees and to the effort to work for relief of a problem which is a fact and not a theory and which will have to be an element of any peace settlement in the Middle East, and a very important one.

I would like to pledge myself, Mr. President, notwithstanding this terrible discouragement, to indefatigably continue in the hope that enlightenment and reason will assert themelves, and that the great mass of even these Palestinian Arab refugees do not share in this madness, which is apparently the property of an alleged Maoist group, a small but very wild and extremist group, that the world may successfully surmount this crisis, that the humanity of the perpetrators themselves may be maintained in so dangerous and terrible a situation, and that we may get on with the work of bringing about some order and some effort to ameliorate the whole condition which has brought about this madness.

I repeat that I think my colleague has taken a fine initiative, with deep understanding of the situation, and again I commend the President and the Secretary of State for their handling of one of the most trying, in the human sense, crises which have faced our country in a considerable period of time.

Mr. GOODELL. I thank my colleague for his comments and his cosponsorship of this bill. I would like to express my agreement with the viewpoints expressed by my senior colleague with reference to the tragedy in the Middle East and the tragedy of the Arab situation, particularly that of the Palestinian refugees. I might say that the hostilities, bitterness, and hatred in the Middle East have escalated almost to the point of no return, and this is a potential disaster for mankind. There is great danger of a confrontation in the Middle East between the great powers, and not just a confrontation of wills, but a military confrontation—one which we all want to avoid.

We must deal with this problem in human terms, and I might say to my senior colleague—I am sure that he has heard many expressions of this nature himself—but when I was in Israel a year ago, the very top leadership of Israel, Mrs. Golda Meir and others, expressed their grief, their unhappiness, and their sadness over the plight of the Palestinian refugees. They expressed their concern over the legitimate grievances of the Arab people.

Of course, we live in a real world. Israel has lived with paper promises that have been violated and paper commitments that have been violated. Israel has to fall back on its own capabilities of defending itself through the entire life of the nation of Israel.

Now we have sensitive negotiations which have been started, commendably, on the initiative of the President and the Secretary of State. We have seen a violation of the cease-fire, a flagrant, blatant violation of the cease-fire, which forced Israel to withdraw from the negotiations. It is a very serious matter. I view very seriously the violation by the Russians, and I would emphasize that the Russians are responsible for their agreement for a cease-fire. It is not an Egyptian violation alone, because the Egyptians did not have the capability of moving those SAM missile sites close to the Suez. The Russians were active perpetrators of the violation of that cease-fire, and we should make representations at the highest level with the Soviet Union that we view this matter with grave concern, and that they must take action to withdraw these SAM missile sites that have been installed in violation of the cease-fire.

We must also deal with the problem of the hijackings and the hostages who have now been held, to whom our hearts

go out with deep concern for their welfare.

We cannot deal with this situation alone through weakness.

The President must be given full authority to deal in a peaceful way, by the utilization of our economic power and our commercial power, with those nations which harbor hijackers. I honestly hope that many of my colleagues will join me in cosponsorship of this Air Piracy Quarantine Act, and that we will be able to bring it to a vote as an amendment to an appropriate bill within a very short time, because I think it will have a salutary effect on the whole situation in the Middle East, particularly with reference to controlling the terrorists. It will help see to it that whatever their objectives may be and whatever their demands may be, they will not remain heroes in their own country, and they will not have further inducement for more hijackings, because the penalty will be there for the crime when it is perpetrated, and the penalties will far outweigh whatever benefits may come to the terrorists by their criminal acts in violation of international law and of civilized world standards of decency.

Mr. JAVITS. Mr. President, will the Senator yield one moment further?

Mr. GOODELL. I yield to my colleague from New York.

Mr. JAVITS. Mr. President, what has been said about the other Arab States is critically important. The fact is that this hijacking could not have occurred and the present situation could not have occurred without either the expressed or tacit consent of the states in which these operations have taken place. It is a fact that the BOAC aircraft hijacked yesterday stopped for refueling in Lebanon, and that we have seen photographs in the press of policemen, and so forth, escorting commandoes to these very planes.

This is not a pretty picture. The Arab States, those which were involved—and Egypt is certainly showing the reaction now—are apparently having second thoughts, and we have reports that they have expressed grave concern about what is happening and how it may compromise them.

Mr. President, I would hope and I feel that a special plea should be addressed to the Arab States that they would recover their sanity, and that this matter should not be permitted to go beyond the point of no return, because they cannot avoid being the governments in control, unless they are not governments at all. The responsibility for what is happening within their borders, which has been greeted by not only the toleration but the applause and approval which the completely lawless commandos have received, is theirs.

Mr. President, I hope very much that responsibility will come into play, because this is the only hope for peace in that area, and the terrible toll which will otherwise be taken is just too disastrous for all mankind, and too risky, in view of the presence of both great powers there in force.

Finally, Mr. President, the religion of the Muslims and the religion practiced by the Arab peoples has the same principles and the same ethics contained in the Christian and the Hebrew religions. This certainly does not dictate conduct of man toward man of the kind which we are now seeing. These are countries which take great pride in the religious faith of their people, just as we do.

I hope very much that this will be taken account of in restoring a sense of sanity and bringing about the release of the hostages and enabling the peacemaking work which the United Nations has undertaken, after the brilliant initiative of our Secretary of State and President, and the cooperation of the Soviet Union, as Senator GOODELL has said, to go forward, giving the world some hope, instead of compelling the world to look into the bloody abyss which this segment of the commandos has opened up for it.

I thank the Senator for yielding.

Mr. GOODELL. I thank my colleague for his very eloquent expression of feeling, which I am sure is deeply shared by the Members of the Senate.

I think it is important that we recognize that responsibility must be placed where it belongs, on the government of each of the nations where these terrorists are performing their criminal acts. I think it is a sham to exempt the government from any responsibility for what has been going on, with the observation that the commandos, the Arab terrorists, are beyond the control of that government. It is very clear in many of these acts of piracy that the governments themselves have collaborated, willingly or unwillingly, and they may claim that they have had to cooperate for other reasons.

Mr. President, I think it is time that we applied our unilateral power in this situation. We gave the President the power to deal forthrightly and directly and effectively with any situations which may arise in the future.

MIDEAST CRISIS AND AMERICAN CREDIBILITY

Mr. GOODELL. Mr. President, I delivered yesterday a major address on the subject of the Middle East, before a luncheon of the American Zionist Federation in New York City.

In my speech, I addressed my concern that American credibility had seriously been eroded by our failure to respond forcefully and effectively to the Soviet-Egyptian violations of the Suez Canal ceasefire. I outlined some proposals on how we might restore our credibility.

I also addressed myself to the horrifying epidemic of hijackings. I announced that I would introduce a bill in the Senate that would bar from international air traffic and nation which harbors hijackers.

Today, I have introduced my bill—the Air Piracy Quarantine Act. I am pleased that my colleague, Senator JAVITS, has joined me as cosponsor of my amendment.

My bill would require the President to declare a commercial air traffic quarantine against a country, if he finds that a country has aided or abetted an air piracy; has provided sanctuary to its perpetrators; has refused to take steps to apprehend the perpetrators; or has refused to take steps to secure the safe return of the plane, the passengers and the crew.

Once the quarantine takes effect, the quarantined country can be virtually banned from international air traffic. All direct air routes from the United States to that country will automatically be revoked. Any other country may also be banned from commercial air traffic with the United States, unless it imposes its own quarantine on the offending country.

The mere pendency of this proposal—provided it gains the support that I anticipate it will attract—will be a powerful incentive for the nations of the world to start negotiating effective international hijacking controls. And if such international agreement fails to materialize, we ourselves can help halt the hijacking epidemic by enacting this legislation.

Mr. President, my proposal was endorsed today in an editorial in the New York Times.

I am introducing my proposal today in bill form. After providing an appropriate period of time to enable a committee, if it desires, to hold hearings on it, I intend to offer the same legislation in the form of an amendment on the Senate floor. This will insure that the Senate can vote up or down on it.

Mr. President, I ask unanimous consent for the text of my address, my bill and the editorial to be printed in the RECORD.

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

THE MIDEAST CRISIS AND AMERICAN CREDIBILITY

(By U.S. Senator CHARLES E. GOODELL)

We are all in such a state of profound shock over the weekend's Arab terrorist kidnappings of innocent passengers that it is difficult, indeed, to think or speak of much else.

Yet before discussing this incredible and potentially tragic occurrence, let me turn for a moment to the threat to Israel's security that is building so fast along the Suez Canal—the Soviet-Egyptian missile escalation. If we fail to respond to this threat now—even while we are bending our every effort to obtaining the return of the hostages—it may soon be too late to avoid permanent damage to the safety of Israel and the cause of peace.

I

A curious lethargy has overtaken the Administration in supervising the ceasefire that it initiated. As a consequence, Israel has suffered, the United States has suffered and, above all, the prospects of settlement in the Mideast have suffered.

Egypt and the Soviet Union have continually—and blatantly—been violating the standstill agreement ever since the first day the ceasefire went into effect. Our own official response can most charitably be described as lackadaisical.

It took fully 12 days for our government to muster the judgment that there was "inconclusive" evidence of a Soviet-Egyptian missile build-up in the Canal Zone. And it soon became apparent that the Administration could not give a swifter and firmer answer to Israel"s initial charges because of its own negligence—its failure to have the U.S. intelligence-gathering operation ready and functioning when the ceasefire began.

Thereafter, it took another two full weeks of further Soviet-Egyptian missile advances for our government to concede—reluctantly, belatedly and grudgingly—that there had, indeed, been "violations" of the ceasefire. Even then, the Administration's misplaced sense of delicacy prevented its spokesmen from stating publicly that the Soviet Union and Egypt were the parties responsible for the violations.

During this entire sorry period, the Administration was so anxious to avoid hard words that might shake the negotiations, that it closed its eyes to the much harder facts of Soviet-Egyptian escalation within the Suez Canal Zone.

Like the monarchs of old who punished the bearers of bad tidings, our State Department succeeded in conveying the unmistakable impression that it was more irritated with Israel for complaining of the violations than with Egypt and the Soviet Union for committing them.

Nor is there cause for much satisfaction with our government's action since it so lately discovered that the ceasefire was being openly flouted.

The Administration's first response was a truly unimpressive request that the Russians and Egyptians stop any further missile build-up in the Canal Zone. Then, after further Israeli prodding, Administration spokesmen have had some vague words to say about "rectification"—whatever that phrase may mean. It is still far from clear that the Administration is making a maximum effort at the highest levels—as contrasted to routine diplomatic representations—to obtain the withdrawal of the illegally emplaced missiles. And the impression still has not been dispelled that the State Department is merely going through the motions of protesting in order to placate Israel.

The consequences of this policy of lethargy have been nothing short of disastrous.

Israel feels herself betrayed—and with good reason. She has made major concessions—concessions that split her own cabinet—to give the American peace plan a chance of working. She accepted the principle that she would negotiate on all issues, without preconditions—including the politically unpalatable one of "withdrawal" from occupied territories. She agreed to indirect Rhodes-style talks, rather than the direct negotiations she has always demanded. Above all, she stopped her defensive bombing of the western side of the Canal, in return for American assurances that there would be no change in the balance of forces in the Suez area.

Now, Israel's worst fears have been confirmed. The ceasefire has, indeed, been used merely as a cover for massive Soviet-Egyptian military escalation. American assurances to Israel have proven hollow.

The military balance of power has now significantly shifted in Egypt's favor along the Canal. Almost 200 Soviet missile launches have been brought into the ceasefire zone, half of them within range of the Canal. SAM missiles now are capable of covering an Egyptian attack across the Suez.

Our dilatory and casual response has encouraged Egyptian and Soviet violations. The early infractions of the ceasefire may well have been designed to test our government's intentions. Had we reacted swiftly and firmly, Egypt and Russia might have decided that further escalation was not worth risking. But we made no response, other than pointedly to ignore Israel's warnings. Moscow and Cairo evidently interpreted our silence as implicit consent to proceed.

In closing its eyes to the Soviet-Egyptian build-up, the State Department has done precisely that which it wished to avoid: upset the negotiations. Israel has now withdrawn its representatives from the talks.

May I add parenthetically, that I believe that Israel's decision to withdraw her representatives from the talks at this time is wholly justified. As long as these flagrant violations of the ceasefire are occurring, there is simply no rational basis for negotiation on the broader issues. Israel has even now shown herself prepared to take substantial risks for peace, notwithstanding the Soviet-Egyptian missile build-up. She should be commended on her restraint in deferring military action at this time, and concentrating upon diplomatic and political efforts to secure removal of the missiles.

For their part in the events of the past four weeks, the Soviets deserve the prize for ultimate cynicism. For our part, however, we deserve the prize for myopia. The tragic upshot is that the two Great Powers—for the most shortsighted of reasons—each have casually thrown away their strongest bargaining tool for peace in the Middle East: the credibility of their undertakings. It may be a long time before Israel or any other belligerent will find it tempting to take further risks for peace, in return for the insubstantial word of the Great Powers.

II

After the debacle of the past month, the highest priority of U.S. policy must be to restore the credibility of our assurances to Israel concerning the ceasefire.

This requires a major American initiative—an *all-out* effort of diplomatic persuasion and political pressure—to secure the withdrawal of the Soviet-Egyptian missiles illegally installed in the Canal Zone after the ceasefire.

This initiative must be personally directed by the President. By his own words and actions, he must make it unmistakably clear that there has been a change of emphasis in U.S. policy—and that we now mean business in getting the missiles out. This change must be plain enough, palpable enough, that it can surely be read by the policymakers in the Kremlin.

The watchword of this initiative must be clarity and consistency. The time is past when we can afford to confuse our friends and our adversaries by having a "soft" line emanate from the State Department and a "hard" line from the White House. This, particularly requires the personal involvement of the President.

Diplomatic efforts to secure a rollback of the missiles must come from the highest level of government. They, too, must bear the personal stamp of the President. Representations made through routine State Department channels simply lack the necessary impact—and, because of the past month's history, can too easily be misconstrued in Moscow as merely another attempt to placate Israel.

The public stance of the United States must be geared to this diplomatic effort. Our government must be publicly on record as demanding the complete withdrawal of the illegally emplaced missiles. And the Administration's public position must likewise emanate from the highest level and preferably be announced by the President himself. For credibility's sake, it simply does not do to rely on routine State Department briefings to make our position known to the world.

The initiative must be squarely aimed at Russia, not at its Egyptian client. The United States must make it known to the Soviet leadership that we regard the Soviet Union as responsible for the violation of the ceasefire.

We must also make it clear to the Soviet Union that what is at stake is not merely the temporary military balance along the Canal, nor even the entire issue of peace in the Middle East, but something very different and much more important: the trustworthiness of Soviet representations. The Soviet leadership must be reminded that by violating their pledges on the ceasefire, they diminish our ability to rely on the Soviet Union's word in other vital areas of mutual interest. This, they should be informed, includes the SALT talks and the future of Strategic Arms Control.

The Soviets should be warned, moreover, that any response short of a complete withdrawal of *all* the missiles that were illegally emplaced in the Canal Zone will be regarded by us as plainly unsatisfactory. We should *not* settle merely for a Soviet commitment to discontinue the build-up now. A freeze at current levels would consolidate the military advantage the Soviets and Egyptians have gained by violating the ceasefire. And if the Soviets and Egyptians are unwilling to abide by their original pledge, there is no rational basis for relying on new Soviet-Egyptian assurances to discontinue further escalation.

In this connection, a historical parallel is instructive. In the 1962 Cuban Missile Crisis, when President Kennedy demanded a removal of the missiles, Premier Khrushchev's first reply was to offer to freeze the missiles in Cuba at existing levels. President Kennedy ruled this out as unsatisfactory, and warned the blockade would continue until the missiles already there were actually removed. He insisted on removal, and, ultimately, obtained it. That was the right decision then. It is the right decision now.

III

While undertaking this major initiative to secure a rollback of the missiles, we must be ready to respond in the event we receive a negative Soviet reply.

Our response, in that event, must carefully be coordinated with Israel. It must be designed—to the maximum extent feasible—to offset the military advantage the Soviets and Egyptians have gained as a result of their violations.

This will require a substantial new commitment of advanced weaponry to Israel.

As early as September of last year, I urged that the United States agree to deliver to Israel the additional Phantom jets she requested. This agreement should have been made long ago.

The President has spoken in general terms about "doing what is necessary to maintain Israel's strength vis-a-vis its neighbors", and the Administration has indicated it would replace lost Phantoms, even after the currently contracted-for deliveries have been completed.

However, the Administration has hesitated to give a firm commitment for the 25 Phantoms already requested by Israel, in the hope of encouraging the Soviet Union to exercise similar restraint.

If the Soviets refuse to withdraw their missiles, it will have become clear that this hope was illusory. A commitment should then promptly be made for the delivery of the 25 Phantoms.

In addition, the United States should make available to Israel the most advanced antimissile equipment and technology, including air-to-ground missiles.

The Jackson Amendment to the Military Procurement Authorization bill, just passed by the Senate, contains broad authority to provide these arms for Israel. I wholeheartedly support the Jackson Amendment. I also voted against another amendment sponsored by Senator Fulbright, that would have had the effect of nullifying the Jackson Amendment in the event that the Military Sales Act became law.

The commitment of additional arms to Israel should be made in the form of grants or long-term credits. The economic burdens upon Israel of paying for this expensive military hardware in cash has simply become excessive. Again, this is a step I have been urging since last September.

In providing these arms, we should not delude ourselves into believing that the military balance of power has really been restored. If the Soviet missiles are not removed, Israel's adversaries will have gained a net military advantage along the Canal. All that additional arms to Israel can achieve is to limit the extent of that advantage.

Finally, we should be clear on one point. If the Soviets give a totally unsatisfactory response—if, for example, they permit the continuation of the missile build-up along the Canal—the Administration should be prepared to admit that its current peace initiative has collapsed and the ceasefire has become void. In that event, if all else fails, Israel should have the option to take appropriate military action against the Soviet-Egyptian missile sites. The Soviets should be informed in advance that this is our view.

IV

If—as I certainly hope—the Soviets give a positive response to our request for a missile pullback, the negotiations can once more be revived.

In that event, the top priority for negotiation should be the restructuring of the ceasefire into an effective truce along the Suez Canal, having enforcible guarantees.

The present ceasefire—as events so painfully have shown—requires Israel to take excessive risks for peace. It contains built-in encouragement for a Soviet-Egyptian *fait accompli*—to move missiles into the Canal Zone, and see what, if anything, the U.S. can do to secure their removal. This is because the only deterrent to such actions is Washington's word that the U.S. will not permit the built-up to occur. But Washington's word has been shown to be fragile, indeed. And even if the Administration showed more backbone, its success in preventing violations would depend upon its political leverage in Moscow.

It is therefore unrealistic to insist that Israel accept a substantial extension of the 90-day ceasefire in its present form. It will, on the other hand, take a great deal more than the current 90 days to achieve any discernible progress in the substantive negotiations, even assuming they were to resume.

Thus the initial focus of any future negotiations must be upon exploring all avenues for an *effective and enforcible truce* along the Suez. The new arrangement for the cessation of military activity along the Canal must be one which cannot unilaterally be abrogated by Egypt, and one upon which Israel can rely. Only if such a workable truce is achieved, can there be any hope for progress in the negotiations concerning the far more complex issues of territories. refugees and so forth.

Any new truce arrangement, however, must be freely negotiated by the parties. The United States could make no graver mistake than to seek to pressure Israel into accepting a new arrangement which she does not trust.

The chief requirement of any enforcible truce, is that it must effectively deter violations *before they occur*. It must create some sort of mechanism or presence that makes it difficult or dangerous for Russia or Egypt to move missiles or troops further toward the canal. It should not depend upon a pledge by the United States to act *after* the violations already occur.

If progress is made on the immediate issue of the removal of the missiles—and the prospects of negotiations are thereby improved—the parties should begin to do some hard thinking on how such a new truce might be organized.

One such proposal, which I recently discussed, is that a joint U.S.-Soviet Observer Force be formed to patrol the truce along the Canal. Provided it is *not* under U.N. supervision, is *not* imposed upon the parties, is *not* permanent, and is *not* subject to withdrawal upon the unilateral demand of Egypt, such a Force might help deter future violations before they occur. The idea admittedly has one significant drawback—notably in the sanction or recognition it may appear to give to a Soviet presence in the Mideast. It might be possible to devise some other mechanism that lacks this drawback. But the idea still deserves serious consideration.

At the moment though—while the Soviet missile build-up continues—it is premature to go into the details of new peace proposals. As I said earlier, absolute primacy must now be given to getting the missiles out of the Suez. If this succeeds, there might be some hope of peace. If not, the outlook is bleak, indeed.

V

Let me return to the horror in the Jordanian desert—the hijacked planes and their terrorized human cargo.

Some one hundred seventy innocent souls, nearly three-quarters of them citizens of our own country, sit in two mined and fused airplanes in the Jordanian wasteland—at the mercy of fanatics. In the hundred-degree heat of the desert sun, their prisons become like ovens. They have been there for four days. Today could be their last.

Their incarceration is an affront to our nation; an affront to the other nations whose hapless citizens face extinction through no fault of their own; and an affront to civilization itself.

Who has been particularly selected for this fate? Jews have—not because they are soldiers, not even because they are citizens of Israel—but simply because they are Jews.

Women and children have been released from the planes—except those who happen to have Jewish names. For them, the captors have decreed a new Nuremberg law: all who are Jews—from the youngest child to the oldest woman, from the little boy returning from a visit to his relatives in Israel to the elderly rabbi returning from a pilgrimage to his hallowed land—are subject to ransom and possible death. Their nationality has been deemed irrelevant; their innocence, irrelevant; their age or infirmities, irrelevant.

Once again, as three decades ago, we pray for the safe deliverance of those placed in mortal danger for no offense, save the names they bear and the faith they share. Psalms are now being read in synagogues around the country for Rabbi Yitzhak Hutner, Rabbi Yoneson Daviz, Rabbi Yehiel Drellman, and Rabbi Rafoel Harari and his seven small children. Prayers are being recited by many Americans who lost most of their families in the Nazi terror, and who now may lose the remaining few in the Arab terror. Though of a different faith, I join in those prayers.

I very much hope the relative absence of comment by the Administration conceals the most massive effort in quiet diplomacy to free our trapped fellow Americans. And I hope this includes exploration of every conceivable avenue of inducing their captors to see reason, including avenues which for various diplomatic reasons we normally would be reluctant to take. If, for example, there is evidence that Red China or Albania might have influence over the extremist organization which organized the hijackings, we should not hesitate to pursue any method of negotiating with these nations, however unusual or unconventional, regardless of our normal diplomatic inhibitions.

If we succeed in freeing these hostages, what steps can we then take to prevent future hijackings and international blackmail?

I think we must turn to the ultimate sanction of the boycott. Nations which intentionally harbor hijackers should be banned from international air commerce. Only that drastic step will induce them to apprehend the criminals and return the aircraft and passengers.

Until now, the only discussion of boycotts has been in the context of an international conference or agreement. The trouble with this approach is that there still is very little incentive for the parties to agree. The airlines are unwilling to lose their routes; the nations involved are unwilling to risk their alliances. Thus, despite the many hijackings of the past years, there are still no effective international sanctions.

This logjam would swiftly break were it to become evident that the greatest and wealthiest nation in the world, the United States, were about to impose a unilateral boycott. The drastic impact of such a boycott on international commerce—the disruption of routes, the risks of retaliation, in fact all the negative effects—would create precisely that incentive to effective international sanction which now is so sadly lacking. Faced with the chilling implications of unilateral action, the airlines and nations involved should swiftly agree upon an effective international method of discouraging and preventing hijacking.

To accomplish this end, I will soon introduce a bill in the Senate that invokes the unilateral boycott. The bill would prohibit any U.S. airline from servicing any nation which harbors hijackers. It also would bar landing in the United States of any foreign airline which services nations harboring hijackers.

I cannot speculate on how soon such legislation would be enacted. However, the mere existence of such a proposal in the Congress—assuming that it attracts any degree of support—will be a powerful incentive for the nations of the world to start negotiating effective international hijacking controls. And if such international agreement fails to materialize, the legislation can always be enacted.

The epidemic of air piracy must end. I believe a legislative proposal of this nature can help end it.

S. 4335

A bill to deter aircraft piracy by invoking a commercial air traffic quarantine against countries abetting aircraft piracy

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 "Air Piracy Quarantine Act"

SEC. 2. (1) If the President shall find—

(a) that an act of aircraft piracy [as defined in subsection (6) of this section] has been committed against any commercial aircraft; and

(b) that a country has aided or abetted the act of aircraft piracy, has provided sanctuary to or has refused to apprehend (or take reasonable measures to apprehend) the individual or individuals who committed the act of aircraft piracy, or has refused to secure and return (or to take reasonable measures to secure and return) the aircraft and its passengers and crew—

he shall forthwith declare a commercial air traffic quarantine against that country. He shall notify the Congress of the quarantine; and he shall direct the Secretary of State to notify the government of the country against which the quarantine has been declared, as well as the government of any other country that maintains commercial air traffic with that country.

(2) Notwithstanding the provisions of any other law or executive agreement, if the President declares a commercial air traffic quarantine against any country (the "quarantined country"), then, within ten days after the declaration of quarantine and with due notice to the air carriers affected:

(a) the President shall revoke the rights of any air carrier of the quarantined country to land in the United States; and

(b) the President shall revoke the rights of any air carrier of the United States to land in the quarantined country.

(3) Notwithstanding the provisions of any other law or executive agreement, if the President declares a commercial air traffic quarantine against any country (the "quarantined country") and any other country maintains commercial air traffic with that country, and unless the other country within thirty days after the declaration of quarantine shall effect a similar quarantine (by revoking the rights of its air carriers to land in the quarantined country and revoking the rights of air carriers of the quarantined country to land within its borders), then, following the expiration of such thirty-day period and with due notice to the air carriers affected:

(a) the President may revoke the rights of any air carrier of such other country to land in the United States; and

(b) the President may revoke the rights of any air carrier of the United States to land in such other country.

(4) A commercial air traffic quarantine declared pursuant to this section shall remain in effect until such time as:

(a) the President recommends to the Congress that the quarantine be terminated, and the Congress approves such recommendation by joint resolution; or

(b) the President gives notice to the Congress of his intention to terminate the quarantine in the absence of objection by either House of the Congress, and fifteen calendar days of continuous session of the Congress elapses during which there has not been passed in either the Senate or the House of Representatives a resolution stating in substance that it does not approve the proposed termination of the quarantine.

(5) A commercial aircraft quarantine declared pursuant to this section shall in no event preclude any emergency landing made in order to ensure the safety of an aircraft or any of its passengers or crew.

(6) The term "aircraft piracy" means any seizure, detainment or exercise of control (or attempted seizure, detainment or exercise of control), without lawful authority, or any commercial aircraft, its passengers or crew, regardless whether or not such action constitutes a criminal offense under the laws of the United States or any other country.

(7) For purposes of paragraph (b) of subsection (4) of this section, there shall be excluded, in the computation of such fifteen-day period, the days on which either the Senate or the House of Representatives is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of section 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under such paragraph, except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purposes of this section to refer to a resolution of disapproval under such paragraph.

[From the New York Times, Sept. 10, 1970]

BOYCOTT NEEDED

The continuing ordeal of an augmented company of international air travelers held captive on the Jordanian desert by Palestinian desperadoes is the savage consequence of the failure of the community of nations to have acted decisively long ago on the crime of aerial hijacking.

This latest and most barbaric wave of hijackings should never have been possible if interested nations, airlines and crews had moved urgently and forcefully to strengthen security arrangements—which remain pathetically primitive—and to forge binding international agreements for dealing with hijackers and with those who abet air piracy.

We have long advocated action, now so tragically overdue, to impose boycotts on the air terminals of nations which in any way offer aid or encouragement to air piracy, and to deny landing privileges to planes of such countries. This should be done on an international basis for maximum effect and because all civilized countries have a stake in curbing this threat to their citizens' safety. Belated efforts to tighten security at airports and on planes must also be accelerated on a worldwide basis, regardless of any temporary inconvenience.

The United States should be prepared to take the lead and impose boycotts unilaterally, if necessary, as Senator Goodell and others have suggested. Failing such national or international action, the hesitant airline pilots have the right and duty to impose their own boycott in the interest of the passengers for whom they are responsible.

The immediate concern of everyone must be for the safety of the desert hostages. The appeal issued by the U.N. Security Council yesterday is a limited first step toward bringing the force of world opinion to bear against the pirates and anyone who might be tempted to condone their actions. The temptation to move at once to more forceful action is great, but where so many innocent lives are at stake diplomacy must be given every chance.

It must not be forgotten that the desperate aim of the Palestinian extremists is to wreck the revived Middle East peace talks which they have hysterically opposed. Unless this objective is frustrated, there will be diminishing security for everyone in the Middle East, and for many outside the area, for years to come.

With this larger issue in mind, it is essential that the current situation be met with restraint and the closest cooperation of all parties, including the Arab states whose vital interests are as directly threatened by the guerrilla action as are those of Israel and the rest of the civilized world.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 7 o'clock and 3 minutes p.m.) the Senate adjourned until tomorrow, Friday, September 11, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, September 10, 1970:

U.S. DISTRICT COURTS

Robert H. Schnacke, of California, to be a U.S. district judge for the northern district of California vice George B. Harris, retired.

Donald W. VanArtsdalen, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania vice a new position created under public law 91–272 approved June 2, 1970.

OFFICE OF TELECOMMUNICATIONS POLICY

George Frank Mansur, Jr., of Texas, to be Deputy Director of the Office of Telecommunications Policy; new position.

HOUSE OF REPRESENTATIVES—*Thursday, September 10, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I therefore beg you to live a life worthy of the calling to which you have been called.—Ephesians 4: 1.

Eternal Father of our spirits, who in Thy word hast revealed to us the way, the truth, and the life, lead us, we pray Thee, to walk in Thy way, help us to believe Thy truth, and give us courage to live Thy life. Strengthen our hearts that in the midst of doubts within and disturbances without we may hold fast to those things we believe to be right and good for all.

Grant Thy blessing to all who work under the dome of this Capitol and to all who serve our Nation around the world. May all of us be made strong to do what ought to be done and what must be done if law and order is to prevail, if justice is to be done, and if people are to live together in peace.

In the spirit of the Master Workman we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 18725. An act to establish a Commission on the Organization of the Government of the District of Columbia and to provide for a Delegate to the House of Representatives from the District of Columbia.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 16968. An act to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, and for other purposes.

PRIVILEGES OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House: