remunerative wage, there will be no market for the things business turns out, and business will suffer. If we forget this, we play a fool's game. He who enters the arena of politics pledged to champion exclusively any bloc or any segment, he who in public life uses his talents to divide class against class, or race against race, or region against region, prostitutes his talents; and in the end he plays the game of those who would divide us and in dividing would conquer us.

I think of one legislative reform which could minimize this growing tendency. It alone would not cure the basic malady, but it would help. The electoral college method of selecting our President and Vice President has surely outlived its original purpose. It is a relic of the powdered wig and snuff box era when nobody ever knew anything about presidential candidates and it was believed the public needed someone to do their actual choosing for them. If its only drawback were that it is archaic, there could be no harm in preserving it. The outmoded system, unfortunately, has given rise to numerous abuses, among them the glorification of voting blocs.

By lumping all of a State's electoral votes for the side which ekes out the barest margin of victory in that particular State, it has encouraged both parties to concentrate on those traditionally close areas of the country where a little extra effort can pay off most handsomely on the electoral scorecard. Undue and unintended influence thus has gravitated to the political bosses and ward politicians who can turn out the vote in those particular areas. We have come in this way to think of millions of Americans not as individual people but as members of one or another voting bloc. And in this it seems to me that we subtly degrade them as human beings and tarnish the image of a Nation of free and equal men.

We can correct this one particular cause by adopting any one of several electoral reform amendments which have been pending in every Congress for the past 20 years. I believe we need to reaffirm our faith in the average American as a person by enacting one of these proposals, to the end that one vote anywhere in the country shall be exactly equal to one vote anywhere else in the country.

Yet this alone will not cure the disease that increasingly separates and divides us. This is a task which calls for the most superb statesmanship and the most mature citizenship. Perhaps the danger has been no more clearly put than in the words of that distinguished jurist, Judge Learned Hand, who warned:

"That community is already in the process of dissolution where each man begins to eye his neighbor as a possible enemy, where nonconformity with the accepted creed is a mark of disaffection; where denunciation takes the place of evidence and orthodoxy chokes off freedom of dissent."

5. A STALE CONFORMITY AND THE BILL OF RIGHTS

Finally, to combat the stale conformity of the group-thinking which has huddled so many of us into separate camps, I think we need an urgent reemphasis of the Bill of Rights.

The most alarming revelation I have read in the past 2 years was made by Dr. H. H. Remmers, of Purdue University. His recently published book, "The American Teenager," is the result of 15 years of painstaking questioning of some 25,000 high-school students by the university's research staff.

Unless you're shockproof, you'll be shocked, not so much by teenage manners and morals, surprisingly enough, but by teenage opinions.

If the Purdue polls are accurate, the following eye-openers should be sufficient to start us thinking, and mighty seriously:

A solid 60 percent of the youngsters polled think that books, magazines, and newspapers should be censored.

A substantial 58 percent can see nothing wrong with employment of third-degree methods by police.

A third of them believe it would be okay for the Government to prohibit some people from making speeches.

Better than one-fourth think there are times when it's all right to search homes and private persons without a warrant.

Fifteen percent would refuse certain criminals the right to have a lawyer, and 13 percent even profess the opinion that religious belief and worship should be subject to legal restrictions.

The average one of these youngsters would probably fight you if so much as suggested that he wasn't a good American. Yet, if these figures are correct, an appalling number simply haven't been shown what America is all about in the first place.

If you asked if they believe in the Bill of Rights, they'd no doubt give you an emphatic "Yes." But the poll tends clearly to show that a lot of them actually do not.

Nobody, apparently, has explained to them that the Bill of Rights, the sanctity of the individual, is the one great peculiarly American contribution to the art of government.

Other nations have adopted, at least nominally, the republican form of government. Even Russia calls itself the Union of Socialist Soviet Republics. Other nations (Hitler's Germany included) have developed capitalistic economies.

Only America charted its bark by the course of a scrupulous observance of individual rights. Is a new generation losing the course?

Whose fault it is might be debatable. The schools, the churches, the families, perhaps we all share in the blame. Perhaps the younger set is merely reflecting an attitude they see in their elders. Can it be that in our frantic insistence upon "belongingness" we have made a god of conformity to our groups and have actually begun to mistrust ourselves to think for ourselves? Or to give the other fellow the right to think for himself as an individual?

When we wish to silence those who disagree with us we betray a shocking lack of confidence in our own convictions. When we confer social ostracism upon the fellow with a nonconforming opinion, we place a smothering stultification upon the very act of thinking.

There has never been a time in our history when we have needed more to encourage the processes of independent thought. Jefferson dedicated the University of Virginia to the "illimitable freedom of the human mind." The frontiers of the future are the frontiers of the mind. The future belongs to that nation, and to that society, which is not afraid of thoughts.

Ours is a nation which was founded upon the conviction that error of opinion may be tolerated so long as truth is free to combat it. Jefferson said that truth is the sufficient adversary of falsehood.

I do not despair of the future. The faith of our fathers was not misplaced. Their ennoblement of the individual is the very hope for which the world gropes in its awakening. Let us not hide that light under a bushel, for it is a light unto the gentiles and a lamp unto the world.

SENATE

FRIDAY, APRIL 24, 1959

The Senate met at 10 o'clock a.m.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

God our Father, amid all life's changing scenes make us conscious of Thy overshadowing presence.

We thank Thee for the unquenchable impulse toward Thee Thou hast planted within us.

Open our eyes to see Thee, not just out on the rim of the universe on some distant star, but in the human love which hallows our own lives and sanctifies our homes—love which at its best bears witness to Thee and which alone is the balm able to cure the hurt of the world.

May our lives, freed of pettiness and prejudice, and radiant with good will which leaps all barriers, be open channels through which Thy saving grace may flow for the healing of the nations.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 23, 1959, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Ratchford, one of his secretaries.

REPORT OF ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Public Works:

To the Congress of the United States:

Pursuant to the provisions of section 10 of Public Law 358, 83d Congress, I transmit herewith for the information of the Congress the report of the St. Lawrence Seaway Development Corporation, covering its activities for the year ended December 31, 1958.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *April 24, 1959.*

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. JOHNSON of Texas, and by unanimous consent, the following committee and subcommittees were authorized to meet during the session of the Senate today:

The Committee on Finance;

The Antitrust and Monopoly Legislation Subcommittee of the Committee on the Judiciary;

The Subcommittee on Governmental Organization for Space Activities of the Committee on Aeronautical and Space Sciences; and

The Civil Subcommittee of the Committee on Post Office and Civil Service.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

CIVIL WAR CENTENNIAL COMMISSION

The PRESIDENT pro tempore. The Chair has been requested by the Vice President to announce the appointment by him, pursuant to 71 Stat. 626, of the Senator from Pennsylvania [Mr. SCOTT] as a member on the part of the Senate of the Civil War Centennial Commission, vice the Senator from Kentucky [Mr. MORTON] resigned.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. JOHNSON of Texas. Mr. President, under the rule, there will be the usual morning hour for the transaction of routine business; and I ask unanimous consent that statements in connection therewith be limited to 3 minutes.

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

STATUS OF PERMANENT RESIDENCE FOR A CERTAIN ALIEN

The PRESIDENT pro tempore laid before the Senate a letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a copy of the order granting the application for permanent residence filed by Jerzy Kudrawcew alias Piotr Wedrogowski, together with a statement of the facts and pertinent provisions of law as to the subject, and the reason for granting such application, which, with the accompanying papers, was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENGLE, from the Committee on Interstate and Foreign Commerce, with amendments:

S. 1368. A bill to amend sections 503(a)(2) and 504 of the Federal Aviation Act of 1958 to facilitate financing of new jet and turboprop aircraft (Rept. No. 221).

AMENDMENT OF RAILROAD RETIREMENT, RAILROAD RETIREMENT TAX, AND RAILROAD UNEMPLOYMENT INSURANCE ACTS—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS

Mr. MORSE. Mr. President, from the Committee on Labor and Public Welfare, I report favorably, with amendments, the bill (S. 226) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, and I submit a report (No. 222) thereon. I ask unanimous consent that the report may be printed, together with the individual views of the Senator from Illinois [Mr. DIRKSEN].

The PRESIDENT pro tempore. The report will be received and printed, as requested by the Senator from Oregon, and the bill will be placed on the calendar.

REPORT ENTITLED "NATIONAL PENITENTIARIES" (S. REPT. NO. 220)

Mr. ERVIN. Mr. President, on behalf of the Senator from Missouri [Mr. HENNINGS], pursuant to Senate Resolution 230, 85th Congress, 2d session, as extended, from the Committee on the Judiciary, I submit a report entitled "National Penitentiaries." I ask that the report be printed.

The PRESIDENT pro tempore. The report will be received and printed, as requested by the Senator from North Carolina.

BILLS INTRODUCED

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

By Mr. LAUSCHE:

S. 1788. A bill for the relief of Calliope Kastelloriou; to the Committee on the Judiciary.

By Mr. MAGNUSON (for himself, Mr. ALLOTT, Mr. BARTLETT, Mr. CARROLL, Mr. CURTIS, Mr. CHURCH, Mr. HRUSKA, Mr. HUMPHREY, Mr. JACKSON, Mr. KERR, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MONRONEY, Mr. MORSE, Mr. MOSS, Mr. MURRAY, Mr. NEUBERGER, and Mr. SCHOEPPEL):

S. 1789. A bill to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes; to the Committee on Interstate and Foreign Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bill, which appear under a separate heading.)

By Mr. MCNAMARA:

S. 1790. A bill for the relief of Luca Nikolich; and

S. 1791. A bill for the relief of Helen Haroian; to the Committee on the Judiciary.

By Mr. HAYDEN.

S. 1792. A bill for the relief of Lilia Alvarez Szabo; to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself and Mr. BYRD of West Virginia):

S. 1793. A bill granting the consent and approval of Congress to the States of West Virginia and Virginia to enter into a compact with respect to the boundary between such States; to the Committee on the Judiciary.

By Mr. BRIDGES:

S. 1794. A bill for the relief of the survivor of Charles E. Alden; to the Committee on Post Office and Civil Service.

AMENDMENT OF INTERSTATE COMMERCE ACT, RELATING TO ADEQUACY OF NATIONAL RAILROAD FREIGHT CAR SUPPLY

Mr. MAGNUSON. Mr. President, on behalf of myself, and Senators ALLOTT, BARTLETT, CARROLL, CURTIS, CHURCH, HRUSKA, HUMPHREY, JACKSON, KERR, MANSFIELD, MCCARTHY, MCGEE, MONRONEY, MORSE, MOSS, MURRAY, NEUBERGER, and SCHOEPPEL, I introduce, for appropriate reference, a bill to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes.

Mr. President, over the years, the freight car supply of the railroads has decreased substantially. Although the freight car shortage has not assumed its usual proportions in recent years because of the lack of traffic, there are now definite prospects for improvement in business. If the increased economic activity continues, there will be a freight car shortage in the summer and fall of 1959.

The railroads need to build additional freight cars to serve the shippers of the country. A per diem charge is the amount the owning railroad receives for a car when on the tracks of another railroad. Under the present law, the Interstate Commerce Commission, in establishing this per diem rate, can only cover the bare cost of ownership. No element of profit can be included. Thus the ICC cannot increase the per diem rates to encourage the building of additional cars or the speedy return of cars to owning railroads. Because of this provision in the law, it is often cheaper to use the freight cars of another railroad and pay the per diem for cars than to build freight cars.

The bill which I am introducing would allow the Interstate Commerce Commission to fix compensation for the use of freight cars that would encourage an adequate freight car supply and sound car service practices by including a fair return on the value of the equipment. Enactment of this bill would go a long way toward insuring the building of more freight cars and the returning of freight cars to owning railroads, thereby lessening the car shortage which plagues the shippers of the country.

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

The bill (S. 1789) to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes, introduced by Mr. MAGNUSON (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

MUTUAL SECURITY ACT OF 1959—AMENDMENTS

Mr. FULBRIGHT. Mr. President, on behalf of myself, the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Massachusetts [Mr. KENNEDY], I submit, for appropriate reference, several amendments to Senate bill 1451, the proposed Mutual Security Act of 1959. I ask unanimous consent that these amendments be printed and lie on the table for 1 week in order that other Senators may join me in their introduction.

The PRESIDENT pro tempore. The amendments will be received, appropriately referred, printed, and will lie on the desk, as requested by the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I also ask unanimous consent that the amendments be printed in the RECORD at the conclusion of my remarks.

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

Mr. FULBRIGHT. Mr. President, many of us who have long been supporters of the mutual security program also have been critical of some of the policies governing that program. Some of us wrote to the President of the

United States after the conclusion of the last session of the Congress and asked that a reappraisal of the program be made, along certain lines which we suggested, prior to the submission to the Congress of the fiscal year 1960 mutual security program. My colleagues and I have been concerned that military considerations have played too great a part in the formulation of the program. This is not of course necessarily to say that the amounts requested for military assistance are too large, because modern weapons are very expensive. It is rather that the philosophy of the program is founded too much, we think, on the idea that the danger to the United States today is largely a military one, and that the threat from communism is largely a military threat. Many of us feel that in many parts of the world the most serious danger from communism cannot be met through military means. We are also of the opinion that there are serious problems for the United States arising from the economic and social revolutions in Asia and Africa which arise irrespective of communism and that there is a need today for a more adequate response on the part of the United States.

The President appointed a Committee headed by Mr. Draper to look into the questions raised by my colleagues on the Committee on Foreign Relations. The President, however, delayed doing so and he has approved the fiscal year 1960 program which was formulated without the benefit of the advice of the Draper Committee. I do not find in the fiscal year 1960 mutual security program, or in the changes in the legislation which the President suggested any substantial indication that the direction of the program is to be altered.

In the absence of leadership on the part of the President, those of us in the Congress must do the best we can to fashion the mutual security program to meet today's needs. This is the purpose of the amendments which I have introduced. These amendments deal with only part of the need for changes. I do not pretend that I have dealt with all the problems. I am sure that other Senators will suggest other amendments to cure other ills.

The first amendment is an attempt to clarify the purpose of the mutual security program. The tone of the existing policy language in the Mutual Security Act of 1954 is entirely too military in nature. Other important U.S. objectives have thereby suffered. My amendment retains the existing statement of purpose in the act but would add additional policy guidance which would place our economic and technical assistance in a more appropriate context.

Mr. President, the second amendment which I submitted deals with the important subject of the military force goals which the United States helps other nations to work toward. As those of us who are familiar with the program know, once these military force goals are fixed, a great many political and economic consequences follow. Pakistan, is an example of a country which, in the opinion of many, has been burdened with a military effort so great that its economic development has been retarded and its relations with its neighbors poisoned. My amendment is designed to inject political and economic analysis more adequately into the process of fixing the military force goals.

My third amendment would provide a more adequate basis for financing the Development Loan Fund. This amendment is not really new. The language is the same except for different figures as that which the administration submitted and which the Senate adopted 2 years ago. It proposes that the Development Loan Fund be financed on a banking basis like the Export-Import Bank and the International Bank for Reconstruction and Development. My amendment would add capital to the Fund over a period of 5 years at the rate of $1.5 billion each year. These are large sums, Mr. President, but the need is very great. India alone can absorb $1 billion a year in outside capital.

The need for capital for economic development in Asia and Africa and Latin America can be measured in various ways, but the need cannot be measured accurately. I should point out that capital investment is already proceeding to these areas. I ask unanimous consent that I may insert in the RECORD at this point in my remarks a table showing the flow of investment capital from foreign sources to less-developed countries in the year 1957. These sources, including U.S. private and public investment, totaled $3.8 billion for the year 1957.

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

Estimated investment capital from foreign sources provided to less developed countries in 1957[1]

[In billions of dollars]

	Total	Latin America	South Asia	Near East	Far East	Africa
U.S. private capital [2]	1.7	1.5		0.1		0.1
Export-Import Bank [3]	.3	.2			0.1	
ICA investment grants and loans [4]	.4		0.1	.1	.2	
IBRD [5]	.3	.1	.1	.1		
United Kingdom private capital [6]	.2		.1		.1	
French private capital [6]	.1					.1
Other governments and international organizations [7]	.8		.1		.1	.6
Total	3.8	1.8	.4	.3	.5	.8

[1] On an actual expenditure basis.
[2] "Survey of Current Business," Department of Commerce.
[3] "Foreign Grants and Credits," Department of Commerce.
[4] Derived from fiscal year 1958 data in June 30, 1958, ICA operations report.
[5] From "International Financial Statistics," International Monetary Fund.
[6] Derived from "Financing Economic Development. The International Flow of Private Capital, 1956," report by the Secretary-General, ECOSOC.
[7] From various tables in "Economic Development of Underdeveloped Countries, International Economic Assistance to the Underdeveloped Countries, 1956–57," report by the Secretary-General, ECOSOC.

Mr. FULBRIGHT. Mr. President, the process of estimating the need for development capital must take into account, of course, the ability of underdeveloped countries to effectively absorb such capital investment, and one must decide what kind of rate of growth of per capita income it is feasible or necessary to try to achieve. I have here a summary of an attempt by economists at the Massachusetts Institute of Technology to estimate the additional—that is, beyond what is now being invested—amounts of foreign capital which could be productively absorbed annually by underdeveloped countries. This analysis concludes that the maximum annual additional foreign capital which could be productively absorbed would be $3.5 billion. Mr. President, I ask unanimous consent to insert in the RECORD a summary of this analysis at this point in my remarks.

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

SUMMARY OF ESTIMATE BY MILLIKAN & ROSTOW OF ADDITIVE CAPITAL REQUIREMENTS OF LESS DEVELOPED AREAS AND POSSIBLE SOURCES [1]

1. "An examination of existing national programs" leads the authors to the conclusion that "the average maximum expansion in the [annual] level of capital formation that can be achieved by countries in the early stages of development is 30 to 50 percent in the first 3 or 4 years after planning for such expansion is initiated" (p. 96).

2. On this basis, and considering that some countries can now absorb more capital than others, "the amounts of foreign capital that could productively be absorbed by the underdeveloped countries," are estimated as follows (pp. 98–99):

[Billions of dollars per year]

India, Pakistan, Ceylon	0.8–1.0
Balance of non-Communist Asia (excluding Japan)	.4– .6
Middle East (excluding Pakistan but including Egypt)	.3– .5
Latin America	.8–1.0
Africa (excluding Egypt and Union of South Africa)	.2– .4
Total	2.5–3.5

3. "These levels of capital formation should produce rates of growth of per capita incomes of at least 1 or 2 percent per year" (p. 100).

4. "The maximum figure of $3.5 billion refers to the total annual additional foreign capital inflow into the underdeveloped area from all sources" (p. 103).

5. "The supply of the maximum annual figure of $3.5 billion might break down by source as follows (p. 106):

[In millions of dollars]

"Grants:	
U.S. contribution	360
Other country	240
Direct private investment	500
Additional IBRD loans	400
Public loans:	
U.S. contribution	1,700
Other country	300
Total	3,500"

Mr. FULBRIGHT. Mr. President, a number of estimates of foreign capital needs of the underdeveloped countries

[1] From "A Proposal," Harpers, New York, 1957.

have been prepared and made public recently. I refer to reports by the Committee for Economic Development, CED—"Economic Development Assistance"; MIT study for the Senate Special Committee To Study the Foreign Aid Program, January 1957; the International Development Advisory Board—Johnston report—"A New Emphasis on Economic Development Abroad," March 1957; the University of Chicago Study for the Senate Special Committee To Study the Foreign Aid Program, March 1957; "A Proposal: Key to an Effective Foreign Policy," by Max F. Millikan and Water W. Rostow; and National Planning Association, NPA—"A New Approach to Foreign Economic Assistance," April 1957.

These reports seem to agree that the need for capital flow into underdeveloped areas from all sources over and above present rates of investment fall in the range from $2 billion to $5 billion annually. Of this total, the amount that would be needed from United States public sources is variously estimated at from $1 billion to $2 billion. Mr. President, I aks unanimous consent that I may at this point in my remarks insert in the RECORD the summary of these reports which have estimated future assistance requirements from the U.S. Government to underdeveloped areas.

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

THE AMOUNT OF U.S. ASSISTANCE REQUIRED BY UNDERDEVELOPED AREAS

A number of estimates of the foreign capital needs of the underdeveloped areas have been offered in public reports over the past 2 years. These approximations have been based not only on the desirability of assisting in needed economic growth but also on a judgment as to the capacity of the less developed areas to absorb new capital.

Drawing upon the findings of the various reports which are cited below, the need for additional foreign capital inflow into the underdeveloped areas from all sources appears to fall in the range of from $2 billion to $5 billion annually. Of this total, the amount that would be needed from U.S. public sources is variously estimated at from $1 billion to $2 billion. In those reports which make no quantitative calculation, such as the report by the special studies project of the Rockefeller Brothers Fund, the conclusions called for substantial increases above the present level of appropriations.

A summary of the reports which estimated future assistance requirements follows:

1. The Committee for Economic Development (CED—"Economic Development Assistance"): In a policy report of April 1957, this business group suggested that an outlay of $1 billion a year for the next 5 years in addition to current U.S. economic assistance programs would be a "desirable and necessary investment."

"A program for additional economic aid expenditures averaging $1 billion a year," the CED continued, "would bring our total economic assistance to underdeveloped countries to some $2¼ billion a year." The CED envisaged that the outlay would be considerably less in the first years of the enlarged program. They concluded with the statement that "such an additional outlay for development assistance would deserve priority over many items now contained in or proposed for the budget."

2. MIT Study for the Senate Special Committee to Study the Foreign Aid Program, January 1957: The MIT study estimated that the underdeveloped countries require and could absorb between $2.5 and $3.5 billion of additional funds from all sources. (Page 2) They made no estimate of the amount which would be required from U.S. sources but it can be inferred that this would be of the order of $1 billion to $2 billion per year above the level of the present U.S. aid program.

3. The International Development Advisory Board (Johnston report)—"A New Emphasis on Economic Development Abroad," March 1957: In its report to the President, the Johnston Board said: "We believe that the size of the present development program * * * should be substantially increased" (p. 9). The Board placed the current rate of development aid (excluding technical assistance) at between $400 million and a billion dollars per year.

4. The University of Chicago Study for the Senate Special Committee To Study the Foreign Aid Program, March 1957: The University of Chicago study estimated that economic aid to Asia, the Near East, and Africa from all public sources should be a minimum of $2 billion per year at the outset and might eventually rise to a minimum of $5 billion per year before beginning to decline. (The Chicago study did not estimate the share to be supplied by the United States, although it is certainly at least half of the total.)

5. "A Proposal-Key to an Effective Foreign Policy," by Max F. Millikan and Water W. Rostow: The Millikan-Rostow book estimates that over the next 5 years a maximum annual figure of $3.5 billion, from all foreign sources, is required by the underdeveloped areas for successful economic growth. Out of this total, it is estimated that the United States share would come to a maximum of $2 billion per year.

Because of the problem involved in using so large a volume of foreign capital, Millikan and Rostow go on to estimate that actual demands for U.S. aid will more probably run at about $1.2 billion a year, if sound criteria for efficient use were applied.

6. National Planning Association (NPA)—"A New Approach to Foreign Economic Assistance," April 1957: The NPA statement concluded that the optimum level of aid which could be extended to underdeveloped countries now substantially exceeds that currently available amount of U.S. aid funds. Hence to insure their maximum effectiveness, the size of our economic aid program should be increased. The NPA Committee went on to suggest that a foreign aid corporation should be established with an original capital fund of not less than $1 billion and additional capital obtained as required.

Mr. FULBRIGHT. Mr. President, the administration is asking $700 million for the fiscal year 1960 for the Development Loan Fund. There are, however, on record the opinions by certain top administration officials which put the need for funds higher than that. I am not telling any secrets when I say that the Department of State lost out in this discussion for budgetary reasons. I have here statements by the then Acting Secretary of State Herter and by Undersecretary of State Dillon which indicate that the Department of State thought that the President should ask for $1 billion for the Development Loan Fund for next year. Mr. President, I ask unanimous consent that I may insert two brief statements by Mr. Herter and Mr. Dillon in the RECORD at this point.

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

On November 13, 1958, Acting Secretary of State Christian A. Herter told the International Cooperation Workshop in Washington, D.C.:

"Among the five specific measures proposed by the President at Seattle, I should like to place some special emphasis on the Development Loan Fund.

"This Fund is a major instrument in our effort to assist the less developed nations to carry forward their own plans for progress. It is important to realize that the Development Loan Fund will be substantially out of funds available for new commitments by January 1, 1959. Yet it will have a backlog of over $1.5 billion of applications for loans to help on important projects in many countries. If the Development Loan Fund is to be an effective instrument for peaceful development, it must have resources for substantial increased activity on the order of $1 billion a year. It must also have continuity over a period of years.

"Only under such circumstances can the wastefulness of inadequate planning be avoided."

On November 7, 1958, Under Secretary Dillon, addressing the World Affairs Council of Northern California at San Francisco, said:

"In my view a most serious threat of all is the Soviet economic offensive. * * * I believe that we must place our chief reliance in meeting the Soviet challenge on the mobilization of our economic and technical resources, both public and private, to help raise the living standards of the less privileged nations of the world. * * *

"During the past 12 months, our country's responses to their needs has taken many forms. Perhaps the most striking is the Development Loan Fund, which has added a whole new dimension to foreign loan program. The fund, which began operation early this year, represents a new hope for the underdeveloped countries. * * *

"At the present rate of operations the fund will have committed all of its available resources within a few months which means an annual rate of operations of about $700 million. I believe that we should contemplate a still higher level of lending from the Development Loan Fund, something on the order of $1 billion a year."

Mr. FULBRIGHT. Mr. President, I offer these brief supporting data to show that the figure of $1.5 billion each for 5 years for the Development Loan Fund, contained in my amendment, has a firm basis in economic analysis.

My fourth amendment is designed to provide the President with greater power to counteract the economic offensive of the Communist countries by increasing his authority to transfer military assistance funds to economic purposes. My amendment would give the President the ability to transfer 30 percent rather than 10 percent of military aid funds to nonmilitary uses. The amendment would be permissive; the President could take advantage of it or not as he sees fit. Another reason for this amendment is the possibility that the full report of the Draper committee to the President may reflect a somewhat deeper penetration into the policy issues of the mutual security program. If that happens the President may need increased authority to transfer funds.

Mr. President, the fifth amendment which I am submitting today would

clarify the authority of the chief of U.S. diplomatic missions to provide a political and economic judgment of military recommendations sent to Washington by the senior military representatives of the United States in the country. The amendment is designed to give the Ambassador greater control over the recommendations for military aid originating from his so-called country team.

Mr. President, I do not believe that these amendments are the last word. As I said before, other problems remain untouched and I expect that other Senators will have worthwhile ideas on what to do about them. I offer these amendments early, well before the Committee on Foreign Relations begins its hearings on the mutual security program, in order that the committee may have the benefit of comments on them by my colleagues, by the executive branch, and by members of the public. If any other Senators desire to sponsor these amendments with me I shall welcome such support.

The amendments submitted by Mr. FULBRIGHT were referred to the Committee on Foreign Relations, as follows:

Amendments intended to be proposed by Mr. FULBRIGHT (for himself, Mr. HUMPHREY, and Mr. KENNEDY) to the bill (S. 1451) to amend further the Mutual Security Act of 1954, as amended, and for other purposes.

1. In order to clarify the purposes today of the mutual security program; on page 1, after line 4 insert:

"SEC. 2. Section 2 of the Mutual Security Act of 1954, as amended, which is a statement of policy, is amended to read as follows:

"'SEC. 2. STATEMENT OF POLICY.—(a) Through programs of assistance authorized by this Act and its predecessors, the United States has helped thwart Communist intimidation of Greece and Turkey, helped Europe recover from the wounds of World War II, supported defensive military preparations by nations alerted by Communist aggression in Korea, and has soundly begun to help peoples of economically underdeveloped areas to develop their resources and improve their living standards.

"'(b) Programs authorized by this Act continue to serve the following principal purposes:

"'(1) the Congress of the United States perceives the identity of interest which exists between the people of the United States and the peoples of other lands who are striving to free themselves from foreign interference, to obtain or strengthen their national independence, to produce more goods and services and improve ways of living by methods which reflect popular will, and to establish responsible governments which cooperate with like-minded governments. The Congress declares it to be a primary objective and need of the United States to share these strivings by giving generously of our knowledge and substance to peoples willing to work energetically toward these ends. Programs authorized by titles II, III, and IV of chapter II and chapter III shall be primarily directed toward the purpose of this paragraph.

"'(2) The Congress of the United States recognizing that the peace of the world and the security of the United States are endangered as long as international communism and the nations it controls continue by threat of military action, use of economic pressure, internal subversion, or other means to attempt to bring under their domination peoples now free and independent and continue to deny the rights of freedom and self-government of peoples and nations once free but now subject to such domination, declares it to be the policy of the United States to continue as long as such danger to the peace of the world and to the security of the United States persists to make available to free nations and peoples upon request assistance of such nature and in such amounts as the United States deems advisable compatible with its own stability, strength, and other obligations, and as may be needed and effectively used by such free nations and peoples to help them maintain their freedom. Programs authorized by chapter I and title I of chapter II shall be primarily directed toward the purpose of this paragraph.

"'(b) It is the sense of the Congress that inasmuch as—

"'(1) the United States, through mutual security programs, has made substantial contributions to the economic recovery and rehabilitation of the nations of Western Europe;

"'(2) due in part to those programs, it has been possible for such nations to achieve complete economic recovery and to regain their military strength; and

"'(3) certain other friendly nations of the world remain in need of assistance in order that they may defend themselves against aggression and contribute to the security of the free world,

those nations that have been assisted in their recovery should, in the future, share with the United States to a greater extent the financial burden of providing aid to those countries which are still in need of assistance of the type provided under this Act.

"'(c) It is the sense of the Congress that assistance under this Act shall be administered so as to assist other peoples in their efforts to achieve self-government or independence under circumstances which will enable them to assume an equal station among the free nations of the world and to fulfill their responsibilities for self-government or independence.'"

2. In order to prevent the burdens of military effort from interfering unduly with economic progress by underdeveloped countries, on page 1, after line 10, insert:

"SEC. 102. Section 105(b) of the Mutual Security Act of 1954, as amended, which relates to conditions applicable to military assistance, is amended by adding the following new paragraph:

"'(5) Military assistance to countries found by the Secretary of State to be underdeveloped shall, unless the Secretary authorizes an exception, be programed, and force goals shall be recommended, according to the principle that economic development needs shall have first call on the resources of such countries.'"

3. To provide for financing the Development Loan Fund in the same manner as other public banking institutions, such as the Export-Import Bank, and in order to emphasize the long-term nature of the United States effort to help less-developed countries; on page 2, strike out lines 11 through 17 and insert the following:

"(a) In section 203, which relates to capitalization, insert before the period at the end of the second sentence of subsection (a) ', and for advances to the Fund beginning in the fiscal year 1960, not to exceed $700 million. In addition, the Secretary of the Treasury is authorized and directed to make, beginning in the fiscal year 1960, loans to the Fund in amounts needed to cover obligations incurred against the Fund. Except as provided in section 204(b) of this Act, the maximum amount of obligations incurred against the Fund during each of the fiscal years 1960 through 1964 shall be $1,500,000,000; and any unused portion of the maximum applicable to any period shall be added to the maximum applicable to the succeeding period.' and insert a new subsection:

"'(b) For purposes of the loans provided for in this section, the Secretary of the Treasury is authorized to use the proceeds of the sale of any securities issued under the Second Liberty Bond Act as now in force or as hereafter amended, and the purposes for which securities may be issued under the Second Liberty Bond Act are hereby extended to include this purpose. The President shall determine the terms and conditions of any advances or loans made to the Fund pursuant to this section.'

"(b) In section 204(b), which relates to fiscal provisions, after the first sentence insert:

"'The amount of such obligations also may not exceed the limitations specified in section 203(a) of this Act except that, to the extent that assets of the Fund other than capitalization provided pursuant to section 203(a) are available, obligations may be incurred beyond such limitations.'"

4. In order to provide the President with greater power to counteract the economic offensive of the Communist bloc by increasing his authority to shift military aid funds to economic purposes, on page 7 after line 13 insert:

"(a) In section 501, which relates to transferability of funds, designate the present tax as '(a)' and add the following new subsection:

"'(b) In view of the rapidly increasing danger to the independence of friendly countries which is presented by the trade and assistance programs of international communism, and not withstanding subsection (a) of this section and the fourth sentence of section 202(b), the President is authorized to transfer to and consolidate with funds made available for nonmilitary use under titles II, III, and IV of chapter II up to 30 per centum of the funds made available for military use under Chapter I'".

5. To better insure that economic and political considerations shall be weighed with military considerations in fixing force goals to be supported by military assistance and in determining end-item requirements; on page 8, after line 18 insert:

"(c) In section 523(b), which relates to coordination with foreign policy, add the following new sentence:

"'The Chief of the Diplomatic Mission shall make sure that recommendations of such representatives pertaining to military assistance are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires'".

EQUITABLE REIMBURSEMENT TO STATES FOR CERTAIN FREE AND TOLL ROADS—ADDITIONAL COSPONSORS OF BILL

Under authority of the order of the Senate of April 17, 1959, the names of Senators LAUSCHE, KERR, and KEATING were added as additional cosponsors of the bill (S. 1714) to authorize appropriations for the Federal-aid primary system of highways for the purpose of equitably reimbursing the States for certain free and toll roads on the National System of Interstate and Defense Highways, and for other purposes, introduced by Mr. BUSH on April 17, 1959.

THE DEVELOPMENT OF INTERNATIONAL EDUCATIONAL PROGRAMS OUTSIDE CONTINENTAL UNITED STATES—ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTION

Under authority of the order of the Senate of April 20, 1959, the names of

Senators SYMINGTON, ENGLE, and BIBLE were added as additional cosponsors of the concurrent resolution (S. Con. Res. 24) encouraging the development outside the continental United States of international educational programs, submitted by Mr. MCGEE (for himself and other Senators) on April 20, 1959.

APPOINTMENT OF MEMBERS OF SELECT COMMITTEE ON NATIONAL WATER RESOURCES

Mr. MURRAY. Mr. President, under the authority of Senate Resolution 48, I announce the following appointments to the Select Committee on National Water Resources from the Committee on Interior and Insular Affairs: The Senator from New Mexico [Mr. ANDERSON], the Senator from Washington [Mr. JACKSON], and the Senator from California [Mr. KUCHEL].

Mr. MAGNUSON. Mr. President, I announce the following appointments to the Select Committee on National Water Resources, from the Committee on Interstate and Foreign Commerce, under authority of Senate Resolution 48: The Senator from Washington [Mr. MAGNUSON], the Senator from California [Mr. ENGLE], and the Senator from Kansas [Mr. SCHOEPPEL].

Mr. HOLLAND. Mr. President, I have been requested by the Senator from Louisiana [Mr. ELLENDER], chairman of the Committee on Agriculture and Forestry, to announce that the following Senators of that committee have been appointed as members of the Select Committee on National Water Resources, pursuant to Senate Resolution 48: The Senator from Louisiana [Mr. ELLENDER], the Senator from Michigan [Mr. HART], and the Senator from North Dakota [Mr. YOUNG].

Mr. CHAVEZ. Mr. President, on April 20, 1959, the Senate approved Senate Resolution 48, which authorized the formation of a committee designated as "The Senate Select Committee on National Water Resources." The resolution, among other provisions, authorizes the chairman of each of the committees on Interior and Insular Affairs, Public Works, Interstate and Foreign Commerce, and Agriculture and Forestry to designate three members from the respective committees to serve on the select committee. In accordance with this provision I wish to announce that I have selected the Senator from Oklahoma [Mr. KERR], the Senator from South Dakota [Mr. CASE], and myself to serve on the select committee as representatives from the Committee on Public Works.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. ROBERTSON:

Address to be delivered by him at Tullidge Clinic dedication, Ararat, Va., April 25, 1959.

By Mr. DODD:

Letters written by him to the Director of the United States Information Agency and editorial comment, including at the Moscow Fair a U.S. exhibit on the role of religion in American life.

By Mr. BYRD of Virginia:

A speech delivered by Senator ROBERTSON at the annual meeting of the Tidewater Group of Building, Savings and Loan Associations at Norfolk, Va., on April 22, 1959.

TIBET IS A VAST PRISON

Mr. BRIDGES. Mr. President, I hold in my hand an article entitled "Report From Refugees—Tibet Is a Vast Prison." The article bears a dateline of April 22. It was published in the Washington Daily News on that date, and comes from their United Press correspondent who wrote from the scene.

I now read the article:

REPORT FROM REFUGEES—TIBET IS A VAST PRISON

(By M. M. Gupta)

KATMANDU, NEPAL, April 22.—Communist Chinese troops have turned Tibet into a vast prison with thousands of Tibetans being whipped each day in the streets and Buddhist nuns sent to army camps for the pleasure of the troops, refugees fleeing to Nepal reported today.

They said nearly 2,500 Tibetan monasteries were damaged or destroyed by Communist artillery in the past month and nearly 8,000 monks killed, 12,000 arrested and about 800,000 lamas forced to flee homeless and hungry into the mountains.

This correspondent traveled through the snow-covered 17,000-foot mountain passes to reach the border of Tibet and interview the refugees. At the Nepal-Tibet border a few miles north of the village of Tarke, I met some refugees who said some of 30 well-armed Chinese divisions in Tibet were led by the Russians.

One English-speaking Tibetan named Thote, a 27-year-old graduate of Peiping University, said the Chinese killed 165 members of his clan in the village of Ghetumba in Kham Province. He said he saw his father machinegunned for refusing to betray other Tibetan patriots.

Thote said that during his flight to Nepal he has passed through 65 villages that had been known as good trading centers and that every one was destroyed by the Communists with not a sign of life visible anywhere.

"Every Tibetan was a prisoner," he said. "The whole country was turned into a vast prison. Dusk-to-dawn curfews were imposed all over Tibet and did not allow normal living.

TORTURE

"Thousands of peaceful, innocent Tibetans were being whipped daily in open places in the course of questioning and inhumane methods were being applied for confession. Mostly the people preferred to confess as desired by the Chinese than stand tortures any longer.

"Markets are closed; essential consumer goods have disappeared; trade is finished, resulting in numberless deaths inside houses from artificial starvation caused by the Chinese. Any mention of devotion to the Dalai Lama was a serious crime and people were being forced to show their entire devotion to the Panchen Lama.

"Large numbers of nuns, who locally are called 'ennis,' have been forced to live in army camps at the pleasure of the Chinese. Several nuns reportedly committed suicide to escape Chinese brutalities," he said.

HUNGER

Lithon, another refugee, said 20,000 Chinese troops were searching each house and every person in search of offenders along the southwestern border of Tibet and that most of the people had fled to the barren plateaus and now were dying of hunger and cold.

"The Chinese have confiscated every ounce of corn available in the area and have scorch-earthed all the standing crops in the field, turning the entire vegetation into ashes," he said.

Despite this campaign of terror, the refugees said the Tibetans still were continuing their fight against the Communists, and showing open defiance of their Red rulers.

Mr. President, this situation is most shocking. It is one more glaring piece of evidence of what the Chinese Communists really are. I should think that, after this, those who have been advocating recognition of Red China would hang their heads in shame.

Mr. President——

The PRESIDENT pro tempore. The Senator from New Hampshire.

PRESERVATION OF BATTLE ACT

Mr. BRIDGES. Mr. President, there has been introduced by my colleagues, the Senator from Vermont [Mr. AIKEN] and the Senator from Massachusetts [Mr. KENNEDY], Senate bill 1697, to amend the Mutual Defense Assistance Control Act of 1951, and which would undercut seriously the provisions of that act. I believe strongly that the so-called Battle Act has proved the test of time, and has admirably served in the preservation of our national integrity.

One short year ago I fought shoulder to shoulder with our former colleague, Bill Knowland, to preserve the integrity of the Battle Act by defeating the so-called Kennedy amendment to the Mutual Security Authorization Act, which attempted to accomplish what S. 1697 now seeks to accomplish.

It is not my purpose at this time to debate the merits of the bill; but, in view of the fact that it has been introduced, I should like to ask unanimous consent to have printed in the body of the RECORD an editorial from the Oakland Tribune, written by our former colleague, in regard to this matter.

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

[From the Oakland (Calif.) Tribune, Apr. 16, 1959]

FINANCING COMMUNISTS

For some years a sturdy piece of legislation known as the Battle Act has stood against those who would scatter the U.S. taxpayers' dollars around the world with indiscriminate judgment in promotion of their role of global do-gooders.

Now a new attack has been made upon that barrier which was designed to prevent the funneling of any large share of the American economy into any country that classes our economic system as an enemy to be overcome.

Under a bill offered by Senator JOHN KENNEDY and Senator GEORGE D. AIKEN, American economic aid could be sent into Communist satellite countries as a wedge to pry loose Moscow control.

The Battle Act, which specifically forbids aid to any nation controlled or dominated by Communists unless there is a Presidential decision that such aid is merited and can be beneficial to the United States, would

be practically destroyed by the Kennedy-Aiken measure.

A similar attempt was defeated in the Senate last year by the slim margin of 43 to 42.

The best argument Senator KENNEDY could bring up in introducing the second attempt Tuesday was that "there is a real opportunity for giving our foreign policy a flexibility which might exploit cracks in the Iron Curtain."

That is as flimsy as it is unrealistic. Hungary stands as an outstanding example of what comes when the people of any satellite state shows opposition to Moscow. Poland is an example of a satellite state that has received U.S. assistance, showing in return only a still closer subjugation to Moscow.

And what have we received in return for the hundreds of millions of dollars sent to Yugoslavia? There has been no evidence of a desire to aline foreign policy with that of the West. There has been no departure from communism. There has been nothing at all from Marshal Tito that serves the interests of the United States.

It is particularly unwise at this time to earmark our dollars for any Communist country. Rather than contribute to the economy of any Red state, now is the time to draw tighter, not loosen, the Treasury purse strings.

HARMFUL FALLOUT FROM NUCLEAR EXPERIMENTATION

Mr. BRIDGES. Mr. President, on March 29, 1959, I called to the attention of the American people a program which I advocated for the minimization of harmful fallout from nuclear experimentation. At that time I think I stood practically alone in advocating my views. I realize full well, as ranking minority member of the Armed Services Committee, the Aeronautical and Space Sciences Committee, and the Appropriations Committee, that nuclear experimentation must continue, but with my abiding regard for human life, I feel it should be conducted in a way to minimize harmful effects. It was in that regard that I made my statement of March 29. I am happy that that view has now become the administrative official position, and I hope that my proposals can be worked out at the coming Geneva conference.

Mr. President——

The PRESIDENT pro tempore. The Senator from New Hampshire.

POLISH CONSTITUTION DAY

Mr. BRIDGES. Mr. President, on May 3, 168 years ago, one of the most remarkable documents known to Western civilization was enacted—the first Polish constitution.

Our own U.S. Constitution was only 2 years old at that time. Like our charter of freedom, the Polish constitution proclaimed the principles of religious toleration, the secret ballot, and freedom of thought, and in other respects it is somewhat comparable to the Constitution of the United States.

Polish people everywhere, people of Polish descent, friends of Poland, will mark this day as a never-to-be-forgotten milestone in the quest for freedom.

There is nothing Communist tyrants can do to destroy that milestone.

Like the spirit of freedom itself, the Polish constitution endures.

From time to time, we can even see the spirit of Polish freedom through the Iron Curtain.

We can see how heavy is the Communist yoke.

In February of this year, for instance, the U.S. Embassy in Warsaw was packed for a week by Poles on the strength of a false rumor that the United States was seeking Polish workers to go to Alaska and other States. The rumor started and took hold in a farming district in eastern Poland near the Soviet border. More than 1,000 people answered the false rumor that freedom in America was available.

A few months previously, another rumor started. This one was that parts of eastern Poland would be taken by the Soviet Union. That rumor started such a wave of despondency that the Polish radio had to devote special broadcasts to fight it.

The contrast in reactions to these two rumors needs no underlining. It is a tragic condemnation of international communism that a nation with Poland's heritage must endure Soviet domination.

Poland's cause is our cause, and we can never sacrifice her noble people to permanent slavery behind the Iron Curtain.

Let us remember that great Polish patriots such as General Pulaski joined our own patriots in fighting for American liberty.

Let us remember that Poland gave to the world men of arts such as Chopin and Paderewski, who later became Premier of his native country.

Let us remember that Poland gave to the world the great astronomer, Copernicus.

There is no field of human endeavor that does not find Poland in the forefront, despite her tragic history of division and redivision.

Let us pray that the day will soon come when we can celebrate this Constitution Day with a free people in a free Poland.

OREGON CENTENNIAL CALLS ATTENTION TO STATE'S LEADERSHIP IN GOVERNMENTAL REFORM

Mr. NEUBERGER. Mr. President, this year my native State of Oregon celebrates 100 years of statehood. Oregon's centennial has appropriately stimulated an abundance of backward glances—personal reminiscence of a pioneer era, historical vignettes of explorers and missionaries, analysis of economic growth from a fur trader's outpost to a major food and lumber producing center. The heroic conquest of plain, river, and mountain marked Oregon's progress from frontier wilderness to centennial State. The efforts of the people of Oregon to settle and develop the Oregon country have provided an addition to American history which is rich in names and events.

Yet the story of Oregon's first 100 years as a State is not just a story of man's victory over nature in the harnessing of mighty rivers, the utilization of verdant forests, and the breaking of fertile soil. Oregon has contributed more than fine pine and fir lumber, fruit and grain, and "wild West" stories, in return for full membership in the Union.

ANOTHER GREAT "OREGON TRAIL"

The Oregon Trail which led across plains and peaks to the Pacific Ocean symbolizes the westward migration. It will always be recalled as part of an epic chapter in the historical heritage of the United States. But there is another "Oregon Trail," a path blazed by the people of my State with equal courage and initiative. It was charted, not by scouts and wagonmasters, but by politicians and voters. The route is today marked, not by stone cairns and wooden signboards, but by statutes and constitutional amendments. And while the wagon tracks which marked the passage of a restless people who were seeking new land and a new life have faded, the marks of this Oregon Trail remain, and continue to be cut deeper by constant use.

Today, this trail is called the "Oregon System." Because of its lasting significance—not merely for Oregonians, but for all Americans—this reform may well be noted as the most notable landmark in the rich and full history of my State. I wish to speak briefly on its meaning today.

FRAIL MIGRANT LEADS FIGHT

The story of the "Oregon system"—consisting of the governmental procedures known as the initiative, referendum, and recall, and including direct election of U.S. Senators—is largely the story of one man and his dramatic fight to translate into actual practice the words "government of and by the people." The man's name was William Simon U'Ren. He was a frail, determined migrant from Colorado with fervent ideals and a propensity for inducing other people to share his burning faith.

Between the years 1900 and 1910, U'Ren sponsored and promoted many sweeping governmental reforms which were destined to make Oregon a laboratory for testing the wisdom and sovereignty of the electorate. The name of U'Ren is listed in history books and civics texts more often than that of any other Oregon political figure. Lincoln Steffens long ago described U'Ren as "the law-giver," and the description has stuck.

Two publications played an important part in the formation of what was to become the "Oregon system." U'Ren came to Oregon in 1889, full of a reformer's zeal. In a Rocky Mountain mining camp, he had read Henry George's epic "Progress and Poverty." The book convinced him that the single-tax could solve most of the economic ills of mankind. While changing from a boat to a train at Oakland pier, U'Ren picked up a frayed pamphlet about the initiative and referendum as they had been adapted from the ancient landesgemeinden in the cantons of Switzerland, where all the men in an alpine district made the local laws.

U'REN WORKED FOR SECRET BALLOT

As a newcomer in Oregon, U'Ren worked fanatically in the crusade of the Australian Ballot League, helping Oregon to pioneer among the States in guaranteeing the secret ballot. U'Ren's real

goal, however, was the single tax. Because he knew the conservative Oregon Legislature would never enact such legislation, he decided to turn to the people at the polls.

The reformer began promoting the initiative and the referendum. Under the proposal known as the initiative, the signatures of 8 percent of the registered voters could place any suggested law on the ballot, for the people to decide with their ballots. The referendum was slightly different; it provided that 5 percent of the voters could force a plebiscite at the polls, on any proposition enacted by the legislature. Both ideas were based on the widespread circulation of petitions through city marketplaces and along rural roads.

In seeking to secure adoption of these methods, U'Ren enlisted the aid of such groups as the Farmer's Alliance, the Oregon Knights of Labor, and the State grange. He recruited support from men as far apart on issues as a conservative newspaper editor and a liberal labor leader. The task was made easier by the fact that the Oregon Legislature was suspected of subservience to special interests.

LEGISLATURE SUBMITTED AMENDMENT

When public opinion gradually but steadily mobilized behind U'Ren, the legislature could no longer resist his importuning and lobbying. In 1901, it submitted to the voters a proposed constitutional amendment embodying the initiative and referendum. At the elections of 1902, the amendment was adopted overwhelmingly.

U'Ren, however, was still primarily interested in the single tax. Yet, despite several attempts with the new initiative petition tool, U'Ren's economy panacea was rejected by the voters. But there were other woes for which the reformer had cures, one of which directly concerns this body, the U.S. Senate.

In the Oregon Legislature, U'Ren had been horrified at the deals and trades which determined who would represent Oregon in the U.S. Senate. The situation seemed hopeless, for the Federal Constitution plainly stipulated that Senators in each State should be chosen by the legislature thereof.

CANDIDATE'S PLEDGE CREATED

U'Ren's imaginative mind created an idea known as proposition No. 1. This proposition was a pledge asked of each candidate for the Oregon Legislature, as follows:

> I further state to the people of Oregon, as well as to the people of my legislative district, that during my term of office I shall always vote for that candidate for U.S. Senator in Congress who has received the highest number of the people's votes for that position.

U'Ren turned next to his initiative method; and at the election of 1908 there was placed on the ballot a measure instructing the legislature to support the people's choice for U.S. Senator. Decisive approval followed—69,668 votes in favor, and only 21,162 in opposition.

With one State electing its Senators at the polls, the old appointment form had no chance of surviving elsewhere; the contrast was too great. In 1913, the 17th amendment to the Federal Constitution was ratified, thus spreading from sea to shining sea William S. U'Ren's conviction that the U.S. Senate should represent the sovereign will of the people, as expressed at the ballot box.

SENATOR BORAH CREDITS U'REN

The famed Senator William E. Borah, of Idaho, was later to say of the 17th amendment:

> The original work for this amendment was done in the State of Oregon by the same man who drafted proposition No. 1.

Many eminent American political observers believe, Mr. President, that the reform originated by U'Ren in Oregon was a vital factor in rehabilitating the prestige of the body in which we sit. Until U.S. Senators were chosen directly by popular vote, many men regarded the House of Representatives as more worthy of attainment than the Senate. The direct election of Senators reversed this estimate.

In the early days, as the New York Times has noted, the Senate often adjourned in order to permit its Members to hear key debates in the House. James Madison, the author of our Federal Constitution, said he "could not afford" to accept a Senate seat, because the debates were of scant influence on public opinion. So Madison went to the House of Representatives, and thence to the White House. Indeed, during the first century of our national history, 12 out of 25 of our Presidents could look back upon earlier service in the House.

But, after the change began in Oregon, the Senate came to be considered as definitely the place of greater influence. The popular election of its Members, as proposed by William S. U'Ren, had wrought the change.

MANY STATES HAVE FOLLOWED OREGON

The recall of public officials also was added to the Oregon constitution, in 1908, as part of U'Ren's arsenal of reforms. All of these varying devices for putting the Government more directly in the hands of the people are known as the "Oregon system", because they had their American origins in Oregon, and because they have been used more often in Oregon than in any other State. Following Oregon's leadership, at least 39 other States of the Union have, in varying degree, adopted the initiative and referendum. The recall is part of the constitution of 28 States.

Naturally there have been criticisms of these methods of direct government. Yet, U'Ren scoffed at suggestions that the initiative and referendum should be jettisoned because the voters had passed some unwise laws. "Some mighty weak men have been put into high public office," he once said to me, "and yet no one talks of curtailing the right of every man and woman to vote."

For U'Ren, the Oregon system was the Bible and the Koran; and he was dedicated fiercely to it, as an illustration will indicate. Norman Hapgood, the editor of Collier's once wrote that U'Ren, alone among men, had once changed the brilliant and stubborn mind of Woodrow Wilson. The 27th President had been adamantly opposed to the initiative and referendum until he heard U'Ren talk fervently, in his study, in defense of the Oregon system. Wilson not only revised his views, but also apologized publicly for his earlier hostility to the initiative and referendum.

COURAGE, PERSEVERANCE BEHIND REFORMS

Today we tend to take for granted many of these governmental and social reforms; but, as the story of William S. U'Ren illustrates, they were won for us with courage and perseverance not unlike that exhibited by our hardest and most brilliant generals.

Mr. President, adoption of the initiative and referendum, provision for the recall of public officials, and leadership in pioneering the direct election of Senators are major contributions by my State to Government in the United States. But another event sparked by Oregon action looms large in the history of political and social progress in this country. I refer to the "Brandeis Brief."

The Brandeis Brief was the memorable defense prepared by the eminent Louis D. Brandeis in the case of Muller against Oregon, decided by the U.S. Supreme Court in 1908. That decision affirmed the progressive legislation, passed 5 years earlier by the Oregon State Legislature, limiting to 10 hours in 1 day the working hours of women in factories and laundries. I have had the Library of Congress prepare a brief summary of the case of Muller against Oregon; and because the summary presents so well the Supreme Court's action. I ask unanimous consent that it be printed at this point in the RECORD, in connection with my remarks.

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

BRIEF OF MULLER *v.* OREGON, 208 U.S. 412 (1908)

In error to the Supreme Court of the State of Oregon to review a judgment which affirmed a conviction in the circuit court for the county of Multnomah in that State requiring a woman employed in a laundry to work more than 10 hours daily.

Facts:

On February 19, 1903, the Legislature of the State of Oregon passed an act (Session Laws, 1903, p. 148), the first section of which is in these words:

"SECTION 1. That no female (shall) be employed in any mechanical establishment or factory, or laundry in this State more than 10 hours during any one day. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than 10 hours during 24 hours of any one day."

Section 3 deals with criminal penalties.

On September 18, 1905, an information was filed in the circuit court of the State for the county of Multnomah, charging that the defendant "on the 4th day of September, A.D. 1905, in the county of Multnomah and State of Oregon, then and there being the owner of a laundry known as the Grand Laundry, in the city of Portland, and the employer of females therein, did then and there unlawfully permit and suffer one Joe

Haselbock, he the said Joe Haselbock, then and there being an overseer, superintendent, and agent of said Curt Muller, in the said Grand Laundry, to require a female, to wit, one Mrs. E. Gotcher, to work more than 10 hours in said laundry on said 4th day of September, A.D. 1905, contrary to the statutes in such cases, made and provided, and against the peace and dignity of the State."

A trial resulted in a verdict against the defendant who was sentenced to pay a fine of $10. The supreme court of the State affirmed the conviction (48 Or. 252, 85 Pac. 855) whereupon the case was brought to the Supreme Court of the United States on writ of error.

Question: Is the statute under which the defendant was convicted constitutional, so far as it affects the work of a female in a laundry?

Decision: Yes, affirmed.

Reasoning: Mr. Justice Brewer delivered the opinion of the Court.

By the decisions of the State supreme court, the State statute does not conflict with any provisions of the Oregon constitution. The Court takes judicial cognizance of all matters of general knowledge, such as the fact that women's physical structure and the performance of maternal functions place her at a disadvantage which justifies a difference in legislation in regard to some of the burdens which rest upon her. As healthy mothers are essential to vigorous offspring the physical well being of women is an object of public interest. The regulation of her hours of labor falls within the police power of the State, and a statute directed exclusively to such regulation does not conflict with the due process or equal protection clauses of the 14th amendment.

The right of a State to regulate the working hours of women rests on the police power and the right to preserve the health of the women of the State, and is not affected by other laws of the State granting or denying to women the same rights as to contract and the elective franchise as are enjoyed by men. While the general liberty to contract in regard to one's business and the sale of one's labor is protected by the 14th amendment that liberty is subject to proper restrictions under the police power of the State.

The limitations which this statute places upon her contractual powers, upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but for the benefit of all. The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long-continued labor particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self reliance which enables one to assert full rights and the capacity to maintain the struggle for subsistence.

The Oregon statute of 1903 providing that no female shall work in certain establishments more than 10 hours a day is constitutional so far as it affects the work of females in laundries, although like legislation affecting male employees may be invalid.

Mr. NEUBERGER. Mr. President, the reasoning of the Court, as expressed in the opinion delivered by Justice David Brewer, seems elementary to us today. Yet, as the distinguished newspaper, the St. Louis Post-Dispatch has pointed out editorially, it is necessary to see the issue in the terms of 1908, in order to recognize what a landmark that decision is in the legal history of social progress. I ask unanimous consent that the editorial entitled "Landmark in the Law," from the St. Louis Post-Dispatch of December 26, 1958, be printed at this point in the RECORD, in connection with my remarks.

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

[From the St. Louis Post-Dispatch, Dec. 26, 1958]

LANDMARK IN THE LAW

Social progress in perspective becomes a mighty, steady flow of countless events that merge into one another. Yet now and then a landmark stands out and one of these is a decision by the Supreme Court handed down 50 years ago. We refer to the case of the historic "Brandeis brief," *Muller* v. *Oregon*, decided in 1908.

Its issue seems quite elementary now, after the passage of a half century. All the Oregon Legislature had done was to pass, in 1903, a law forbidding the employment of women in factories and laundries for longer than 10 hours in 1 day. Everyone now agrees that it was a regulation for the public welfare.

But we need to see Oregon's 10-hour factory law for women, not in terms of 1958, but in the framework of its own day. For in 1908 the Supreme Court was only 3 years beyond its 5-to-4 decision in the bakeshop case of *Lochner* v. *New York* which rejected a State law designed to limit employment in bakeries to 60 hours in a week. That was the decision which brought Justice Holmes's memorable protest: "The 14th amendment does not enact Mr. Herbert Spencer's 'social statics.'"

Oregon officials knew that a victory for their 10-hour law for women in factories and laundries would amount in part at least to a Supreme Court reversal. And so they engaged the foremost legal advocate of social causes of the times—Louis D. Brandeis, first of Louisville and St. Louis, then of Boston, and later to sit on the Supreme Court himself by appointment of Woodrow Wilson.

The brief that Mr. Brandeis prepared in behalf of the Oregon law is what makes *Muller* v. *Oregon* a social progress landmark in the law. For it was something new in Supreme Court pleading. There was very little on the precedent law and for a simple reason: there was little law. Indeed the American law took up only 2 pages out of the total of 113 pages in the brief. The references to foreign law took up five pages more. The rest of Mr. Brandeis' brief presented the social and economic experience around the world which justified the enactment of the Oregon statute.

To support his case, Mr. Brandeis quoted a message of Theodore Roosevelt to Congress, a debate in the British Parliament, proceedings in the French Senate, reports of German factory inspectors, the New York Bureau of Labor Statistics and the U.S. Industrial Commission. He cited findings in a book by Mrs. Sidney Webb, medical authorities, and other qualified groups and persons.

A good description of the brief appeared in the opinion which Justice Brewer wrote for a unanimous Supreme Court:

(After citations to laws): "Then follows extracts from over 90 reports of committees, bureaus of statistics, commissioners of hygiene, inspectors of factories, both in this country and Europe, to the effect that long hours of labor are dangerous to women, primarily because of their special physical organization. The matter is discussed in these reports in different aspects, but all agree as to the danger. Following them are extracts from similar reports discussing the general benefits of shorter hours from an economic aspect.

"Individual instances are given tending to support the general conclusion. These reports may be summed up in what an inspector for Hanover, Germany, says: 'The reasons for the reduction of the working day to 10 hours—(a) the physical organization of women, (b) her maternal functions, (c) the rearing and education of the children, (d) the maintenance of the home—are all so important and so far reaching that the need for such reduction need hardly be discussed."

This marshaling of social fact so impressed the Supreme Court that the entire Bench said with Justice Brewer: "We take judicial cognizance of all matters of general knowledge." The Justices said expressly that Oregon had a full right to limit the hours of work a woman might do in a factory or laundry.

Now, after a half century, it is eminently in order to salute the Oregon legislators who passed the law, Louis D. Brandeis who blazed a legal trail with his pioneering brief, and Justice David J. Brewer and his eight colleagues on the Supreme Court whose forward-looking decision riveted a sound principle into the American way of life.

Mr. NEUBERGER. Mr. President, in pointing out this legal landmark in the field of labor legislation, I think it also pertinent to note that Oregon was one of the first States in our Nation to initiate workmen's accident compensation; and that my State early recognized the rights of labor unions; and that in 1935 the Oregon Legislature passed the "Little Norris-La Guardia" Act, which was modeled after the Federal law of that name.

These illustrations, Mr. President, indicate clearly that the first 100 years of my State of Oregon have not—as too many people believe—been filled only with Indian fighting and lumbering. We Oregonians are truly proud of the rich pioneer heritage of our State. But we are also proud of the heritage of governmental and social reform which we have been able to share with all of the United States. I hope my brief remarks today on these contributions will serve to point out these important landmarks, as we in centennial Oregon review our first 100 years.

NOMINATION OF CLARE BOOTHE LUCE TO BE AMBASSADOR TO BRAZIL

Mr. FULBRIGHT. Mr. President, in the recent hearing before the Committee on Foreign Relations concerning the nomination of Mrs. Clare Boothe Luce to be Ambassador to Brazil, certain statements were made by Mrs. Luce about the writer of an article about her.

I have received a letter from Mr. Max Ascoli, one of the authors of the article and one of the persons to whom Mrs. Luce referred. In order that the matter be clarified, I ask unanimous consent that Mr. Ascoli's letter be printed at this point in the RECORD.

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

THE REPORTER,
New York City, April 22, 1959.

The Honorable J. W. FULBRIGHT,
Senate Office Building, Washington, D.C.

DEAR SENATOR FULBRIGHT: I have just gone through the printed text of the hearing on April 15 of your committee on the nomination of Mrs. Clare Boothe Luce. As you well know, during that hearing Senator WAYNE MORSE asked Mrs. Luce a number of questions about her policies and behavior while she was Ambassador to Italy—questions all suggested by an article, written by

Claire Sterling and myself, that appeared in the Reporter magazine and that you have been kind enough to insert in the CONGRESSIONAL RECORD of April 17, 1959.

Although I would be strongly tempted to discuss the answers Mrs. Luce gave to Senator MORSE's questions, I think that no good purpose would be served in doing so in a letter to you now. But I cannot help reacting to two statements that, in an exceedingly confused way, Mrs. Luce made and that involved directly myself and my Rome correspondent, Claire Sterling. Mrs. Luce said, "The author of that article, as you well know is very sympathetic, and has been for a long time, to the Socialist position in Italy." I assume she means me. In that case, I can only answer that there is much truth in the statement about my sympathy for the Socialist position in Italy as there is in the assumption that the members of your committee are aware of it. I can easily quote editorial after editorial in the Reporter in which I denounced Nenni as "the man who, all over the world, has become the symbol for fellow travelling socialism," (editorial of June 9, 1953).

Later, again in answering Senator MORSE, Mrs. Luce says that "the reporter of the magazine very much hoped" that the left of center anti-Communist Italian parties would join "with the Socialist pro-Communist left." Here, she cannot mean anyone but Claire Sterling. This, again, is a plain misstatement of facts. In her articles on Italian politics, Claire Sterling repeatedly stated that should the Nenni Socialists ever free themselves from their Communist bonds, and should they join forces with the Saragat Social Democrats, then, as she put it in an article in the November 29, 1956 issue, they "would be able both to check the Christian Democrats and work with them." In other words, whatever political bias Claire Sterling might have had has always been in the direction of wishing that the Christian Democratic Party could be strengthened by a coalition with the anti-Communist left.

Finally, may I point out the fact that Claire Sterling is a reporter, that her stories are edited by me, and that the editorial politics of my magazine as far as Italian affairs are concerned have been undeviatingly against the Nenni fellow travelers and their Communist masters. So have been my actions.

As Mrs. Luce's references to Mrs. Sterling and myself, although cloudy and sly, are fairly obvious, I am compelled to write to you.

Sincerely,

MAX ASCOLI.

TAXATION OF LIFE INSURANCE COMPANIES

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement of the action of the Committee on Finance on the life insurance income tax bill, H.R. 4245.

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

SENATE FINANCE COMMITTEE ACTION ON H.R. 4245, TAXATION OF LIFE INSURANCE COMPANIES

1. The committee revised the method employed in phase one of the bill in computing the deduction rate. Instead of this being the average of each company's earned rate and an assumed rate (the company's own assumed rate for the current year or the industry average assumed rate for the prior year, whichever is higher) it is to be the company's own average earned rate for the last 5 years (current year and 4 prior years).

2. The committee decided that amounts deducted under phase two under the two special deductions, the deduction equal to 10 percent of additions to nonparticipating reserves and the deduction equal to 2 percent of current year's premiums on group insurance, should be taxed under phase three if these amounts are ultimately paid out to stockholders. This is accomplished by requiring the amount of these two special deductions to be added to the policyholders' surplus account.

3. The committee increased the small business deduction under both phase one and two from 5 to 10 percent of net investment income (as otherwise computed). The ceiling deduction of $25,000, however, remains the same. Thus, the maximum benefit will be reached with an income of $250,000 instead of $500,000.

4. The committee adopted an alternative to the deduction equal to 10 percent of additions to nonparticipating reserves. In lieu of this deduction taxpayers may elect to take a deduction equal to 3 percent of the current year's premiums on nonparticipating policies for contracts for periods of 5 years or more.

5. The committee provided that net operations losses from the years 1955, 1956, and 1957 may be carried forward to 1958 and subsequent years.

6. The committee provided that in lieu of the regular 5-year carryforward of net operations losses, new companies for their first 5 years of existence are to have a 10-year carryforward from each of these 5 years.

7. The bill presently provides that if a company in any year does not qualify as a life insurance company any income on which the tax was deferred under phase three becomes due as of the end of the last year it qualified as a life insurance company. The committee amended this to provide a 2-year interval of nonqualification as an insurance company, before this phase three tax becomes due in such cases. However, if any of this income on which the tax was deferred is paid out in this 2-year period the tax becomes due on this amount.

8. The committee changed the bill to provide in phase one for a division all items of income, including tax-exempt income, partially tax-exempt interest and dividends received from other corporations, between the policyholders and the life insurance company. The portion of all items attributed to the policyholder are set aside and not taken into account in computing the life insurance company's tax. The portion of the income items attributed to the policyholders is to be determined by expressing the policyholders' requirements as a percent of investment yield (net investment income plus tax-exempt income, etc.). The policyholder requirements (except for the use of the 5-year average) are determined in the same manner as the policy and other contract liability deduction under the House bill except that there is no downward adjustment in the requirements for tax-exempt interest, etc.

The life insurance company's tax base is then computed by subtracting from its share of investment yield, its share of tax-exempt interest, its share of thirty fifty-seconds of partially tax-exempt interest, and its share of the 85 percent intercorporate dividends received deduction. An added statutory proviso makes it clear that in no event is any tax to be imposed on tax-exempt interest or on the 85 percent of intercorporate dividends which are deductible under general code provisions. A somewhat similar revision was made in the phase two tax base.

9. The committee decided to allow policyholder dividends, the 10-percent deduction for additions to reserves for nonparticipating policies (or 3-percent deduction for premiums) and the 2-percent deduction for group insurance to add to, or create, an underwriting loss which may be offset against phase one taxable investment income to the extent of $250,000 of such items.

10. The committee adopted a provision preventing a double tax with respect to reinsurance where the reinsuring company pays the ceding company's tax with respect to the reinsurance.

11. The committee agreed to provide in the case of organizations taxed as insurance companies, which would be exempt from tax as local beneficiary associations under section 501(c)(9) except for the fact that their investment income exceeded 15 percent of their total receipts that: (A) under the phase one tax their actuarial reserves are to be treated as life insurance reserves even though not required by State law, and (B) under the phase two tax only a small proportion of decreases in reserves built up before 1958 arising from voluntary lapses of policies are to be taken into account in determining receipts.

12. The committee agreed that distributions to shareholders in redemption of life insurance stock are not to be treated as resulting in a phase three tax if the stock was issued before 1958, if the stock is limited as to dividends, and if the stock can be called at the option of the company at a premium of not more than 5 percent.

13. Although the phase three tax is not to apply to 1958 income, the committee agreed to set up the shareholders surplus account for income of 1958. Therefore amounts taxed in 1958 can be paid out in subsequent years without first paying a tax on distributed income of the subsequent year.

14. The committee agreed in phase three to lower the ceiling for the policyholders surplus account. The 60-percent ceiling was lowered to 50 percent in the case of premiums. In the case of reserves the committee provided a ceiling of 25 percent of additions to reserves since 1958 or 15 percent of total reserves, whichever is higher, instead of the present single limit of 25 percent of reserves.

15. The committee agreed to provide assessment companies with a 3 percent assumed rate of interest on their reserves for phase one. Although they set aside a portion of assessments as reserves, since they have no assumed rate they technically would have no policy reserve requirements without this change.

16. Where a company has reinsured policies of assessment companies and reserves of these companies are used by the reinsuring company to cover deficiency reserves and loading expenses with respect to the reinsured policies, the committee agreed that the reserves are to qualify as deficiency reserves to the extent they do not represent loading expenses. Therefore decreases in these deficiency reserves (except for the loading element) will not be treated as taxable income.

17. Where a company sold its entire industrial insurance business in 1958, the committee agreed the sale is to be considered a capital transaction. Since capital gains and losses are not to be taxed in 1958 such transactions would have no tax effect in 1958. No implications are to be drawn from this, however, as to the tax treatment of such transactions in the future.

18. The committee agreed to permit companies to make an election for 1958 only between the approximate and exact methods of revaluing preliminary term reserves to a net level premium basis. Then under the committee decision, the company would have a new election between these methods binding for 1959 and subsequent years.

19. The committee agreed to make it clear in the committee report that life insurance departments of mutual savings banks are to be treated as life insurance companies for all purposes of the bill. It also agreed to provide in the statute that these departments of mutual savings banks are to have

until April 16, instead of until March 16, each year to determine the amount of their policyholder dividends.

20. The committee agreed to provide that foreign insurers may for phase three allocate the portion of a distribution that is allocable to U.S. business on the basis of either U.S. surplus to total surplus (as in the bill) or on the basis of U.S. insurance liabilities to total insurance liabilities. It also provided apportionment rules where a Canadian company mutualizes, along the lines of those provided elsewhere in the bill.

21. Since under the bill capital gains occurring prior to 1959 are not taxed, the committee agreed to provide that proceeds from installment payments received after 1958 on pre-1959 sales are not subject to tax.

22. Where an insurance company is required to shift to an accrual method of accounting an adjustment in income is taxed by a measurement which includes one-tenth of the adjustment in 1957 income (then after this additional tax is determined, the final tax on the adjustment is 10 times this amount). The committee agreed to provide that in measuring the additional tax on this adjustment under 1957 law that the "two for one limit" (designed to tax investment income of over-capitalized companies at 52 percent) is not to be taken into account solely by reason of this adjustment. It also agreed to provide that for the additional tax on the adjustment any effect of this additional income in reducing the special interest deduction (where investment income was less, or only slightly exceeded, interest requirements) is to be ignored.

23. The committee agreed to make it clear under the bill that the interest paid deduction is to be available where a life insurance company is required to make payments or credits on special contingency reserves of a nonforfeitable character which it must hold as a liability under some group insurance policy such as that authorized under the Federal Employees Group Life Insurance Act of 1954.

24. The committee agreed to make the phase three tax gradually effective over a 3-year period, with the result that one-third of the phase three tax otherwise payable in 1959 will be due; two-thirds of the 1960 tax will be due; and the full tax will be due in 1961.

25. The committee agreed to treat variable annuity companies as life insurance companies for tax purposes and their reserves as life insurance reserves. This treatment is provided for a 5-year period to give Congress an opportunity to review the treatment at that time to determine whether they should come under the life insurance provisions or some special provisions should be adopted for them.

26. The committee agreed to impose certain limitations on the application of phase two for the 1958 tax liability. If the phase two tax base for 1958 (after deduction of the phase one base from gain from operations and reduction of the remainder by 50 percent) exceeds the phase one tax base, the phase two tax base is to be reduced by 10 percent of this excess.

SENATE BILL 1686 PROPOSES A PRACTICABLE FOOD-STAMP PLAN FOR A NECESSARY NUTRITIONAL DIET FOR NEEDY CITIZENS

Mr. RANDOLPH. Mr. President, it is with a sense of satisfaction that I associate myself as cosponsor of Senate bill 1686 the food-stamp plan presented by the distinguished junior Senator from Missouri [Mr. SYMINGTON] and the able senior Senator from Minnesota [Mr. HUMPHREY].

This bill (S. 1686) is a realistic and practicable measure to provide for the public welfare by securing a minimal dietary level among our very low income and unemployed persons.

In spite of the growing recovery from the recession of 1957–58, for which we are all duly grateful—in spite of the more hopeful appearance of statistics of employment and production—there are millions of American families, Mr. President, to whom these figures are still mere shadows and abstractions. These are the people who have not, and are not now sharing in the return to national prosperity. These are the 4,300 still currently unemployed, the unnumbered hundreds of thousands working only a part-time week, and the several million Americans—the aged, the blind, the disabled, and the dependent children—whose only means of support is that of public assistance.

These people for the most part live on the bare level of subsistence, with the nagging knowledge of want constantly at their elbow. Life can endure on these terms, but it cannot prosper, it cannot thrive.

The purpose of S. 1686 is to offer these people the means of supplementing their present grossly inadequate diets in order to achieve a necessary level of vitamin, mineral and protein nourishment. The able junior Senator from Missouri has already offered a lucid explanation of the detailed mechanics by which this bill will achieve its purposes. I would therefore direct my remarks to more general considerations.

Somewhat more than 30 years ago, Mr. President, the noted economist, Alfred Marshall, stated that "The study of the causes of poverty is the study of the causes of the degradation of a large part of mankind." Though poverty is no longer the common lot of people that it once was, one need not be assailed as a "prophet of doom and gloom" for admitting that we still have in the United States much of what John Kenneth Galbraith has termed "case" poverty and "insular" poverty—the first applying to individual persons and families who have been unable, for a variety of reasons, to cope with their environment, the second applying to entire communities or regions which have failed to share in the national well-being.

The pending measure, my colleagues, is not designed as a panacea for either of these conditions. But this legislative body would be doing less than its duty if we failed to employ every means at our disposal to remedy these conditions. The first and most apparent means at hand is that of our vast agricultural surpluses which can provide the necessary nutritional level for these marginal people.

One hundred years ago the American farmer provided sufficient food for himself and three others; today he produces enough to feed himself and 20 others. In the past 20 years, the American farmer has through his own industry and initiative, and by applying scientific methods to farming, increased his efficiency as much as in the 100 years preceding. This is the root fact behind our farm surplus.

In 1958 the farm surpluses were 7.5 percent above demand at a satisfactory price. Given the present rate of increase in farm output of 2 percent annually and the current population growth rate, experts estimate that this surplus will be, by the year 2000, 12 percent above demand—or approximately 24 percent of the 1958 total farm output.

Yet, with all this, Mr. President, and with storage costs of our surplus commodities running at the figure of almost $1 billion a year, it is estimated that the diet of one-fourth of our population is deficient in such vital components as calcium, protein, riboflavin, ascorbic acid and other essential nutrients. The implications are obvious: in spite of our wealth of mechanical and technical inventions—in spite of our application of scientific methods to agriculture—we have lagged in some of the vital areas of social invention.

We are still inclined too often and too regularly to think in terms established during the early stages of the Industrial Revolution in England by Malthus and Adam Smith. These were the terms of a society still governed by the economics of scarcity, by a population that grew more rapidly than did the increase in food supply, and by the belief in a Darwinism that applied the law of the jungle to human affairs—the so-called law of the survival of the fittest.

These conditions no longer prevail in our society, though the thinking borne of them often does. This is the kind of thinking which—still governed by the fears and anxieties of an age long gone—declares that the richest nation in the world cannot afford each of its citizens a decent diet. While in all truth, Mr. President, if we are rightfully to maintain our position as a leader among the civilized nations of the world, we cannot afford not to maintain for each of our citizens at least the nutritional level necessary to maintain his physical and intellectual energies. We have the means to do so; the question presented by the pending bill is whether we have the imagination and will. And this is a question which strikes at the heart of the meaning of a civilized society.

We have read of the practice in ancient Sparta—which has existed also in contemporary primitive societies—of placing the young infants in the open, exposed to the rigors of the elements—thus to test their capacity for survival. Through such a practice the Spartans produced a strong and hardy race which bequeathed its very name as synonym for the sterner virtues.

But it has been to Athens—not Sparta—that the Western World has looked for guidance in civilized ideals for over 2,000 years. While Spartans excelled in the martial qualities and the capacity for survival, culminating in the military defeat of their sister city, it is the civilized and humane virtues of Athens which have inspired mankind since.

Mr. President, I suggest that there may be an analog in our own society in our tendency to make as the cardinal test of a person's role in our Nation his

capacity to survive in the arena of economic competition. The measure of our civilization is, at least in part, our ability to achieve a broader base of value than this, and to assure the claims of human dignity to those who, through no fault of their own, have failed in this particular respect.

I believe that S. 1686 offers a positive step in this direction—in the direction of a civilized society using its resources to provide more humane and enlightened conditions of living for all its members. For this reason, Mr. President, I urge the early passage of S. 1686.

THREE HUNDREDTH ANNIVERSARY OF THE SETTLEMENT OF NANTUCKET ISLAND

Mr. SALTONSTALL. Mr. President, during this year Nantucket Island is celebrating the 300th anniversary of its settlement. Massachusetts is proud to celebrate with this island county its long and distinguished record of growth and accomplishments.

Nantucket has contributed to the exploration of the world through the efforts of its whaling masters to find new grounds where they might hunt the largest mammals on earth. The courage of its captains and crews is legendary, and the courage of the folks at home who waited for them, sometimes for 3 and 4 years, to return from dangerous voyages, is well known.

Whaling skippers formed our first close contact with what is now our 50th State, often engaging Hawaiians in their crews. Whaling skippers discovered and identified the Antarctic continent, and searched the ice north of the Bering Strait.

Heavily decimated in the War of 1812, the whaling fleet recovered only to be later supplanted by the oil wells of the interior.

Now Nantucket, recognizing the value of its past and the enterprise of the people who built it, looks forward to the future in providing service to the United States. A restful resort without equal, its people seek to provide the tired and the tense with an opportunity to revitalize themselves to face the world with renewed vigor.

May I suggest to my fellow Senators and to the people of the United States with justifiable—and understandable—pride that I feel that they would do well, in seeking a summer haven, to try this 300-year-old community, in which they will find the best qualities of the past combined with the best qualities of the present.

The VICE PRESIDENT. Is there further morning business? If not, morning business is closed.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

The PRESIDING OFFICER (Mr. NEUBERGER in the chair). If there is no objection, the Chair lays before the Senate the pending business.

The Senate resumed the consideration of the bill (S. 1555) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CASE of New Jersey. Mr. President, I call up the amendment which I have at the desk; it is identified as "4-20-59—A."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 8, in lines 6 through 16, it is proposed to strike out all of subsection (d) and renumber subsections (e) and (f) as (d) and (e).

Mr. CASE of New Jersey. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. CASE of New Jersey. Mr. President, this amendment to title I of the pending bill will eliminate section 101(d), under which the Secretary of Labor is given authority to exempt from the financial reporting requirements certain unions or classes of unions which have fewer than 200 members and have gross annual receipts of less than $20,000.

The bill already gives to the Secretary adequate authority to prescribe simplified forms of reporting when detailed reporting by small unions, as well as small employers, constitutes an undue burden on them.

So I see no reason why large unions should have an unqualified obligation to report financial data, but small unions should have no unqualified obligation. Size is no gage of the honesty or the efficiency of a union operation.

The Secretary of Labor testified, in the hearings before the House committee a few weeks ago, that he does not favor the authority which would be given to him by the pending bill to grant an exemption from the reporting requirements. He favors a provision which would be applicable to all unions, large or small, giving recognition to the fact that the requirement to report in great detail may be a burden to small unions and their officers, many of whom, of course, are underpaid, by providing for those unions and their officers simplified forms for reporting. I think that is the wise way to handle this matter.

Last year, this language was adopted on the floor of the Senate as an amendment to the Kennedy-Ives bill, and then it was eliminated by a subsequent change.

Mr. President, I believe I have said everything it is necessary to say on this question at this time. Therefore, I reserve the remainder of my time, and shall be glad to hear if it is possible for the sponsors of the bill to accept the amendment.

Mr. KENNEDY. Mr. President, I would be reluctant to accept the amendment, though I know what the Senator from New Jersey has said has merit.

The amendment of the Senator from New Jersey relates to lines 6 through 16, subsection (d), which appears on page 8 of the bill. Let me state the problem involved.

The way the language originally appeared in the Kennedy-Ives bill last year, when the matter came before the committee it provided that unions having fewer than 200 members and less than $20,000 in assets were automatically exempted, unless the Secretary made a finding that they should be included.

Now, in a compromise, that provision is rephrased so that such unions are included unless the Secretary exempts them. The unions are not exempted from the reporting requirements contained in the first parts of the title, but they are exempted from the rather detailed reporting requirements relating to financial transactions.

The reason is that if less than $20,000 annually is involved no one has very much of an opportunity for substantial stealing; and, if there are fewer than 200 members in a union, of course, very likely the officers are underpaid or unpaid, and it is a small operation. Such unions are subject to penalties with regard to shakedowns, conflict of interests, and so forth.

For that reason, we thought it was not unreasonable to give the Secretary the power granted. So many reports will be submitted to the Secretary that nothing will be done about these matters unless the Secretary receives a complaint against a paper local, or something of that kind. At that time the Secretary can ask for a full report.

I appreciate the position of the Senator from New Jersey, but I feel the provision of the bill is the best solution of the problem. I hope, therefore, the amendment will be rejected.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. CASE of New Jersey. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from New Jersey [Mr. CASE].

The amendment was rejected.

Mr. KENNEDY. Mr. President, I believe the Senator from Kentucky [Mr. COOPER] has an amendment to offer. I wonder if he would care to call it up now?

Mr. COOPER. Mr. President, on behalf of the Senator from New York [Mr. JAVITS], the Senator from Oregon [Mr. MORSE], and myself, I call up my amendment identified as "4-23-59—A."

The PRESIDING OFFICER. The amendment offered by the Senator from Kentucky for himself and other Senators will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 54, line 17, to strike out all of section 601, and insert in lieu thereof the following:

SEC. 601. Section 14 of the National Labor Relations Act, as amended, is amended by adding thereto the following new subsection as follows:

"(c) (1) Nothing in this act shall be construed as to prevent any State or Territorial agency other than a court, from exercising jurisdiction over all cases over which the

Board has jurisdiction, but by rule or otherwise, has declined to assert jurisdiction: *Provided,* That the State or Territorial agency shall apply and be governed solely by Federal law as set forth in section 8(a) and 8(b), and 9 in this act, as the case may be, and Board and Federal court rules of decision construing said sections 8(a), 8(b), and 9. Injunctive relief under section 10(j) and 10(l) shall be available to such agency: *Provided further,* That no petition under section 10(j) shall be filed unless it has been expressly approved by the General Counsel of the National Labor Relations Board.

"(c) (2) The State or Territorial agency may petition any district court of the United States within such State or Territory for the enforcement of a final order of such agency and for appropriate temporary relief or restraining order. Such court shall make and enter an order or decree enforcing, modifying, enforcing as so modified, or setting aside in whole or in part the order of such agency.

"(c) (3) Any person aggrieved by a final order of the State or Territorial agency granting or denying in whole or in part the relief sought may obtain a review of such order in a district court of the United States in such State or Territory. Upon such filing, such district court shall proceed in the same manner, and have the same jurisdiction, as in the case of an application for enforcement under section (c) (2)."

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. COOPER. Yes; I yield.

Mr. CASE of New Jersey. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). Without objection, it is so ordered.

Mr. COOPER. Mr. President, I ask unanimous consent that the time used for the call of the roll not be charged to either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky? The Chair hears none, and it is so ordered.

Mr. COOPER. Mr. President, the amendment I have called up is the one I offered last evening, and which I explained at that time. As Senators will remember, I withdrew the amendment in order that it might be printed and be at the desks of the Members of the Senate.

The amendment would be a substitute for section 601 in S. 1555. It deals with the important subject of the no man's land.

Yesterday the Senate rejected the amendment offered by the senior Senator from Arkansas [Mr. MCCLELLAN], which would have permitted either courts or State agencies to assume jurisdiction of disputes arising under the Taft-Hartley Act over which the National Labor Relations Board failed or refused to assume jurisdiction. Section 601 of the committee bill, which is the provision proposed by the Senator from Oregon [Mr. MORSE] in the committee, provides that State agencies under certain circumstances may assume jurisdiction over such cases.

Yesterday the senior Senator from Arkansas asked me to distinguish the amendment which I have offered from section 601 presently in the bill. I did that briefly, but for the RECORD I should like to explain the differences again.

First, section 601 in the bill now provides that the National Labor Relations Board may delegate—rather contract—to State agencies the right to assume jurisdiction over cases which the Board decides it does not wish to consider or cannot consider. I think even the author of that language would agree that as presently written into the bill, this provision would limit the authority and power of a State agency even though jurisdiction had been delegated to it.

Second, the present section in the bill provides that even though jurisdiction is delegated, the National Labor Relations Board upon its own determination may later withdraw that delegation and itself assert jurisdiction.

Third, under the provision now in the bill, the right of an appeal from a decision by the State agency could only be to the National Labor Relations Board. Therefore, the language is very restrictive.

A great many Senators believe, and I believe, that because the provision is so limited, very few States, if any, would be likely to follow the provisions of section 601. My judgment is that section 601 as presently written would not solve the problem. I make that statement with due respect to the senior Senator from Oregon. As the Senator has said, we have all wrestled with this problem.

The problem is that under the Taft-Hartley Act, employers, employees, and unions have certain rights accorded to them. However, there is no forum in which those rights can be secured in cases over which the NLRB is unable to assume jurisdiction. Yesterday I opposed an amendment which would permit State courts to take jurisdiction. I will not recite again the reasons for my opposition. The Senate rejected the proposal of the Senator from Arkansas to permit State courts to take jurisdiction.

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

Mr. COOPER. I yield.

Mr. MCCLELLAN. I am beginning to be convinced by the argument which has been made regarding this matter that the whole purpose is to keep any jurisdiction away from the courts of the several States. Am I correct?

Mr. COOPER. They have no jurisdiction now.

Mr. MCCLELLAN. No; and the whole purpose is to keep it away from them.

Mr. COOPER. The State courts have no jurisdiction now.

Mr. MCCLELLAN. I did not say they had any jurisdiction. However, we gave it to the NLRB, but if it will not take jurisdiction we have determined not to give the State courts jurisdiction. Is that correct?

Mr. COOPER. The Senate determined that yesterday.

Mr. MCCLELLAN. And it is argued that the Senate should do it again today. Is that correct?

Mr. COOPER. I have offered an amendment which will provide a remedy. It has been argued that there is need for a remedy, and that justice will be denied unless a remedy is afforded. My amendment offers a remedy, and it offers a forum. There are other problems involved in this matter, too. There are reasons underlying a desire for a particular kind of remedy only in the State courts, for that would give large opportunities for the issuance of injunctions. My amendment would guard against abuse.

I shall state the remedy which the amendment I offer proposes. The States have an interest in this matter. No forum is available for the settlement of these disputes. Under my amendment States can create administrative agencies or use administrative agencies which now exists to serve their citizens. The argument and the fact that there is no forum for these disputes is met by this amendment.

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

Mr. COOPER. I yield.

Mr. GOLDWATER. The Senator said, if I understood him correctly, that the State could use any administrative agency. Could an industrial commission, for example, be used to handle labor disputes?

Mr. COOPER. I cannot foretell what a State might do. I assume that a State would make its decision through its State legislature. It could decide that a State agency was equipped to handle the assignment. If one so equipped did not already exist, the legislature could create an agency to handle such disputes.

Mr. GOLDWATER. If it is the Senator's contention that an existing State agency could be designated by the State legislature to handle these cases, he has a point. In that case, he would go far to satisfy some objections to the amendment, because the amendment specifically bars courts. In my own State of Arizona, the industrial commission handles a great many labor matters. It does not get into the labor-management field.

The State Legislature of Arizona could designate the industrial commission to handle cases which the NLRB feels are small, or have only a slight impact on commerce. If the legislature were to do that, is it the Senator's understanding that the amendment would permit such action?

Mr. COOPER. It would be within the discretion and power of the State legislature, of course.

Mr. GOLDWATER. If there are no laws applicable at the State level, and the State designated an agency such as I have mentioned, would the Senator still feel that that agency could handle a dispute which the NLRB would not handle?

Mr. COOPER. Yes; absolutely.

Mr. GOLDWATER. If the Senator will make that point clear to the Senate, I believe he will find less objection to his amendment. What concerns those of us who have sought relief through the courts is that we want a faster way of obtaining relief.

I can assure the Senate there is no desire on our part to hamstring unions or to hamstring management. We want to bar cases like the Coffey case, by allowing some recourse for relief. If the Senator will bring out that point when more Senators are on the floor, it will help a great deal. If he will bring out the fact that a State agency such as I have referred to could act, I believe he will gain more support for his amendment.

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

Mr. COOPER. First I wish to comment on the statement of the Senator from Arizona. I believe it is correct to say that under my amendment an existing agency could assume jurisdiction. That would be a matter for the State legislatures to decide. However, I wish to invite the attention of the Senator and the Senate to the fact that once a State agency has been enabled to take jurisdiction over these cases, and has in fact assumed jurisdiction, then it is bound by Federal law. In its decision it must follow Federal law, the applicable rules of the NLRB, and of the Federal courts. Furthermore, a review or an appeal would go to the Federal courts, rather than to the NLRB.

My reason for incorporating this provision in the amendment is to secure uniformity, and to give strength to the principle which was adopted when the Taft-Hartley Act was passed. We gave jurisdiction over these cases affecting interstate commerce to the NLRB at that time. We placed such cases under the Taft-Hartley Act. That is my reason for incorporating this provision that Federal law and applicable NLRB rules shall be followed. I believe it is a logical reason.

Mr. GOLDWATER. I should like to ask one more question.

Mr. JAVITS. I should like to answer the question of the Senator from Arizona.

Mr. COOPER. I yield to the Senator from New York.

Mr. JAVITS. As co-author of the amendment I should like to state to the Senator from Arizona my understanding of how it will work. A State will pass a law, if it does not have one now, vesting authority in a State agency, either existing or newly created, to handle cases with respect to labor-management relations, elections, and unfair labor practices.

When the agency has been so empowered, if it is not already so empowered by existing law—and there is existing law in 11 States, with Oregon having just come in, and in the Commonwealth of Puerto Rico and in Hawaii—it can specifically assume jurisdiction and handle this kind of cases. When it does, the pending amendment, if it is incorporated into law, becomes operative with respect to relations between that agency and the Taft-Hartley law as amended by Congress.

Mr. GOLDWATER. No matter what agency was designated by the State legislature, that agency would have to follow Federal law. Is that correct?

Mr. JAVITS. Exactly.

Mr. GOLDWATER. Even though the NLRB's reason for not hearing the case was that the case did not bear sufficiently on commerce, which is a reason, in my meager understanding of the situation, which would remove it from the responsibility of Federal law?

Mr. JAVITS. I do not believe that is quite accurate. The amendment states: "Jurisdiction over all cases over which the Board has jurisdiction." If it has jurisdiction, then the Federal law applies. The Board may have its reasons for deciding it will not assume jurisdiction; but the amendment refers to "all cases over which the Board has jurisdiction."

Mr. GOLDWATER. I should like to ask the Senator a question on that point. We say that the NLRB has jurisdiction over labor-management disputes affecting commerce. Let us assume that the NLRB says, "This particular dispute does not have an effect on commerce." Does the Federal law then apply?

Mr. JAVITS. I should say no, because in that case the Board has said it has no jurisdiction.

Mr. GOLDWATER. Let me pursue that question one more step. If the NLRB says it cannot take the case because it has no effect on interstate commerce, then the State agency, under the Senator's amendment, would have the authority to act. Would the State then have to use Federal statutes?

Mr. COOPER. I will say categorically, in my opinion, no. It would not. The only kinds of cases over which the NLRB can now assume jurisdiction are those which have an effect upon interstate commerce. Authority to deal with such cases is the only kind of power which could be delegated or which the State agency could assume under my amendment. So if the NLRB decides that a case does not affect interstate commerce, the State agency, in my judgment, would not be bound by this amendment.

Mr. GOLDWATER. I should like to bring out one point. It may not be in the form of a question. I think the discussion of this point is where all of us become a little bit lost.

The cases about which we are talking, the ones with which I am concerned—and I am sure other Senators who have discussed this matter are concerned with them—are obviously cases which are so small that the NLRB will not assume jurisdiction. We who are interested in the "no man's land" situation have no idea in the world that the "no man's land" action would enter into industry-wide bargaining or into plants of 200, 300, 500, 1,000, or more employees, where interstate commerce is clearly affected.

Our only concern is for the little man who is operating a garage and who has 5 or 10 employees; or for a man like Coffey, who had 10 or 12 truckdrivers; or a small merchant on Main Street, who might have 20 employees. From the very nature and size of the business, I feel certain the NLRB would immediately say it was not interested in such a case. I think we lose sight of that situation.

I hope Senators do not believe for 1 minute I think that by providing this kind of relief at the State level I am trying to get the States into matters which are purely interstate commerce, because I am not.

Mr. COOPER. The Senator from Arizona has touched on the critical point at issue and toward which this amendment and the similar amendments we have been discussing are directed. First, it has been established that in cases which affect interstate commerce in a material way the NLRB has jurisdiction under the Taft-Hartley Act. If my amendment is adopted, a State agency could assume the same jurisdiction where the NLRB determines it will not take jurisdiction. But in cases which do not affect interstate commerce—cases in which the NLRB determines that interstate commerce is not affected—then, of course, a State agency would not be bound by this amendment. That is my judgment.

Now, I think there may develop, in the further consideration of this problem and through the work of the committee which has been appointed to review the problem, standards, so that the NLRB will be able to say that certain classes of cases are not within the contemplation of the Taft-Hartley Act, and are, therefore, subject to State jurisdiction. This amendment is a beginning toward that goal. It offers a forum, and it offers a procedure.

Mr. GOLDWATER. I should like to ask the three lawyers who are the sponsors of the amendment—because I am not a lawyer—Is there a difference between not having jurisdiction and refusing to assert it?

Mr. MORSE. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. I yield.

Mr. MORSE. I think it is very important that we make the legislative history perfectly clear. As one of the cosponsors of the amendment, and as the chief sponsor of the provision in the bill, I want the record to show my position with respect to its legislative meaning.

Suppose a case comes before the NLRB, and objection is raised to the jurisdiction of the Board on the ground that the case does not involve interstate commerce, the Board rules that the case does not involve interstate commerce, an appeal is taken, and the courts finally rule that the case does not involve interstate commerce. In such an instances there is no question about the fact that the State has jurisdiction and that there is no Federal problem at all.

The second type of case is one which comes before the National Labor Relations Board, the Board admits it has jurisdiction, it admits that the case comes under the commerce clause, but the Board says:

> The case is so small from the standpoint of the number of employees involved and the size of the plant, and the effect on interstate commerce is so insubstantial, that we will not take jurisdiction.

As to those cases, the Supreme Court of the United States has held very clearly that the Board has jurisdiction, that the Board cannot waive jurisdiction, and that the Board should take jurisdiction.

I wish to make it very clear that it is not my intention, so far as my participation in this amendment is concerned, to give jurisdiction over those cases to the States for the application of common law principles in State courts. What we say to the States in those cases is that so long as interstate commerce is involved, and the Federal Government, therefore, has jurisdiction, although the National Labor Relations Board says it is so burdened with a caseload that it cannot handle such cases because it has many more major cases to take up its time, we are taking the position of the Supreme Court of the United States, namely, that the workers and employers involved are entitled to the same protection of the commerce clause under Federal jurisdiction as are the workers in a plant which employs 2,000 instead of 8.

As to those cases, the State, can use any agency it desires. Arizona can use its industrial commission, if it wants to do so. The State can give to the industrial commission jurisdiction over those cases. But the State agency will be bound, under the Cooper-Javits-Morse amendment, to the application of Federal law, the appeal will be to the Federal courts, and Federal law will apply. I think we would perform a great disservice to all concerned if we did not make that perfectly clear. That is the way it would have to be until legislation was enacted by the Federal Government to create the kind of standards about which the Senator from New York and the Senator from Kentucky just spoke: cases which would take away from the Federal Government jurisdiction over matters arising under the commerce clause.

I hope that time will never come, because if ever it does we will have destroyed the principle of uniform rights under the Constitution of the United States for all employees, whether they work in large or small plants. It is my intention to prevent such a happening, so far as my participation in the amendment is concerned. I want to make it very clear that I am supporting an amendment which, in effect, carries out the Supreme Court decisions, and says, in effect, to the National Labor Relations Board: You cannot waive the Federal rights of persons who may be concerned in cases which involve interstate commerce.

Mr. GOLDWATER. Let me see if I understand the Senator correctly. The Senator said, if I correctly understood him, that as to a case which clearly has no effect on interstate commerce, and as to which the NLRB has no jurisdiction, a State agency could assume jurisdiction. Do I correctly understand that, even though the case does not affect interstate commerce and there is no argument on that point, the Senator from Oregon would have Federal law apply?

Mr. MORSE. Oh, no. It could not now. Those are intrastate cases, not interstate cases. The Federal Government has no jurisdiction in intrastate cases now.

Let me cite a hypothetical case. Suppose an intrastate case comes before the National Labor Relations Board, and the Board makes a mistake in its decision. It wrongly decides that it has jurisdiction. The case is appealed, and the court looks at it and says to the Board: "You are wrong. You do not have jurisdiction in the first place, because there is not one iota of interstate commerce involved. This is an intrastate case, pure and simple." Under the existing situation the Federal Government has no jurisdiction in such cases.

Mr. GOLDWATER. Would the Senator clear up one more point? Do I correctly understand that the Cooper-Javits-Morse amendment would allow the State courts to handle cases which are clearly intrastate, or are not interstate?

Mr. MORSE. They do now. The Cooper-Javits-Morse amendment has absolutely nothing to do with an intrastate commerce case.

Mr. JAVITS. Mr. President, at this point will the Senator from Kentucky yield to me?

The PRESIDING OFFICER (Mr. JORDAN in the chair). Does the Senator from Kentucky yield to the Senator from New York?

Mr. COOPER. I yield.

Mr. JAVITS. Mr. President, neither does the amendment have anything to do with a case which the Board finds it has no jurisdiction.

Mr. GOLDWATER. If the Board found it had no jurisdiction, because of a lack of impact on interstate commerce, and if an appeal of that decision were to fail, then the local courts or the local agency could handle the case, under the local law.

Mr. JAVITS. That is exactly correct; in that case, the case would be strictly intrastate, under this amendment.

Mr. GOLDWATER. But if, on appeal, that decision were to be reversed, the case would have to be dropped by the State agency, and it would revert to being handled under the Federal law.

Mr. JAVITS. That is correct.

Mr. GOLDWATER. Of course, my concern about this matter—and I compliment my colleagues for trying to reach a decision in regard to this question, because I recognize that it is a difficult one on which to legislate—is that under the decisions of the Supreme Court, beginning with the Jones and Laughlin case of the middle 1930's, it is rather difficult for me, as a layman, to find a business in the country which could properly be called purely intrastate. For instance, I have a feeling that a bootblack might be said to be in interstate commerce, because the paste he buys is produced in a factory outside his State. The Court's decisions have so broadened the interpretation of interstate commerce that I believe we must be concerned with that situation, because in this instance we are concerned with the really small businessmen—not those with businesses employing 50 employees or more; instead, I am talking about a small garage in Idaho which went broke or about Mr. Coffey's establishment in Nebraska which went broke—businesses involving 12 or 15 persons—because the decisions of the Supreme Court have held them to be interstate.

Mr. MORSE. But does not the Senator from Arizona think they should be given a remedy?

Mr. GOLDWATER. Of course.

Mr. MORSE. The Cooper amendment will give them a remedy.

Mr. GOLDWATER. But I do not think it would sufficiently speed up the proceedings.

Mr. COOPER. Mr. President, will the Senator from Arizona yield to me?

Mr. GOLDWATER. I yield.

Mr. COOPER. The point which the Senator from Arizona has raised would be just as applicable to the amendment which the Senate voted on yesterday, and defeated. In other words, if we give the jurisdiction to a State court, it would still have to decide whether it would take jurisdiction of such cases.

Mr. MORSE. Certainly none of us would want to take away from the courts the judicial power to determine jurisdiction. That power is quite basic to our system of jurisprudence.

Mr. COOPER. Of course.

Mr. ERVIN. Mr. President, will the majority leader yield to me 5 minutes of the time in opposition to the amendment, so that I will not have to use any of the time available to the Senator from Kentucky?

Mr. JOHNSON of Texas. Yes. Mr. President, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. ERVIN. Mr. President, first, I wish to thank the Senator from Kentucky for laying aside his amendment last night, so that we would have an opportunity to study it.

Let me say that I believe this amendment is an improvement over the present provision of the bill, in that the State agencies would get their authority from the Congress rather than from a contract with the National Labor Relations Board.

I wish to ask this question: Does the Senator from Kentucky think as a practical matter that any State will enact laws which will allow the ruling of an agency established and maintained by the State to be reviewed by Federal courts, rather than by State courts?

Mr. COOPER. I do not see any reason why that should not be done. We admit there is a need for a forum for these cases; and this amendment places on the States the burden of providing such cases with a forum.

The question arises as to why we should provide for an an appeal to the Federal courts, rather than to the State courts. But there is nothing wrong with such an arrangement. Congress has the power to confer jurisdiction upon the Federal courts, as the Senator from North Carolina realizes.

This amendment deals with a Federal question—in other words, with the Taft-Hartley Act, which applies to all labor disputes arising in interstate commerce. So it seems to me perfectly logical for the Senate to adopt this amendment.

Mr. ERVIN. I agree with the Senator from Kentucky that Congress has the power to confer upon State courts or

agencies the authority to enforce a right which arises under the Federal Constitution or under the laws of the Federal Government. But I seriously question whether the Congress has the power to deny State courts the right to review the rulings of a State agency or to prescribe procedure for a State agency.

I agree with the Senator from Oregon that no substantive right has value unless there is some procedure by which that right can be enforced. But I do not believe it is necessary to create an unprecedented situation in this instance, by having Congress undertake to prescribe the procedure by which State agencies shall act, or to require that the rulings of the State agencies shall be enforced in the Federal courts, as distinguished from State courts.

The able and distinguished Senator from Kentucky [Mr. COOPER]—who, in my opinion, is one of the great lawyers of the country—knows that the Constitution provides, in substance, that wherever Federal law controls a subject, the State court judges are sworn that they will enforce the Federal law, any State law to the contrary notwithstanding. That is done in order to promote uniformity. Our constitutional and legal history shows that this provision has been sufficient to secure uniformity of rulings in cases where concurrent jurisdiction has been conferred by Congress on Federal and State courts to enforce a federally created substantive right.

As a matter of fact, in a great majority of instances in which the Congress has created a new right, it has permitted that right to be enforced by the State courts—which, as I have just now pointed out, have to follow the Federal law.

Although I believe the proposed amendment is much better—by reason of clarity and by reason of having the Congress confer jurisdiction on a State agency—than the present provision of the bill, I think that the part of the proposed amendment which gives the Federal courts the right to review the rulings of the State agencies, to the exclusion of the State courts, will result in this remedy never being made available to anyone. This is true because I cannot imagine any State legislature in the country giving approval to a law which would deny its own courts power to review the rulings of its own agencies and vest that power solely in the Federal courts.

If it were not for that fact, and if we were willing to try to secure uniformity by means of the method which historically has been pursued in every generation in our country, in cases in which the States undertake to enforce Federal rights; that is, by letting the State agencies in such situations have their rulings reviewed in the normal way by the State courts, which are obligated to follow the Federal law, I believe this amendment would provide a proper remedy.

Mr. COOPER. Let me comment briefly, and then I shall yield to my fellow lawyer.

First of all, I do not think there is any question that Congress has a right to do this. We can confer jurisdiction on the Federal courts.

We recall the various measures, which have been introduced in the past several years, to remove jurisdiction from the Federal courts. So certainly we can confer jurisdiction. The Senator's question is only one of policy—namely, whether the States will wish to act in this way.

The argument made in support of the amendment which was defeated was based on the glaring lack of uniformity, and the need for uniformity. If there is a lack of uniformity, I think the States should act in accordance with a uniform policy.

I recognize the rule that in certain instances the State courts must follow Federal law. So there is nothing wrong with requiring the State courts to follow the Federal law in these cases. Otherwise, there would be 40 or more labor laws all over the country.

The PRESIDING OFFICER. The time yielded to the Senator from North Carolina has expired.

Mr. ERVIN. Mr. President, may I have a little more time?

Mr. JOHNSON of Texas. Mr. President, I yield 3 additional minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 3 additional minutes.

Mr. ERVIN. I thank the Senator from Texas.

Mr. President, I believe this amendment contains a very good idea. But what I regard as an unprecedented provision of the amendment is the one to the effect that the rulings of the State agency must be reviewed in the Federal courts, to the exclusion of the State courts. I honestly do not believe that a single State in the Union would ever pass a measure which would subordinate its agencies to the Federal courts to the exclusion of its own courts.

Mr. COOPER. I see no reason why the forum the amendment contemplates should not be provided.

Mr. ERVIN. Can the Senator think of any instance in our history in which that has been done? I cannot.

Mr. COOPER. I have inquired of the Department of Justice whether there are any instances. I have not received a reply. Whether there are instances or not does not mean we cannot provide the proper remedy and procedure.

Here is a situation applying to interstate commerce, and uniformity is provided by my amendment. I think there is good reason for it. It is a matter of judgment for Congress and would be a matter of judgment for the State legislatures if they wish to provide the forum.

Mr. PROUTY. Mr. President, will the Senator from Kentucky yield to me?

Mr. COOPER. I yield.

Mr. PROUTY. Even if this amendment should be adopted, is it not true that until 38 State legislatures passed or enacted legislation establishing the boards or authorities, nothing could be done in those States for at least 2 years, because the legislatures of most of them will not be in session during that interim?

Mr. COOPER. The situation differs in the various States.

Mr. PROUTY. I think there are at least 32 States of which that is true.

Mr. COOPER. As the situation now exists, there is no remedy. This proposal provides an opportunity to the States to afford a remedy.

Mr. PROUTY. I have a compromise, which I shall offer at the appropriate time, if I have the opportunity to do so, which would enable State courts to assume jurisdiction of such matters, and provide that an appeal could be taken to a State court, or a higher State court, but the State courts would be bound by Federal law. The States would also be authorized to establish their own agencies, which would be guided by Federal law, and would assume jurisdiction over these cases when the NLRB rejects them. But I point out that the provision would go into effect immediately. It would provide an immediate remedy. The proposal is not perfect, but it would give the small businessmen and the small unions something to stand on now. They would know where they stand.

The proposal of the Senator from Kentucky, however idealistic it may be—and it is that—is not practical, in my judgment, because most of the States will not want the agencies they have established subject to control by the Federal courts.

Mr. COOPER. My proposal is not idealistic; it is a practical proposal. It says to the States and the people who live in the States, "You have been complaining about the lack of a remedy. You now have the power to establish the remedy and provide a forum." It is up to the States. If they do not do it, perhaps the Congress ought to look for another remedy; but this is a remedy which would be available within a reasonable time.

Mr. PROUTY. Will the Senator not agree that in most States the remedy will not be available for at least 2 years?

Mr. COOPER. I do not know; but the proposal goes to the basic argument which was made yesterday, namely, whether we desire to have different labor laws in every State or whether we want to have the mandate of the National Labor Relations Act followed.

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

Mr. ALLOTT. Mr. President, will the Senator from Texas yield 5 minutes to me?

Mr. JOHNSON of Texas. I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLOTT. I wonder if I may have the attention of the Senators who have been discussing this matter, because I wish to refer to some of its phases. It seems to me there are some discrepancies in the amendment which we ought to consider, and I invite the attention of my colleagues to them.

We are all agreed that where an intrastate situation exists, the State agencies or the State courts and the State laws should apply. I am sure there is no disagreement with that statement on the part of any Senator.

Now we come to the next stage, where the NLRB has refused to accept jurisdiction because there is not involved a significant interest which affects interstate commerce. Personally, I cannot help believing that if a business is that insignificant as it affects interstate commerce, there is no reason why State law should not apply. I realize it is at this point that my thoughts and those of some of my colleagues separate widely. But I do not know that it is of necessity a matter of great governing principle here, because Federal law could be applied by the State agencies or the State courts in the same manner that State substantive law is now applied in the Federal courts.

Cases involving negligence, property rights, and breach of contract are now tried in Federal courts, with the law of the States concerned being applied. That is a point on which we are all agreed, I believe. It would be very easy simply to reverse the process, and apply Federal rules and Federal law to cases heard in State courts and State agencies.

Still speaking of the same situation, so that we may not become confused, in a case where the NLRB has refused jurisdiction because of the insignificance of the impact of the business upon interstate commerce, very frankly the question which concerns me more than anything else about the pending amendment is that the mention of State courts has been omitted from the amendment. As I understand, there are only 12 States which have agencies constituted to deal with such cases.

A few moments ago the Senator from North Carolina [Mr. ERVIN] discussed this point. I am very much concerned with this problem, and I wonder if there is not a way whereby the situation can be changed.

The condition does not apply only to the Southern States, I may say. Many States would be genuinely concerned with respect to establishing a State agency. In Colorado, for example, the power could be given to the State Industrial Commission. When that were done, it would in effect establish a new State agency, or an agency with new power. I am sure we all would look askance at a suggestion that such an agency would, in effect, be put under the jurisdiction of a Federal agency. I know I would. It might be said that it would not work. That is not true. All the State agencies would have to do would be to decide the cases on the basis of Federal law.

I have already discussed this matter, Mr. President. I do not think there is too much discrepancy involved. I think such cases could be tried just as well under State law. But conceding that there would be no harm in applying Federal law to such a situation, and that in any proceeding before a State agency or a State court Federal law would be applied, pretty soon the Federal courts would be exerting great control over the State agencies, and would be telling those agencies, in substance, "Your procedure was wrong. Therefore, you should perfect your procedure this way. You will have to proceed this way. You will have to proceed this way on appeal." In effect, the State agencies would be controlled not only by State law, but in all the cases under discussion they would be controlled by the Federal courts.

I understand that the Senator from Kentucky was once a State judge. I cannot conceive that a man of his caliber could, as a State judge, fail to give complete recognition to Federal law, if such a mandate were given by the Congress. I see no reason why the Congress could not simply include in the proposal a directive so that the States which did not need to set up completely new agencies, or to cloak existing agencies with such powers, and increase their staffs, expenses, and so forth, could act.

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

Mr. ALLOTT. Mr. President, will the Senator yield me 2 more minutes?

Mr. JOHNSON of Texas. I yield 2 minutes to the Senator from Colorado.

Mr. ALLOTT. I do not see why we could not, in such instances, have the State courts act. While I would prefer it the other way and while I have no particular objection to having Federal laws apply in the particular situation, I have great concern about having to appeal to the Federal courts when the National Labor Relations Board has said the matter is not an interstate matter. In effect, such a procedure would subject State organizations in appeal matters to the jurisdiction of Federal courts.

I think this is an important question for all Senators to determine. I should like to see the amendment amended to meet the objection.

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

Mr. ALLOTT. I am happy to yield.

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

Mr. ALLOTT. I have been informed that my time has expired. Will the Senator request time for himself?

Mr. JOHNSON of Texas. Mr. President, I have agreed to yield time to the Senator from Oregon [Mr. MORSE] and the Senator from New York [Mr. JAVITS]. Does the Senator from Vermont desire some time?

Mr. PROUTY. Yes, I should like to have some time.

Mr. JOHNSON of Texas. How much time would the Senator like to have?

Mr. PROUTY. I would appreciate it if the Senator could yield me 10 minutes. If I could have that much time it would help.

Mr. JOHNSON of Texas. Mr. President, I yield 9 minutes to the Senator from Vermont.

Mr. PROUTY. I thank the Senator from Texas.

Mr. President, as I suggested yesterday, this is one of the most important problems with which we have to deal in regard to the pending bill. I have prepared an amendment, designated "4-23-59-G," which is printed and can be read if any Senator is interested.

I agree that uniformity in labor legislation is highly important and desirable. The amendment which I propose will maintain uniformity, but it will also grant jurisdiction to State courts.

I should like to read a summary of the main provisions of my amendment. I think the amendment represents a compromise between the proposal made by the distinguished Senator from Arkansas [Mr. MCCLELLAN] and that offered today by the distingiushed Senator from Kentucky [Mr. COOPER]. The main provisions of my amendment are as follows:

First. The NLRB must publish within 30 days after the enactment of this act the limitations on its exercise of jurisdiction which it proposes to observe and such limitations shall be substantially in accord with those now in effect.

Second. Any person not certain whether his case comes under the jurisdiction of the Board may petition the Board for a ruling if the Board does not act in 30 days on the petition it will be presumed the Board has declined jurisdiction.

Third. Whenever the Board by rule or otherwise declines jurisdiction over an unfair labor practice case, the State courts will have jurisdiction over such case. But the State courts shall apply and be governed solely by Federal law as set forth in section 8(a) and 8(b) of the National Labor Relations Act and National Labor Relations Board and Federal court rules of decision construing these sections.

Fourth. If a State sets up an agency to take jurisdiction over cases which the NLRB has declined by rule or otherwise such an agency may take jurisdiction over not only unfair labor practice cases but also representation proceedings and all other labor disputes. Here again the State agency shall apply and be governed solely by Federal law and Board and Federal court rules of decision construing such Federal law.

Fifth. Decisions of an agency or court of a State shall be reviewed in State courts according to State practice and procedure. And then shall be subject to review only by the Supreme Court of the United States upon writ of certiorari.

Mr. President, I should like to invite attention to what seem to me to be some basic weaknesses of the amendment proposed by the distinguished Senator from Kentucky.

In the first place, if the amendment should be agreed to, at least 33 States would be unable to take advantage of it for another 2 years. I have a list of the States, but I shall not take the time to read it.

I should like to mention briefly some of the other disadvantages which seem to me to apply to the Cooper amendment.

First, the amendment would not require the Board to establish standards determining whether it will take jurisdiction. Under my amendment this question would be taken care of, and the limitations on the Board's exercise of jurisdiction would be substantially in accordance with those now in effect.

Under the Cooper amendment a person might not know for months whether the Board has or has not jurisdiction over his case. Under my amendment

any person could petition the Board for a ruling whether his case came under the Board's jurisdiction, and if the Board did not act within 30 days it would be assumed that the Board had declined jurisdiction.

Under the Cooper amendment the no man's land could exist indefinitely, if the sovereign States refused to establish agencies which would be, in effect, an arm of the National Labor Relations Board. Under my amendment this matter would be taken care of immediately, and the State courts could act on unfair labor practice cases as to which the Board had declined jurisdiction. My amendment provides that if States do create appropriate agencies they may handle all labor cases declined by the Board.

The Cooper amendment purports to give a State agency power to solve the no man's land problem, but it requires the State agency to go to a Federal court for enforcement of its orders. The same Federal court is the appeal agency for a person aggrieved by a final order of the State agency.

The effect of the amendment is to encourage States to establish State agencies which will be without power to solve cases brought before them unless they obtain enforcement orders from a Federal court. The amendment also would require a person to appeal not to the State courts but to the Federal courts.

My amendment would provide a definite and certain means of solving the problem, by allowing the State courts to act under the Federal law in unfair labor practice cases, which are the most serious problems now in the no man's land area, and it would encourage States to set up agents to take over other cases.

I gave an example yesterday of the situation which confronts us at the present time. Under the National Labor Relations Board jurisdictional standards the Board will accept cases in a nonretail operation involving gross business of $50,000 a year or more.

Let us consider what might happen at the present time. If we consider two manufacturers in the same State and in the same town, one with a gross volume of business of $50,000 and the other with a gross volume of $49,000, the National Labor Relations Board will exercise jurisdiction over one but it will decline jurisdiction over the second. In the second instance the management has no agency to which it can take its case of real or fancied grievance. That is the no man's land problem. The other company is governed solely by Federal standards.

I recognize that the amendment which I am proposing is not perfect, but it would maintain a certain degree of uniformity, and the uniformity would come into existence immediately. There would be recourse for grievances as soon as the bill were enacted into law, if my amendment should be agreed to.

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

Mr. PROUTY. I am glad to yield.

Mr. COOPER. In this debate one problem has been entirely overlooked. I hope the senior Senator from Oregon [Mr. MORSE] will discuss it. It is the problem of injunctions.

Mr. MORSE. The Senator is correct.

Mr. COOPER. I hope I can demonstrate to the Senator from Vermont the fallacy of the amendment he is proposing and how it would be ineffective and, in my view, would not be operated uniformly with respect to injunctions.

The amendment which we have offered with respect to injunctions follows the exact procedure outlined in the Taft-Hartley Act. The amendment the Senator from Vermont is proposing would give State courts the power to issue injunctions. The Senator has said the courts would have to follow Federal law, but I believe we should consider the practical situation.

Today in eastern Kentucky there is mass picketing, and it is said that there is violence. Petitions have been presented to the State courts to issue injunctions in cases in which the courts now have authority to issue injunctions. The courts do not issue injunctions. I shall not discuss the reasons why, but they do not. Even though we give to a State court the power to issue an injunction, the court can refuse to do so if it wants to. That is a discretionary matter.

The amendment which we offer would give to Federal courts the power to issue injunctions under proper procedures.

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

Mr. COOPER. I think that is one of the real values of my amendment, and, at the same time, one of the real safeguards.

Mr. JAVITS. Mr. President, may I have the attention of the majority leader?

The PRESIDING OFFICER. Does the Senator from Texas yield time to the Senator from New York?

Mr. JOHNSON of Texas. Yes. How much time is left?

The PRESIDING OFFICER. Six minutes.

Mr. JOHNSON of Texas. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, in the brief time I have, I should like to pursue one point which I shall make, and which we have just been discussing. The question is asked, Why do we not give the courts in the 38 States which have no State agencies the jurisdiction given to State agencies?

The reason we do not is that we cannot, because of the general judicial power of courts. We cannot limit their jurisdiction in the way we can limit the jurisdiction of an agency; and in view of the fact that we cannot repeal the Constitution and take away the interstate commerce clause which is in it now, every State agency designated under this amendment would become an arm of the National Labor Relations Board, subject to the same restrictions as the Board is subject to.

We cannot do that with a court. A court can issue injunctions against doing certain things in the presence of the court which it deems to be against its dignity. That power we cannot restrict. It is inherent in the power of the court. Hence, if we give jurisdiction to the courts in the other 38 States, which do not now have agencies, we shall be opening the door to exactly what the Taft-Hartley law was designed to prevent, namely, the unrestricted injunctive power of the courts.

That is the essence of the problem. There is no way of getting around it. The way we have handled the problem is by giving an open invitation, on reasonable terms, to every one of the other 38 States, saying to them "Designate an agency, and it will become an arm of the National Labor Relations Board, fully able to occupy the no man's land which is now vacant."

It seems to me that is reasonable. It opens up the entire question, and makes it susceptible to solution.

In reply to those who say that such a procedure cannot be made effective in less than 2 years, I say, first, that a special session of any legislature can be called. Second, we have been living with this condition for 12 years, and have not been able to do anything about it. I believe we are now in a position to make a measurable beginning.

Mr. JOHNSON of Texas. Mr. President, I yield 4 minutes to the Senator from Oregon.

Mr. MORSE. Mr. President, the Senator from New York has made a brilliant legal argument as to why it would be a mistake to turn jurisdiction over to the State courts in the 38 States which do not now have agencies. Turning jurisdiction over to State courts would produce further delay, because if we were to turn it over to the State courts, there would still be available to a dissatisfied litigant an appeal to the district Federal court anyway.

In most cases there would be an appeal to the Federal court. Why? Because the Supreme Court has held that this is a Federal question.

We cannot repeal the Supreme Court. We cannot repeal the interstate commerce clause of the Constitution. I want the legislative history of the bill to show that we cannot get away from the controlling fact that interstate commerce problems are involved in these cases, and the Supreme Court has made it perfectly clear that the National Labor Relations Board cannot waive its jurisdiction. That being the law, what do we propose to do?

We propose to provide a remedy. We propose to say to the State, "Name a State agency—industrial commission, welfare board, or any other State agency you wish to name—and you can have jurisdiction over these cases; but you must follow the Federal law."

As the Senator from New York has pointed out, we can do that with an administrative body. We cannot do it with a State court. Therefore, all we would be doing would be to buy further delay in these cases, if we go to the State court first, and provide an appeal to the Federal court, in order to bring the case under Federal jurisdiction.

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

Mr. MORSE. Mr. President, may I have 2 or 3 minutes on the bill?

Mr. JOHNSON of Texas. I yield 5 minutes on the bill to the Senator from Oregon.

Mr. MORSE. I also wish to suggest that we must not overlook the point which the Senator from Kentucky has just made. I am at a loss to understand why Senators who are so eager to provide for State handling of these cases overlook the fact that we have written into our proposal the injunctive processes of the Taft-Hartley law. Does any Senator believe that labor likes that? Let him go into the reception room and find out. We are proposing in the amendment to grant injunctive protection, which ought to be eagerly seized. We propose to give to employers in the States the injunctive protection of the Cooper-Javits-Morse amendment because we believe there must be some teeth in the procedure for the handling of the no man's land cases.

However, we believe that there should be uniform injunctive processes. We do not think there should be available the injunctive processes of 49 States or 50 States as soon as Hawaii enters the Union. We believe that the injunctive procedure should be uniform across the country, and that the injunctive principles of the Taft-Hartley law should be applied uniformly. What a remedy we have given.

My last point deals with the question so often asked, What about the States doing something about it? In the first place, I say most respectfully that the States, as well as the Federal Government, have an obligation. They owe it to the employers and workers in the various States to provide a remedy. Eleven of them have done so. There are some State labor boards or agencies. I happen to believe that once the people of the States understand the remedy we have offered, they will say to their Governors and legislatures, "Get busy and give us an agency which can provide sorely needed relief."

Let me cite a homely example. A plumber from Salem, Oreg., sat in my office a little while back, while I was working on the procedures in the bill. He said, "What we want is a remedy. I am going broke because I cannot get anyone to take jurisdiction over my case." He said, "I used to belong to the plumbers union, and I know the workers' problems, too. What we need is a forum in order to apply the Taft-Hartley law to my case."

We are offering such a forum. There are thousands of such cases as that across America.

For these reasons, because I am opposed to a step of delay, which is all we would get, in my judgment, under the Prouty amendment, and because I think it is important to have injunctive processes with teeth and a uniform application of the injunctive processes of the Taft-Hartley law, I am proud to join the Senator from Kentucky and the Senator from New York in sponsoring this amendment.

Mr. ALLOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLOTT. In the event the pending amendment should be agreed to, would it be subject thereafter to an amendment which would strike it from the bill?

The PRESIDING OFFICER. If the amendment were agreed to, no further amendment of the amendment would be in order.

Mr. ALLOTT. Does that include an amendment to strike?

The PRESIDING OFFICER. It would not be in order to strike it from the bill if it were agreed to.

Mr. PROUTY. Mr. President, I call up my amendment designated "4-23-59—G," and offer it as a substitute for the pending amendment.

The PRESIDING OFFICER. All the time has been exhausted. The Senate must vote on the pending amendment before the amendment of the Senator from Vermont can be considered.

Mr. DIRKSEN. Mr. President, as I understand, the Senator from Vermont is offering his amendment as a substitute for the pending amendment.

Mr. PROUTY. That is correct.

Mr. DIRKSEN. That is what I understood the distinguished Senator from Vermont to say.

The PRESIDING OFFICER. There can be no debate.

Mr. DIRKSEN. I realize that, unless it is by unanimous consent.

Mr. MORSE. Mr. President, I am opposed to the amendment, but I think it would be only fair to allow the Senator from Vermont some time. Can he not be allowed 5 or 10 minutes on the bill?

Mr. JOHNSON of Texas. We will give him all the time he desires.

Mr. MORSE. I do not think it was clear to him that he could have time on the bill.

Mr. DIRKSEN. Mr. President, I yield the distinguished Senator from Vermont 5 minutes on the bill.

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

Mr. PROUTY. Mr. President, I ask unanimous consent that the amendment, instead of being read, be printed in the RECORD at this point.

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

The amendment offered by Mr. PROUTY, ordered to be printed in the RECORD, is as follows:

On page 54, strike out all of section 601 and insert the following new section:

"SEC. 601. (a) Section 6 of the National Labor Relations Act, as amended, is hereby designated as section 6(a) and said section 6 is amended by adding thereto the following new subsection (b):

"'(b) (1) The Board in its discretion may, by rule or otherwise, decline to take jurisdiction over any labor dispute, unfair labor practice, or representation proceeding if, in the Board's judgment, the effect thereof on commerce is insufficient to warrant the exercise of jurisdiction.

"'Within thirty days after the date of enactment of this subsection, the Board shall clearly establish and publish by rule or otherwise such limitations on its exercise of jurisdiction as it proposes to observe for the purpose of excluding from its jurisdiction any labor dispute, unfair labor practice or representation proceeding: *Provided,* That such limitation shall be substantially in accord with those now in effect.

"'(2) The Board in the same manner may establish and publish modifications of such limitations on its exercise of jurisdiction as it has established pursuant to paragraph (1), but no such modification shall have the effect of staying or otherwise affecting any proceeding duly instituted before any appropriate court or agency of any State or Territory (including the Commonwealth of Puerto Rico, Guam and the Virgin Islands) prior to the expiration of thirty days' publication of such modification; nor shall any such modification permit the Board to withdraw exercise of its jurisdiction over any proceeding which has been duly instituted before the Board prior to the expiration of thirty days' publication of such modification.

"'(3) Any person may petition the Board for a determination as to whether a particular case involving a labor dispute falls within the limitations on its exercise of jurisdiction established pursuant to paragraphs (1) and (2). Notice of such petition and its contents shall be given contemporaneously by the petitioner to any known interested persons or his representative, and such notice shall have the effect of staying any proceeding to which the petition refers explicitly and to which both petitioner and any person or persons given such notice are the parties. Any person given notice may file an answer with the Board not later than ten days after receiving such notice. The Board's determination, unless arbitrary, shall be final and binding upon the petitioner and upon all parties notified by petitioner as provided in this paragraph. If the Board should make no determination within thirty days after the filing of the initial petition, it shall be presumed that the Board has determined to be outside its jurisdiction any case to which the petition explicitly refers, and to which petitioner and any person or persons given appropriate notice are the parties.'

"(c) Section 14 of the National Labor Relations Act as amended, is amended by adding thereto the following new subsection (c) as follows:

"'(c) (1) Whenever the Board has declined jurisdiction over an unfair labor practice, the courts of any State or Territory (including the Commonwealth of Puerto Rico, Guam and the Virgin Islands) shall have jurisdiction over such unfair labor practices: *Provided,* That any State or Territory may, by legislation or otherwise, provide that an agency rather than the courts thereof shall assume and assert such jurisdiction.

"'(2) Whenever the Board has declined jurisdiction over any labor dispute, unfair labor practice, or representation proceeding any State or Territory (including the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) may, by legislation or otherwise, establish an agency to assert jurisdiction over such labor dispute, unfair labor practice, or representation proceeding and such agency shall not be precluded from asserting jurisdiction by virtue of the fact that such labor dispute, unfair labor practice or representation proceeding affects interstate commerce.

"'(3) In determining unfair labor practice proceedings being prosecuted in accordance with paragraph (1) of this subsection, or in determining labor disputes, unfair labor practices, or representation proceedings pursuant to paragraph (2) of such subsection, the State or Territorial court or agency shall apply and be governed solely by Federal law as set forth in section 8(a) and (b).

"'(4) Whenever any State or Territory establishes pursuant to this section an agency to assume and assert jurisdiction over any labor dispute, unfair labor practice or representation proceeding which the Board has excluded from its exercise of jurisdiction pursuant to section 6(b) of this Act, the courts of such States or Territories shall no longer assume or assert jurisdiction over unfair labor practice cases pursuant to paragraph (1) of this subsection except for cases then pending in such courts which may be concluded and determined by them.

"'(5) Proceedings brought in a State or Territorial court pursuant to paragraph (1) of this subsection shall be advanced on the

docket and expedited for disposition. Such proceedings shall not be subject to removal to the Federal courts under the provisions of the Judicial Code (Act of June 25, 1948; 28 U.S.C.) as amended.

"'(6) Judgments or decrees of the State or Territorial courts shall be subject to review by the Supreme Court of the United States upon writ of certiorari as provided in the Judicial Code, as amended (Act of June 25, 1948; 28 U.S.C.).'

"(d) Section 10(a) of the National Labor Relations Act, as amended, is amended by repealing the proviso thereto."

Mr. PROUTY. Mr. President, I have already outlined my proposal. At the outset, I might say that I have no objection at all to the proposal offered by the distinguished Senator from Kentucky [Mr. COOPER], except that in my judgment it is not a practical approach. It relies upon the assumption that State governments will establish the various agencies. We should not overlook the fact that at least 33 States cannot do that for another 2 years, even if they should so desire, because their legislatures will not be in session.

Furthermore, I am sure very few States will establish agencies which will be subject to Federal jurisdiction. In that regard, we must be practical and realistic.

It is not that I object to the proposal made by the distinguished Senator from Kentucky or to the provision in the bill proposed by the distinguished senior Senator from Oregon. I am opposed to it primarily because I believe it is not a practical and realistic approach. I believe that instead of allowing the no man's land problem to continue, we should take action now. I agree that the amendment I propose is not perfect. However, it will at least give some relief to small business and small unions, where such relief is not now available to them through any agency or from any source.

I believe it is high time that we face reality. We should take some action now to enable State courts or State agencies to provide some relief, even though that action may be changed at a later date, if necessary and desirable—and probably it will be. Nevertheless, we should take action at this time.

I should like to go through once more the arguments which seem to me to be rather pertinent, and which suggest to me, at least, that the amendment I am proposing is satisfactory or, at least, workable.

The Cooper amendment does not require the Board to establish standards determining whether or not it will take jurisdiction. The amendment I offer specifically states that the limitations on the Board's exercise of jurisdiction must be substantially in accord with those now in effect. In other words, the Board cannot change its jurisdictional standards casually, day in and day out. Some standards will remain in operation.

Under the amendment proposed by the Senator from Kentucky [Mr. COOPER], a person might not know for months whether or not the Board has or has not jurisdiction over his case. In that time, I might suggest to the Senate, a small business could be put out of business, or a small union might be disregarded by an unfair employer, and neither unions nor employers could have their rights settled or their grievances heard.

My amendment specifically states that any person may petition the Board for a ruling as to whether his case comes under the Board's jurisdiction. If the Board does not act within 30 days, it will be assumed that the Board has declined jurisdiction.

Under the amendment of my distinguished friend from Kentucky the no man's land could exist indefinitely if sovereign States refused to establish agencies which would be in effect an arm of the National Labor Relations Board.

If we are to be realistic, we must know that few if any States will be anxious to take this action, since at this time only 12 States have established labor relations agencies, and none of the States have laws which enable the NLRB to cede jurisdiction to the State boards.

Therefore, as a practical matter it seems to me we must take action which will afford some relief, however imperfect it may be.

The proposal I am offering represents a compromise between the proposal of the distinguished Senator from Arkansas [Mr. MCCLELLAN] and that offered by my distinguished friend from Kentucky [Mr. COOPER]. It is not perfect, and I am not suggesting that it is. If we could have complete uniformity, and if every State could establish an agency which would act in accordance with Federal law, of course that would be the desirable approach. However, we cannot expect that. It is asking too much. Such an approach is visionary, at the present time, at least.

I do not wish to take too much time and prolong the debate. I desired to get into the RECORD my statement on an amendment which I believe is sound, logical, and workable. I hope it will be given serious consideration.

The PRESIDING OFFICER (Mr. BUSH in the chair). The time of the Senator has expired.

Mr. DIRKSEN. I yield 2 minutes more to the Senator from Vermont, on the bill.

Mr. PROUTY. I conclude by stating that under my amendment State courts could act immediately on unfair labor practice cases on which the Board has declined jurisdiction, and that my amendment provides that if States do provide agencies, they may handle all the cases declined by the Board. That is something that should be taken into consideration. My amendment offers immediate relief. In the event that my amendment is defeated, in 38 States no relief can possibly be available for a period of at least 2 years.

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

Mr. DIRKSEN. Mr. President, I yield 3 minutes on the bill to the distinguished Senator from Kentucky.

Mr. COOPER. The amendment offered by the Senator from Vermont provides that jurisdiction shall be assumed by the courts or by such agencies as may be established by the States.

Some persons believe that the courts should take jurisdiction. Others—I am one of them—believe that the application of administrative law is better. I do not believe that there is much force to the argument that there would ensue a little delay if our amendment were adopted. There has been delay now for 12 years. I do not believe it is an argument to say that the States may not act. If the problem is important enough for the States to act, the States will act.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky yields back the remainder of his time.

The question is on agreeing to the amendment offered by the Senator from Vermont [Mr. PROUTY] to the amendment offered by the Senator from Kentucky [Mr. COOPER] for himself and other Senators.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Goldwater	Martin
Allott	Gore	Monroney
Anderson	Green	Morse
Bartlett	Gruening	Morton
Beall	Hart	Moss
Bennett	Hartke	Mundt
Bridges	Hayden	Murray
Bush	Hennings	Muskie
Butler	Hickenlooper	Neuberger
Byrd, Va.	Hill	O'Mahoney
Byrd, W. Va.	Holland	Pastore
Cannon	Hruska	Prouty
Capehart	Jackson	Proxmire
Carroll	Javits	Randolph
Case, N.J.	Johnson, Tex.	Robertson
Case, S. Dak.	Johnston, S.C.	Russell
Chavez	Jordan	Saltonstall
Church	Keating	Schoeppel
Clark	Kefauver	Scott
Cooper	Kennedy	Smathers
Cotton	Kerr	Smith
Curtis	Kuchel	Sparkman
Dirksen	Langer	Stennis
Dodd	Lausche	Symington
Douglas	Long	Talmadge
Dworshak	McCarthy	Thurmond
Eastland	McClellan	Williams, N.J.
Ellender	McGee	Williams, Del.
Engle	McNamara	Yarborough
Ervin	Magnuson	Young, N. Dak.
Fulbright	Mansfield	Young, Ohio

Mr. MANSFIELD. I announce that the Senator from Minnesota [Mr. HUMPHREY] is absent on official business.

The Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

The Senator from Delaware [Mr. FREAR] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business.

The Senator from Wisconsin [Mr. WILEY] is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from Vermont [Mr. PROUTY], offered as a substitute for the amendment of the Senator from Kentucky [Mr. COOPER], for himself and other Senators.

Mr. JOHNSON of Texas. Mr. President, I yield to the Senator from Vermont [Mr. PROUTY], such time as may be necessary for him to ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. PROUTY. Mr. President, I ask for the yeas and nays on the pending amendment, which is the Prouty substitute.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont, which is offered as a substitute for the amendment of the Senator from Kentucky.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Minnesota [Mr. HUMPHREY] is absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I further announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

On this vote, the Senator from Minnesota [Mr. HUMPHREY] is paired with the Senator from Kansas [Mr. CARLSON].

If present and voting, the Senator from Minnesota would vote "nay" and the Senator from Kansas would vote "yea."

I further announce that, if present and voting, the Senator from Nevada [Mr. BIBLE] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and is paired with the Senator from Minnesota [Mr. HUMPHREY]. If present and voting, the Senator from Kansas would vote "yea" and the Senator from Minnesota would vote "nay."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and if present and voting, would vote "nay."

The result was announced—yeas 40, nays 53, as follows:

YEAS—40

Allott	Eastland	Prouty
Bartlett	Ervin	Robertson
Beall	Fulbright	Russell
Bennett	Goldwater	Saltonstall
Bridges	Hickenlooper	Schoeppel
Bush	Holland	Scott
Butler	Hruska	Smathers
Byrd, Va.	Jordan	Stennis
Capehart	Kerr	Talmadge
Case, S. Dak.	Lausche	Thurmond
Cotton	Martin	Williams, Del.
Curtis	McClellan	Young, N. Dak.
Dirksen	Morton	
Dworshak	Mundt	

NAYS—53

Aiken	Hartke	McNamara
Anderson	Hayden	Monroney
Byrd, W. Va.	Hennings	Morse
Cannon	Hill	Moss
Carroll	Jackson	Murray
Case, N.J.	Javits	Muskie
Chavez	Johnson, Tex.	Neuberger
Church	Johnston, S.C.	O'Mahoney
Clark	Keating	Pastore
Cooper	Kefauver	Proxmire
Dodd	Kennedy	Randolph
Douglas	Kuchel	Smith
Ellender	Langer	Sparkman
Engle	Long	Symington
Gore	Magnuson	Williams, N.J.
Green	Mansfield	Yarborough
Gruening	McCarthy	Young, Ohio
Hart	McGee	

NOT VOTING—5

Bible	Frear	Wiley
Carlson	Humphrey	

So Mr. PROUTY's amendment to the amendment offered by Mr. COOPER for himself and other Senators was rejected.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Kentucky [Mr. COOPER] for himself and other Senators.

Mr. COOPER. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been exhausted on the pending question, which is on agreeing to the amendment offered by the Senator from Kentucky [Mr. COOPER], for himself and other Senators.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Minnesota [Mr. HUMPHREY] is absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I further announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

I further announce that, if present and voting, the Senator from Nevada [Mr. BIBLE] and the Senator from Minnesota [Mr. HUMPHREY] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and, if present and voting, would vote "yea."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and if present and voting, would vote "yea."

The result was announced—yeas, 78, nays 15, as follows:

YEAS—78

Aiken	Gruening	McNamara
Anderson	Hart	Monroney
Bartlett	Hartke	Morse
Beall	Hayden	Morton
Bennett	Hennings	Moss
Bridges	Hickenlooper	Mundt
Bush	Hill	Murray
Butler	Hruska	Muskie
Byrd, W. Va.	Jackson	Neuberger
Cannon	Javits	O'Mahoney
Capehart	Johnson, Tex.	Pastore
Carroll	Johnston, S.C.	Prouty
Case, N.J.	Jordan	Proxmire
Case, S. Dak.	Keating	Randolph
Chavez	Kefauver	Saltonstall
Church	Kennedy	Schoeppel
Clark	Kerr	Scott
Cooper	Kuchel	Smith
Cotton	Langer	Sparkman
Dodd	Lausche	Symington
Douglas	Long	Talmadge
Dworshak	Magnuson	Williams, N.J.
Engle	Mansfield	Williams, Del.
Goldwater	Martin	Yarborough
Gore	McCarthy	Young, N. Dak.
Green	McGee	Young, Ohio

NAYS—15

Allott	Ellender	Robertson
Byrd, Va.	Ervin	Russell
Curtis	Fulbright	Smathers
Dirksen	Holland	Stennis
Eastland	McClellan	Thurmond

NOT VOTING—5

Bible	Frear	Wiley
Carlson	Humphrey	

So the amendment offered by Mr. COOPER (for himself, Mr. JAVITS, and Mr. MORSE) was agreed to.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

The motion to table was agreed to.

Mr. JOHNSON of Texas. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCLELLAN. Mr. President, I call up my amendment identified as "4-17-59—A."

The PRESIDING OFFICER. The Clerk will state the amendment.

Mr. McCLELLAN. Before the amendment is stated, I should like to say that following the disposition of the amendment it is my intention to call up my amendment identified as "4-17-59—C," providing for the prohibition of secondary boycotts. The amendment I am calling up now deals with organizational picketing. After the amendment is disposed of I will call up the other one immediately. I make that statement now so that Senators who are interested, pro or con, may be present to participate in the discussion of the amendments. I consider them to be very vital both to those who favor them and to those who are opposed to them.

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from Arkansas.

The LEGISLATIVE CLERK. On page 25, beginning with line 21 it is proposed to strike all through line 3 on page 26.

At the end of the bill it is proposed to add a new section as follows:

SEC. 607. (a) Section 8(b) of the National Labor Relations Act is amended by striking out the word "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon, and by adding the following new paragraphs:

"(7) to carry on or threaten to carry on picketing on or about the premises of any employer for organizational purposes or for the purpose of forcing or requiring such employer to recognize or bargain with a particular labor organization as the representative of his employees—

"(A) within twelve months following the holding of a valid election under section 9(c) unless pursuant to such election such labor organization has been certified as the representative of the employees of such employer; or

"(B) during any other period unless there shall have been filed with such employer at least five days before the commencement of any such picketing a petition signed by a majority of the employees of such employer requesting that such employer recognize as the representative of his employees a particular labor union designated in such petition; and

"(8) to carry on or threaten to carry on picketing on or about the premises of any employer for the purpose of, or as part of any conspiracy or in furtherance of any plan or purpose for, the personal profit or enrichment of any person or persons (except a bona fide increase in wages or other employee benefits) by taking or obtaining any money or other thing of value from such employer against his will or with his consent."

(b) Section 8 of such Act is further amended by adding at the end thereof a new subsection as follows:

"(e)(1) Any labor organization which has officers or members engaged in activities affecting commerce, or which represents employees engaged in such activities, or which represents employees or has officers or members who are employed by any employer or in any industry engaged in activities affecting commerce, including any labor organization certified under section 9, acting, or recognized as the representative of employees

of any such employer or in any such industry, or actively seeking to represent any such employees, or which charters or is chartered by another labor organization which is representing or actively seeking to represent any such employees, which engages in any activity defined as an unfair labor practice under paragraph (8) of subsection (b) shall be fined not more than $10,000 for each day during which it is so engaged.

"(2) Any person who orders, authorizes, encourages, or participates in any activity so defined shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Mr. BUTLER. Mr. President, on the pending amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that I may modify my amendment as reported by striking out lines 1 and 2 on page 1 and by striking out lines 22 through 25 on page 3.

The PRESIDING OFFICER. (Mr. MORTON in the chair). Without objection, the Senator so modifies his amendment.

Mr. McCLELLAN. I yield myself 5 minutes, to start with.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. McCLELLAN. Mr. President, in the course of its investigations the Select Committee found that people are in many instances compelled to join unions, not of their own free will, not by their own knowledge, not with their consent, but simply by a labor boss walking into management's office, slapping a contract on the desk and saying to management, "You sign it and put your men into this union, or else we are going to picket you." It is as simple as that, but it is also said and done with emphasis. Sometimes they will settle for a payoff. Sometimes it is done simply to extort and get money out of management. It is a form of blackjacking or highway robbery, so to speak. That form of shakedown picketing is already taken care of in the bill, and the penalty for that kind of crime has been revised in the bill to conform to the penalty in the Hobbs Act, which is up to 20 years in prison.

There are other instances where the labor boss or bosses walk into the office of the management and, in the same manner, slap a contract on the desk and say, "Unless you have your employees join this union and unless you sign this contract, we are going to put up picket lines around your place of business." The management says, "Well, I don't know that my men want it."

The labor racketeer or boss says, "I don't care whether your men want it or not. You are going to do this or else we will put a picket line around you and put you out of business."

"But," management says, "let us have an election. Let the employees speak on the question.

The answer is, "We haven't got time for an election. That is too bothersome. This is the easy way for us. We demand that you do it this way."

What is the alternative? It is organizational picketing. That is where union leaders come to management and say, "We will organize your men, and put them in the union, irrespective of their wishes. We will make union members of them, or else we will picket your plant and apply that economic pressure on you."

That kind of pressure in many instances has put small businessmen completely out of business.

There is another practice, under which they approach the employer and say, "We have a majority of your men signed up."

There are three kinds: First, the complete shakedown; next, the shakedown to force the employer to make the employees join the union; the third is laying a contract before the employer and saying, "We have a majority of your men signed up."

The manager says, "Let me see the cards."

"Oh, no," they say, "we will not do that. But you will have to sign, recognize us, and bargain with us, or else you will have to suffer a picket line and the consequences of it."

The select committee has exposed many instances of union leaders having gone to the employer and having said, "Put your men in the union; otherwise we will settle for a sweetheart contract." So the employer signs up. In many instances, management itself has to pay the union dues of the employees—pay them for men who do not even know they are in the union. They never received a notice of a meeting and never heard of a meeting, until the committee exposed these practices.

But management pays the dues. For what? For a sweetheart contract. The employees are not helped; they get nothing out of it. Sometimes they have to pay dues. Sometimes the contract works in such a way that they pay dues and know they are in a union. But how much of an increase in salary do they get? Just barely enough so that management can hold it out to pay the dues.

Shakedown picketing has gone pretty far. It is a shakedown for the purpose of enriching the individual.

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

Mr. McCLELLAN. I yield myself 2 more minutes.

Of course, I do not think there is a Member of the Senate who can challenge the justice of penalizing those who exploit and extort under those conditions, under the guise or under the cloak of unionism. It is traditional that we are all proud of the members of unions in this country. But the shakedown practice is defiling unionism. Who can be proud of extortion? Who can be proud of compelling management and workers, irrespective of their will and their free choice, to become subservient in cases such as I have described? Those are the practices which are indulged in now; they are what the amendment seeks to prevent. It makes such practices unfair labor practices.

If a union engages in such practices, the amendment will penalize the union. The union will be penalized if it permits shakedown picketing. The amendment does not penalize the union for organizational picketing; it does not penalize the union for recognitional picketing. When I speak of penalizing, I mean penalizing for criminal action. But for a union which engages in shakedown picketing, the penalty is the same as for an individual who engages in it, except that the penalty for an individual is lighter. If a union engages in it, the penalty is a fine up to $10,000 a day for such time as it carries on the picketing.

The PRESIDING OFFICER. The time of the Senator from Arkansas has again expired.

Mr. McCLELLAN. I yield myself 1 more minute.

Mr. President, shakedown picketing is one of the vilest practices taking place in this country today. Unionizing and collective bargaining are premised on the free choice of individuals who work together to join a union of their choice, and to bargain collectively; it is not based upon compulsion to join a union.

"Compulsion" is an ugly word. Decent unionism does not require it; decent unionism does not need it. Honest unionism does not need to apply that kind of tactics.

If unionism is good, if it is sound, if it is right, if it is just, we can trust in the good faith and the quality of integrity of American workers voluntarily to accept it, to desire it honestly, and to be enthusiastic to secure the benefits which flow from worthy unionism. The workers will seek to unionize. But they ought not to be compelled and hijacked to join unions whether they want to or not, when they are not given a free choice. Compulsion and hijacking are nothing in the world but top-down organization; and top-down organization has no place in American law or American institutions, because it is a type of economic force to compel and subject people against their will.

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

Mr. KENNEDY. Mr. President, I should like to ask the Senator from Arkansas a few questions about the amendment. I yield myself 10 minutes.

Let us assume, for example, that all the meat dealers in a city are organized except one. The one unorganized meat dealer is underselling all his competitors in the city because the wages he pays are lower. What would be the effect of this amendment if a union placed a picket line outside the establishment of that meat dealer, saying: "This employer pays lower wages than the other meat dealers in the city"?

Mr. McCLELLAN. It would be prohibited under this amendment. There has never been any justification for saying that because three merchants want to run their business in one way they ought to be allowed to compel the fourth one to run his in the same way. The fourth one has as much freedom and right, under the principles of our Government, to employ his workers as he wishes, as the others have to employ theirs, and the employees have freedom to work for their employers as they please. If the arrangements of the fourth employer are satisfactory to his employees, and he is

complying with the minimum wage laws of the country, who has a right to say to him: "We are going to compel you to run your business in our way"?

Mr. KENNEDY. The Senator from Arkansas says that the one dealer has a right to do business as he wants to.

Why should the union be limited in its right to place a picket line on the sidewalk and to say, as a fact, "This man pays wages lower than are paid by other meat dealers in the city"?

Mr. McCLELLAN. Because that would be the use of economic force to restrain people from crossing a picket line to deliver to that man the supplies which he may need in order to operate his business. There is an economic force associated with the picketing that keeps the transportation and flow of commerce from the dealer whose plant is being picketed.

Mr. KENNEDY. This amendment goes much beyond preventing abuses commonly practiced by the Teamsters. If the Senator's amendment were directed solely to the trucking industry, and if it were directed at the Teamsters Union, I would support it. I would have no objection to an amendment which dealt with the unfair practices of the Teamsters Union. But this amendment applies to all labor. It would apply to the garment industry in New York City, whose sweatshops in earlier days were a disgrace to the Nation. This amendment would forbid the agreements which cleaned up these sweatshops.

Let us take the case of a racketeer employer in the garment industry who leaves New York City and goes to Pennsylvania. He hires Puerto Rican labor. He pays a wage which is 60 percent of the wage which employers in New York City are paying.

Does the Senator mean to say that his amendment would prevent the garment workers union from placing a picket in front of that employer's establishment, and saying, "This man pays wages which are only 60 percent of the union wages paid in New York City"? Would not the Senator's amendment permit that racketeer employer to undersell the other employers, and restrain their right to protect their economic interests?

Mr. McCLELLAN. Yes; and would the Senator from Massachusetts restrain union racketeers who have invaded that area? The testimony before the committee shows that they have taken over many industries. The same racketeers are responsible for the very conditions the Senator has described, and they have the responsibility for them. They secured that advantage because they used such tactics.

Mr. KENNEDY. The difference between the Senator from Arkansas and me is that every time he sees a union, he sees racketeering. Every time I see a union—except in a few cases, relatively speaking—I do not see racketeers; I see men and women who are attempting to advance their economic interests.

The Senator from Arkansas proposes to apply a universal standard because some racketeers have been exposed. This, in my opinion, would prevent any further union organization in this country.

Let us take another example: Suppose an employer who is antilabor says that he will move his company to another State if the union is successful in organizing his employees. Then the union attempts to organize his employees; and he dismisses the first three employees who express an interest in union organization. It will be 3 years before those unfair labor practices are finally adjudicated under the present procedures of the Board; but during that period of time, of course, the other employees will be reluctant to sign up, in the case of the pending amendment.

Mr. McCLELLAN. Does the Senator from Massachusetts wish to have a further answer to his question?

Mr. KENNEDY. Yes; I should like to have one.

Mr. McCLELLAN. I shall give it. I take the illustration the Senator from Massachusetts used—the one about the Puerto Ricans employed in the textile industry in New York City. That is where sweatshop conditions are inflicted upon them by the so-called union leaders, under the very tactics this amendment seeks to prevent. So I take the Senator's own example.

Mr. KENNEDY. Is the Senator from Arkansas suggesting that the great work which has been done by the Garment Workers Union in New York should be cast aside merely because there happen to be racketeers in that industry?

Mr. McCLELLAN. Not at all. I want to prevent racketeering in unionism.

Mr. KENNEDY. But two evenings ago, the Senate, in taking action on an amendment submitted by the Senator from Arkansas, whose work in exposing improper conditions I have supported—adopted the amendment, and did so on the basis of taking action to stop racketeering. But surely the Senate must realize the effect of that amendment, not only on racketeers, but also on all unions.

Let me refer to page 2 of the amendment of the Senator from Arkansas, beginning in line 14, where we find the words "unless there shall have been filed with such employer at least 5 days before the commencement of any such picketing a petition signed by a majority of the employees of such employer requesting that such employer recognize as the representative of his employees a particular labor union designated in such petition."

In other words, before the union would be allowed to use this economic weapon, it would have to present to the employer such a petition. Under the Senator's amendment, a majority of the employees would have to present such a petition to the employer, not to the National Labor Relations Board; and the employer then could say, "If you persist in forming a union, I will move my business to another State."

Therefore, Mr. President, I say that the amendment will be of very little benefit in respect to driving racketeers out of the union movement.

Mr. ERVIN. Mr. President, to the amendment of the Senator from Arkansas, I submit the following amendment: On page 2, in lines 4 and 5, strike out the words "for organizational purposes or."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina to the amendment of the Senator from Arkansas.

Mr. ERVIN. Mr. President, I should like to speak on my amendment to the amendment.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. On page 2 of Mr. McCLELLAN's amendment, in lines 4 and 5, it is proposed to strike out "for organizational purposes or."

Mr. KENNEDY. Mr. President, let me inquire how much time I have left.

The PRESIDING OFFICER. The Senator from Massachusetts has used 8 minutes of the time available to him on the McClellan amendment.

Mr. KENNEDY. Let me ask how much time the distinguished Senator from North Carolina wishes to use.

Mr. ERVIN. Five minutes.

Mr. KENNEDY. Of course, the Senator from North Carolina is supporting the position of the Senator from Arkansas. However, I yield 5 minutes on the bill to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes on the bill; that time has been yielded to him by the Senator from Massachusetts.

Mr. McCLELLAN. Mr. President, I shall be glad to yield time to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the amendment of the Senator from Arkansas would make it an unfair labor practice under certain conditions to engage in organizational picketing or picketing to enforce the recognition of a union for bargaining purposes.

I go along with the amendment of the Senator from Arkansas insofar as it provides that it shall be an unfair labor practice to carry on, or threaten to carry on, picketing about the premises of any employer, for the purpose of forcing such employer to recognize or to bargain with a particular labor organization as the representative of his employees, under the circumstances set forth in the Senator's amendment. I would also go along with any proposal to make coercive picketing of any character an unfair labor practice.

But I think there is a right to engage in peaceful picketing for the purpose of persuading others to join a union; and I think there is a right to exercise that right in a peaceful manner near the premises of the employer.

So if my amendment to the amendment is adopted, it will make it clear that we are not interfering with any constitutional right of freedom of speech in connection with picketing for the purpose of persuading others to join a union.

I hope my amendment to the amendment of the Senator from Arkansas will be adopted.

Mr. McCLELLAN. Mr. President, will the Senator from North Carolina yield to me?

Mr. ERVIN. I yield.

Mr. McCLELLAN. Do I correctly understand that the Senator from North

Carolina is proposing to my amendment an amendment which, in his opinion, would completely eliminate the objection which thus far has been expressed to my amendment?

Mr. ERVIN. I think so. I think my amendment to the amendment of the Senator from Arkansas would do away with the objection of the Senator from Massachusetts [Mr. KENNEDY]. I agree with him that we should not interfere with the right of freedom of speech to persuade others to join a union, so long as that right is exercised peacefully, by means of a picket line or by means of newspaper or radio or television advertisements.

I do not think a union has a right to picket for the purpose of forcing the recognition of the union as the bargaining agent, if it does not actually represent a majority of the employees.

So I go along with that part of the amendment of the Senator from Arkansas; but I cannot go along with the part of his amendment which prohibits peaceful organizational picketing, which is merely a peaceful way of trying to urge others to join the union.

Of course, any picketing carried on by force is illegal. But if picketing is carried on peaceably for the purpose of persuading others to join a union, I think it is proper and protected by the constitutional right of freedom of speech.

So I hope my amendment to the amendment of the Senator from Arkansas will be agreed to.

Mr. LAUSCHE. Mr. President, will the Senator from North Carolina yield to me?

Mr. ERVIN. Yes, if I have time.

Mr. LAUSCHE. What would be the situation under the Senator's amendment to the amendment of the Senator from Arkansas in a situation in which a businessman had 50 employees, all of whom were satisfied with their hours of work, their working conditions, and their pay, and when there was a complete understanding between the employer and the employees; but then a business agent of a union said to the employer, "I will throw a picket line in front of your place of business unless you have your workers join my union or unless you discharge your workers and hire union members"?

Mr. ERVIN. The situation on which the able Senator from Ohio bases his question is already outlawed under the Taft-Hartley Act, because in such a situation the agent would be undertaking to coerce the employer into coercing his employees to join the union; and such a situation is already taken care of by the Taft-Hartley Act.

Mr. LAUSCHE. Under what situation would the provisions of the Senator's amendment apply? Let us assume that the agent put pickets in front of the place of business; and let us also assume that the employees were satisfied with the hours, wages, and working conditions, and that the employer understood that they were satisfied. Yet the employer would be confronted with a line of pickets. Would that be permissible under the Senator's amendment?

Mr. ERVIN. Under my amendment, so long as the pickets merely resorted to peaceful persuasion to induce the employees in the plant to join the union, but not for the purpose of bringing coercion on the employer for recognition purposes, the picketing would be perfectly legitimate and permissible; and I honestly think it should be made permissible.

The PRESIDING OFFICER. The time yielded to the Senator from North Carolina has expired.

Mr. KENNEDY. Mr. President, does the Senator from North Carolina desire to have further time?

Mr. ERVIN. I should like to have 2 more minutes.

Mr. KENNEDY. I yield 2 additional minutes to the Senator from North Carolina.

Mr. ERVIN. I thank the Senator from Massachusetts.

Mr. President, let me say that I think the Senator from Massachusetts and I are in agreement that when the object of the picketing is to induce the employees to join the union, if the picketing is conducted in a peaceful manner, it falls within the area which should be covered by the guarantee of freedom of speech which all Americans have.

Mr. LAUSCHE. Mr. President, will the Senator from Arkansas yield 5 minutes to me?

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes, to be charged to the time under the control of the Senator from Arkansas.

Mr. LAUSCHE. Mr. President, I desire to offer my support to the amendment offered by the distinguished Senator from Arkansas.

In Ohio, the law, in the absence of Federal interference, declares that picketing is illegal except when there is in existence, between an existing employer and his employees, a legitimate dispute relating to hours of work, working conditions, or wages.

That law came into effect in about 1935. It grew out of a set of circumstances in which a business agent threw a picket line around a restaurant known as the Crosby Restaurant. A Mrs. Crosby ran that institution. She had 60 employees. All of them were satisfied with their hours, working conditions, and pay. The business agent descended upon her and said, "Discharge your employees and hire our union members, or compel your employees to join our union. Unless you do so, we will picket your place of business."

Mrs. Crosby spoke to her workers. Uniformly they said, "We are satisfied with all the conditions surrounding our employment. We do not want to join the union."

She reported that fact to the business agent. The business agent said, "Well, then, we will picket your place," and the union did. It picketed the place. In effect, the union finally destroyed her business.

I submit to my colleagues that the right to engage in business without interference by interlopers and outsiders is, in my understanding of the meaning of liberty and the Constitution of the United States, just as sacred as is the right of free speech.

Mr. McCLELLAN. Mr. President, will the Senator yield for a moment?

Mr. LAUSCHE. Yes.

Mr. McCLELLAN. In many instances the unions will hire persons from the outside to picket. The pickets are not employees of the plant. The unions bring persons from the outside to picket the place.

Mr. LAUSCHE. All of the employees of Mrs. Crosby were satisfied. I do not know whether the union hired outsiders to do the picketing, but the result on Mrs. Crosby was identical, whether the union tried to persuade the workers to join the union or attempted to blackmail Mrs. Crosby into yielding to the union's demands.

In reply to the Senator from North Carolina, I wish to repeat my philosophy of what is involved—the right to engage in business without interference by interlopers, when that business is run on such a basis that the employees are satisfied, is just as sacred as is the right of free speech sought to be exercised by the men who picket.

I wish to say further for the consideration of my colleagues that the first five titles of the bill, improved as they are, will do much in the way of remedying the abuses which have been in existence. But those remedies do not go to the causes and the reasons for the evils which have come into existence. The evils practiced by the racketeering labor leaders result from the fact that they have been vested with a power which they do not exercise properly.

Mr. McCLELLAN. Mr. President, will the Senator yield further?

Mr. LAUSCHE. Yes.

Mr. McCLELLAN. The vesting of such power is one of the things that has been attractive to the racketeers and gangsters. They know that by the force or the power which has been given to the labor leaders by Congress they can humiliate or destroy a small business, or make it bow to their demands. Honest unionism does not need that power. If we remove the power, it will be taken away from the crooks and scoundrels who want to exploit humanity and seize upon the power Congress has given to unions so they can use it for exploitation.

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

Mr. LAUSCHE. Yes.

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

Mr. McCLELLAN. Mr. President, I yield 2 more minutes to the Senator from Ohio.

Mr. HOLLAND. The Senator knows that I am particularly concerned with the situation that applies to hotels. There have been repeated instances of the picketing of hotels in our State where the employees were satisfied. They were not members of the unions, but, nevertheless, the places were picketed. The damage done, of course, is very considerable, as was true in the case of the restaurant which the Senator has mentioned.

My question is this: Would it be possible to differentiate between a picket line to appeal to the employees to join the union and a picket line set up to force the employer into line by compelling him to bargain with the union?

Mr. LAUSCHE. There could be no differentiation between the two as to the results which would obtain. When a picket line is placed in front of a businessman's plant, it can be readily asserted that "we are merely trying to persuade the workers," but the net result is the destruction and ruination of that business.

Mr. HOLLAND. If the Senator will yield for one more quetion, he believes, then, does he not, as I do, that the adoption of the amendment offered by the Senator from North Carolina would mean that picket lines could be thrown up ostensibly to persuade employees to join a union, but it would be really to ruin the employer? Is that correct?

Mr. LAUSCHE. I think the very situation I have described demonstrates that fact.

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

Mr. McCLELLAN. I yield 1 more minute to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 1 additional minute.

Mr. LAUSCHE. Mr. President, the argument has been made that there may be many business houses having union contracts, but only one or two which do not have. My answer to that argument is, Why should the workers of one nonunion house be obliged, by intimidation and by the threat of destroying the employer's business, to join the union? If the employees can be persuaded to do so, well and good. But it is not right for the employees to be told, "You will be better off," when the worker says, "I am satisfied with my employment. I am satisfied with my wages, hours, and working conditions. I do not want to join the union." But the business agent says, "It does not make any difference whether you are satisfied or not. You are going to join."

It is at that point that I part with the philosophy that is being advocated against the proposal offered by the Senator from Arkansas.

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

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the able Senator from Nebraska [Mr. CURTIS].

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, I rise in support of the pending amendment. Blackmail picketing is a weapon of the racketeers. We cannot wipe out racketeering without bringing to an end blackmail picketing, and that is what the amendment deals with.

I call the attention of Senators to lines 14 to 21 on page 2 of the amendment, There it is provided that there may be picketing if the persons engaged in the picketing represent the workers inside the plant.

The McClellan committee has taken evidence of case after case in which racketeers have brought in pickets representing no workers inside the building. These pickets would come for the purpose of either destroying the man's business or of compelling him to place his workers in a union to which the workers did not wish to belong.

The distinguished chairman of the select committee, the Senator from Arkansas, I am sure remembers the case of the Terminal Barber Shops in the Waldorf-Astoria Hotel. Perhaps the Senator from Florida will be interested in what happened at the Waldorf-Astoria Hotel.

The Waldorf-Astoria Hotel had three barbershops, which were operated by Terminal Barber Shops, Inc. This organization had its own union, which was not a company union but was an independent union. Nevertheless, an organizer for the A.F. of L. Barbers Union went to the owner of the barbershops in the Waldorf-Astoria Hotel and demanded that he put his barbers, not in the union of their choice, but in his union. The owner did not know what to do. He wanted to be a neutral and he wanted his men to decide, but the men did not want to have anything to do with another union, since they were satisfied with their own union. Pickets were stationed at the Wadorf-Astoria, not near the barbershops on the various floors, but at all the entrances to the Waldorf-Astoria Hotel. The evidence shows that for a few days business went on as usual, and then the Teamsters Union recognized the picket line and refused to deliver supplies to the Waldorf-Astoria. There were no linens brought in. There was no milk. There was no food. Supplies could not go out. The greatest hotel in the country was about to come to a standstill because some pickets, who represented not a single worker inside the barbershops, marched up and down.

As a result, the management of the Waldorf-Astoria Hotel had to say to the concern which had leased the barbershop space, "You will have to yield. If you do not, we cannot renew your lease." The owner of the barbershop had to say to the barbers, "You will have to give up."

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

Mr. CURTIS. Mr. President, may I have 2 additional minutes?

Mr. McCLELLAN. I yield the Senator 2 additional minutes.

Mr. CURTIS. The owner of the barbershop had to say to the barbers, "You will have to give up the union of your choice and join the other union, or we will all be out of business."

Mr. President, the intent of the law is to give to the workers the right to organize and bargain collectively. That is the right we should defend today. We should not defend the right of an outsider, particularly a racketeer, to destroy someone's business when he does not represent any workers inside the business. As soon as we take away the unlawful and wrongful weapons of blackmail picketing and boycotting, which go hand in hand, we can expect honesty in unions, because evil men will not seek to get control of unions.

Mr. President, if it is wrong for high-school boys to picket someone's place of business and drive him out of business it is wrong for a union. If it is wrong for a competitor to surround a business and destroy it, it is wrong for any other organization, including a labor organization.

The PRESIDING OFFICER (Mr. HOLLAND in the chair). The time of the Senator from Nebraska has expired.

Mr. CURTIS. I urge that the amendment be agreed to.

Mr. KENNEDY. Mr. President, how much time is there remaining, pro and con?

The PRESIDING OFFICER. The Senator from Massachusetts has 22 minutes remaining and the Senator from Arkansas has 7 minutes remaining.

The question is on agreeing to the amendment offered by the Senator from North Carolina [Mr. ERVIN] to the amendment of the Senator from Arkansas [Mr. McCLELLAN].

Mr. KENNEDY. Mr. President, the Senator from Illinois desires to speak, and after he speaks I will be prepared to yield back my time, except for 6 or 7 minutes.

The PRESIDING OFFICER. Does any Senator yield time to the Senator from Illinois?

Mr. McCLELLAN. I have only 7 minutes remaining.

Mr. KENNEDY. Mr. President, I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes, from the time under control of the Senator from Massachusetts.

Mr. DIRKSEN. Mr. President, I shall address myself very particularly to my esteemed friend from Massachusetts. I think this can be most effectively done in the form of two memorandums or two letters. I trust every Member of the Senate will pay close attention, because here in simple compass is the core of the problem.

I first desire to read a letter addressed to the President of the United States, which reads as follows:

> DEAR MR. PRESIDENT: At the time this is written, our company has been threatened with a picket line because our employees have not joined local 714 of the Teamsters Union despite over 2 months of campaigning by this union.
>
> Enclosed are copies of a letter received from the union containing the threat of picketing and a copy of a statement read to our employees by the company.

The PRESIDING OFFICER. Will the Senator desist for a moment? There is too much talking in the galleries and there is too much talking on the floor. The Senate will be in order, or the debate will be suspended.

The Senator from Illinois may proceed.

Mr. DIRKSEN. Mr. President, I continue to read from the letter:

> As you are no doubt aware, we are faced with a dilemma. If we refuse to force our employees into the union against their wishes, we face possible loss of our business

due to the picket line. If we force our employees into the union we are guilty of an unfair labor practice.

The letter is from a small company in Illinois which manufactures decorative molding and that sort of thing.

I now wish to read what I think is one of the most interesting documents I have seen in a long time. It is reasonably current, being dated the 4th day of March 1959. It is addressed to the president of the company and is signed by the secretary-treasurer of local 714. This is what the secretary says:

Local 714 is engaged in a campaign to organize your production and maintenance employees.

Every word has significance. He says:

To induce your employees to join this union, we shall shortly begin peacefully to picket your establishment.

There is no question what they have in mind, because they have said so.

We assure you that the picketing will be entirely peaceful. We have instructed our pickets not to threaten, intimidate, or coerce anyone.

The operation is peaceful, to induce the employees to join this particular union.

We wish to make it clear to you that local 714 does not at this time represent, and of course we do not claim to represent, a majority of your production and maintenance employees.

Local 714 does not ask you to recognize it as exclusive bargaining representatives for your employees or, indeed, ask you to recognize it for any purpose at this time.

They had been campaigning for 2 months to organize this little plant.

The purpose of our picketing is solely to call to the attention of union members and supporters of organized labor that your production and maintenance employees are not members of local 714.

We hope that the demonstration of support of local 714 in its efforts to organize, which this picketing will produce—

There is no question of what they are going to get—

will persuade your employees to become members of our local union. When they do, they will join the thousands of other employees who are members of Local 714 and who are affiliated with the great International Brotherhood of Teamsters. In engaging in this picketing campaign, we are speaking for the members of our organization who are employed like your people and who feel the brunt of the unfair competition of your unorganized employees.

This point we must emphasize. We are not making any demand upon your company at this time to agree to or execute any contract with our union covering any of your employees. Under the law your company is permitted to recognize and bargain with our local union only after a majority of your production and maintenance employees have authorized the union to represent them. Therefore, even if your company should now or hereafter offer to recognize our union or enter into collective bargaining with us our union would refuse such an offer and we would continue to refuse until your employees lawfully authorize us to represent them.

Talk about the fine Italian hand of an insidious force. There it is. "We will destroy your business unless you tell your employees that we ought to represent them."

Should your employees desire to join our union, they may apply for membership at the office of Local 714, 4620 West Madison Street, Chicago 44, Ill., or ask one of the pickets for a membership application card which they can fill out and return to him. When we have received applications from a majority of your employees, we will contact you further.

This is not some fancied case. This is not the minority leader speaking. This is a letter from the secretary-treasurer of the union to the head of the company, telling him what is going to happen to him. He cannot tell him to join, because that would place him in the toils of the National Labor Relations Board. But if he does not join, his business will be destroyed.

Mr. President, I am not so much concerned about large enterprises. They have the resources to take care of themselves. This is a small company, which cannot stand the pressure. It will be out of business under this kind of treatment when the cards go up.

Yes; it is a demonstration effort. It is an educational effort; but that will be very poor comfort to the employer when he is out of business or in bankruptcy, or if he violates the law by forcing his employees to join the union.

One of the most skillful lawyers in the country must have written this letter. It is really a document for the books.

I continue to read from the letter:

You should also understand that it is your right under the Constitution of the United States and under the National Labor Relations Act to advise your employees of the economic detriment which you and they will sustain as a result of the withholding of patronage from your concern by union members and sympathizers as long as they remain nonmembers of our union.

Nothing is left to chance. The secretary of the union tells the president of the company that he has a constitutional right to advise his employees of the economic detriment which will happen.

There is the picket line. "So, Mr. Plepel"—that is the name of the head of the firm—"take your choice."

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

Mr. DIRKSEN. I yield myself 5 minutes under the bill.

"Take your choice, Mr. Plepel. Tell them to get into our union or we will put you out of business."

There is no intimidation, he says.

We shall shortly begin peacefully to picket your establishment. We assure you that the picketing will be entirely peaceful. We have instructed our pickets not to threaten, intimidate, or coerce anyone.

This will be milk and honey. It will be like balm in Gilead. No one will be able to take exception, but Mr. Plepel, your business is going down the drain.

That is what is involved in this amendment of the distinguished Senator from Arkansas. If it had no other appeal, it ought to appeal to every sense of justice and every throb of justice and equity that is in us.

You may, in the exercise of your lawful rights explain these detriments to your employees and urge your employees to apply for membership in the union and thereby acquire for themselves and for your company the good will of our union and its friends. You may not, and we are sure that you will not, threaten to take economic reprisal against your employees or grant them benefits, to coerce their choice in this matter. However, we feel sure that if your employees, who have been carefully taught to look to you for leadership on matters affecting their employment, are convinced that it is your sincere desire that they join the union, they will quickly realize that acquisition of union membership at the earliest opportunity is in their best interest.

Yours truly,

W. T. HOGAN,
Secretary-Treasurer, Local 714.

Aside from partisanship, aside from the question of whether a person is a conservative or liberal, aside from the question of whether or not he has a tag on him, this amendment appeals to fairness as nothing else can. I am speaking for the small companies. When representatives of the retailers came before the committee they recited instance after instance of what had happened. It is all in the testimony. Rather than resort to the testimony, I used the letter from the secretary-treasurer of the union to the president of a small company, telling him what is going to happen to him—and it is going to be so peaceful that not even a peace magistrate could take exception to the quiet atmosphere in which it will be done.

I think the Senate is on trial on the question of peaceful picketing. This amendment is for the protection of little people. In my judgment the more substantial concerns can take care of themselves.

That is the whole story. There is no amplification which I can give to that letter, and I rest the case on it.

Mr. KENNEDY. Mr. President, how much time have we?

The PRESIDING OFFICER. The Senator from Illinois has been proceeding on 5 minutes yielded to himself on the bill, which he has not entirely consumed. He has 2 minutes remaining.

Mr. DIRKSEN. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I had agreed to yield some time to the Senator from South Dakota [Mr. MUNDT]. However, the Senator from Oregon [Mr. MORSE] probably wishes to comment.

Mr. MORSE. Mr. President, I shall take only 2 minutes.

Mr. KENNEDY. I yield 2 minutes to the Senator from Oregon.

Mr. MORSE. Mr. President, with regard to the question which the Senator from Illinois has raised, there is nothing in the free speech section of the Taft-Hartley law which would prevent an employer from calling his employees together, if he so desired, and saying, "I have no objection to any employee in my plant joining a union if he wishes to join a union."

Second, I call attention to the kind of literature and the information which chambers of commerce and other employer groups issue, notifying union members that they are on an employers' blacklist, and that if they continue their membership in the union they will be denied credit, for example.

I intend to speak at some length later, if I can get the time, on the great issue which faces the Senate this afternoon. In my judgment one of the fundamental principles and fundamental purposes of the free trade union movement is now at stake on the floor of the Senate.

I would have the Senate take at least enough time—and that is why I wish we had more time—to review some of the great doctrines enunciated by the courts of this country, which have been handed down in picketing cases, which, in my judgment, are the great landmarks for the preservation of some basic freedoms, including freedom of speech, freedom to pace the streets of America with signs notifying the public, for example, that here is a plant which is undermining high labor standards in the community because of the fact that it is not organized.

The courts have very clearly defined peaceful picketing, and what peaceful picketing includes. I wish to say to my friend from Illinois that it will be a sad day in Congress if this afternoon we strike a body blow against the cardinal principle of freedom of speech under the Constitution of the United States, which the Supreme Court in landmark case after landmark case has time and time again sustained under the practice of peaceful picketing.

I shall not vote, in effect, to undermine these great Supreme Court decisions about which I shall speak this afternoon at some length if I can get the time to do so on the bill.

Mr. DIRKSEN. I yield myself 30 seconds on the bill to say to my distinguished friend from Oregon that this is not a hypothetical case.

Mr. MORSE. I corrected myself in that regard.

Mr. DIRKSEN. This is a real case. That letter went to the president of a company. For aught I know, pickets are marching this afternoon in the State of Illinois. This is not a matter merely of words on my part. This is an actual instance which, in my judgment, appeals to fairness.

Mr. KENNEDY. I believe I have 11 minutes remaining.

The PRESIDING OFFICER. The Senator from Massachusetts has 9 minutes remaining.

Mr. KENNEDY. I shall yield 3 minutes to the Senator from South Dakota.

Mr. MUNDT. I thank the Senator from Massachusetts, but I understand that the Senator from Arkansas [Mr. McCLELLAN] has yielded me 2 minutes. Therefore I have a total of 5 minutes. Is that correct?

Mr. McCLELLAN. Yes; I yield 2 minutes to the Senator from South Dakota.

Mr. DIRKSEN. I am sure the distinguished Senator wants to have the yeas and nays ordered on the amendment.

Mr. MUNDT. I am glad to yield for the purpose of having the yeas and nays ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment offered by the Senator from Arkansas. They have not been ordered on the amendment to that amendment, offered by the Senator from North Carolina.

Mr. MUNDT. Mr. President, I was greatly fascinated by the recent colloquy between the Senator from Illinois and the Senator from Oregon. I was disturbed and concerned by the evidence brought into the RECORD by the Senator from Illinois, because it so clearly parallels a case in point in my own State of South Dakota. I should like to mention the case, which arose in Sioux Falls, S. Dak. It involved a dispute between a young electrical subcontractor and the powerful International Brotherhood of Electrical Workers.

The PRESIDING OFFICER. The Senator will suspend. There is too much confusion on the floor of the Senate. Senators who wish to converse will please leave the Chamber.

Mr. MUNDT. The case involved a dispute between a young electrical subcontractor and the powerful International Brotherhood of Electrical Workers. This is not a hypothetical case. This is the kind of thing which can happen in any Senator's home town or State. It is happening.

The PRESIDING OFFICER. Will the Senator suspend? There seems to be a continuing insistence on conversations on the floor of the Senate. Senators will please leave the Chamber if they wish to converse. The Senator from South Dakota may proceed.

Mr. MUNDT. I thank the Chair. This is the type of case that can happen anywhere in the country, in small communities and in large ones, unless Congress takes action to illegalize illegitimate and blackmail picketing.

The subcontractor to whom I have referred employed at various times both union and nonunion electricians. He is a working electrician himself. He was advised by the business agent of the International Brotherhood of Electrical Workers that he should employ union electricians. The contractor said, "I am perfectly willing to allow my men to join the union. You can go and talk with them and try to get them to join. I have no opposition to that." However, he refused to compel them to join the union, believing that his workers had the same American right to join or not to join as other Americans have to exercise their independence.

The union representative advised the contractor that he did not want the contractor to induce his employees to join the union. I ask Senators to note this particularly. He did not want the contractor to induce his workers to join the union. He said, instead, that the contractor should dismiss his employees and hire union electricians who were available in the community.

Having a sense of loyalty to the men who were working for him and who had worked for him for a considerable period of time, the employer refused to do so. Following his refusal to dismiss his employees, and to hire people whom he did not know but who happened to belong to the union, the contractor was picketed, his business was ruined, and his employees were put out of work. He was blacklisted by the union.

He brought an action under the South Dakota labor laws and succeeded in obtaining a judgment in excess of $25,000, $20,000 being punitive damages awarded by the trial court jury.

The judgment was unanimously affirmed by the Supreme Court of South Dakota. It is now on appeal to the Supreme Court of the United States.

Following Monday's decision in the Garmon case, it may well be that the contractor's case will be reversed by the Supreme Court, because in that decision the Supreme Court held that State courts had no right to award damages to a contractor who had been ruined and forced out of business if the picketing was peaceful, and that the only time the State has jurisdiction is when there is a criminal violation.

I submit to my colleagues in the Senate: Is this the kind of thing we are going to approve by voting against the McClellan amendment? This is the kind of thing we must eliminate by voting for the McClellan amendment.

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

Mr. KENNEDY. I yield 1 additional minute to the Senator from South Dakota.

Mr. MUNDT. I wish to make a special appeal on this point to my friends from the South, who have fought so long and so courageously for the concept known as States rights. If they really believe in the rights of States and in the rights of the working people in the States, and in the rights of State courts to rule from the standpoint of a man who has been put out of business in this kind of activity, I solicit their support for the amendment offered by a great son of the South, Senator McCLELLAN, of Arkansas.

If they have any lingering doubts as to what they can do for the people in this fight, I suggest they read the sickening dispatches which are coming from Henderson, N.C., involving the textile situation there.

Mr. KENNEDY. Mr. President, I yield 3 minutes on the bill to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the situation in which we find ourselves at this time proves the soundness of the proposition I made to the Senate, that we should restrict the bill to malpractices in the internal affairs of the unions, and not extend it to matters in the field of the Taft-Hartley Act.

We have before us an amendment offered by the Senator from Arkansas. I favor much of it. There are some provisions in it which I oppose. If, instead of legislating on the floor of the Senate in this manner, we had had this proposal ironed out in committee the committee could have drawn a bill which would have cured the evils the amendment is intended to cure, without the infliction of injury on others. It is impossible in the time available to us on the floor of the Senate to find phraseology which will accomplish this. Therefore one is compelled to vote on the basis of whether the amendment is 50 percent good or 50 percent bad. That shows the unwisdom of writing legislation on the floor of the Senate.

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

Mr. ERVIN. I shall be glad to yield in a moment. I undertook to have all non-germane Taft-Hartley amendments stricken from the bill and proposed an amendment to this effect. It was my purpose to urge that all other Taft-Hartley amendments be rejected, and that the bill be restricted to its primary purpose, that is, the prevention or punishment of demonstrated malpractices in the internal affairs of unions. But the Senate rejected my amendment and thus decreed that this bill should be used as a vehicle for amending the Taft-Hartley Act.

Like other Members of the Senate, I now have to vote my views on amendments proposed to the Taft-Hartley law.

Since we do not have adequate time to adopt or change the phraseology of the bill in order to make it certain that good and not ill will be accomplished by such amendments, we must necessarily vote for or against the amendments to the bill based on our somewhat hastily formed opinion as to whether they will do more harm than good.

Mr. MUNDT. The Senator from North Carolina is not contending, is he, that this issue was not brought up before the Committee on Labor and Public Welfare?

Mr. ERVIN. I am not a member of that committee, but I understand it was brought up, and that the committee did not take action.

Mr. MUNDT. I know it was brought up, because I was one of the Senators who testified in support of legislation of this type. I think I read in the newspapers that the Senator from Arkansas [Mr. McCLELLAN] also presented the problem to the committee.

Mr. ERVIN. The Senator from South Dakota was one of those who favored my endeavor to restrict the bill to the internal affairs of unions. Of course, when we lost, and the majority decreed otherwise, it became necessary for us to do the very best we could, under very unfavorable circumstances, to write amendments to the Taft-Hartley Act on the floor of the Senate amid the heat of debate—a course of action which is certainly not desirable.

Mr. KENNEDY. Mr. President, I oppose this amendment. The Senator from Illinois has given us an example, although there may be other factors present about which we know nothing. We have no idea what the conditions are in the company he cited—the kind of wages paid, the number of hours the employees work; what the previous employee-employer relationship has been. But let us take his example at face value. Let us say there is unfair pressure on an employer to coerce and force his employees to join a union. I would be against that kind of pressure. I think it should be prohibited.

But the amendment of the Senator from Arkansas goes far beyond that. Let us look at the language of the Senator's amendment. He says it is directed to racketeers and unreasonable pressure on employers.

Can the Senator from Arkansas tell me why the words beginning on line 14, page 2, have been written in exactly this form:

> During any other period unless there shall have been filed with such employer at least 5 days before the commencement of any such picketing a petition signed by a majority of the employees of such employer requesting that such employer recognize as the representative of his employees a particular labor union designated in such petition.

Let me demonstrate what an employer could do with that petition. He could discharge the first 5 employees whose names appeared on it. It would take, under present procedures of the Board, 3 years for an unfair labor practice complaint against him to be acted on if an appeal were taken.

During that time, other employees would immediately revoke their signatures on the petition, and the union would be unable to protect its economic interest against the economic interest of the low-wage employer.

Second, the employer could write a letter to the chamber of commerce, asking that it send letters to merchants requesting that the employees be denied credit in that town. Under the law today such activity would be permissible.

Third, the employer could say to the employee, "If you vote to have a union come into the plant, I will move my shop to another State. Then all the employees would be out of work." As Judge Hand said, the speeches of employers on such occasions have more than the force of persuasion.

So when the Senator from Arkansas and the Senator from Illinois seek to deal with wrongdoing, in the name of the small businessmen, giving us reprehensible examples, I accept their statements and examples. But on the strength of such examples I do not propose to shackle honest trade unions with broad language which is as ill advised as that in the amendment of the Senator from Arkansas.

I have been a member of the McClellan committee since its inception. I have supported proposals which I think will apply to the racketeers. But I do not think proposals such as the one now presented should be accepted by the U.S. Senate.

In my opinion, the effect of this amendment would be extremely serious. It would end any chance for this bill to pass, and it should end it. I myself would be forced to vote against the bill and ask that my name be stricken from it, if this amendment were adopted. The amendment has nothing to do with labor racketeers. It goes to the whole question of the economic relationship of employers and employees. Unless we are ready to limit in some degree the rights of employers, I do not think we should adopt an amendment which seeks to deal with racketeers but which circumscribes completely the economic rights of employees.

Of course there is an economic struggle. Fifty or sixty thousand enterprises went broke in a recent period. The whole free-enterprise system is an economic struggle. There is an economic struggle between employees and employers; between organized labor and unorganized labor. I do not propose, under the pretense of antiracketeering, to take away the economic rights of one group as against all other groups.

That is why we have created a blue ribbon committee. We are attempting to write a bill which will regulate picketing of the kind which the Senator from Illinois described, but it will not prohibit all picketing.

I hope the amendment of the Senator from Arkansas will be defeated.

Mr. DIRKSEN. Mr. President, I yield myself 1 minute on the bill.

The Senator from Massachusetts would sound very persuasive indeed this afternoon except for one thing. At least three efforts were made to include a picketing amendment in the bill, but the Senator's committee resisted those efforts.

Mr. KENNEDY. Did the Senator from Illinois at any time propose restricting in any way any employer rights under the free speech section of the Taft-Hartley Act?

Mr. DIRKSEN. Then why was not an effort made to put an antipicketing amendment in the bill? The attempt to include such language was resisted. So the Senator from Arkansas had virtually no other choice than to offer that kind of amendment.

If the Senator wants to say that the Senate is on trial, it is on trial, because on a straight vote down the line every effort was made by the committe to resist an antipicketing amendment.

The language can be revised later. It can be revised in the House. But this is the only opportunity which the Senate will have to include such a provision. I trust the amendment of the Senator from Arkansas will be agreed to.

Mr. McCLELLAN. Mr. President, the Senator from Massachusetts asked me why the language in subtitle (B), on page 2, line 14, was included. I do not want to deny to a majority of the employees their rights—their economic rights—to bind together in collective bargaining. I do not want to deny them the right to picket or the right to demand the use of economic force, when a majority of the employees want a union. That is why I included that language.

If there is an election, they cannot have another election for a year. I do not want to deny them the right during that year, if a majority of the employees decide they want an election, to let them petition their employer and give him 5 days' notice. Then if the employer does not bargain or recognize the union, I want to give them the right to strike.

We talk about freedom of speech. I do not know when freedom of speech has ever extended without bounds. I can walk down the street, swinging my fist. That is a type of freedom. That is freedom of action. But when my fist comes in contact with someone else's nose, that is where my freedom ends. [Laughter.]

We may have freedom of action and freedom of speech; but when a picket line is thrown up and legitimate processes of our economy are stifled through the power which has been given to unions

to organize picket lines and say, "We will cut off supplies," that is where freedom ends.

If the Senator from Massachusetts had wanted to do something to correct these practices, he had the opportunity. Now we have to do our best to legislate on the floor of the Senate. We will have no other chance.

The conditions which exist need remedying. I do not want to deny the workers their rights when a majority of them want a union. I do not want to deny them freedom of speech. I want them to have freedom of speech. I do not want them to wait a year to hold another election. I want them to have the opportunity to hold an election in the intervening period.

But I am opposed to blackmail picketing. I am opposed to shakedown picketing. I am opposed to top-down organization. The only way such conditions will be corrected is by law. As I said a while ago, if these practices are not corrected, there will only be a continuation of the activities by the Dioguardis. That crowd has been exploiting employees in all sections of the country. They are racketeers and gangsters.

The Senator from Massachusetts said I saw a gangster every time I looked at a labor union. I have repeatedly said throughout the country that the great majority of labor unions and their leaders are honest. I repeat that statement. The great majority of the citizens of America are honest and law abiding. But there are a few with whom we have to deal. If we did not have laws for the protection of those who are honest as against those who are scoundrels, there would be bedlam in the United States; there would be barbarism. There would be the same thing in unionism. As I said in my opening remarks, the criminal element, the syndicated crime that is moving in and is using unionism as a vehicle, would gobble up the Meanys and those like him. The ethics codes would not stop that. Some talk about ethics to halt that crowd. Mr. President, they would laugh in our faces, and would think we were silly to mention such a thing.

I yield back the remainder of the time available to me.

Mr. ERVIN. Mr. President, on the question of agreeing to my amendment to the amendment of the Senator from Arkansas, I ask for the yeas and nays.

Mr. MUNDT. Mr. President, before that question is put, I ask that the amendment to the amendment be stated.

The PRESIDING OFFICER. The Ervin amendment to the McClellan amendment, as modified, will be stated.

The LEGISLATIVE CLERK. To the modified amendment of Mr. MCCLELLAN, Mr. ERVIN proposes the following amendment:

On page 2, in lines 4 and 5, strike out "for organizational purposes or".

Mr. ERVIN. In other words, my amendment will restrict the amendment of the Senator from Arkansas; but if his amendment is amended by my amendment, the amendment as amended will still allow peaceful picketing for the purpose of persuading others to join the union.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. ERVIN] to the modified amendment of the Senator from Arkansas [Mr. MCCLELLAN]. On this question, the yeas and nays have been requested.

Is there a sufficient second?

The yeas and nays were ordered.

Mr. MUNDT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from South Dakota will state it.

Mr. MUNDT. Has all available time on the Ervin amendment to the McClellan amendment been used; or does some time remain on the question of agreeing to the McClellan amendment?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. GOLDWATER. Mr. President, notwithstanding the unanimous-consent agreement under which we are operating, I ask unanimous consent that each side may have 10 minutes in which to explain the pending amendment to the amendment of the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSON of Texas. Mr. President, I shall be glad to yield 10 minutes on the bill to any Senator who wishes to discuss further the pending question.

Mr. LONG. Mr. President, may we have an explanation of the significance of the proposal to strike out the stated words of the McClellan amendment? I have not heard an explanation of the amendment to the amendment.

Mr. ERVIN. I shall be glad to explain it, Mr. President.

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes on the bill to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 3 minutes.

Mr. ERVIN. Mr. President, the McClellan amendment, as now drawn, would make it an unfair labor practice to engage in organizational picketing, which is picketing designed to persuade others to join unions; and the amendment would also make it an unfair labor practice to engage in picketing to coerce or force an employer to grant recognition to a union which does not represent a majority of his employees. In my opinion, the latter should be outlawed.

But I believe that to prohibit organizational picketing, which is conducted peaceably, would be to interfere with the right of freedom of speech under the first amendment.

Violence in connection with picketing is now unlawful.

My amendment to the McClellan amendment provides, in effect, that Congress is not attempting to take away the right to picket peaceably for the purpose of persuading others to join a union.

Unless my amendment to the amendment is adopted, I believe the McClellan amendment, if adopted, would be in violation of the right of freedom of speech, because the McClellan amendment would then prohibit peaceful action to persuade others to join a union. I am sure that the distinguished Senator from Arkansas [Mr. MCCLELLAN] does not intend that. But I am convinced that the words of his amendment do exactly that.

Mr. SMATHERS. Mr. President, would the Senator's amendment to the McClellan amendment allow those who wished to have a union organization to march up and down the street in front of the place of employment, and to carry placards reading "Join the Union"?

Mr. ERVIN. Yes.

Mr. SMATHERS. But the Senator's amendment to the McClellan amendment would prohibit so-called blackmail picketing, would it?

Mr. ERVIN. My amendment would not impair the provisions of the McClellan bill outlawing picketing to force an employer to recognize a union which does not represent a majority of the employees.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes on the bill.

Mr. KENNEDY. Mr. President, I do not agree at all with what has just been stated. All this matter comes down to is the question of how the National Labor Relations Board will define recognition picketing, as opposed to organizational picketing.

Will the Senator from North Carolina explain what he believes the difference is?

Mr. ERVIN. Yes. I think organizational picketing is picketing which is done for the purpose of pursuading others to join a union. If such picketing is done in a peaceful and proper manner, I think the right of freedom of speech protects it.

Under the McClellan amendment, recognition picketing is picketing which is done for the purpose of forcing an employer to recognize as the bargaining agent of the employees a union which does not represent a majority of the employees.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes on the bill.

Mr. KENNEDY. Mr. President, the problem is to determine whether the union represents a majority of the employees. In view of the fact that the bill provides for prehearing elections, I think it would be much better to determine this question by that means.

But I must say in frankness that I do not think the Senator's amendment to strike from the McClellan amendment the words "for organizational purposes or" amounts to anything of importance, unless it is possible to show whether the union represents a majority of the employees.

So the problem comes down to the question of how to determine whether the union becomes the legitimate spokesman for the employees.

I do not believe the mere acceptance of the amendment of the Senator from North Carolina to the amendment of the Senator from Arkansas would accomplish what the Senator from Florida thinks it would.

I suggest that perhaps a much better procedure would be to provide that for a certain period of time following a legitimate election, there could not be picketing. Such a provision would accomplish what the Senator seeks to accomplish. But I do not think the amendment he proposes, in its present form, would do that.

Mr. ERVIN. If my amendment to the McClellan amendment is adopted, organizational picketing, when carried on in a peaceful and proper manner, for the purpose of persuading others to join the union would be allowed; but recognition picketing, for the purpose of forcing or requiring the employer to recognize or bargain with a particular labor organization as the representative of his employees, if the labor organization did not represent a majority of the employees, would be prohibited.

Mr. KENNEDY. How would the latter be done?

Mr. ERVIN. I have just defined it.

Mr. KENNEDY. But the Senator from North Carolina has said that the prohibition he proposes would apply only to a union which did not represent a majority of the employees. How would that be determined?

Mr. ERVIN. The purpose of my amendment to the amendment is to permit peaceable organizational picketing, but to prevent recognition picketing. Organizational picketing is picketing, conducted in a peaceful, proper manner, to persuade others to join the union. Recognition picketing is picketing which is designed to compel the employer to accept the union as the bargaining agent for the employees, regardless of whether the union represents a majority of the employees.

Mr. KENNEDY. The Senator from North Carolina has accurately stated the difference. But how does he propose that the difference be determined?

Mr. ERVIN. One way—as the Taft-Hartley Act originally contemplated—would be to hold an election. But the provisions of the McClellan amendment take care of the situation in which there had not been an election, and in which recognition of the union as the bargaining agent of the employees is demanded, in violation of the spirit of the Taft-Hartley Act and its particular terms.

Mr. KENNEDY. But how would the Senator from North Carolina determine whether the union represented a majority of the employees, or whether it was merely attempting to coerce the employer?

I think the amendment of the Senator from North Carolina to the McClellan amendment needs considerable more consideration and debate.

I hope the Senate will vote on the McClellan amendment separately, and will deal with recognition picketing by means of a separate amendment.

The PRESIDING OFFICER. The time available to the Senator from Massachusetts has expired.

Mr. KENNEDY. I ask for 2 minutes on the bill.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Massachusetts 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes on the bill.

Mr. KENNEDY. Mr. President, I suggest that the Senate vote on the McClellan amendment as it is.

If, thereafter, the Senator from North Carolina wishes to offer his amendment separately, as a means of establishing the difference between organizational picketing and representation picketing, he will then have an opportunity to submit such an amendment, and to debate it, and then to prescribe the ground rules for the determination of the existence of those two types of picketing.

Mr. ERVIN. Mr. President, inasmuch as the yeas and nays have already been ordered on the question of agreeing to my amendment to the McClellan amendment, I should like to have the vote taken on my amendment to the amendment; because if the McClellan amendment were to be rejected, I would not have a chance to offer my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. ERVIN] to the amendment, as modified, of the Senator from Arkansas [Mr. MCCLELLAN].

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MCCLELLAN. What is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the amendmend of the Senator from North Carolina [Mr. ERVIN] to the amendment of the Senator from Arkansas [Mr. MCCLELLAN] as modified.

Mr. MCCLELLAN. A "yea" vote would be a vote for the amendment to the amendment, and a "nay" vote would be a vote to reject it. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LAUSCHE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LAUSCHE. That is, a vote for the amendment which is now pending would be a partial rejection of the McClellan amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LAUSCHE. And a "nay" vote would be at least some indication of support for the McClellan amendment. Is that correct? [Laughter.]

The legislative clerk resumed and concluded the call of the roll.

Mr. MANSFIELD. I announce that the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Minnesota [Mr. HUMPHREY] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I also announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Minnesota [Mr. HUMPHREY].

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Minnesota would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business and if present and voting, would vote "nay."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and, if present and voting would vote "nay."

The result was announced—yeas 25, nays 67, as follows:

YEAS—25

Aiken	Javits	Mundt
Bartlett	Johnson, Tex.	Neuberger
Cannon	Jordan	Saltonstall
Case, N.J.	Keating	Scott
Cooper	Kefauver	Smathers
Ervin	Kerr	Talmadge
Gore	Kuchel	Young, N. Dak.
Hart	Monroney	
Hayden	Morton	

NAYS—67

Allott	Engle	Morse
Anderson	Goldwater	Moss
Beall	Green	Murray
Bennett	Gruening	Muskie
Bridges	Hartke	O'Mahoney
Bush	Hennings	Pastore
Butler	Hickenlooper	Prouty
Byrd, Va.	Hill	Proxmire
Byrd, W Va.	Holland	Randolph
Capehart	Hruska	Robertson
Carroll	Jackson	Russell
Case, S. Dak.	Johnston, S. C.	Schoeppel
Chavez	Kennedy	Smith
Church	Langer	Sparkman
Clark	Lausche	Stennis
Cotton	Long	Symington
Curtis	Magnuson	Thurmond
Dirksen	Mansfield	Williams, Del.
Dodd	Martin	Williams, N.J.
Douglas	McCarthy	Yarborough
Dworshak	McClellan	Young, Ohio
Eastland	McGee	
Ellender	McNamara	

NOT VOTING—6

Bible	Frear	Humphrey
Carlson	Fulbright	Wiley

So Mr. ERVIN's amendment to Mr. MCCLELLAN's amendment, as modified, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas [Mr. MCCLELLAN], as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. SMATHERS (when his name was called). On this vote I have a pair with the senior Senator from Minnesota [Mr. HUMPHREY]. If he were present and voting, he would vote "nay." If I were at liberty to vote I would vote "yea." I therefore withhold my vote.

The rollcall was resumed and concluded.

Mr. MANSFIELD. I announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I also announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

On this vote, the Senator from Nevada [Mr. BIBLE] is paired with the Senator from Kansas [Mr. CARLSON].

If present and voting, the Senator from Nevada would vote "nay" and the Senator from Kansas would vote "yea."

On this vote, the Senator from Louisiana [Mr. ELLENDER] is paired with the Senator from Wisconsin [Mr. WILEY].

If present and voting, the Senator from Louisiana would vote "nay" and the Senator from Wisconsin would vote "yea."

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and is paired with the Senator from Nevada [Mr. BIBLE]. If present and voting, the Senator from Kansas would vote "yea" and the Senator from Nevada would vote "nay."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and is paired with the Senator from Louisiana [Mr. ELLENDER]. If present and voting, the Senator from Wisconsin would vote "yea" and the Senator from Louisiana would vote "nay."

The result was announced—yeas 30, nays 59, as follows:

YEAS—30

Allott	Curtis	Martin
Beall	Dirksen	McClellan
Bennett	Dworshak	Morton
Bridges	Eastland	Mundt
Bush	Goldwater	Robertson
Butler	Hickenlooper	Schoeppel
Byrd, Va.	Holland	Stennis
Capehart	Hruska	Thurmond
Case, S. Dak.	Jordan	Williams, Del.
Cotton	Lausche	Young, N. Dak.

NAYS—59

Aiken	Hayden	Morse
Anderson	Hennings	Moss
Bartlett	Hill	Murray
Byrd, W. Va.	Jackson	Muskie
Cannon	Javits	Neuberger
Carroll	Johnson, Tex.	O'Mahoney
Case, N.J.	Johnston, S.C.	Pastore
Chavez	Keating	Prouty
Church	Kefauver	Proxmire
Clark	Kennedy	Randolph
Cooper	Kerr	Saltonstall
Dodd	Kuchel	Scott
Douglas	Langer	Smith
Engle	Long	Sparkman
Ervin	Magnuson	Symington
Gore	Mansfield	Talmadge
Green	McCarthy	Williams, N.J.
Gruening	McGee	Yarborough
Hart	McNamara	Young, Ohio
Hartke	Monroney	

NOT VOTING—9

Bible	Frear	Russell
Carlson	Fulbright	Smathers
Ellender	Humphrey	Wiley

So Mr. MCCLELLAN'S amendment, as modified, was rejected.

Mr. PROUTY. Mr. President, I send an amendment to the desk and ask that it be stated. I might explain that it is similar to another amendment at the desk which will not be offered.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 59, after line 25, it is proposed to add the following new section:

SEC. 607. (a) Subsection (b) of section 8 of the National Labor Relations Act, as amended, is amended by striking out the word "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and", and by adding a new paragraph as follows:

"(7) to picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer with the object of forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative—

"(A) where the employer has recognized in accordance with this Act any other labor organization and a question concerning representation may not appropriately be raised under section 9(c) of this Act; or

"(B) where within the preceding twelve months a valid election under section 9(c) of this Act has been conducted unless such labor organization has been certified as the representative of employees of such employer pursuant to such election; or

"(C) where a petition has been filed under section 9(c)(1)(A) by another labor organization or under section 9(c)(1)(B) by such employer, and such petition is pending before the Board."

(b) Subsection (1) of section 10 of the National Labor Relations Act, as amended, is amended by striking out the first sentence and substituting in lieu thereof the following: "Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4)(A), (B), or (C) or paragraph 7 of section 8(b) or paragraph 2 of section 8(a), or has refused to bargain within the meaning of paragraph (5) of section 8(a) with a representative of his employees which has been certified by the Board within the preceding twelve months as such representative under the provisions of section 9, the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred."

Mr. PROUTY. Mr. President, I ask unanimous consent that the time used for the reading of my amendment not be charged to me.

Mr. KENNEDY. Mr. President, will the Senator from Vermont state the number of his amendment?

Mr. PROUTY. It has no number.

Mr. KENNEDY. May I have a copy of it?

Mr. GOLDWATER. The language of the amendment of the Senator from Vermont is identical with the language contained in my amendment designated "4-23-59—C."

Mr. KENNEDY. What was the unanimous-consent request?

Mr. PROUTY. That the time used in reading the amendment not be charged to me.

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

Mr. PROUTY. On this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, I think anyone who is familiar with my background will realize that I have always tried to be friendly to organized labor and to the workingman. I have likewise tried to be fair to the employer. Today I think we are faced with a situation which requires rectification, both in the interests of the workingman and the interests of the employer.

I have had distributed a statement. I suggest that Senators who are interested in it read it, as I read it, in order that they may have a full understanding of the purpose of my amendment.

Mr. President, I yield myself 30 minutes on the amendment.

This amendment imposes certain modest limitations on organizational and recognition picketing. It does not ban or in any manner diminish the right of a union to picket for any other objective.

Under my amendment a union would be prohibited from picketing or threatening to picket an employer only where the object of such conduct was to force the employer to bargain or deal with the union or to force the employees either to join the union or to select or accept it as their collective bargaining representative. Every other kind of picketing would be absolutely unaffected by this amendment.

But even where the union picketed for either of these two objectives—recognition or organization—it would not be in violation of the law under my amendment unless the picketing occurred in at least one of the three following situations:

First. The picketed employer had recognized and signed a contract with some other perfectly legitimate union which actually represented a majority of his employees, and hence, under the Taft-Hartley Act, no election would be held by the Board until such contract had expired; or

Second. The Board had held an election during the preceding 12 months and the picketing union had either failed to win the election or even to participate in it, and had thereby also failed to demonstrate that it represented a majority of the employees of the picketed employer; or

Third. The employer or the union other than the picketing union had filed a petition for an election with the Board, and the petition was still pending before the Board. In such a situation a picket line constitutes an attempt not only to force recognition from an employer or membership or support from his employees by means of economic pressure, but it also constitutes an attempt to undercut or circumvent the machinery which the law has established through the NLRB for determining the very question which the picketing union is attempting to resolve in its own favor by economic force during the

very time when the machinery of the law is already in motion.

Whenever picketing occurs under one of these three circumstances, my amendment provides that the NLRB, as it does in cases of unlawful secondary boycotts, must, simultaneously with proceeding against the picketing union through its own administrative processes, seek a temporary restraining order against such union in the Federal district court. This is to provide immediate relief to the picketed employer and his employees, who might otherwise lose both their business and jobs if they had to wait for relief until the Board issued its cease and desist order many months, sometimes even years, later.

In order to safeguard unions against any possible injustices under these provisions my amendment also provides that the NLRB must seek such immediate relief through injunctions on behalf of unions and against employers in the following two types of situations:

First. Where the picketing union charges that the picketed employer has recognized another union which he has assisted or is dominating, or has collusively contracted with the Board decides to proceed on the basis of that charge; or

Second. Where a union has won an NLRB election, been certified by the NLRB, yet, nevertheless, the employer refuses or fails to bargain in good faith with it during the 12-month period following such certification by the Board.

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

Mr. PROUTY. I yield.

Mr. CURTIS. Suppose a small businessman has six employees who belong to no union. His employees are not organized. For the purpose of this hypothetical case, let us assume that none of the six employees wants to join a union. Would the Senator's amendment prohibit picketing in such a situation?

Mr. PROUTY. No; absolutely.

Mr. CURTIS. The amendment would offer no remedy to the small businessman having a few employees who are not organized?

Mr. PROUTY. It would certainly offer relief if an election had been held; it would not if an election had not been held.

Mr. CURTIS. But suppose there are only a few employees and no election has been held, and it is conceded that the men do not want a union.

Mr. PROUTY. That is where the question of no man's land comes into the picture. Unfortunately, a solution has not been found for that situation.

Mr. CURTIS. I wonder if the Senator from Vermont would amend the language of his amendment so that blackmail picketing could not be conducted against a small businessman, whose employees are represented by no union, and whose workers insist they do not want anything to do with a union.

Mr. KEATING. Mr. President, will the Senator from Vermont yield so that I may answer the Senator from Nebraska?

Mr. PROUTY. I yield.

Mr. KEATING. In partial answer to the Senator from Nebraska, the employer, in a case such as he has cited, could ask for an election; and if the employees voted for no union, or if they voted for some other union, then, as I understand the Senator's amendment, picketing would not be allowed.

Mr. CURTIS. Could picketing be started immediately when the employer asked for an election?

Mr. PROUTY. As soon as the petition was filed.

Mr. CURTIS. As soon as the petition was filed?

Mr. PROUTY. Yes.

Mr. CURTIS. So, in the situation I have cited, if the employer asked for an election, picketing immediately would become lawful.

Mr. PROUTY. Yes.

Mr. CURTIS. That answers my question.

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

Mr. PROUTY. First, I should like to summarize my statement; then I shall be glad to yield to the Senator from Illinois.

Let me summarize briefly and in short form what the amendment actually does.

First, it prohibits organizational and recognitional picketing by one union if another union has already signed a contract with the employer.

I think this is very important. Under existing law, a union not a party to a contract would not be entitled to an election for the life of the contract, but not more than 2 years; and the employer could not recognize such a union even if he wished to, under present law. Therefore, picketing by a union not a party to the contract is an attempt to coerce an employer to do something which the law forbids him to do.

In order to protect against that situation, if the union signing the petition were company dominated, there is a provision which states, in effect, that if an employee files with the Board a charge that the union is company influenced or company dominated, the Board must handle the matter on the highest priority basis, and the activities of the union wil be subject to injunction. Second, the amendment prohibits organizational or recognition picketing for one year after a union loses an election; third, the amendment prohibits organizational or recognition picketing by another union if the union or the employer has filed with the Board a petition for an election.

At this point I should like to quote from a statement by one of the outstanding experts in this field, a professor at Harvard Law School. He attended many of the committee meetings at which the bill was discussed, and also many of the committee meetings, last year, on the Kennedy-Ives bill. He is presently on the floor, and he has assisted the committee materially in drafting this bill.

Therefore, at this time I should like to quote from a statement made by Professor Cox in the course of an address which he delivered at the Conference of Labor on December 9, 1954, I believe, in connection with the 1954 convention of the CIO. I should like to have my colleagues pay close attention to this quotation from the address by Professor Cox; and I assure them that the part I shall read has not been lifted out of context in order to create a false impression.

In the course of his address, Professor Cox said:

> I submit to you, however, that neither picketing for recognition nor organizational picketing should be permitted after the employees have signified whether in truth the union is their organization. Public resentment runs strong against unions which carry on picketing for 10 months, a year, or even 3 years, when it is plain that most of the employees do not desire to have it represent them. In such cases the union may fairly be characterized as an outsider seeking to force itself on the employees, either by compelling the employer to coerce them into the union or else by destroying the business which provides their livelihood. * * * I wonder if section 8(b)(4)(C) should not be amended, therefore, to cover "no union" votes as well as certifications.

It seems to me that the suggestion of Professor Cox is a very reasonable one, and I can only assume that if he had had his way this provision would have been in the committee bill, as it is in my amendment.

Now I yield to the distinguished Senator from Illinois.

Mr. DOUGLAS. Mr. President, first, I hope the Senator from Vermont will permit me to state that I am sure his amendment is offered in good faith, and that the Senator from Vermont seeks to deal in a very genuine way with real difficulties.

Mr. PROUTY. Mr. President, I appreciate the Senator's statement, and I assure him that that is the motivation.

Mr. DOUGLAS. I mean that very sincerely.

I find myself in great sympathy with many of the features of the amendment, particularly point No. 2, which the Senator from Vermont has mentioned—namely, that there should not be picketing if an election had been held during the preceding 12 months and if the picketing union had failed to win a majority. Under those circumstances, I think there should not be picketing in an attempt to change the minds of the workers who already had voted; and I do not think any employer or group of workers should be subjected to the strain of continuous picketing, regardless of whether the election was won or was lost.

So I wish to make clear that I am heartily in sympathy with the amendment of the Senator from Vermont, so far as his point No. 2 is concerned.

Mr. PROUTY. I am glad to hear that.

Mr. DOUGLAS. I think I am in sympathy with at least the purpose of the Senator from Vermont in connection with his point No. 1, although I am not certain that his amendment meets certain of the dangers which inevitably would develop. I grant that when the employer has signed a contract with a perfectly legitimate union which actually represents a majority of his employees, under those conditions, picketing would be undesirable. But how could one tell whether the union in question was a perfectly legitimate union

which represented a majority of the employees?

Would not it be possible for the employer to sign a "sweetheart" agreement with a union which purported to represent a majority of the employees? But if no election were pending or were being held, would there be adequate protection, under point No. 1, at the bottom of the page the Senator from Vermont has read?

Mr. PROUTY. I believe there would be. Certainly that was the intention.

Mr. DOUGLAS. As I read the safeguards which are set forth in the concluding portion of the Senator's statement, picketing would be permitted not when the union charged that there was a collusive agreement, but in those cases in which the Board itself initiated the proceedings.

In view of the fact that the Board is swamped with cases, what assurance would we have that the Board would proceed, even though there was a "sweetheart" agreement?

Mr. PROUTY. This amendment requires top priority on the part of the Board. So there would not be the delay which frequently occurs in connection with cases of this nature.

Mr. DOUGLAS. Would it have precedence over the top priority given to attempts made by employers to obtain injunctions?

Mr. PROUTY. I understand it would have the same priority.

Mr. DOUGLAS. The same priority?

Mr. PROUTY. Let me read from the amendment:

> The preliminary investigation of such charge shall be made forthwith, and given priority over all other cases, except cases of like character, in the office in which it is filed or to which it is referred.

Mr. DOUGLAS. Let me ask a question about point No. 3. I understand that it outlaws organizational picketing in cases in which an election is pending.

Mr. PROUTY. That is correct.

Mr. DOUGLAS. I wonder whether the Senator from Vermont really means to provide that. Is not picketing, when properly conducted, an attempt at peaceful persuasion? But during that period the employer could hold meetings inside the plant with captive audiences and could disseminate propaganda, and thus he would have a great advantage in carrying on an election campaign.

On the other hand, the union would have to operate outside the shop; and if it were prevented from picketing, where could it plead its case?

Mr. PROUTY. I believe that a union which files a petition may picket. But another union would not be allowed to picket. However, a union which filed a petition could picket, if it so desired.

Mr. DOUGLAS. But under No. 1, on page 2 of the amendment, if the petition had been filed by the employer, and was pending before the Board, organizational picketing would also be outlawed, apparently.

I am sure the motives of the Senator from Vermont in connection with this matter are of the best; and I wonder whether he will consider changing his amendment in such a way as to meet these difficulties.

Mr. PROUTY. Let me say to the distinguished Senator from Illinois that a second union would be barred from picketing, but not the petitioning union.

Mr. DOUGLAS. But if the employer petitioned for an election, he then could carry on his propaganda inside the shop, on company time, and with a captive audience, so to speak. But under the provisions of this amendment, the union would be prevented from making an appeal to the workers as they left the plant or as they entered the plant. So it seems to me that the amendment would restrict the workers in respect to the carrying on of their case, whereas the employer would be left free.

I do not think the Senator from Vermont means to have that done. So I wonder whether he will consider changing his amendment accordingly. As I have said, I feel very strongly in favor of portions of the amendment.

Mr. PROUTY. I believe a union can picket only if it makes a demand for recognition. Obviously it never makes such a demand unless it has a majority.

Mr. DOUGLAS. Yes; but in cases where the employer asks for the election, even though the union may think it has a majority in the election campaign prior to the election, the employer would be left free inside the factory, but the workers would be prevented from persuading near the place of work outside the factory.

Mr. PROUTY. Let me call attention to the fact that there already exists a prehearing section in the bill as it exists at the present time.

Mr. DOUGLAS. Yes; but while the provisions of that section speed up the processes, they still do not make them instantaneous.

Mr. PROUTY. It seems to me in the overwhelming majority of cases it would prove very effective in bringing some of these matters to a head.

Mr. DOUGLAS. I know the Senator from Vermont wants to have a fair amendment, and I know it is sometimes difficult to make these points on the floor of the Senate, but I ask him to consider these points very carefully.

Mr. COOPER. Mr. President, I was interested in the questions which the Senator from Illinois has asked, and I join with him in the assurance that the Senator from Vermont wishes to direct his amendment to the evil which is asserted respecting organizational picketing. I have read some of the cases on this subject. I do not wish to give the impression of discussing these questions from a legal viewpoint alone, but I wish to direct my remarks to the rights involved.

I call the Senator's attention to these situations, first in regard to subparagraph (A) of the Senator's amendment: Let us assume labor organization A is picketing an employer. Under the provisions of subparagraph (A), labor organization B could not picket the employer if labor organization A has been validly accredited or recognized as the bargaining representative, either by having secured a majority or by a valid election.

Mr. PROUTY. That is correct.

Mr. COOPER. That seems to me to be a reasonable proposition.

Now let us consider subparagraph (B). It goes to the right of a union to picket peacefully. Let us assume we are dealing with a case, under subparagraph (B), in which the employees have exercised their right, under the Taft-Hartley Act, to refrain from joining or selecting a union as their representative. That is a right the employees have. The amendment says that for 12 months there can be no peaceful picketing of the employer.

Let us assume that after 3 or 4 months the union, by means other than picketing, as a result of talks with the workers, peaceful persuasion, meetings with them, has secured a majority. Whereas ordinarily under the present law the workers would then have a right to picket because they have a majority, subparagraph (B) would prevent them from picketing the employer to secure the recognition which they have a right to have. Is that clear?

Mr. DOUGLAS. Yes.

Mr. PROUTY. Let me explain to my distinguished friend the Senator from Kentucky that once a union wins an election, the Board operates on the presumption that for a period of a year the majority of the employees want the union to be their representative. The Board will permit no rival union to picket in an effort to organize the plant or conduct an election. If a union is rejected, the Board cannot conduct another election for a year.

That is only logical, because once the employees reject a union, there should be a corresponding presumption that for 1 year they do not desire to be represented by a union. However, and I think this is most important, under the present law, even after a union loses an election and is not entitled to another election within a year, it still may continue to harass an employer and its workers with picketing tactics.

I could cite a case of this nature, but I do not wish to take the time now to do so. There are many such cases.

Mr. COOPER. I do not think that is a parallel case. In the case cited by the Senator there had been an election and a union had been recognized and had obtained a contract. So the Board has ruled that for 12 months that contract cannot be disturbed.

I am referring to a situation in which, by means other than picketing, a majority of the employees have decided they want the union to represent them. The amendment provides that even if that is the fact, the employees cannot themselves exercise their right, which they now enjoy, or which employees have enjoyed in other cases to picket peacefully.

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

Mr. PROUTY. I yield to the Senator from New York.

Mr. KEATING. The Senator from Kentucky is probably better informed than I am on this subject, but I believe under the present labor law once an election has been held and the employees have selected, for example, union A to represent them in a plant, there is nothing which union B, or the members

which belong to union B, the heretofore minority, can do, anyway, for 12 months.

It does not seem to me that to bar union B from picketing a plant for a 12-month period deprives it of any rights which would otherwise be effective, because even if the employees changed their minds, during the 3 or 4 months' period, in the peaceful manner the Senator from Kentucky has outlined, there would be nothing union B could do to organize the plant or have an election before the 12-month period ended. Is that correct.

Mr. COOPER. That is correct. That situation is taken care of in subparagraph (A). I am now talking about subparagraph (B), concerning cases where the employees have exercised their right, under the Taft-Hartley law, to refrain from selecting a union as their representative. Subparagraph (B) applies to cases in which employees have said, in effect, in an election, "We do not want a union, or this union, to represent us."

The Senator has stated that if the employees have made a decision, the union cannot picket for a period of 12 months. Three or four months later the union may be able to demonstrate to the NLRB—and the union must demonstrate that fact to the NLRB—that a majority of the employees want the union to be their representative. The Senator has said that even though a majority of the employees then desire union recognition, and are entitled to it, they cannot picket to secure such recognition. Such a restriction would go beyond the present law.

Mr. KEATING. As I understand, that is the law today. If an election is held, and the employees vote to have no union represent them, another election cannot be held in that plant for another 12 months.

Mr. COOPER. The law today, as I understand it, is unsettled. The National Labor Relations Board has recently issued an opinion on this point but its opinion has been reversed by the Court of Appeals. The case is now on its way to the Supreme Court. Regardless of what is before the courts today, I am talking about a matter of substance, which is that the purpose of the act is to permit employees to have the right to join or not to join a union.

If the employees, by a majority vote, have selected a union, then under the law they have the right to act peacefully to secure recognition. The point I am making is that subsection (b) would go beyond the present law and in that way would take away the right. I should like to find a method to reach the exact point with which I think everyone wants to deal, namely, to prevent picketing to compel an employer to recognize a union when his employees, exercising their right to refrain from joining a union, have said, "We do not want to join a union."

However, under subsection (b), even though there is a case in which the employees have selected a union, they could not picket. I do not think that would be a proper prohibition. I am arguing on the basis of principle and substance. Unless that provision is changed, I could not vote for the amendment. I could offer an amendment to the amendment which I think would reach the point.

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

Mr. PROUTY. I yield to the Senator from New York.

Mr. KEATING. I was going to inquire of the distinguished Senator from Kentucky whether he thinks a change could be made which would cure that defect. I find myself in considerable sympathy with what the Senator says, in a case where the employees have voted for no union, and in a perfectly proper manner, without picketing or anything else, they are persuaded within a 12-month period to join a union. In that case a year is probably to long, and under those circumstances they should not be barred from picketing if they think it proper and desirable.

My support of the second section was based upon an understanding to the effect that after an election is held and the employees have voted for no union they could not have a vote for a 12-month period. I understand that is the decision of the court of appeals. Is that correct?

Mr. COOPER. That refers to a case in which the employees have selected a union. Subsection (b) deals with the situation where the employees have said, "We do not want a union." The argument is not analogous or parallel.

Mr. KEATING. Does the Senator from Kentucky have any language to suggest?

Mr. COOPER. Yes; I can offer some language.

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

Mr. GOLDWATER. Mr. President, does the Senator from Vermont desire more time?

Mr. PROUTY. I would appreciate it if the distinguished Senator from Arizona would yield me 10 minutes. There seems to be considerable interest in and cooperation for the amendment.

Mr. GOLDWATER. Mr. President, I yield 10 minutes on the bill.

Mr. SMATHERS. Mr. President, will the Senator from Vermont yield for a question?

Mr. PROUTY. I yield to the Senator from Florida.

Mr. SMATHERS. As I understand the amendment of the Senator from Vermont, it provides that once an election has been held, and after the result of the election has been determined, in case the result is that no union will be joined, there can be no further picketing on the particular employer's premises until 12 months have expired.

Mr. PROUTY. The Senator is correct.

Mr. SMATHERS. That is all the amendment provides?

Mr. PROUTY. That is all it would do.

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

Mr. SMATHERS. I should like to observe that it seems to me it would be only fair so to provide. In my particular section of the country the unions have often endeavored to organize the hotels. When elections have been held and the unions have not won the elections, a short time later they go into the street and actually picket in such force and numbers that the people who come to spend the winter, or a few months to enjoy themselves, have to walk through the picket lines. The situation becomes so intense that finally the employer says, "I will do anything to get you fellows out of the way." That is a process of using economic power to stop somebody in the proper operation of his business.

To me, this seems to be a very reasonable and sensible provision. If there is an election and if the union loses the election, as anybody who loses an election must do, the union should wait a certain time for another election. There should be some reasonable time provided.

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

Mr. PROUTY. I will say for the benefit of the distinguished Senator from Florida that Professor Cox also agrees with the Senator's attitude and with my position in this matter. He says:

> I submit to you that neither picketing for recognition nor organizational picketing should be permitted after the employees have signified whether in truth the union is their organization. Public resentment runs strong against unions which carry on picketing—

In such a situation. That is a quotation from his remarks.

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

Mr. PROUTY. I yield to the Senator from Oregon.

Mr. MORSE. I should like to have the attention of the Senator from Florida, because my question relates to his comment.

What the Senator from Florida had to say takes on an entirely different light if we ask the question, "Was it a fair election? Did the union lose the election because of unfair practices on the part of the employer?"

It is possible the employer made very clear, by way of intimidation, that if the employees voted for the union they would be out of their jobs. The employer may have used other unfair labor practices in order to prevent the employees from voting for the union.

My question is this: Does the amendment of the Senator from Vermont authorize the General Counsel of the Board to ask for a mandatory injunction whenever in his opinion there is a prima facie case which causes him to believe that in all probability an unfair labor practice charge will stand against the employer? Or does the amendment simply select certain possible unfair labor practice charges? If so, why not strengthen the amendment, as I think it would be strengthened, by providing that the General Counsel may proceed to get a mandatory injunction whenever he is satisfied that a prima facie case exists against the employer in respect to any unfair labor practice which may have affected the election?

Mr. PROUTY. I will say to the distinguished Senator, I think the two instances we have selected are those which occur most frequently. As the Senator knows, I am not an expert in the labor

field, and I am not a lawyer, but I have tried to learn as much about this problem as I could during the few weeks I have had the pleasure and privilege of serving on the committee.

It seems to me, from what I can learn from the experts, that perhaps these cases are not so important as one might think at first.

I wish to point out also that these elections have to be valid elections.

Mr. MORSE. Of course, we would not know whether they were valid until there was a conclusion of a case on an unfair labor practice charge.

I want the Senator to know that I should like to work something out with him on this subject, but I do not think the Senator has selected for his mandatory injunction procedures the most common unfair labor practices on the part of employers. Those are the dismissals ahead of the election in order to intimidate the workers, and the type of intimidation by which the employer, by various indirections, makes clear to his workers, "If you want a job you had better see to it that you do not vote for the union."

What I would suggest is that the Senator agree to some language in the amendment which would provide for the mandatory injunction power on the part of the General Counsel whenever he thinks the record of the case shows that the employer might have been guilty of an unfair labor practice.

Mr. PROUTY. I appreciate the Senator's comments very much.

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

Mr. PROUTY. I am glad to yield to the Senator from Ohio.

Mr. LAUSCHE. I should like to ask the Senator from Oregon [Mr. MORSE] a question.

In connection with the last recommendation of the Senator from Oregon, would he also include an authorization to the Attorney General to bring injunction proceedings against picketing when he concludes that there has been a fair election?

Mr. MORSE. Does the Senator mean the General Counsel of the Board?

Mr. LAUSCHE. The General Counsel, yes. If he is required to bring injunctive proceedings against the employer when there have been unfair labor practices, should he not also be authorized to bring action against the union for picketing when he concludes that there has been a fair election?

Mr. MORSE. I am a great believer in mutuality.

Mr. COOPER. Mr. President, I offer an amendment to the amendment of the Senator from Vermont. I send it to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 2, line 20, after the word "election" it is proposed to insert "or has been designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, pursuant to section 9(a)."

Mr. COOPER. This amendment would deal with the situation which I discussed a few moments ago. I have already explained its purpose. Suppose in an election the employees exercise their right and say, "We do not want to select this union as our bargaining representative. We do not want a union." But in 3 or 4 months, by means other than picketing, the union is able to persuade the majority of the employees that it should be their representative. In other words, that is what the employees wish, and a majority have selected the particular union. Then I think it would be reasonable, in the light of the intent of the act, to say that they have the right peacefully to picket the employer in an effort to secure recognition of the union.

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

Mr. PROUTY. I yield.

Mr. MORSE. Does not the point which the Senator makes illustrate one of the hypotheticals to which I alluded, namely, an employer using unfair labor practices? The members voted against the union, and within the next 30 or 60 days, in talking among themselves, they say, "He did a job on us. He took advantage of us. The time has come to make it clear to him that we are going to have a union."

Then the picket line is stretched. Under the Prouty amendment, they would have to wait 12 months. What I am suggesting is that the Senator from Vermont include a mandatory injunction provision with respect to the General Counsel, in regard to all the unfair labor practices of the union. The Senator from Ohio [Mr. LAUSCHE] has suggested that there be mutuality. Under the provision suggested, the General Counsel would have power to act against the union; but we should protect the union in the type of case which has been described.

Mr. PROUTY. Let me say to the Senator from Kentucky and the Senator from Oregon that I am prepared to accept the language of the Senator from Kentucky.

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

Mr. PROUTY. I yield.

Mr. SMATHERS. Would the Senator also agree to accept the language proposed by the Senator from Ohio, so as to result in the mutuality which the Senator from Oregon himself admitted was needed?

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

Mr. GOLDWATER. Mr. President, I suggest that the distinguished Senator from Massachusetts yield some of his time. He has 30 minutes. Much of this colloquy has been in opposition to the amendment. I suggest that he show his usual generosity and yield a little time.

Mr. KENNEDY. Mr. President, I yield 10 minutes to the Senator from Vermont.

Mr. PROUTY. I thank the distinguished Senator.

Mr. SMATHERS. Mr. President, I wonder if I may finish what I was saying.

Mr. PROUTY. I yield to the Senator from Florida.

Mr. SMATHERS. Obviously, if there has been an honest election, there is no unfair labor practice. I believe what the Senator started to do in the first place was to protect the employer as well as the employee, in a case in which there had been an honest election, and in which the union had lost the election. It is not fair or proper that the union, after losing an election, should begin to establish a picket line in front of the hotel or other establishment, and, in effect, try to browbeat the employer into making some concessions to the union to which it would not be entitled as a result of the election.

Mr. PROUTY. It is my understanding that they would not be allowed to picket under those circumstances.

Mr. SMATHERS. That is correct. The Senator from Kentucky has offered an amendment to the amendment of the Senator from Vermont which would permit them to picket within less than 12 months if they could establish the fact that some unfair labor practice had been indulged in.

Mr. KEATING. Only if it were established that in the interim a majority of the employees had joined the union which desired to picket. Only under such circumstances could a picket line be established.

Mr. SMATHERS. I think the amendment is a good one.

Mr. PROUTY. Mr. President, I accept the language proposed by the distinguished Senator from Kentucky [Mr. COOPER].

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. What is the question?

Mr. PROUTY. I ask unanimous consent to accept the amendment proposed by the distinguished Senator from Kentucky [Mr. COOPER].

The PRESIDING OFFICER. Is there objection to the request of the Senator from Vermont?

Mr. CLARK. Mr. President, reserving the right to object—and I shall not object—I believe the Senator from Massachusetts [Mr. KENNEDY] should have a moment to decide what questions he wishes to ask.

Mr. KENNEDY. I should like to ask the Senator from Vermont a couple of questions.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time occupied by the rollcall being taken from the time of either side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. 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. JOHNSON of Texas. Mr. President, I yield 7 minutes to the senior Senator from Oregon on the bill.

Mr. MORSE. Mr. President, I should like to have the attention of the Senator from Massachusetts for a moment. I am about to make a legal argument on the various organizational picketing amendments while Senators try to reach an understanding on the priority amendment. The majority leader has yielded me 7 minutes on the bill in which to make my statement.

I support the language of the Kennedy bill on all forms of picketing without change.

I should like to address myself to what I consider to be the single most important labor relations issue before this body, and before the country, a challenge to the labor movement of major dimensions.

The challenge arises in many forms in the various amendments even now on the table—the challenge of curbs on peaceful organizational picketing.

This is an issue which should not be considered in a context of stamping out crime, of preventing a ruthless and powerful labor organization from exacting a tribute from small employers and their employees. It is, instead, an issue involving a basic right of labor to protest with a historic and legally approved economic practice.

We are asked to enact amendments which will make it an unfair labor practice for a union to picket or threaten to picket with the object of forcing an employer to bargain under varying circumstances. The true thrust of these amendments is to prohibit traditional and proper union activity in organizing employees and securing recognition. But it prohibits without regard to what the employer has done before the picketing started, and without regard to the threat of nonunion employees to undermine the working conditions obtained through organization.

That is the type of fact situation that is before the Senate at this very moment under the Prouty amendment. It is necessary for us to provide protection for the union against an employer who has used unfair labor practices in an attempt to beat an election. And once the election has been beaten, it is then proposed that the union cannot proceed for another year to picket, even though the employer used all sorts of intimidation. He may have fired some of his employees before the election so as to make clear to the others that if they vote for the union they also will be fired. To call picketing resulting from the intimidating practices of an employer extortion or blackmail picketing exposes either unenlightened thinking or intentional mischief designed to curb one of labor's basic rights.

Certainly, the employees in such an intimidation case can bring an action before the National Labor Relations Board on the ground of unfair labor practices; but it will take a long time—at least several months—to have it decided. In the meantime, the employer is allowed to get by with his tactics of intimidation.

I am making a plea for the protection of the right of free men and women in this country to organize themselves into unions so as to stop that kind of unfair labor practices.

To call the picketing which has been talked about in the Senate this afternoon extortion or blackmail picketing, I think, misses the point entirely. I think it simply recognizes the failure to understand the kind of problems which face unions which are trying to organize in the face of the opposition of antilabor employers.

We are here talking about peaceful picketing—violent picketing or mass picketing is banned by the Taft-Hartley Act and subject to restraint by State courts in the exercise of their police power.

We are talking about a basic constitutional right to communicate; and while peaceful picketing is no longer considered to be an absolute expression of free speech, it is the single means of communication available to workers and their representatives.

In very much the same way that picketing has more effects than ordinary verbal expression, so the employer's speech to his employees, his heart-to-heart talk to employees before an election, his prophecies and predictions which the Labor Board recognizes as free speech—these also have a force independent of persuasion. We do not prohibit the employer's utterances because of their independent force; nor should we prohibit peaceful picketing. Both are a form of free speech in a context of uneasy balance—where perhaps there is abuse by some strong unions and most employers, but where the dangers to upsetting the delicate balance dictates extreme care.

We are asked then to curb the exercise by workers of their constitutional right of free speech expressed through peaceful picketing. And we are asked to curb it in an area where there can be no question that it serves a horoughly legitimate purpose. Organizational picketing is as old as the labor movement. The valid reason for its being is elementary economics and hornbook law.

I do not intend to discuss all the cases, but I shall place enough in the record to cover the point I want to stress, as I see it. We are dealing with a whole body of American law handed down by the courts in protecting the precious constitutional rights of labor which I rise to defend this afternoon.

The nonunion status of any firm is always a threat to the welfare of organized labor and its unionization is therefore always a proper end of trade union activity.

> Unions obviously are concerned not to have union standards undermined by nonunion shops (*International Brotherhood of Teamsters* v. *Hanke*, 339 U.S. 470, 475). The interdependence of economic interest of all engaged in the same industry has become a commonplace (*American Federation of Labor* v. *Swing*, 12 U.S. 321, 326).

For union organization to be "at all effective, employees must make their combination extend beyond one shop. It is helpful to have as many as may be in the same trade in the same community united, because, in the competition between employers, they are bound to be affected by the standard of wages of their trade in the neighborhood. Therefore, they may use all lawful propaganda to enlarge their membership, and especially among those whose labor at lower wages will injure their whole guild."

Who said that? Not the senior Senator from Oregon. That is from the decision of the Supreme Court of the United States in the case of *American Steel Foundries* v. *Tri-City Central Trades Council*, 257 U.S. 184, 209.

Now listen further to these words from landmark Supreme Court decisions:

> In order to render a labor combination effective it must eliminate the competition from nonunion goods, an elimination of price competition based on differences in labor standards is the objective of any national labor organization (*Apex Hosiery Co.* v. *Leader*, 310 U.S. 469, 503).

Indeed, the policy of the Taft-Hartley Act is based on explicit recognition that an evil against which the statute is directed is "preventing the stabilization of competitive wage rates and working conditions within and between industries"—section 1, paragraph 2. In the long run, to deprive organized workers of the means of competing with unorganized workers, dooms their objective to defeat.

Now let us return to the details of some of the amendments and what is wrong with them.

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

Mr. MORSE. May I have 2 more minutes?

Mr. JOHNSON of Texas. I yield 2 more minutes to the Senator from Oregon.

Mr. MORSE. These amendments seek to curb picketing after a union loses an election. That is the aim of the Prouty amendment now before the Senate.

This has considerable superficial appeal to those of us who are accustomed to abide by the decision of the ballot box. It may also appeal to others who, assuming a state of affairs which exists only rarely, conceive an employee's rejection of unionism as the result of his reasoned weighing of the arguments underlying realities for and against. But let us examine more.

Second. Such amendments would apply to prevent picketing irrespective of the employer's countermeasures. They would, for instance, ban picketing where the purpose was to advertise that, while the union lost a Board election, it did so because the employer exercised his rights of free speech and thus filled the air with such dire prophecies that the employees voted against the union.

Third. In the event the union chanced to consent to an election despite the employer's illegal conduct—because it takes several years to remedy violations of the statute—the union would be foreclosed from raising these violations as objections to the election. Under these circumstances, the election might be thought of as valid and any picketing for organization would be banned.

Fourth. It would appear, based upon the National Labor Relations Board's own decisions, that in most circum-

stances the ban against organizational and recognition picketing would, as a practical matter of fact, be construed to constitute a ban against all kinds of protest picketing after an election—see the various cases set forth in the hearings at pages 371–400. Certainly if the intent of these amendments is otherwise, it should be made very clear.

For instance, would these amendments permit the union after it lost an election to picket for these substantial reasons: (a) To persuade customers to patronize establishments paying better wages; (b) to protest antiunion propaganda issued by the employer; (c) to protest the discharge of union leaders; and (d) to protest various kinds of working conditions such as excessive workloads, lack of sick leave benefits, and so forth.

Fifth. By providing for a mandatory injunction—as nearly all these amendments do—the Board's General Counsel would have no discretion to decline the use of this extraordinary remedy even if he is reluctant to do so. He is therefore forced to use an artillery shell to kill a mouse. He is forced to use the remedy without regard to the equities involved. He must, for instance, give top priority to an employer's charge against a union and obtain an injunction even though the employer had embarked upon a large-scale campaign of unfair labor practices. In the meantime, the union's charge against the employer would be doomed to proceed in due course for several years. I know that this would be the procedure because this is the way it has worked under the Taft-Hartley Act. The Secretary of Labor's vagueness on this point when he appeared before the committee—see the hearings at page 343—makes apparent his unfamiliarity with NLRB procedures. A violation of a part of the act requiring mandatory injunctions compels an injunction against the union despite violations of the nonmandatory sections of the act committed by the employer. If the Board's General Counsel is to use his discretion and seek an injunction against such an employer and thus consolidate the cases, then we should be told so. A memorandum appears in the hearings at pages 400–407 discussing this problem. If indeed this is the intent, such amendment might properly contain an additional appropriation to cover the cost of an expansion program in the injunction branch of the NLRB. To say again what I said before, the thrust of these amendments ignores what the employer has done before the picketing started.

Labor law in America reflects increasing awareness that no sound economic theory permits free market thinking to be applied to wages and working conditions, as it is to prices. In the absence of collective bargaining the wage market is a fiction for wages and working conditions are established unilaterally by the employer. Competition among workers against each other for jobs produces not fair wages, but sweatshops; not increased productivity, but depressions. Society should not, under the guise of preserving freedom to compete, force them to bear the competitive burden which an entrepreneur, in hope of profit, voluntarily assumes. In modern industrial society, meaningful economic freedom for the vast majority of employees can be attained not through individual, but from collective action.

This was the reasoning behind Congress' declaration in 1914 in the Clayton Act that "the labor of a human being is not a commodity or article of commerce" and that labor unions shall not "be held or construed to be illegal combinations in restraint of trade under the antitrust laws." That declaration reflected recognition that "to render a labor combination effective it must eliminate the competition from non-union-made goods," and that elimination of price competition based on differences in labor standards is the objective of any national labor organization. Once the purpose of employee combination was thus recognized, sanction of the conventional tactics of organized labor in its effort to improve its material conditions followed inevitably. These tactics, peaceful primary picketing are the only civilized means through which organized workers can safeguard their own wages and working conditions against the competition of unorganized workers; the only way—short of governmental wage fixing—through which price competition based on differences in labor costs can be eliminated To deprive organized workers of these means of competing with unorganized workers dooms their objective to defeat.

Once we recognize that establishment of uniform wages and hours through collective bargaining as desirable, common sense should accept peaceful tactics by which unions traditionally seek in their own self-interest, to enlist nonmembers. Those who choose to work as nonunionists, by that very choice, tend to defeat and undermine the economic interests of union members in maintaining good wages and working conditions for themselves. In defense of their own economic position and in the face of varying shades of employer hostility, union members should accordingly be free to utilize such economic power as they possess to persuade employees of the value of their cause.

Freedom of choice of workers in the area of unionization, which some would transform into the central fact of labor policy, is unquestionably an attractive and serviceable principle. Few will disagree that freedom of employees to join unions should be protected from economic coercion by the employer. But prohibition of employer coercion is justified by considerations which are wholly inapplicable to the organizational tactics of unions. When the employer utilizes his power to persuade or control over jobs to defeat unionization, he takes advantage of his superior position to prevent his employees from obtaining even relative equality of bargaining power with him. But union members and nonunion members who are engaged in the same industry, trade, craft, or occupation are in competition with each other. Therefore, where the majority of a unit refuses despite lower wage standards to join a union for reasons unfathomable, the unit as a whole remains in competition with organized units in the industry. To forbid union members to attach economic consequences to such refusals—by peaceful picketing—would change the law in favor of nonunionism and create a sanctuary behind which incessant undermining of union standards would proceed with immunity.

More importantly, we all know that individuals or groups who reject unionization do not do so out of rational conviction that their economic interests will be better served by individual than by collective bargaining. Employees strongly suspect that their employer is antiunion and that by joining or voting for a union they will incur his hostility and invite reprisal. Moreover, under the law, employers are left free to exploit that fear by making their opposition to unionization explicit. Employees do not reach an objective basis for decision. When to the more subtle pressures the employer adds threats, discriminatory discharges, and so forth, even those few employees who are most convinced of the advantages of unionization are often unable to resist. Such overt employer pressure is illegal, but the legal remedy, at best, comes far too late, and it is far too risky to offer real assurance to an employee whose livelihood is at stake. Only economic counterpressure from the union can begin to even the scales. To outlaw such union pressure in organizational campaigns would thus tend to destroy, rather than to create, actual freedom of choice by employees.

I have endeavored to cover this subject with more than usual thoroughness—the legal background, the economic foundations, and the practical everyday procedures involving the dangers to curbing organizational picketing.

Mr. President, what I am pleading for is the protection of that great body of labor rights already handed down by the Supreme Court of the United States. I am pleading for the adoption by the Senate of only those amendments which provide for the principle of mutuality, about which I spoke 10 minutes ago on the floor of the Senate.

So far as the Prouty amendment is concerned, for example, it does not bring all unfair labor practices on the part of an employer under the mandatory injunctive power of the General Counsel of the National Labor Relations Board. It does not meet the test of mutuality. What the Prouty amendment does, let me warn the Senate, is to select only certain employer practices which come under the mandatory injunctive processes and powers of the General Counsel. It plays into the hands of the antiunion employer. Under the Prouty amendment the employer may proceed to break a union by way of using unfair labor practices before the election is held. We are making a great mistake in the way we are proceeding here on the floor of the Senate in drafting the Prouty amendment. That is how we can make horrendous mistakes in legislating.

I hope that in the conference which is taking place on the other side of the Chamber an agreement for mutuality will be reached. I hope an agreement in

which just certain unfair employer labor practices will not be selected but that all unfair employer practices will be covered. Likewise I am for covering unfair practices by the unions too.

The intimidation devices which employers use, and to which I have referred earlier this afternoon, include employer labor blacklists, by means of which it is made perfectly clear that if the employee votes for a union, he will find himself without credit in the community. Mr. President, in a really antilabor community, the intimidation devices which are used to prevent men and women from organizing themselves for collective-bargaining purposes are really shocking.

So I say we should go slowly and carefully in dealing with the compromise. Let us make sure that we do not seek to override the great body of U.S. Supreme Court decisions in connection with the rights of free labor in America.

Mr. JOHNSON of Texas. Mr. President, let me ask the Senator from Massachusetts whether he is ready to proceed.

Mr. KENNEDY. I hope that in a few minutes we shall be able to obtain an agreement on the amendment of the Senator from Vermont.

Mr. JOHNSON of Texas. Mr. President, at this time I yield 2 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I appreciate the remarks which have been made by the distinguished Senator from Oregon [Mr. MORSE]. I think he is perfectly correct when he says we must proceed cautiously in this field, because of the possible effect on the basic rights of free speech.

However, I do not think any Member of the Senate will disagree with the thesis that we must take some action to stop coercive picketing when the whole purpose is to organize from the top down, without the consent of the employees.

Mr. President, I have recognized the difficulties which we encounter in drafting an amendment to cover this particular point. I hope some such provision will be worked out, because I honestly do not believe that we can call this measure a labor reform bill unless it contains some provisions in regard to abolition of the malpractices which have been disclosed before the McClellan committee.

I do not know what form the amendment should take. But certainly reasonable men can proceed in a reasonable way to reach a conclusion which will enable the employees to have their rights.

I recognize the validity of what the Senator from Oregon has said about abuses pacticed by employers on employees. I realize that such things happen in this country. Certainly we do not condone them, any more than we condone the action of a union official in abusing an employer to such an extent that the employer, in turn, will permit the union official to bring the employees into his union.

But it seems to me that we must also think of the employees who do not wish to belong to a union—for instance, a group of employees who feel that they are being treated as well by their employer as they would be under any other circumstances, including the circumstances of union membership, and who, after having met together, decide that they do not wish to belong to a union. They may have reasons other than the fact that they are perfectly happy with the conditions provided by the employer; for instance, they may not like the affiliation of the union, because today unions are affiliated with politics; or they may not like the economic philosophy of the leader of their particular local. In connection with such situations, we get into the area of the right of association which, along with the right of free speech, is guaranteed in the first amendment of the Constitution.

So I believe we have a responsibility to provide protection in the specific fields which the committee has shown need protection.

I wish to make perfectly clear that I, together with my distinguished friend, the Senator from Oregon [Mr. MORSE], recognize the extremely delicate and touchy nature of the field in which we are operating. But I repeat that if we do not take any action in this field, I do not see how we can call this measure a labor-reform bill.

I also hope we will make some provision in the field of secondary boycotts.

BLACKMAIL PICKETING

Mr. President, the so-called "friends of labor" in the Senate, when forced by the findings of the McClellan committee to be somewhat critical of union practices, always couple employers as being equally guilty. We hear, for example, of "sweetheart" contracts between employers and unions, whereby employees are forced to pay dues, but receive no better wages or working conditions. We hear of many labor-management contracts where the employees do not want a union, and have, in fact, rejected the union in a secret-ballot election. In almost all of these cases the contract is one wherein membership in the union is compulsory.

But even if we agree to every provision of the various union reform bills, including the committee bill, we shall have done absolutely nothing to prevent contracts of such kinds. No law will make union members vote against the union bosses, so long as the bosses have the power to compel membership and to threaten, coerce, and inflict economic and physical injury upon a worker and his family.

No law against racketeering and embezzlement will prevent an employer from entering into "sweetheart" contracts or other contracts with unions which have no members among his employees, so long as unions have the complete power to prevent the owner from using his own property, as well as the power to drive the employer out of business.

If this Congress refuses to do anything about recognition and organizational picketing, the hearings and the executive sessions of the Senate Labor Committee will have been a complete waste. If we close our eyes to the evils of recognition picketing, the hundreds of thousands of dollars and the years spent by the McClellan committee on its hearings will also prove to have been a complete waste.

Employees are free to join unions; since 1935, the Government has been protecting that right. The law says the employees also have a legal right not to join unions; but the Government has done absolutely nothing to protect and enforce that right.

The fate of personal freedoms in labor relations is at stake. Individual liberty is threatened, if not already destroyed, by the formidable and unbridled power of unions to intimidate employees and to coerce business.

This amendment is in the interest of small business and its employees. Big business is almost entirely unionized. Unions have found it more difficult to organize in small business, in the retail and service trades, on the main streets of America. There, the relationship between employer and employee is of a more personal nature. The employees often believe they have more to gain by speaking for themselves than by calling in a union to speak for them. They are closer to the business, and have an understanding of the ability of their employer to pay or not to pay increased benefits. Many of them are white-collar workers, and are traditionally reluctant to join unions .

Yet, it is this group which is more susceptible to recognition picketing than any other. This is true because recognition picketing always causes great losses in business, if not a complete shutdown. Many small businesses cannot operate if deliveries to their place of business are stopped. Thus, the Teamsters Union can bring any small business to a halt, if it is the union that is seeking recognition, or if it is cooperating with the union that is seeking recognition, by placing a picket line around the place of business. Small business is also especially vulnerable because it does not have the means of standing firm for long periods of time. Even if the small businessman is able to obtain deliveries because the Teamsters cross the picket line or because he is able to obtain delivery in some other manner than by means of unionized trucking companies, he may still see his business ruined. If he is in the retail or service business, he is almost sure to lose customers. Some people will not cross picket lines, regardless of the purpose of the picket line, as a matter of principle. Others will not cross picket lines as a matter of convenience. If the potential customer can satisfy his wants elsewhere, he will do so, in preference to enduring the jeers and catcalls which so often accompany the picket line. The businessman knows that business lost to a competitor is seldom regained. His alternatives are to force his employees to join the union or to face bankruptcy.

The employees of a business which is being picketed may be coerced into joining the union either by their employer or directly. If the business is retail or service, the loss to them is reflected in the amount of their sales. The effect of a picket line on the employee is much more than peaceful persuasion. If he goes

through the picketline, the union labels him a "scab," which in union circles is the lowest form of life. Consequently, he may be coerced into staying at home, in the interests of his future job status, and to protect his own health and that of his family. Thus, there is no freedom of choice for the employees who are faced by recognition or organizational picketing.

The law provides an orderly way for a union to organize any business. By the use of handbills, meetings, home visits, and so forth, the union can obtain a majority of the employees as members. It then petitions the National Labor Relations Board for an election. The election is by secret ballot, and the employer is forbidden to interfere, restrain, or coerce his employees in their exercise of their choice. If the union wins the election, the employer is required by law to bargain with it. Having provided a lawful, orderly means of securing union recognition, the Government should insist that that process, and no other, be followed.

Our liberal friends argue that the union needs the picket line, or order to organize the sweatshop or the shop of the substandard employer. The answer is obvious: The employees of an employer of that type can be organized quickly and easily by the traditional method of handbills, meetings, and home visits.

Our friends refer to the possibility that the employer will destroy the union majority, by discharging the union adherents. Here, the law provides many remedies. Such employees are entitled to reinstatement and back pay for the time they have lost; and the Labor Board will secure it for them. The Labor Board will also set aside the election in such cases, and will order another election. If the union can prove it had a majority before the discharges occurred, the Labor Board may order the employer to bargain with the union without having another election.

With these arguments answered, our union-minded colleagues fall back on the old chestnut—that the matter needs further study. The evils of recognition and organizational picketing have been presented for many years in the hearings of committees of both Houses of Congress. We suspect that the matter will, in the opinion of some, need further studying until every reluctant employee in America has been coerced into joining a union. Perhaps that is what our liberal friends really want. If so, it would be more honest to pass a law requiring everyone to join a union.

Union leaders claim that this type of picketing is to inform the employees and the public that the employer is not operating according to union standards; that it is to advertise to the employees that their employer is not treating them in a right and proper way. They call it a method of peacefully persuading employees to join the union. For many years our courts listened to this contention, but now the courts and the public know that any picket line in front of a place of business exerts pressure and is coercive on both the employer and the employees.

Some try to mislead us by attempting to differentiate between "organizational" picketing and "recognition" picketing. It does not make any difference what it is called; the purpose is to compel the employer to sign a contract with the union.

Since the law requires, and will compel, the employer to bargain with a union which represents a majority of his employees, a strong argument may even be made for outlawing picketing by a union which has demonstrated its majority status. The amendment does not do this. Recognition picketing is banned in only a limited number of situations in the case of a union which has not proved its majority status.

The committee bill completely ignores the problem, and could easily mislead by banning a type of blackmail picketing which rarely occurs. It makes it unlawful to picket for personal profit. In such cases the union does not want recognition or a contract. If Congress accepts this provision, it may be construed as tacitly approving the kind of recognition picketing which our amendment seeks to prevent.

Recognition picketing is discussed on pages 74 to 78 of the report. The discussion is equally applicable to this amendment. I urge all Members of the Senate to read that section of the report before they vote on the pending amendment.

My amendment would make section 10(l) of present law applicable to the types of recognition picketing it seeks to prevent. Section 10(l) is sometimes referred to as the mandatory-injunction provision. This is a misnomer, in that the provision does not require the NLRB to seek an injunction every time a party claims a violation of the secondary-boycott provisions. Under present law, section 10(l) applies only to secondary-boycott cases and, to a lesser degree, to jurisdictional strikes. The provision does require the Board to seek injunctive relief in secondary-boycott cases in which the Board's regional office "has reasonable cause to believe such charge is true and that a complaint should issue." As a matter of practice, the Board has required a number of additional safeguards against indiscriminate use of the injunctive process. All petitions for injunctions must be approved by the Washington office of the Board, rather than just the regional office. The case is ordinarily handled by an attorney sent out by the Washington office of the Board's General Counsel. Injunctions are never sought without adequate notice and time for the opposing party to be heard. Several weeks' time elapses between the filing of the charge by the injured party and the petition for injunctive relief. This time lag is required by the regional office investigation, the Board's consideration of the regional office recommendation, and preparation of the necessary papers.

We gave some consideration to use of the discretionary injunction provided in section 10(j) of present law, as a sanction for violation of the restrictions on recognition picketing. We rejected that route, because a study of Board cases demonstrates that section 10(j) is almost never used, and is used in only the most extreme cases. In other words, the Board will not seek injunctions unless there is a congressional mandate that it do so.

Recognition picketing requires the same sanctions as secondary boycotts, if its use is to be curtailed. Like secondary boycotts, its prolonged use forces the employer to go out of business or to force his employees to join the union. Recognition picketing is at least a first cousin to the secondary boycott, in that pressure is applied to one party, to force him to apply pressure upon a third party, the employees.

The need for expedited action is illustrated by the Curtis case to which I have previously referred. The NLRB decision holding recognition picketing to be a violation of present law came down on October 30, 1957, after 2 years of such picketing. The picketing continued. Just this week the Supreme Court granted certiorari in this case. This means that a final decision on the matter may be expected in approximately 4 years from the time when the picketing began. The Curtis Co. is located in Anacostia, just a few miles from the Capitol. If any Senator wishes to take the time to do so, I believe he can still go over there and see the pickets. The Curtis Co. has been able to continue in business because it has been able to secure furniture in some other manner than through deliveries by trucks driven by members of the Teamsters Union. Few small employers have been so fortunate when faced by a recognition picket line.

It should be noted that my amendment also provides the sanction of an injunction under section 10(l) of the law against an employer who has refused to bargain with a union which has been certified as the representative of the majority of his employees, as well as against an employer who dominates or assists a union by means of "sweetheart" contracts, collusive deals, or other improper, shady, or unlawful transactions between corrupt unions and employers who are either dishonest or have been coerced into violating the rights of their employees.

Mr. JOHNSON of Texas. Mr. President, I understand that the Senator from Vermont is prepared to yield back the remainder of the time under his control, and to withdraw his amendment.

Mr. PROUTY. Mr. President, I did not hear what the majority leader stated.

Mr. JOHNSON of Texas. I understand the Senator from Vermont is going to continue to try to work out an agreement with the chairman of the subcommittee [Mr. KENNEDY], and that at the present time the Senator from Vermont is willing to withdraw his amendment.

Mr. PROUTY. No, Mr. President; I am not willing to withdraw my amendment.

Mr. JOHNSON of Texas. Very well. Does the Senator from Vermont wish to have the vote on his amendment taken now?

The PRESIDING OFFICER. The question is on agreeing to the request of

the Senator from Vermont for unanimous consent that he may modify his amendment.

Mr. GOLDWATER. Mr. President, at this time I suggest the absence of a quorum; and I ask unanimous consent that the time required for the quorum call not be charged to the time available to either side under the unanimous-consent agreement.

Mr. JOHNSON of Texas. Mr. President, I shall have to start objecting to such requests. I do not think we should have conferences on the floor all afternoon.

The Senator from Arkansas [Mr. McCLELLAN] is prepared, ready, willing, and eager to offer an amendment. The Senators who have been conferring in regard to the amendment which now is pending can continue to negotiate while we are discussing the McClellan amendment.

However, as matters now stand, we are using a great deal of time on private conversations, and we are not making much progress by that course; in fact, by proceeding in that way we vitiate the terms of the unanimous-consent agreement which has been entered.

Mr. MUNDT. Mr. President, if the Senator will modify his unanimous-consent request——

Mr. JOHNSON of Texas. Mr. President, I do not have pending a request for unanimous consent. But I shall be glad to join in arriving at any agreement the Senator from Vermont may propose in regard to the further consideration of his amendment.

I understood that he was unable to reach an agreement with the chairman of the subcommittee.

Mr. MUNDT. Mr. President, the yeas and nays have already been ordered on the question of agreeing to the amendment of the Senator from Vermont. Can we not agree to lay his amendment aside temporarily, and at this time to proceed with the consideration of another amendment, and then later to reinstate the amendment of the Senator from Vermont? If so, that will be satisfactory.

Mr. PROUTY. Mr. President, I shall be glad to have that done.

Mr. JOHNSON of Texas. Then, Mr. President, I ask unanimous consent that it be in order for the Senator from Arkansas [Mr. McCLELLAN] to call up his boycott amendment; and that at the conclusion of the consideration of that amendment, the Senate resume its consideration of the amendment of the Senator from Vermont, and that at that time his amendment revert to the status it now enjoys.

Mr. KEATING. Mr. President, reserving the right to object, let me ask whether it is understood that the order for the yeas and nays—they have already been ordered on the question of agreeing to the amendment of the Senator from Vermont—will at that time continue to apply to his amendment.

Mr. JOHNSON of Texas. Certainly.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, I call up my amendment identified as "4-17-59—C."

Mr. President, I think we have worked out an agreement with respect to another amendment I have pending, and we might dispose of it first.

I ask unanimous consent that, preceding action on the amendment I have just referred to, I may call up my amendment identified as "4-22-59—F."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment offered by the Senator from Arkansas will be stated.

The CHIEF CLERK. It is proposed, on page 33, line 4, to strike out "or 203" and insert in lieu thereof ", 203, or 207".

On page 35, between lines 2 and 3, to insert the following new section:

SEC. 208. All officers, agents, representatives, and employees of any labor organization engaged in an industry affecting commerce who handle funds of such organization or of a trust in which such organization is interested shall be bonded for the faithful discharge of their duties in the handling of such funds, and the bond of each such person in effect during any fiscal year of such organization shall be in an amount, (A) in the case of a labor organization, not less than one-tenth of the gross income of such organization for the fiscal year of such organization immediately preceding such fiscal year, or $250,000, whichever is the lesser; or, (B) in the case of a trust in which a labor organization is interested, not less than 25 percent of the amount of such trust, or $250,000, whichever is the lesser.

Mr. McCLELLAN. Mr. President, this is the amendment on bonding I had submitted. It has been worked out so that I believe it is satisfactory to the distinguished Senator from Massachusetts [Mr. KENNEDY]. It relates to the bonding of officers.

Mr. KENNEDY. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. Does the Senator from Arkansas yield back the time remaining to him?

Mr. McCLELLAN. I do.

Mr. KENNEDY. Mr. President, I yield back the time remaining to me on the amendment.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Arkansas [Mr. McCLELLAN].

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, now I call up my amendment identified as "4-17-59—C."

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

The LEGISLATIVE CLERK. It is proposed to add a new section at the end of the bill, as follows:

SEC. 607. (a) Section 8(b)(4) of the National Labor Relations Act, as amended, is amended to read as follows:

"(4) to exert or attempt to exert any economic or other coercion against, or offer any inducement to, any person engaged in commerce or in an industry affecting commerce, or to engage in, or induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is (A) forcing or requiring any employer or self-employed person to join any labor or employer organization; (B) forcing or requiring any person to cease, or to agree to cease, using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease, or to agree to cease, doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees; (C) forcing or requiring such person to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of section 9; (D) forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing such work: *Provided*, That nothing contained in this subsection (b) shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this Act: *Provided further*, That nothing contained in clause (B) of this paragraph (4) shall be construed to make unlawful where not otherwise unlawful any strike against, or refusal to perform services for, any person who has contracted or agreed with an employer to perform for such employer work which he is unable to perform because his employees are engaged in a strike not unlawful under this Act."

(b) Section 303(a) of the Labor Management Relations Act, 1947, as amended, is amended to read as follows:

"(a) It shall be unlawful, for the purpose of this section only, in an industry or activity affecting commerce, for any labor organization to engage in any activity or conduct defined as an unfair labor practice in section 8(b)(7) of the National Labor Relations Act, as amended."

Mr. McCLELLAN. Mr. President, I shall try to be brief. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. McCLELLAN. Mr. President, we are all familiar with the problem known as secondary boycott. There have been some abuses in this field, and the amendment seeks to correct them.

Mr. President, I shall state what the amendment would prohibit which is not now prohibited, and how it would fill in the gaps in the Taft-Hartley law as it now operates. The amendment covers the direct coercion of secondary employers to cause them to cease dealing with or doing business with the primary employer. In other words, if there were a strike in a certain plant, and I, as a merchant, handled the products of that plant, under the amendment the union could not use picketing to try to compel me to cease handling the products of the plant where the labor dispute is under way.

Second, the amendment covers the withdrawal of services by one key employee, not merely concerted action. Under the Taft-Hartley law, it is now an unfair labor practice to cause concerted action to be applied against an employer. The amendment would relieve the requirement of concerted action if the individual coerced were a key employee, and the effect would be to shut down the plant or seriously hamper or hinder the operations of the primary employer.

Third, as we know, the Taft-Hartley law excludes railway, agricultural, and other employees. They are not now covered by the law. The amendment would include those employees.

Fourth, the amendment covers the withholding of prospective employees from a secondary employer. I refer to a case in which I may be handling the products of a given company or manufacturer, and I have an arrangement with a union whereby it furnishes employees to me when I call upon the union to furnish them. I refer to a case where I may be under a contract and under an obligation to use the facilities of a hiring hall to get my employees from the hiring hall. The union would say to me, "We will not furnish you any more men, so long as you handle the products of that company." That is another form of secondary boycott which would be prohibited.

The amendment, Mr. President, covers pressure in the form of dissuading customers from dealing with secondary employers. That refers to establishing a picket line around a merchant's store, when the merchant handles the product of a company or of a manufacturing plant in which there is a strike. In other words, that is a form of coercion against an innocent employer, in an effort to compel the employer who has a strike on his hands to come to terms with the union. It is an effort to influence the original employer.

Mr. President, these cases come up repeatedly. There are those who believe that almost any power should be placed in and retained by unions to force their will, by the use of economic power and economic coercion, in almost any situation which may arise.

Mr. President, I have been pleading for this cause ever since the debate on the bill started. I have been trying to have adopted a measure to protect those who are innocent and helpless.

I point out that we have cases of merchants who for 20 years, 10 years, or for a long period of time, may have been handling a particular brand of product. A merchant may have built his business around the product, such as the John Deere plows or some kind of machinery from some other company. The merchant may have built up his trade entirely on that product. The merchant may have a competitor who is handling a competitive product made by another manufacturer, which serves the same function, but which is a different brand and is manufactured by someone else. In one of these plants there may be a strike, and the union may picket the merchant who is handling the product of the struck plant. The union may say to the merchant, "You cannot sell this product. If you do we will picket your place of business. Thus you will not be able to get your supplies, because the Teamsters will not cross the picket-line."

In addition, the merchant's customers would be embarrassed. They would be harassed. They would see the picket sign. What would the sign say? It would say "Unfair to labor." How is the merchant unfair to labor? It is simply a case of the merchant not being willing to stop handling a product which he has been handling for 20 years and on which he has built his business. That is a secondary boycott which, it seems to me, ought to be prohibited.

Mr. President, that is the field and the area in which the amendment is designed to operate. Those are the things it is designed to prevent. If Senators believe labor should have the power to impose secondary boycotts; if they believe the innocent ought not have protection but that they should submit, whatever the dispute may be and regardless of who is right or wrong; and if they believe we should permit the power and the force to be applied; then they should vote against the amendment, because I believe the amendment, if agreed to and enforced, would stop some of those practices.

Mr. MUNDT and Mr. CASE of South Dakota addressed the Chair.

Mr. McCLELLAN. I yield first to my colleague on the committee.

Mr. MUNDT. Mr. President, I point out, and I am sure the Senator from Arkansas will agree, that the evidence before our committee, which has gone into secondary boycotts to some extent, indicates that a protective measure of the kind presented is fully as important to the employees as it is to the employers.

Mr. McCLELLAN. Yes. I meant to mention that fact.

The merchant may employ a dozen people, or perhaps more. He may have to close down his business. It might be necessary to put other employees out of work, simply because there is some foreign dispute over which the merchant and his employees have no control on earth. They cannot do anything about the dispute.

Mr. MUNDT. The Senator is exactly correct.

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

Mr. McCLELLAN. Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. McCLELLAN. I yield myself 2 more minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. MUNDT. Mr. President, I remind the Senator of the long investigation we had with regard to the Kohler situation, in which there was a secondary boycott. In that instance laboring men, plumbers, installers, and those engaged as artisans and salesmen of the particular product of the plant, though thousands of miles removed and entirely innocent of taking any stand on either side, were forced out of work because of the secondary boycott imposed to meet a situation in Sheyboygan County, Wis. I think it is manifestly unfair to force working men and women out in the street when they have no interest of their own in a situation.

As I understand the amendment offered by the Senator from Arkansas, it would correct such a situation, which results in a miscarriage of justice both to employers and to employees, who usually are less able to withstand that kind of economic oppression than is management.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am glad to yield.

Mr. CASE of South Dakota. I merely wish to observe that I think the secondary boycott is of great concern to the rank and file of people in small towns and communities, sometimes far removed from the ordinary scene of industrial problems, in connection with transportation of goods. The application of the secondary boycott affects farmers, small townspeople, and people in cities of small size, where there is no direct industrial conflict. Because of that fact I think the amendment is extremely important for areas of our country which ordinarily do not think of themselves as being concerned with labor problems. The amendment is important. I hope it will be agreed to.

Mr. McCLELLAN. Mr. President, I thank the Senator.

Mr. President, I ask unanimous consent that I may make a technical amendment to my amendment, as a modification.

On line 23, page 3, I wish to strike out the figure "(7)" and to insert in lieu thereof the figure "(4)".

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is modified as requested.

Mr. KENNEDY. Mr. President, I rise in opposition to the amendment.

I am not sure the Members of the Senate are aware of how strongly the secondary boycott provisions of the Taft-Hartley Act regulate secondary boycotts, combined with the language which the Senate agreed to last night, prohibiting hot cargo.

Thirty percent of all secondary boycott cases carried to the National Labor Relations Board involve the Teamsters Union. It is my judgment, and I think it is the judgment of the Senator from Tennessee and of the Senator from Arkansas, that last night, in the amendment dealing with the hot cargo, we effectively restrained the Teamsters from engaging in secondary activity which is inimical to the general welfare.

The problem we are faced with now is somewhat different. Under the pending bill if there is a strike in the plant of employer A, and if employer B is doing business with employer A, the union is prohibited from attempting to call employer B's employees out on strike as a means of putting economic pressure on employer B in order to put economic pressure on employer A.

In other words, the Taft-Hartley Act was quite stringent in this field. I will

restate the proposition, to make it somewhat more clear, if I may.

What happened in the example which the Senator from Arkansas gave in his speech is now prohibited by the secondary boycott provisions of the Taft-Hartley Act. The Senator gave an example of the Teamsters' Union refusing, because of a picket line, to make deliveries to a secondary employer doing business with a primary employer, against whom there was a strike. That is prohibited today. If the Teamsters refuse to make deliveries, that is prohibited by the Taft-Hartley Act.

The point I make is that in the way the Senator's amendment is drafted, it would prevent, in the garment industry—which has been an extremely competitive industry and in which the union has worked for the past 50 years to try to raise standards of those working in the industry—a union representative from going to an employer and asking the employer, as a part of the good will between the union and the employer, to subcontract his work to those employers who were paying a reasonable wage and not to give his work to employers who were paying substandard wages.

That is the way the garment industry has been able to raise the economic standard of the workers engaged in it. That was the original sweatshop industry in this country.

We are not now talking about the Teamsters. That problem has been dealt with. We are talking about economic relations between employers and employees. The Taft-Hartley secondary-boycott provision prohibits unions from putting economic pressure on employer B, for example, who is doing business with employer A, in order to bring the employees of employer B out on strike.

The amendment of the Senator from Arkansas goes far beyond that, and would prevent any agreement of any kind between the union and employer B that employer B will cease doing business with employer A during the period of the strike.

If the strike is against a sweatshop industry, I think the Senator from Arkansas can see how far reaching his amendment would be. I believe it is in the public interest for employers and unions to agree not to do business with employers who pay substandard wages and maintain substandard working conditions. I believe it is proper for a union to say to employer B, "Please do not subcontract any work to subcontractors who maintain sweatshop conditions." I would not say that the union should have the right to say to the contractor, "If you do not do as we ask, we are going to strike against you." But at least the union should have the right to say to the employer, "Our relations will be far better if you do not deal with employer A," so long as the union does not say, "We will strike if you continue to do business with him."

The Taft-Hartley Act was not regarded as very favorable to labor. It seems to me that act dealt with the problem of unreasonable secondary boycotts. Remember that employer B is doing business with employer A and assisting him in an economic struggle with the union. In most cases employer B is not a real neutral. He is doing business with employer A, who is involved in an economic struggle with the union.

Now it is proposed to prevent the union from using any kind of influence to protect itself during the struggle. We hear a great deal about protecting employer B, but there is no talk about protecting the union from the action of employer B, who is participating with employer A in waging the fight against the union.

The amendment of the Senator from Arkansas would take away some of the present protections in the law against employer B making an arrangement with employer A to do struck work. This would lessen the protection which the union should have.

The amendment would vary the effect of the decision in the Ebasco case and other decisions in which the Supreme Court and other courts have interpreted the Taft-Hartley law. I quote from the most recent decision by the U.S. Court of Appeals, Second Circuit, 1955, 228 Federal (2d) 553, in the case involving the Independent Repair Co.:

> We therefore hold that an employer is not within the protection of paragraph 8(b)(4)(A) when he knowingly does work which would otherwise be done by the striking employees of the primary employer and where this work is paid for by the primary employer pursuant to an arrangement devised and originated by him to enable him to meet his contractual obligations. The result must be the same whether or not the primary employer makes any direct arrangement with the employers providing the services.

In this case we are not talking about a customer who might buy a mattress when there is a strike against employer A. We are talking now about employer B, who makes a mattress for the employer against whom the strike is being conducted.

The effect of the Senator's amendment would be to lessen the protection which the Taft-Hartley Act gives a union against an employer who attempts to make an arrangement with a secondary employer to farm out his work.

This amendment is extremely complicated. I am not sure that Members of the Senate are aware of the impact of the present Taft-Hartley Act. I believe that the most malicious secondary boycotts are those involved in the trucking industry, because of the extraordinary economic power of the Teamsters Union. By the so-called "hot cargo" amendment agreed to last night, we have dealt with the Teamsters. That field involves 30 percent of all secondary boycotts.

The effect of the amendment of the Senator from Arkansas would be to make it impossible for decent employers and employees to protect their standards in vital industries. This is an economic issue. It is a question of the right of unions, so long as they do not strike or seek to put pressure on the employer, to attempt to protect their standards. This question involves wages and hours of workers.

This is not a question of racketeering. It is a question of legitimate activity to protect reasonable wages. Therefore I hope the Senate will reject the amendment.

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

Mr. KENNEDY. I am glad to yield for a question.

Mr. SMATHERS. If the amendment which was agreed to last night, offered by the Senator from Tennessee [Mr. GORE] which had to do with 30 percent of the boycotts, was right and sound and needed, why do we not need some additional legislation with respect to the other 70 percent?

Mr. KENNEDY. I am glad to state the reason. The reason is the extraordinary economic power of the Teamsters Union. When we get away from the extraordinary power of the Teamsters Union to tie up a business by refusing to deliver, we get into another field. I do not believe we can solve the problem of the Teamsters in this bill, or in any amendment suggested on the floor. That problem will be with us for some time. I definitely believe that power should be lessened to the extent we can lessen it, and I hope we can do so. Therefore, when power is invoked in connection with a secondary boycott, that is excessive power. But when we talk about the economic relations between employees and employers, I am not ready to say, as a general thesis, that the economic power of the union is greater than that of the employer, or that the economic power of the employer is greater than that of the union. In the case of the Teamsters there is no doubt that the economic power of the Teamsters is greater. In connection with other industries, such as the garment industry, in some cases the economic power of the union is greater, and in other cases the economic power of the employer is greater.

It is not a question of not prohibiting the secondary boycott. Under the Taft-Hartley Act we attempted to prohibit bringing the employees of a secondary employer out on strike, regardless of what relations he may have with the primary employer.

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

Mr. KENNEDY. I yield.

Mr. GORE. The amendment adopted last night is characterized by two additional differences.

First, when we deal with the transportation industry we are dealing with a segment of our economy which goes directly to the security and the economic strength of the entire national economy.

Second, an employer who is a common carrier is the beneficiary of a franchise, or a permit from the Government. As a result of that benefit, his competition is limited. In some cases he is given an exclusive right to be the common carrier over a given highway or a given route. Therefore, the secondary boycott in the transportation field has different aspects, both from the standpoint of the labor union involved and the common carrier involved.

Mr. KENNEDY. The Senator has stated the situation exactly.

I have referred to the garment industry as an example. I know the Senator

from Florida is interested in this problem. Take the case of the garment industry in New York. A manufacturer subcontracts his work to various cutters. If he subcontracts work to a cutter who pays 60 percent of the union standard wage, that cutter enjoys an economic advantage over other cutters. Therefore, there is pressure on other cutters to reduce their wages.

A union is prohibited from enforcing any agreement with a manufacturer by an economic strike, but I do not believe it should be prevented from saying, "Our economic relations will be better if you subcontract your work to contractors who are paying decent wages."

That is the general problem involved in secondary boycotts. I hope Senators will not allow any strong feeling against the Teamsters Union because of its power, which should be checked, to influence their judgment concerning the pending amendment, because I think it would call for a definite change in the economic relations and balance of the national economy.

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

I should like now to call something to the attention of the Senate. I hope Senators will listen to me. I listened very carefully to the speech of my friend from Massachusetts. He has talked about farming out work. There is a provision in my amendment which specifically provides as follows:

> *Provided further,* That nothing contained in clause (B) of this paragraph (4) shall be construed to make unlawful where not otherwise unlawful any strike against, or refusal to perform services for, any person who has contracted or agreed with an employer to perform for such employer work which he is unable to perform because his employees are engaged in a strike not unlawful under this act.

There is a complete exemption from anything my distinguished friend from Massachusetts has argued. That is contained in my amendment.

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

Mr. McCLELLAN. I yield.

Mr. KENNEDY. In the case which is the guiding case in this regard, it is stated:

> The result must be the same whether or not the primary employer makes any direct arrangement with the employer providing the service.

The point I make is that the word "arrangement" is used. Therefore, the language of the Senator's amendment is more circumscribed than the language of the Taft-Hartley Act with regard to struck work, as interpreted by the courts.

Mr. McCLELLAN. I do not know what struck work is, if it is not the stopping of work. I do not know how courts can squirm to reach any other kind of interpretation.

Mr. KENNEDY. We are talking about the economic relationship between employer A and employer B.

Mr. McCLELLAN. Yes. Employer A has a strike and finds he cannot get his orders manufactured because he does not have the employees with which to do the work, because they are on strike. Therefore, he contracts with employer B to do the work. The strikers can apply economic pressure against employer B. That is permitted under the amendment. We have taken care of that, because we did not want to provide that escape.

Last night we did not do anything to keep the Teamsters from refusing to deliver. They can put a picket line around a man's store. There is nothing in the amendment the Senate adopted last night which will keep them from doing that. All we have done by the amendment is to prohibit them from entering into a contract. We have not done anything to keep them from withholding services.

Mr. KENNEDY. Under the present rulings of the court, if the Teamsters refuse to make deliveries as the result of the effort of the union, they are subject to the Taft-Hartley law.

Mr. McCLELLAN. Let me say to my friend that there was a strike at the Waldorf-Astoria Hotel in New York involving the employees of a barber shop. They belonged to an independent union. The AFL-CIO decided to take them over. They picketed the barber shop. However, instead of putting pickets around the barber shop, they put them around the outside of the hotel. The Teamsters cut off the supplies of the hotel. The management said, "We cannot stand for that."

Mr. KENNEDY. Was not that problem related also to the fact that the National Labor Relations Board did not assume jurisdiction over the hotel industry?

Mr. McCLELLAN. That may be true. That can happen now. What is to prevent it?

Mr. KENNEDY. They would not be able to do it even if the amendment were adopted, unless New York State was able to assume jurisdiction under the no-man's land provision.

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

Mr. McCLELLAN. How much time do I have remaining.

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. McCLELLAN. I yield 5 minutes to my distinguished friend from Nebraska, the cosponsor of the amendment.

Mr. CURTIS. I thank the distinguished Senator. I rise in support of the amendment to amend the secondary boycott provisions of the Taft-Hartley Act, in order to outlaw effectively secondary boycotts under penalty of fine, imprisonment, or both.

As the Taft-Hartley Act stands today unions have succeeded in finding many holes in the act's secondary boycott provisions. Union racketeering, as the revelations of the McClellan committee have shown, is fostered by the use of secondary boycotts. Employers, who are innocent bystanders, are drawn into struggles between unions and other employers. The secondary boycott is a particularly popular technique with the Teamsters, who have not hesitated to use it in order to force unwilling employers to compel their employees to join the union, which in many instances the employees have rejected.

For almost 2 years now the vicious practice of the secondary boycott has been defended on the floor of the Senate by talking about a small segment which involves the farming out of struck work. In the meantime, many individuals are suffering from secondary boycotts. In the meantime small businesses are being driven out of business. In the meantime, workers are forced into unions by their employers because the employers are compelled to unionize them against their wishes. There can be no defense of such procedures.

I should like to call the Senate's attention to the hearings of the McClellan committee on the secondary boycott. Earlier today I mentioned the secondary boycott involving the Waldorf-Astoria Hotel in New York, where the Teamsters Union refused to let anything come into the hotel or to go out, and picketed the hotel because another concern which had a lease in a part of the hotel had a dispute with the barbers' union. It was a valid dispute. One of the largest hotels in the country, as a result, was forced to its knees by a secondary boycott. If it were lawful for competitors to boycott another business and destroy it, then, of course, it would be lawful for a union to do it. However, the reverse is true.

We do not seek any special or punitive action in this matter. What we ask for is equality before the law.

Senators who refer to the hearings will find the case of the Burt Manufacturing Co. of Akron, Ohio. They have a certified union, the Steelworkers Union. Because the Sheetmetal Workers Union thought they ought to have that shop, the company's products are being boycotted all over the United States. That has been going on for 10 years.

Today we are right back where we were before the smokescreen was thrown up about farming out struck work. That is not the issue here. The question is whether we are for or against the vicious secondary boycott.

I should also like to call to the attention of the Senate the case of the Southwest Motor Freightways in Galveston, Tex., which operates entirely within the State of Texas. Their employees, on a ballot, rejected Dave Beck's and Jimmy Hoffa's Teamsters Union. Yet the hot cargo clause was invoked, and they were given no freight to haul. The people invoking the secondary boycotts do not stop at that.

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

Mr. CURTIS. Mr. President, will the distinguished minority leader yield time to me on the bill?

Mr. McCLELLAN. I shall be glad to yield the Senator more time, provided I can get time on the bill when I need it. How much time does the Senator want?

Mr. CURTIS. Ten minutes.

Mr. McCLELLAN. I will yield 5 minutes to the Senator.

Mr. CURTIS. There are a number of pages in the hearings which discuss the violations which occurred in connection with Mr. Gilbert, the owner of Southwest Motor Freightways, in Texas. It is rather interesting to note that one of the Texas victims of the secondary boycott said he was grateful for the help which the Texas Rangers gave to him, because they were the only source of help he

could get in Texas against this vicious practice.

This is an intolerable situation, as all right thinking people have realized, whatever their personal orientations. We thought that we had put an end to secondary boycotts when we passed the Taft-Hartley Act and wrote into it section 8(b)(4). But the ingenuity of the racketeering labor leaders has made a shambles of section 8(b)(4). Through a variety of clever devices, virtually the total effect of section 8(b)(4) has been avoided, to the detriment of employees and employers, whether or not directly involved in a labor dispute. The only beneficiaries have been racketeering labor union leaders. Accordingly, there is a crying need for amendment of the law in order to stop these devices.

Amendment 4-17-59—C accomplishes the following:

First. It makes it unlawful to coerce or induce a third party employer to cease doing business with another person. Suppose, for example, that a union wants an employer to sign a contract with it under which his employees must belong to the union. Suppose further that the employees do not want the union and have so indicated their desire. If the union, to bring pressure upon the reluctant employer, calls out on strike the employees of a different employer in order to force that employer to stop doing business with the first one, that is presently unlawful under the secondary boycott provisions of existing law. But suppose the union plays it smart. Instead of calling the strike just described, it simply goes to the second employer and says, "Look here; you do not want any trouble with us; stop doing business with the first employer. He is giving us trouble by not signing up with us." There is nothing in present law to bar such direct pressure upon the second employer. Yet that pressure can be very effective. The second employer, who will usually be a small employer—the union will pick on small employers, not big ones who can well stand up to it—does not desire to get involved in difficulties with the union. He may have a contract with it and wants to maintain friendly relations. He can do business with someone else who is not embroiled in union troubles. So he simply looks elsewhere for customers or for his supplies. Meanwhile, the first employer will frequently give in to the union and force his employees to join it or he will just go out of business.

The amendment cures the above defect in existing law by making it just as unlawful to coerce second employers directly as indirectly through their employees. It does this by adding to 8(b)(4) a prohibition against coercion of or inducement to any person engaged in commerce. It continues in effect the prohibition against strikes or the calling of strikes by unions against the second employers. At the same time the amendment specifically provides that it does not render unlawful a strike against the second employer, who has contracted to perform work for the first employer, which the first employer is unable to perform because his employees are lawfully striking against him.

In other words, the contention of the distinguished Senator from Massachusetts that the amendment is defective because of the struck-work provision is not well taken.

Second. The amendment closes another major loophole in existing law. Today if secondary boycotts are directed against railroads, farmers, governments, and other classes of employers and employees excluded from the law's coverage, they are not illegal. Take for example the case of an effort by a union to organize a company, whose employees do not want the union. The union, unable to get anywhere with the company, proceeds to picket a railroad which delivers supplies to the company or an agricultural enterprise which buys from or sells to the company, in order to force the railroad or farmer to stop doing business with the company.

The PRESIDING OFFICER. The time of the Senator from Nebraska has again expired.

Mr. DIRKSEN. I yield the Senator 5 minutes on the bill.

Mr. CURTIS. I thank the minority leader.

Since railroad employees and farm employees are not "employees" as that term is defined in the law, the secondary-boycott provisions of the law are not violated. Yet innocent parties are hurt in this situation as much as where the picketing is directed at persons who are technically employees within the meaning of the law. The amendment eliminates this inequity by substituting for the words in section 8(b)(4) "employees of any employer" the words "individual employed by any person." Thus, inducing or encouraging strikes by employees of secondary employers, who are railroads, farmers, governments, and so forth, will be illegal the same as the inducement of strikes by employees of any other secondary employer.

Third. Another loophole in existing law is found in the rule laid down by the U.S. Supreme Court in the Rice Milling case that if the secondary boycott merely induces individual action rather than concerted action, it is lawful. This loophole is taken care of also. Suppose, then, that the union's inducement to strike does not encourage united activity by the employees of the secondary employer, but simply individual action by them. That is, each employee is induced separately and at different times to refuse to work. This technique can be just as effective in forcing his employer to cease doing business with the first employer as the technique where all employees act concertedly in refusing to work.

The amendment closes this loophole by dropping the word "concerted" from section 8(b)(4).

Turning now to amendment 4-17-59—D, the amendment which makes it a crime to enter into a hot cargo agreement, I would not think that at this late date, much would have to be said in support of this subject. There is probably no more vicious and harmful provision in collective bargaining agreements than the hot cargo clause. What it does is require an employer to agree that his employees do not have to handle goods which the union labels as "hot." And the union will label as hot the goods of any other employer so long as he will not agree to do what the union wants. If the employer, for example, will not force his employees to join the union which his employees do not want, then the union will declare his goods hot and that means that other employers having hot cargo agreements are precluded from handling such goods.

The Teamsters in particular have hot cargo clauses in their agreements. If they are unable to organize a particular retailer, let us say, they can virtually put him out of business by stopping all deliveries to and from his place of business by invoking the hot cargo clauses they have in their carrier contracts.

The subject of hot cargo contracts has been widely litigated in the courts and before the NLRB and the ICC. Present law is in a state of complete confusion. The Labor Board has ruled that if a union induces employees to strike to force an employer to comply with a hot cargo agreement, that is unlawful. On the other hand, it is not unlawful for the union to force the employer to enter into a hot cargo contract or to force him directly to comply with it once he enters into it. In my opinion, all these union actions are reprehensible and should be outlawed. While I believe that amendment 4-17-59—C includes all these actions within the secondary boycott prohibitions contained in that amendment, although not in so many words, I also believe that the cleaner way to strike at the problem and put a roadblock in front of the racketeering which it engenders is to declare hot cargo agreements criminally illegal. That is precisely what amendment 4-17-59—D does.

On several occasions I have spoken in detail about secondary boycotts. It was the intention of Congress in passing the Taft-Hartley law to outlaw all secondary boycotts. They are carried on today because of loopholes in the law. The amendment of the distinguished Senator from Arkansas closes those loopholes. It gives an opportunity to do what Congress intended to do in the passage of the Taft-Hartley law.

I agree with the late Senator Taft, who said, "There is no such thing as a good secondary boycott." A secondary boycott is the carrying of economic warfare to neutral third persons. It is a practice being carried on by the most vicious of the racketeers. It is indefensible, and Congress ought to close these loopholes.

I urge the adoption of the amendment.

Mr. DIRKSEN. I suggest the absence of a quorum.

Mr. KENNEDY. Mr. President, on this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON of Texas. Mr. President, let me inquire whether both sides have either yielded back their remaining time or have consumed all the time available to them.

The PRESIDING OFFICER. Do both sides yield back their remaining time?

Mr. KENNEDY. I do.

Mr. McCLELLAN. I do.

The PRESIDING OFFICER. All remaining time has been yielded back.

The question is on agreeing to the amendment of the Senator from Arkansas [Mr. McCLELLAN], as modified. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

Mr. DIRKSEN. Mr. President, I suggested the absence of a quorum.

The PRESIDING OFFICER. Very well; the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the modified amendment of the Senator from Arkansas [Mr. McCLELLAN]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from Minnesota [Mr. HUMPHREY] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I further announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

On this vote, the Senator from Kansas [Mr. CARLSON] is paired with the Senator from Minnesota [Mr. HUMPHREY].

If present and voting, the Senator from Kansas would vote "yea," and the Senator from Minnesota would vote "nay."

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Nevada [Mr. BIBLE].

If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Nevada would vote "nay."

On this vote, the Senator from Wisconsin [Mr. WILEY] is paired with the Senator from Louisiana [Mr. ELLENDER].

If present and voting, the Senator from Wisconsin would vote "yea," and the Senator from Louisiana would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and is paired with the Senator from Minnesota [Mr. HUMPHREY]. If present and voting, the Senator from Kansas would vote "yea," and the Senator from Minnesota would vote "nay."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and is paired with the Senator from Louisiana [Mr. ELLENDER]. If present and voting, the Senator from Wisconsin would vote "yea," and the Senator from Louisiana would vote "nay."

The result was announced—yeas 41, nays 50, as follows:

YEAS—41

Allott	Bush	Cotton
Bartlett	Butler	Curtis
Beall	Byrd, Va.	Dirksen
Bennett	Capehart	Dworshak
Bridges	Case, S. Dak.	Eastland
Ervin	Martin	Schoeppel
Goldwater	McClellan	Scott
Hickenlooper	Monrcney	Smathers
Holland	Morton	Stennis
Hruska	Mundt	Talmadge
Jordan	Prouty	Thurmond
Keating	Robertson	Williams, Del.
Kerr	Russell	Young, N. Dak.
Lausche	Saltonstall	

NAYS—50

Aiken	Hartke	Mansfield
Anderson	Hayden	Morse
Byrd, W. Va.	Hennings	Moss
Cannon	Hill	Murray
Carroll	Jackson	Muskie
Case, N.J.	Javits	Neuberger
Chavez	Johnson, Tex.	O'Mahoney
Church	Johnston, S.C.	Pastore
Clark	Kefauver	Proxmire
Cooper	Kennedy	Randolph
Dodd	Kuchel	Smith
Douglas	Langer	Sparkman
Engle	Long	Symington
Gore	McCarthy	Williams, N.J.
Green	McGee	Yarborough
Gruening	McNamara	Young, Ohio
Hart	Magnuson	

NOT VOTING—7

Bible	Frear	Humphrey
Carlson	Fulbright	Wiley
Ellender		

So Mr. McCLELLAN's amendment, as modified, was rejected.

Mr. KENNEDY. Mr. President, I move that the vote by which the amendment of the Senator from Arkansas was rejected be reconsidered.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will now return to the consideration of the Prouty amendment.

Mr. PROUTY. Mr. President, a parliamentary inquiry.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield for a moment to me, out of my time?

Mr. PROUTY. I yield.

Mr. JOHNSON of Texas. If I may have the attention of the Senator from Vermont, it is my understanding that the Senator desires to vitiate the order by which the yeas and nays were ordered. Is that a correct understanding?

Mr. MUNDT. Mr. President, I object. We had a unanimous understanding there would be a yea-and-nay vote, and I think we should stand by it.

Mr. PROUTY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROUTY. I have an amendment to the amendment which I proposed this morning, which I am offering on behalf of myself, the Senator from New York [Mr. KEATING], the Senator from Kentucky [Mr. COOPER], the Senator from New Jersey [Mr. CASE], the Senator from California [Mr. KUCHEL], the Senator from New York [Mr. JAVITS], and the Senator from Pennsylvania [Mr. SCOTT]. The Senator from Vermont is a little confused as to the proper procedure. I would appreciate it if the Chair would advise me the course of action to pursue.

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

Mr. PROUTY. I am glad to yield.

Mr. JAVITS. As I understand, the situation can be straightened out by another sponsor of the amendment offering the amendment as a substitute amendment. Therefore, I hope the Senator will yield, for that purpose, to one of the cosponsors, so that the amendment may be offered as a substitute. I understand my colleague from New York is agreeable.

Mr. PROUTY. I am very happy to yield for that purpose.

Mr. KEATING. Mr. President, on behalf of the Senator from Vermont [Mr. PROUTY], the Senator from New Jersey [Mr. CASE], the Senator from Kentucky [Mr. COOPER], the Senator from California [Mr. KUCHEL], the Senator from New York [Mr. JAVITS], the Senator from Pennsylvania [Mr. SCOTT], and myself, I offer a substitute for the amendment.

Mr. MUNDT. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Chair will state that the pending question is on agreeing to the request of the Senator from Vermont to accept the Cooper amendment as a modification of his amendment. The Chair cannot entertain the substitute amendment until the Cooper amendment has been withdrawn.

Mr. DIRKSEN. Mr. President, we did not hear the ruling.

The PRESIDING OFFICER. The pending question is on agreeing to the request to modify the Prouty amendment by the Cooper amendment.

Mr. DIRKSEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. I thought a unanimous-consent request had been proffered, to do exactly that.

The PRESIDING OFFICER. The unanimous-consent request has not been agreed to by the Senate.

Mr. COOPER. Mr. President——

Mr. PROUTY. Mr. President, I ask unanimous consent to modify the amendment which I offered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Vermont?

Mr. ALLOTT. Mr. President, reserving the right to object, I should like to inquire what effect the granting of the request would have upon the time for discussion, if any?

The PRESIDING OFFICER. The time for discussion would remain as it is. The time of the Senator from Vermont has expired.

Mr. ALLOTT. I make a further inquiry, Mr. President. What is the time remaining?

The PRESIDING OFFICER. The time remaining is the time of the Senator from Massachusetts, who has 18 minutes remaining.

Mr. ALLOTT. On which side?

The PRESIDING OFFICER. On the opposition side.

Mr. ALLOTT. There is no time remaining on behalf of the amendment?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSON of Texas. Mr. President, reserving the right to object——

Mr. ALLOTT. Mr. President, I will reserve my objection for the time being until we can see if this matter cannot be handled in another way, so that the Senate may be informed as to what the

amendment means. I do not believe an amendment of this importance should be voted on by the Senate without having proper time for discusison. I should like to inquire if there is a way by which the amendment may be offered so that the Senators may have time for adequate discussion.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. It is my understanding that those who are particularly interested in the amendment have agreed upon the language. This is the picketing amendment. It is my understanding the language is agreeable to the chairman of the subcommittee, the Senator from Massachusetts. I think that is the understanding, and on that basis I believe the amendment will be accepted.

Mr. KENNEDY. Mr. President, that is slightly different from my understanding. I would say this matter could be disposed of by a voice vote.

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

Mr. CHAVEZ. I am against the amendment, Mr. President. I am against the amendment, but I want it to be discussed.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. CHAVEZ. I must object.

Mr. DIRKSEN. Mr. President, I believe I have the floor for the moment, on a parliamentary inquiry. I will yield to the Senator from New York.

Mr. KEATING. In order to satisfy the distinguished Senator from Colorado and other Senators, perhaps the Senator from Illinois could yield 5 minutes under the time for general debate on the bill, for the purpose of explaining the amendment.

Mr. DIRKSEN. I was going to suggest that since the Senator from Massachusetts has 18 minutes remaining he could divide that time, which would allow for an explanation.

Mr. KENNEDY. Mr. President, I am happy to yield 9 minutes to the Senator from Vermont.

Mr. ALLOTT. Mr. President, I shall not object.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 9 minutes. The pending question is on agreeing to the request of the Senator to modify his amendment.

Mr. McNAMARA. Mr. President——

Mr. MUNDT. Mr. President, will the Presiding Officer put the unanimous consent request, so that it can be agreed to?

Mr. McNAMARA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the unanimous consent request of the Senator from Vermont to modify his amendment in accordance with the Cooper substitute.

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOPER. I understand that the amendment which I offered is incorporated in the new amendment, which will be offered by the Senator from Vermont for himself, for me, for the Senator from New York, and other Senators. I ask if I may withdraw my amendment, and if it would then be possible for the Senator from New York to offer a new amendment as a substitute?

The PRESIDING OFFICER. The amendment may be withdrawn by unanimous consent.

Mr. COOPER. I ask unanimous consent that my amendment modifying the amendment of the Senator from Vermont [Mr. PROUTY] be withdrawn.

Mr. JOHNSON of Texas. Mr. President, the Senator from Kentucky [Mr. COOPER] is asking unanimous consent that he be permitted to withdraw his amendment. Then the Keating amendment would be a substitute for the Prouty amendment.

Mr. MUNDT. Mr. President, I am somewhat curious as to whether all this parliamentary maneuvering is devoted to the purpose that there will not be a yea-and-nay vote on this matter, after we have spent all afternoon discussing it. There are many interested in the subject, and I think we should decide it on a yea-and-nay vote when we make up our minds. We had an understanding with the distinguished majority leader that we would place this amendment in exactly the same status it previously occupied, to accommodate action by the Senate on the McClellan amendment. I do not want us to find ourselves getting all squeegeed out of a yea-and-nay vote, which could happen under the maneuvering which is taking place.

The PRESIDING OFFICER. The order for the yeas and nays cannot be rescinded without unanimous consent.

Mr. MUNDT. And that order will hold, even on the substitute amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. MUNDT. I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Kentucky?

Mr. JOHNSON of Texas. Mr. President, I object, for the moment.

Mr. DIRKSEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. To what has the objection been made? Is there objection to the unanimous-consent request of the Senator from Kentucky that he withdraw his amendment?

The PRESIDING OFFICER. The Chair understands objection has been made to the request of the Senator from Kentucky to withdraw his amendment.

Mr. DIRKSEN. Mr. President, if the amendment of the Senator from Kentucky were withdrawn there would be actually nothing before the Senate, unless a new amendment were proposed.

The PRESIDING OFFICER. The question now before the Senate is on agreeing to the amendment of the Senator from Vermont, with the amendment offered by the Senator from Kentucky.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator from Kentucky may withdraw his amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? The Chair hears none, and it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator from Vermont may amend his amendment as he chooses to.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts?

Mr. KENNEDY. Mr. President, has that been agreed to?

Mr. PROUTY. No.

Mr. KEATING. I will say to the Senator from Massachusetts, I understood it would be desirable that I offer my amendment as a substitute amendment.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. Does the Senator from Massachusetts withdraw his unanimous-consent request?

Mr. KENNEDY. I do.

Mr. KEATING. Seeking to be cooperative, Mr. President, what is the situation?

Mr. JOHNSON of Texas. Is the Senator going to offer his amendment as a substitute?

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. KEATING. Mr. President, I offer this original amendment as a substitute.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

Mr. KEATING. I offer the amendment on behalf of the Senators listed in my previous statement, and myself.

The LEGISLATIVE CLERK. In lieu of the amendment proposed by the Senator from Vermont [Mr. PROUTY], the Senator from New York [Mr. KEATING], for himself and other Senators, proposes, on page 59, after line 25, to insert the following:

SEC. . (a) Subsection (b) of section 8 of the National Labor Relations Act, as amended, is amended by striking out the word "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and", and by adding a new paragraph as follows:

"(7) to picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer with the object of forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative—

"(A) where the employer has recognized in accordance with this Act any other labor organization (not established, maintained, or assisted by any action defined in section 8(a) as an unfair labor practice) and a question concerning representation may not appropriately be raised under section 9(c) of this Act; or

"(B) where within the preceding nine months a valid election under section 9(c) of this Act has been conducted unless such labor organization has been certified as the representative of employees of such employer pursuant to such election or unless such labor organization has been designated

or selected as a representative for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes."

(b) Section 10(l) of the National Labor Relations Act, as amended, is amended by striking out the period at the end thereof and inserting the following: "and section 8(b)(7): *Provided further*, That where a charge is filed under section 8(b)(7) it shall be a defense to show that an unfair labor practice within the meaning of section 8(a) has been committed: *Provided further*, That where there is a failure to seek such appropriate relief the Board shall promptly make public the reasons for such failure."

Mr. KEATING. Mr. President——

The PRESIDING OFFICER. How much time does the Senator from Vermont yield?

Mr. PROUTY. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. KEATING. Mr. President, under this amendment a union would be prohibited from picketing or threatening to picket an employer only where the object of such procedure was to force the employer to bargain or deal with the union, or to force the employees either to join the union or to select or accept it as their collective bargaining representative. Every other kind of picketing would be absolutely unaffected by this amendment.

But even where the union picketed for either of these two objectives, recognition or organization, it would not be in violation of the law, under this amendment, unless the picketing occurred in one of the two following situations:

First. Where the picketed employer had recognized and signed a contract with some other perfectly legitimate union which actually represented a majority of his employees, and, hence, under the Taft-Hartley Act, no election would be held by the Board until such contract had expired.

Second. Where the Board had held an election during the preceding 9 months—in that respect it differs from the provision of the previous amendment, which was 12 months—and the picketing union had lost the election, unless during the 9-month period the picketing union could demonstrate that it actually did represent a majority of the employees.

Whenever picketing occurs under one of these circumstances, this amendment provides that the National Labor Relations Board, as it does in cases of unlawful jurisdictional strikes, may simultaneously, while proceeding against the picketing union through its own administrative processes, seek a temporary restraining order against such union in the Federal district court. However, such order would not be granted if the union could show to the court that the employer had committed an unfair labor practice. That is provided in the very last paragraph.

I thank the Senator for yielding for this explanation.

Mr. PROUTY. Mr. President, obviously if this amendment is adopted it will represent a compromise, but I think a compromise which is fair in all respects to both labor and business. I think it would contribute a great deal more to bringing about labor harmony than has been possible in the past. I think it is in the best American tradition for Members of the Senate to give and take, and finally wind up with an approach which is eminently fair and reasonable, as this seems to me to be.

For that reason I hope very much that none of my colleagues will seek a yea-and-nay vote on this proposal. I think it is in the interest of harmony and in the interest of what is good for the welfare of the country, that we should approach the problem on a more or less friendly basis.

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

Mr. PROUTY. I am glad to yield.

Mr. COTTON. I should like to ask the question of either the Senator from Vermont or the Senator from New York.

The statement was made that if there had been an election, picketing on the part of the union losing the election would be unlawful for a period of 9 months, unless in the meantime it demonstrated that it had become the bargaining agent, or represented the majority of the employees.

How would a union demonstrate that to be so without another election? It might claim it, but how could it demonstrate it, and thus make the picketing legal, without another election?

Mr. KEATING. I think one way would be by a signed showing, in writing, that a majority of the employees actually favored the union.

Mr. COTTON. To whom would they present the evidence before they started what would otherwise be illegal picketing? To whom would the demonstration or presentation of the signed document be made?

Mr. KEATING. I suppose it would be presented to the NLRB or a court ultimately.

Mr. COTTON. Unless the amendment indicates to what authority, as a condition precedent to the otherwise illegal picketing, the union would demonstrate that the situation had changed since the election, within a 9-month period, it strikes me that the way would be left open for a union to start picketing, and then claim that the situation had changed. The facts would be fuzzy, and there would be no clean-cut situation during the 9-month period.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. CASE of South Dakota. By way of observation, it seems to me that the demonstration would be before the National Labor Relations Board, which would have authority to proceed with the injunctive process in case the facts were not as alleged.

Mr. PROUTY. That would be true in the case of an unfair labor practice.

Mr. CASE of South Dakota. I do not see how any union could demonstrate that it was the bargaining agent without an election. Certainly if the union obtained a majority of the employees as members, then a certification of the majority could be used to say that it represented a majority of the employees. There is a difference between a union having a majority of the employees as members and being the duly qualified agent. The latter could be demonstrated only by an election.

Mr. COTTON. I am not raising this question in any unfriendly attitude toward the amendment. Let me state what I want to know. Let us suppose an election is held, and the union loses the election. Nine months have not elapsed. Under the proposed amendment would the union go ahead and start picketing, and then must it be dragged before the National Labor Relations Board and satisfy the Board, or must it first satisfy the National Labor Relations Board? The object is fine, but the procedure ought to be more clearly defined.

Mr. COOPER. Mr. President, this is the same point which I discussed earlier during the debate, and which was the subject of my amendment modifying the amendment offered by the Senator from Vermont. I withdrew my modifying amendment because it is incorporated in the substitute amendment now before the Senate. I believe I can answer the Senator's question.

If the employees have voted in an election not to accept the union as their bargaining agent, and later the union claims that it has a majority, it is in the discretion of the NLRB, upon a complaint by the employer, to determine whether or not the union has a majority. If the union does not have a majority it could be prohibited from picketing. If it does have a majority, then the picketing could go on until the employer had recognized the union. The justification for that is that an actual majority has adhered to the union. Under the Taft-Hartley Act they have a right to be recognized.

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

Mr. PROUTY. I yield.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. I wish to address myself to the request that we forego a yea-and-nay vote on the amendment, as has been previously ordered. I realize that legislation is a compromise. Frankly, I am becoming a little tired of compromising away my principles. I am perfectly willing to go along with the amendment, and I will vote for it. I see no reason why the Senate should not give some power to the expression contained in the amendment, which I see as a recognition of the point we have been trying to make today, namely, that blackmail picketing is wrong and bad and is against the working people as well as against the public interest. I believe it will make the expression stronger if Senators will stand up and express themselves for it.

We have established one thing by the amendment. We have established recognition by the Senate that it is wrong, as has been disclosed by the McClellan committee, to engage in blackmail picketing. I am not agreed that we have provided any real relief against it. However, it is up to future Congresses to take remedial action, as the public

realizes that what we need is a stronger approach. I say let us vote for what is proposed and let us give strength to it by unanimous approval of the amendment.

Mr. McNAMARA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. McNAMARA. Do I understand correctly that the yeas and nays on the amendment are not to be taken, or are they still ordered?

The PRESIDING OFFICER. The yeas and nays are still ordered on the amendment offered by the Senator from Vermont. The yeas and nays have not been ordered on the substitute offered by the Senator from New York.

Mr. McNAMARA. Mr. President, I ask for the yeas and nays on the substitute.

The PRESIDING OFFICER. Is the request sufficiently seconded?

Mr. McNAMARA. Mr. President, I withdraw the request.

SEVERAL SENATORS. Vote! Vote!

Mr. MORSE. Mr. President, I ask for the yeas and nays. I see no reason why we should not stand up and be counted on the question.

The PRESIDING OFFICER. Is the request sufficiently seconded?

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOUGLAS. Will the Chair inform the Senate what is the question now before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment offered by the Senator from New York [Mr. KEATING].

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. KENNEDY. Mr. President, will the first vote be on the Keating amendment?

The PRESIDING OFFICER. The first vote will be on the Keating amendment, in the nature of a substitute.

Mr. KENNEDY. Is there objection to the Keating amendment?

Mr. DIRKSEN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. KENNEDY. Is it possible to have a yea-and-nay vote on the Prouty amendment as amended by the Keating amendment?

The PRESIDING OFFICER. The question before the Senate is on agreeing to the substitute offered by the Senator from New York [Mr. KEATING]. The yeas and nays have been ordered.

Mr. KENNEDY. I ask unanimous consent that the order for yeas and nays on the Keating amendment be rescinded, with the understanding that they will be ordered on the Prouty amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CASE of South Dakota. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CASE of South Dakota. Is it not correct to say that as the situation now stands we would have two yea-and-nay votes on identically the same question?

The PRESIDING OFFICER. The Senator is correct.

Mr. CASE of South Dakota. If one amendment is withdrawn we will still have a yea-and-nay vote on the other amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Florida will state it.

Mr. HOLLAND. Is it not correct to say that if the Senator from Vermont [Mr. PROUTY] accepts the substitute offered by the Senator from New York [Mr. KEATING], we would have the one question to vote on, on which a yea-and-nay vote has been ordered?

The PRESIDING OFFICER. The substitute cannot be accepted without unanimous consent, because the yeas and nays have been ordered on the Prouty amendment.

Mr. KENNEDY. I ask unanimous consent that the Senator from Vermont may be permitted to accept the amendment of the Senator from New York, and that then the yeas and nays be ordered on the Prouty amendment.

Mr. PROUTY. I am very happy to accept the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? The Chair hears none, and it is so ordered.

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. JOHNSON of Texas. The question on which we are about to vote is on the Prouty amendment as modified by the Keating amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct. Does the Senator from Massachusetts yield back the remainder of his time?

Mr. KENNEDY. Yes.

Mr. MUNDT. I should like to have 1 minute on the bill.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. DIRKSEN. Mr. President, I yield 1 minute on the bill to the Senator from South Dakota.

Mr. MUNDT. Inasmuch as I have been referred to obliquely by the statement that no one would ask for a yea-and-nay vote on the amendment, I wish to say that I am proud to be responsible for insisting that an amendment of this kind be voted on by a yea-and-nay vote.

The amendment has been described as a good amendment. If it is a good amendment, I do not believe the Senate should do something by stealth. The amendment is an improvement over nothing. As I have seen what has been started by the Senator from Arkansas [Mr. McCLELLAN] dwindle away until it has become a mere trickle, I wish to have a trickle with a yea-and-nay vote. Therefore I think it is only proper that we have a yea-and-nay vote on the amendment.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont [Mr. PROUTY], as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Wyoming [Mr. O'MAHONEY] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I further announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. BIBLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Wyoming [Mr. O'MAHONEY] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and if present and voting, would vote "yea."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and if present and voting, would vote "yea."

The result was announced—yeas 86, nays 4, as follows:

YEAS—86

Aiken	Goldwater	McGee
Allott	Gore	Monroney
Anderson	Green	Morton
Bartlett	Gruening	Moss
Beall	Hart	Mundt
Bennett	Hartke	Murray
Bridges	Hayden	Muskie
Bush	Hennings	Neuberger
Butler	Hickenlooper	Pastore
Byrd, W. Va	Hill	Prouty
Cannon	Holland	Proxmire
Capehart	Hruska	Randolph
Carroll	Jackson	Robertson
Case, N.J.	Javits	Russell
Case, S. Dak.	Johnson, Tex.	Saltonstall
Chavez	Johnston, S.C.	Schoeppel
Church	Jordan	Scott
Clark	Keating	Smathers
Cooper	Kefauver	Sparkman
Cotton	Kennedy	Stennis
Curtis	Kerr	Symington
Dirksen	Kuchel	Talmadge
Dodd	Langer	Thurmond
Douglas	Lausche	Williams, N.J.
Dworshak	Long	Williams, Del.
Eastland	Magnuson	Yarborough
Ellender	Mansfield	Young, N. Dak.
Engle	Martin	Young, Ohio
Ervin	McClellan	

NAYS—4

McCarthy	Morse	Smith
McNamara		

NOT VOTING—8

Bible	Frear	O'Mahoney
Byrd, Va.	Fulbright	Wiley
Carlson	Humphrey	

So Mr. PROUTY's amendment, as modified, was agreed to.

Mr. DIRKSEN. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. JOHNSON of Texas. I move that the motion to reconsider be laid on the table.

The PRESIDING OFFICER (Mr. McCARTHY in the chair). The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I call up my amendment which is identified as "4-21-59—H," and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 31, in line 24, after "SEC. 202", it is proposed to insert "(a)"

On page 32, between lines 8 and 9, it is proposed to insert the following:

"(b) No subordinate labor organization shall be placed under trusteeship by a national or international labor organization except for a purpose specified in subsection (a) and on order of the Secretary of Labor, or his designate, as provided hereinafter.

"(c) Any national or international labor organization seeking to place a subordinate labor body under trusteeship shall apply to the Secretary for an order in accordance with the provisions of this section. Such national or international labor organization may apply to the Secretary for a temporary order granting such relief, and the Secretary shall issue same after a hearing ex parte, on proof establishing probable cause for the belief of the existence of conditions within a subordinate labor organization sufficient to place such subordinate body under trusteeship for a purpose allowable under section 202. Such temporary order if issued shall remain in effect no longer than thirty days.

"(d) Upon the granting of a temporary order under subsection (c) the Secretary, within thirty days, shall cause a hearing to be held, upon notice to the officers of the subordinate labor organization, and issue a final order and finding on the application of the national or international labor organization.

(e) At the hearing before the Secretary under subsection (d), the national or international labor organization shall present clear and convincing proof establishing the existence of a condition or conditions which would allow the placing of the subordinate body under trusteeship for a purpose specified in subsection (a).

"(f) Any trusteeship so established under this section shall be valid for a period of one year from the date of the order of the Secretary. Upon the expiration of this period, the trusteeship shall be presumed invalid and its discontinuance decreed by the Secretary unless the national or international labor organization shall show that the continuation of the trusteeship is necessary for a purpose allowable under subsection (a). In such event, the Secretary may issue a further order for the continuation of the trusteeship for a period he deems appropriate, not to exceed one year.

"(g) The Secretary shall designate such rules and regulations as he deems proper, including the power to subpena books and records of any labor organization and to compel the attendance of witnesses at a hearing in order to effectuate the purposes of this section."

On page 33, line 4, strike out "202 or".

On page 33, beginning with line 22, strike out all of subsection (c) down to page 34, line 16.

Mr. MAGNUSON. Mr. President, will the Senator from Connecticut yield briefly to me, so that I may ask a question of the Senator from Massachusetts, in order to save time?

Mr. DODD. I am glad to yield.

Mr. MAGNUSON. I now find that the Senator from Massachustts has temporarily left the Chamber. In his absence I cannot very well ask my question.

Mr. DODD. I assure the Senator from Washington that I shall be glad to yield to him later on, when the Senator from Massachusetts has returned.

Mr. MAGNUSON. I thank the Senator from Connecticut.

Mr. DODD. Mr. President, I hope I may have the attention of my colleagues—not because I think my amendment is more important than any other; but I believe the amendment is important, and I have not offered it lightly. It has to do with one of the great abuses in the labor movement; it relates to what are known as trusteeships.

I have developed the habit of calling such trusteeships labor receiverships; I think that is a more accurate term to use in describing such a procedure, which is common to labor organizations. As I suppose all Senators know, such a trusteeship is so much like a receivership that it also seems to me that the rules with respect to obtaining receiverships ought to apply in the case of labor trusteeships.

Mr. President, what is the situation under the bill as it now is before us? The Kennedy-Ervin bill does improve the situation, I am frank to say; and I am pleased that it does. It provides that the imposition of a trusteeship by a national union on a local union shall be governed by the constitution of the national union. However, that provision really will not accomplish what is necessary if we are to protect local unions from arbitrary abuse.

The provision in regard to the causes for which a trusteeship may be imposed is rendered ambiguous by the inclusion of so unclear a provision as the one which now is set forth in the bill in the following language:

or otherwise carrying out the legitimate objects of such labor organization.

The bill now provides a procedure under which an individual union member may appeal. The point is that the full burden of proof is placed upon such union member, who thus would have to fight the international or the national union; and in that fight the limited, sparse, or—most often—nonexistent power of the individual union member would be pitted against the tremendous prestige and power of the national or the international union.

Mr. President, the philosophy behind my amendment is an old Anglo-American philosophy; it is a part of the deep-seated fundamentals of our law. It has been with us for a long time; and it has been protected and preserved for a good reason. In this case the philosophy is that the burden of proof for so serious a matter as destroying a local union, or local union autonomy—and that is what a trusteeship usually does—should rest upon the national union seeking to impose the trusteeship.

This is what we have done right along. If I, as a lawyer, seek to impose a receivership on a corporation, it is required of me that I go before a judge. Then I make out what we call a prima facie case—a good enough case—to warrant that judge's holding who can thus say: "Yes, I think there is good reason for believing that the assets of this corporation may be dissipated, or that the property may be damaged, and that urgent action is required. I will give you a temporary receivership." Usually the court will say, "You come back in 30 days. The corporation involved will have an opportunity to show why the receivership should not be made permanent."

With respect to a union receivership, or trusteeship, as it is called, no such opportunity is given the local. As things stand now, the international clamps on a trusteeship, a stranger moves in, takes over the assets and control of the local, and for 18 months the trusteeship may go unchallenged.

In the past, as we know from the revelations of the McClellan committee, and as we know from litigation, the imposition of trusteeships was one of the greatest abuses of the Teamsters Union. My recollection is that more than 120 trusteeships were imposed by that union, some of them for more than 20 years. Think of it. For more than 20 years, the local members, the wage earners, were without any say at all with respect to their local unions.

I said earlier, and I now repeat, great credit is due to the Senator from Massachusetts and the Senator from North Carolina. Their bill provides improvements. Under it there is a requirement that there be an accounting. It is required that the local cannot send delegations to national conventions. There have been other changes. They are improvements. But the basic fault I find with the situation is that which I emphasized a moment or so ago—that it is not within our philosophy of the law to allow a local union, any more than we would any other such body, to have inflicted on it control by an outside body, without the local union or corporate body having an opportunity to say, "Nay, and here is why we say nay."

All I seek by the amendment is to give the members of a local union an opportunity to say to someone, a judge, or other competent authority, "This trusteeship should not be imposed on us. We run our affairs decently. Our affairs are properly handled. There is no hazard to our organization." As conditions now exist, no such opportunity is given. That is the heart and soul of my amendment. I find it difficult to understand the reason for opposing it.

Let me say one or two more things about the amendment. I have asked that there be distributed and placed on the desks of Senators an explanation of the amendment.

To refer to trusteeship proceedings, under the amendment, before imposing a trusteeship a national union must apply to the Secretary of Labor for a temporary 30-day order granting it. The Secretary shall issue such a temporary order if proof establishing probable cause is submitted by the national union at an ex parte hearing.

I say that is all right. Let the national unions proceed ex parte, because there are possible dangers in having a public hearing. The head of an international union might very well feel that

the affairs of a local union located in Connecticut, for example, were being badly handled. He could go the the Secretary of Labor ex parte, make his prima facie case and get a 30-day order. That would be all right. That is the first remedy the amendment provides.

Second, within those 30 days, if the Secretary of Labor grants the order, he shall conduct a hearing in which the claims of both the national and the local union will be heard. If the national union can establish clear and convincing proof that the trusteeship is justified, the Secretary may issue an order continuing it for a period of 1 year.

Under the bill before the Senate, the period provided is 18 months, but I think a year is long enough.

We go a little further in this amendment. Upon the expiration of the 1 year, the trusteeship shall be presumed to be invalid unless the Secretary sees fit to extend it for an additional period not longer than 1 year.

That is fair, is it not? I want to give the organizations time enough, if they really need a trusteeship; but I say let us make it a year first, and then let them come back and establish, to the satisfaction of the Secretary of Labor, that they need more time. That is not asking too much of a national or an international union that wants to lay its hands on a local.

I have stated the salient and important points of the amendment.

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

Mr. DODD. Yes, of course; I am happy to yield.

Mr. LAUSCHE. Will the Senator from Connecticut point out what is necessary to be done, under the provisions of the bill, for national organizations to impose a trusteeship?

Mr. DODD. Not a thing; they simply impose it. There is no condition or qualification at all provided in the bill. They would be able to do what they have been doing—merely impose the trusteeship, that is all.

Mr. LAUSCHE. After they have decided to impose a trusteeship and have "taken over," what, if anything, does the national organization have to do that provides safeguards and assures the restoration of control to the members of the local union?

Mr. DODD. I am tempted to say "Nothing."

Mr. LAUSCHE. I think if the Senator said so he would be correct.

Mr. DODD. It is true except in the bill it is required that a financial report must be filed, and that no delegates can be selected or elected to attend a national convention. That is an improvement. However, the overall answer to the question of the Senator from Ohio is "Nothing."

On the other side of the question, if I am a member of a local union, and I am aggrieved, and I know my local never should have had a trusteeship imposed on it, what can I do? Under the bill, it is pretty difficult for me to do anything. If I am a carpenter, for example, I must find a way to reach the Secretary of Labor. I must pay my expenses to come to Washington. I must hire a lawyer. After I get through all that, if I am able to do that much, the Secretary of Labor must go into a United States district court and must fulfill the highest evidentiary standard established in this land. He must establish, by clear and convincing proof—which we as lawyers know is the highest evidentiary standard, that a trusteeship should not have been imposed. I say that is wrong.

Mr. LAUSCHE. Do I correctly understand the position of the Senator from Connecticut to be that when the national organization alleges the local organization is unfit to handle its own affairs, it should be required to prove the allegation before it is permitted to take over?

Mr. DODD. Exactly, with the one condition which my amendment sets forth.

I know, and I am sure the Senator from Ohio knows, that there may be an urgency about imposing a trusteeship, or a receivership as I prefer to refer to these situations. It is provided in the amendment that on application to the Secretary of Labor, the Secretary may grant a temporary order.

The answer to the question is that within 30 days the temporary order either must be dissolved, or it must be made permanent for 1 year.

Mr. LAUSCHE. And within the 30 days proof has to be offered that the grounds upon which the trusteeship has been asked have been established?

Mr. DODD. That is correct. That is the purpose.

I will say to my colleagues, I share, I am sure, the view of all Senators. What are we trying to do? We are trying to make labor actually stronger. I am, at least, and I think other Senators are, also.

We have a great labor movement in this country. We are told it composes 16 million members. I think it is fair to multiply, to get the effect, by at least 3 and perhaps more. If we multiplied by 3, we would be considering in excess of 45 million people, and probably 50 million.

The field of labor affects the lives of all of us. The way the affairs of labor are conducted is important to every one of us. If the labor leaders want to have a strong, healthy, and growing organization, they will not resist these attempts to make labor free and democratic. They ought to be urging us to do these things, rather than opposing them.

Yesterday I offered an amendment to require a labor organization to give written notice 15 days before the annual election of officers. What a simple thing to ask. What a simple thing to ask, yet some union leaders, mad with power, resist it.

I do not refer, of course, to the distinguished Senator from Massachusetts, who has his intellectual reasons for opposition. I am careful to say I do not refer to the Senator from Massachusetts, but I heard this from outside. And I want the Senator from Massachusetts to know that I have the highest respect and admiration for him and his work.

Mr. LAUSCHE. Mr. President, will the Senator yield for another question?

Mr. DODD. I yield.

Mr. LAUSCHE. What answer is given by those who say that the national organization should be permitted, in its own judgment, to impose a trusteeship, and should not be required to prove that the charges which it makes are true?

Mr. DODD. I asked my friends in the labor movement, who came to me after I had the amendment placed on the desk and who said, "This is a terrible thing you are doing to us. It will destroy us and make it impossible to operate our unions." I said, "Tell me why, where, and how it will do that." I never heard a good answer. I am trying to think of what their excuses were. I believe they said, in effect, they simply could not operate properly. That is all it amounted to, to my ears. I said to some of them, as I say to my colleagues in this distinguished body, "You had better change your philosophy about your organization. Yours is not a private empire or a private club. It is an organization charged with the greatest public interest, particularly in the kind of society and economy in which we are living."

I said, "I am on your side. I want you to do well. By instinct, by background and by experience I am on your side. But when you talk about retaining power in unreasonable terms I am not on your side."

I have heard it said, "Oh, you are letting the Federal Government intervene between the local and the international, and what a dreadful thing that is." That has not been dreadful in any other phase of our life, of our society, or of our economy. We have found it necessary and essential many times. I think it is necessary and essential in this instance.

I hope that the Members of this body will agree to this amendment, because it is the right thing to do. I shall be glad to hear from those who may say it is wrong. Let us hammer this problem out. If I am mistaken, I will be the first to say so. I have no ax to grind. I want to see this matter handled properly.

It will be argued, probably, "What harm can be done? The union has to account for the money. It cannot elect any delegates to a national convention."

As I have said two or three times tonight, that is good, but it is not good enough. We know what happens when a great international union places its trustee or receiver over a local. We know enough about human nature to know what happens.

When such a man goes into one of the small communities in my State, a town of 20,000 or 30,000 people, we know what happens. I do not want to name one of those towns, because I would hear from home afterward if I did, but they are all good, and alike. The trustee moves in and says to the president of the local "Move out; all you local officers get out. I am taking over. I am taking over your bank account and taking over all your affairs." Everybody in that small town is affected in greater or less degree according to the importance of the local.

After 18 months, I will say to the Senate, whatever shadow of local authority

or local autonomy existed at the imposition of the trusteeship will have withered and vanished. The local members are men with families, who work for wages. Those men become frightened. They say, "Well, there has been a change. We like John, but he is out." They begin to bend under the terrible forces. There are social and economic forces, in this case the forces of labor, and they begin to bend their wills. We shall do a terrible thing to people if we allow this to happen.

The whole procedure is wrong. What the amendment suggests is right. No one will suffer from it, but good will come from it.

Mr. President, I am not too familiar with the procedures, since I am a new Senator, but I want to have a yea-and-nay vote on the amendment, so I ask for the yeas and nays. I think this is an important matter.

The yeas and nays were ordered.

Mr. CLARK. Mr. President, I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. I thank the Senator from Pennsylvania.

Mr. President, I have a matter of interest, and if I ask the Senator from Massachusetts a question I think we can clear it up, to save some time, rather than making it necessary for me to offer an amendment.

In 1950 there was established a Labor-Management Maritime Committee. The establishment of this committee was urged by the Chairman of the United States Maritime Commission, the Office of the President, and by myself. The chairman of the House Committee on Merchant Marine and Fisheries also participated. The membership of the committee consists of labor unions and steamship companies. Simply stated, the objective of the committee is to take every appropriate action to protect and promote an adequate American merchant marine. The committee does not participate in collective bargaining on wages, hours, and conditions of employment. As a practical matter, the committee acts only on issues where there is unanimity among all members, both labor and management. Committee policy, intent, and operation make it crystal clear that it cannot thwart the collective bargaining procedures of labor unions or commit unfair labor practices against employers or unions.

I am not clear as to whether this type of an organization is exempt from the provisions of S. 1555, and more particularly section 102, pages 8 and 9, and section 302, page 26. I do not believe that it is the intent of this bill to cover the officers and staff of a labor-management organization where payments are made by labor unions and companies by joint agreement to establish and maintain such an organization which functions openly and whose objectives are to jointly assist in the solution of problems jointly affecting management and labor in the maritime industry. Unless the junior Senator from Massachusetts can assure me that such a labor-management organization is exempt from the provisions of sections 102 and 302 I will offer at this time such an amendment.

Mr. KENNEDY. Mr. President, if the purpose of the organization and its function and operation being carried out under those purposes are as the Senator from Washington has stated them, it is not intended that there should be any prohibition or limitation on the kind of operation which the Senator has described, so long as the objective is jointly and openly to assist in the solution of problems affecting management and industry in the same industry, and there is no attempt, directly or indirectly, to influence any employees to be represented other than through representatives of their own choosing. If that is the method of operation, it is not intended by the bill that they should be prohibited from functioning.

Mr. MAGNUSON. I thank the Senator from Massachusetts.

Mr. CLARK. Mr. President, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. Is the Senator from Pennsylvania yielding time for the Senator from Massachusetts [Mr. KENNEDY]?

Mr. CLARK. I am.

Mr. ERVIN. Mr. President, I am satisfied that the Senator from Massachusetts and I have been just as much concerned about the plight of local unions placed in trusteeship as is the able junior Senator from Connecticut. I believe that the bill as now drawn furnishes adequate protection for the rank and file of members of unions which are placed in trusteeship.

The Senator from Massachusetts and other members of the McClellan rackets committee were, I think, greatly outraged by the arbitrary action of certain unions in placing in trusteeship their local unions, and, by so doing, depriving them not only of the management of their own fiscal affairs, but the right to select their own delegates and representatives to conventions of the international.

The bill is well designed to put an end to such malpractices in the internal affairs of unions. It now provides that no union officer or executive board may place any local union in trusteeship except for one or more of four specific reasons. Those specific reasons are enumerated on page 32 of the bill. They are as follows: "For the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures, or otherwise carrying out the legitimate objects of such labor organization."

By those specific declarations as to when a trusteeship should be permitted, the bill eliminates all arbitrary trusteeships and the grounds for such trusteeships.

In addition to specifying the particular situations under which a local union may be placed in trusteeship, the bill provides that whenever a local union is placed in trusteeship the officers exercising that power must make a written report to the Secretary of Labor within 30 days, in which they must state in detail the reasons which prompted their action in placing the local in trusteeship.

It necessarily follows that if they do not specify sufficient grounds within one of the four categories in which a trusteeship is permissible, the trusteeship can be dissolved by the Secretary without delay.

In addition to making a report in writing with 30 days setting forth in detail that the officers have placed the local in trusteeship for one of the four specified reasons, they must make an additional report every 6 months to the Secretary of Labor, showing why the organization is kept in receivership. Then it is provided that at any time within the first 18 months period, if anyone can show by clear and convincing evidence that the trusteeship was not imposed in good faith for one of the specific reasons permitted, it must be set aside.

We felt that we should preserve, so far as possible in this aspect of the internal affairs of unions, as much union control as possible, so long as the substantial rights of the local unions and the local union members were not impaired.

So all we do, in practical effect, is to create a presumption of regularity, which presumption, I believe, would arise in any case, because everyone is presumed to act according to the regulations which govern him.

By restricting the number of reasons for trusteeships, and by requiring a report within 30 days to the Secretary of Labor as to the specific reasons why each trusteeship was imposed, and requiring additional reports every 6 months as to why it is continued, we think we have provided sufficient protection for the rank-and-file members of the union.

In addition, there is a provision in the bill which takes care of the main reason why trusteeships are sometimes arbitrarily imposed, namely, to enable international officers to control the selection of delegates to international conventions. The bill contains a specific provision to the effect that the local union in trusteeship may be represented at an international convention only by delegates elected by a secret ballot of the members of the local.

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

Mr. DODD. Mr. President——

Mr. CLARK. Mr. President, may I inquire whether the Senator from Connecticut wishes to use some of his own time?

Mr. DODD. Yes. I wish to take a few minutes.

Mr. CLARK. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes, and the Senator from Connecticut has 10 minutes.

Mr. DODD. Mr. President, I shall dispense with formalities. I have only a few minutes.

The point of the answer of the Senator from North Carolina to my argument—and I think he will agree—is that the international can bring about this result without any check from outside.

There is no one to ask for an accounting. There is no one to check on the reasons. The slick lawyers of the international can write some pretty good reports. The point about a receivership, in the case of corporations, is that it acts under the supervision of some competent authority. That is what I am seeking by this amendment. I have specified the Secretary of Labor. If Senators desire to substitute a Federal judge, I shall be glad to accept such an amendment.

Mr. MORSE. Mr. President, will the Senator from Pennsylvania yield to me?

Mr. CLARK. Mr. President, I yield 2 minutes to the Senator from Oregon.

Mr. MORSE. Mr. President, I rise to oppose the pending amendment and support the position very ably taken by the Senator from North Carolina in support of the committee's action.

I think it is well known within the committee that I was never wedded to the period of 18 months in the committee version. I was perfectly willing—and still am—to accept a shorter period, perhaps 12 months.

What I wish to point out is that we should look at the trustee section of the bill as it comes to us in the light of the other sections of the bill, and note what the committee has done by way of setting up democratic procedures to protect the rank and file of the local unions. As we provide democratic guarantees in the bill, I believe we should keep at a minimum any interference with the operation of the internal affairs of the union. I do not believe we ought to accept and adopt an amendment which seeks to turn Congress, so to speak, into a sort of a constitutional convention for determining what the bylaws and constitutional provisions of a union shall be.

Let us not forget that under our bill, as we have submitted it to the Senate, there is a guarantee for secrecy in voting, and for democratic rights on the part of the rank and file members of the local union. They are guaranteed the right to elect their delegates to district and national and international conventions. Their delegates will have the authority to determine what amendments, if any, they want to adopt to existing constitutions, including trusteeship provisions. We either mean to say that we give these democratic rights to the unions or we mean to say, "After all, we are going to run your unions for you. We will tell you how to run your trusteeships. You will not be able to do it under your own democratic procedures."

Let us not forget that in the language of the bill the Secretary of Labor is given remarkable surveillance authority over trusteeships. I suggest that what we ought to do is to take the language the committee has offered to the Senate, let it operate and see if it will not bear out what we have in mind, along the line suggested by the able Senator from North Carolina. Let us not set ourselves up as a constitutional convention for the unions of the country in respect to trusteeships.

Mr. CLARK. Mr. President, I yield myself 5 minutes. I rise in opposition to the pending amendment and in support of the position of the committee, particularly of the position taken by the chairman of the subcommittee, the Senator from Massachusetts.

The committee has labored long and hard, not only last year, when I was not a member of the committee, but this year also, when I have been a member, to deal with these intensely complicated problems, of which the proper handling of trusteeships is only one.

The Senator from Connecticut will correct me if I am wrong, but it is my understanding that his amendment was never submitted to the committee for consideration, and no suggestions were made as to the proper handling of this very complicated matter. On the other hand, the committee devoted many hours to the provisions of title II of the pending bill. The Senator from North Carolina and the Senator from Oregon—the latter being a most distinguished member of the committee—have spoken of the procedure which has been set up to handle the trusteeship subject in the bill after very careful and hard work and thought on the subject.

It occurs to me that it is not the proper way to legislate to change on the floor of the Senate, with the cursory consideration which can be given to the pending amendment, the provision which the committee has carefully worked out.

Turning from that principle to the specifics of the particular matter under consideration, I suggest that the pending amendment is unsound, because it will permit a corrupt, inept, incapable local union to defend itself against the imposition of a trusteeship by its parent body, which, in the interest of the integrity of the whole union, needs to move in and remove corruption and inefficiency from the local ranks.

That is particularly true with respect to the Teamsters.

The matter is of particular importance to me because such a situation exists in the city of Philadelphia today. I should dislike very much to see the amendment of the Senator from Connecticut adopted, because it would represent a roadblock in the way of cleaning up corrupt Teamster units in the city of Philadelphia and also throughout the country. I hope that the pending amendment will be defeated and that the committee will be supported.

SEVERAL SENATORS. Vote! Vote!

Mr. DODD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 8 minutes remaining.

Mr. DODD. How much time does the opposition have?

The PRESIDING OFFICER. Fourteen minutes.

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

Mr. LAUSCHE. Mr. President, will the Senator withhold that suggestion?

Mr. DODD. I withhold it.

Mr. LAUSCHE. Mr. President, will the Senator yield me some time.

Mr. DODD. I yield 4 minutes to the Senator from Ohio.

Mr. KENNEDY. I am prepared to have a quorum call if the Senator will yield all time but 4 or 5 minutes. I am prepared to limit myself to the same time.

Mr. DODD. I should like to have some time for the final argument on the proposition to answer the arguments which have been made against the amendment. I do not know how it is done, but I have heard other Senators ask how much time has expired. I am trying to get the last voice on the subject. I do not know who is actually entitled to it.

Mr. KENNEDY. Together, there is how much time remaining?

The PRESIDING OFFICER. Eight minutes and fourteen minutes, respectively.

Mr. KENNEDY. I will yield back all of my time except 8 minutes, if the Senator is prepared to do likewise.

Mr. DODD. Why does not the Senator from Massachusetts yield some time to the Senator from Ohio?

Mr. KENNEDY. I shall be glad to yield 4 minutes to the Senator from Ohio out of my time.

Mr. DODD. It is very gracious of the Senator from Massachusetts to do such a fair and generous thing. I appreciate it very much. It is typical and characteristic of him.

Mr. LAUSCHE. Mr. President, there is great strength in the argument which has been made by the Senator from Connecticut in support of his amendment. As I read the provision on trusteeships, a national union, by filing a report with the Secretary of Labor alleging one of the four provisions enumerated as a cause for the creation of a trusteeship, would immediately have the power to step in and run the local union.

In the running of the local union there may be two important aspects. First, the choice of delegates to the convention. That has been eliminated. The second is the emoluments which can come in the hiring of the workers in the local union and the payment which is given to them.

Let us take the instance of Hoffa. He can, by filing, through his lawyer, a declaration with the Secretary of Labor, setting forth one of the four reasons stated, obtain a receivership. With it he obtains complete control. Thereafter he must file a report giving the name of the local, the address of the local, and the reason for the imposition of the trusteeship. Then he continues in control. There is contained in the bill language to the effect that the receivership shall continue unless a complaint, by clear and convincing proof, shows that the trusteeship has not been established in good faith.

Mr. DODD. That is what is called the highest evidentiary standard we have in our law. Does not the Senator agree with me?

Mr. LAUSCHE. I know of no other standard in law which is higher.

Mr. DODD. A very heavy burden would be put on the local union member under the clear and convincing proof doctrine. A craftsman trying to fight the unfair imposition of a trusteeship on

a local would be burdened with the hardest evidentiary doctrine in law.

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

Mr. LAUSCHE. I do not have much time.

Mr. KENNEDY. I yield 2 additional minutes to the Senator from Ohio.

Mr. ERVIN. I am sure the Senator would not want it to be unclear or unconvincing proof.

Mr. DODD. No, but it ought to be reasonable proof. That is ordinarily the doctrine.

Mr. LAUSCHE. The Senator from North Carolina was a distinguished and able judge. In criminal cases the proof must be beyond a reasonable doubt; in fraud cases, the proof must be clear and convincing; and in the ordinary cases the proof must be by the preponderance of the evidence.

Here we would say to the local union and to the local members: "This receivership shall not be lifted unless you, by clear and convincing proof, show that it was imposed in bad faith."

I am led to the conclusion that if a Hoffa can get a receivership on the simple filing of a declaration with the Secretary of Labor, and the receivership cannot be lifted except by clear and convincing proof, there is something wrong.

Mr. KENNEDY. I am prepared to yield back all but 3 minutes of my time, if the Senator from Connecticut will do likewise.

Mr. DODD. Mr. President, do I still have 7 minutes remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 8 minutes remaining.

Mr. DODD. I do not know what the practice is in the Senate; but I want to have enough time on the amendment.

Mr. KENNEDY. The Senator from Connecticut will have it.

Mr. MORSE. Will the Senator yield 1 minute to me, so that I may suggest the possible substitution of one word, which might help the Senator from Ohio and the Senator from Connecticut?

Mr. KENNEDY. I yield 1 minute to the Senator from Oregon.

Mr. MORSE. On page 34, line 5, the language reads: "except upon clear and convincing proof." I think there is some merit in the position taken by the Senator from Connecticut in this matter. I suggest to the chairman of the committee that there be substituted for "clear and convincing proof" the phrase "prima facie evidence that the trusteeship was not established in good faith" or "except by the greater weight of evidence."

Mr. KENNEDY. Is that a term of art?

Mr. MORSE. "By the greater weight of the evidence" is a term of art.

Mr. DODD. Mr. President, I should like to know whose time is being used for this discussion?

Mr. MORSE. The time of the Senator from Massachusetts.

Mr. DODD. In a similar instance, I remember being swindled out of time in the House. [Laughter.]

Mr. KENNEDY. I ask that the Senator from Oregon have the remaining time to work out a solution of the problem with the Senator from Connecticut.

Mr. DODD. Provided I will still have my 5 minutes.

Mr. MORSE. I think we can meet this problem.

Mr. DODD. I will take a minute. I am gratified and encouraged by the suggestion of the distinguished Senator from Oregon. But his proposal will not cure my difficulty. It goes deeper. I do not think I should take the time of the Senate to have a conference. I will be glad to say: Certainly; change the word to "reasonable" or whatever improvement was suggested. That will be better. But it does not go deep enough. It would not solve the difficulty which I am trying to resolve.

SEVERAL SENATORS. Vote! Vote!

Mr. DODD. I am not prepared to vote, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator will have to yield back his time.

Mr. KENNEDY. I will yield back my time.

Mr. DODD. No; I do not want to do that in order to have a quorum call. I will use up my time. I am not trying to delay the Senate. I do not enjoy arguments about these matters. Certain statements have been made to which I think I should retort or make answer. What were those statements? It has been alleged by the distinguished Senator from Pennsylvania——

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time for the quorum call being charged to either side.

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

Mr. MORSE. Mr. President, will the Senator withhold the suggestion of the absence of a quorum while I make one other procedural suggestion, namely, that the Senator from Connecticut be allowed an additional 4 minutes on the bill, if he needs it?

Mr. JOHNSON of Texas. I will be glad to yield that much time without such a suggestion.

Mr. DODD. I do not want it to appear that I am asking for time unneccessarily or for reasons of delay. But this is an important issue.

The PRESIDING OFFICER. The Senator from Texas has asked unanimous consent that there be a quorum call without the time for the quorum call being charged to either side. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MORSE. Mr. President, I ask the Senator from Massachusetts to yield me 1 minute on the bill.

Mr. KENNEDY. Mr. President, I yield 1 minute on the bill to the Senator from Oregon.

Mr. MORSE. I desire to ask the Senator from Massachusetts whether, if after action is taken on the Dodd amendment, I should offer the following perfecting amendment to the bill itself, would he accept it? I suggest the following changes:

On page 34 of the bill, line 5, strike out the words "clear and convincing", which would leave the requirement of proof we have been discussing read as follows: "Except upon proof that the trusteeship".

From the standpoint of the weight of the evidence, that, of course, is the lowest evidentiary requirement, instead of what the Senator from Ohio and the Senator from Connecticut have been pointing out was the highest evidentiary requirement. All we seek is proof.

Second, on line 3 and line 8 of page 4, reduce "eighteen" to "twelve," so it will read 12 months instead of 18 months.

Mr. KENNEDY. Mr. President, I think the Senate should understand what we have before us. When a trusteeship is imposed, it is presumed valid for 12 months, with the understanding that if anyone can present proof that the trusteeship was not imposed for good reason, it can be set aside.

Second, during the period the trusteeship is in effect, no money can be transferred, no votes can be taken on behalf of the trusee local at an election.

Third, at the end of a year it is presumed invalid.

I think this is a long step forward. If the Senator from Connecticut will accept the proposal, I think we shall have improved the bill substantially. I hope this substantial improvement will be accepted.

Mr. DODD. Mr. President, I am in favor of that change, but I do not think it goes far enough. I would like to have it go further.

Mr. KENNEDY. Mr. President, I am willing to yield back the time remaining to me on the amendment, and have a vote taken on it.

Mr. DODD. Mr. President——

The PRESIDING OFFICER. The Senator from Connecticut has 7 minutes remaining to him.

Mr. KENNEDY. Mr. President, does the Senator from Connecticut want to speak last?

Mr. DODD. Yes.

Mr. KENNEDY. Mr. President, I yield back all my remaining time.

Mr. DODD. It is very generous of the Senator from Massachusetts to do that.

Mr. President, perhaps I am a little too interested in this matter. I appreciate that the Senator from Massachusetts has worked diligently and faithfully on this task. I do not overlook that. The other members of the committee have worked hard, also.

I do not want to leave the impression that I am offering an amendment at the last minute. Some question was raised about that by the Senator from Pennsylvania [Mr. CLARK]. This amendment did not occur to me, actually, until 5 or

6 days ago. I tried to see the bill. It became available a little late, as we all know. I would have suggested the amendment to the committee had it occurred to me. I would have preferred to handle it that way.

Let me see what the arguments are against the amendment as offered. It is said that delegates cannot be elected any more. When I said delegates cannot be elected any more, I meant that in the situation now existing, under the trusteeship, the trustee selects the delegates. It is true that cannot be done under the Kennedy-Ervin bill. But think of this: The mere presence of a receiver or trustee is of great weight and influence on the membership who are selecting the delegates. I do not think I have to labor that oar very much. Merely having that kind of fellow around the place is not conducive to an expression of free will. The union members know he is there. They know he is going to be there for 18 months. They are thinking of what can be done on job assignments and job referrals. Senators know what I mean. I do not have to spell it out. His influence is there if he does not say a word about the selection of delegates.

It is also said that the Secretary of Labor has surveillance over the trusteeships. That is not so. I do not mean to say it is untruthful to have suggested it, but I mean it is factually not so. The Secretary of Labor does not have anything to do with the imposition of trusteeships. Mr. Hoffa simply imposes them; that is all. I am taking the worst possible example. It may be said that "DODD is picking out Hoffa again." Our country has been alerted to the danger that exists because of Hoffa. There may be a Hoffa tomorrow as there was yesterday and still is today. I do not want to see any more of them. I do not think our country can survive that. Are we going to allow the likes of him to impose a trusteeship on a local and not be answerable to anybody except perhaps some poor individual member of a local union who does not have the resources to challenge him, through the Secretary of Labor, or the Department of Labor, in a U.S. district court? That is what is wrong with the bill, and I am trying to correct it by this amendment.

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

Mr. DODD. I yield.

Mr. LAUSCHE. Is it not a fact that if a union member should complain to the Secretary of Labor that the trusteeship had been improperly imposed by Hoffa, Hoffa could appear before the Secretary of Labor, if he wanted to, sit down, and watch the complainant try to prove that Hoffa had done the wrong thing?

Mr. DODD. Of course. We know what Mr. Hoffa can do and what he has done. He can hire the finest legal talent in the country, and he can afford to pay for it. He uses the dues of the local union to defeat the members of the same local in the effort to overcome injustice.

Let us be honest about this matter. There will be more motions and more pleadings and more difficulties than all of us who are lawyers in this body can think of tonight. That is the reality of the situation. Let us not talk about it in technical or foolish terms. That is what will happen.

It has also been said, since the international can be brought before the Secretary of Labor, that would be a cure-all. Really it would not be. This relates to the argument I just made. I have tried to reason this matter out. I have tried to think, "Why am I in favor of this, and why should I try to persuade my colleagues or the American people to be in favor of it?" I think the best reason I can offer for it, putting aside the revelations before the McClellan committee, is that such a process is, in my judgment, at least, actually taking property without due process of law. When a czar like Hoffa can impose a receivership on a local union and decide what will happen for 1 month, 1 day, or any length of time, it is too long, to say nothing of the 18 months.

I want to have the Senate say, "You cannot do that. You have to conduct yourself the way the rest of us conduct ourselves. You have to be subject to some authority, either that of the Secretary of Labor or of a Federal court."

I have said to the Senator from Massachusetts that I would be glad to change the language and put it in such form that a Federal judge or anyone else who is felt to be competent could make the decision. For heaven's sake, let us not let Hoffa make the decision for 1½ million Teamsters for 18 months, 18 days, 18 minutes, or 18 seconds. He should not have that power or authority.

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

Mr. KENNEDY. Mr. President, I yield 1 minute to the Senator from Oregon from the time on the bill.

Mr. MORSE. Mr. President, I cannot understand why the Senator from Connecticut says the Secretary of Labor has no voice in this matter of a trusteeship. I read to Senators from page 33 of the bill, section 204:

> Upon the written complaint of any member or subordinate body of a labor organization alleging that such organization has violated the provisions of section 202 or 203, the Secretary shall investigate the complaint and if the Secretary finds probable cause to believe that such violation has occurred and has not been remedied he shall, without disclosing the identity of the complainant, bring a civil action in any district court of the United States having jurisdiction of the labor organization—

I do not know what more power one would want to give the Secretary.

Mr. DODD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DODD. I tried to protect myself in order to have the last word, and I was assured I would have it. Now I have been done out of it. How did that happen?

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Massachusetts yielded time to the Senator from Oregon from the time on the bill.

Mr. DODD. I merely wish to say that my able colleague from Oregon is a great lawyer, and I have great respect for him. I respect him in a debate. He is an amazingly competent and extraordinarily articulate man. He has a great mind. I do not relish challenge of his views, but the section to which the Senator has referred does not, in my judgment, cure the difficulties about which I have spoken.

I will not labor the subject any longer, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Connecticut [Mr. DODD]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from Minnesota [Mr. HUMPHREY] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I further announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

On this vote, the Senator from Arkansas [Mr. FULBRIGHT] is paired with the Senator from Nevada [Mr. BIBLE]. If present and voting, the Senator from Arkansas would vote "yea" and the Senator from Nevada would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and is paired with the Senator from Minnesota [Mr. HUMPHREY]. If present and voting, the Senator from Kansas would vote "yea" and the Senator from Minnesota would vote "nay."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and if present and voting would vote "nay."

The result was announced—yeas 41, nays 51, as follows:

YEAS—41

Allott	Dodd	Mundt
Bartlett	Dworshak	Pastore
Beall	Eastland	Robertson
Bennett	Goldwater	Russell
Bridges	Hayden	Schoeppel
Bush	Hickenlooper	Scott
Butler	Holland	Smathers
Byrd, Va.	Hruska	Smith
Capehart	Johnson, Tex.	Stennis
Case, S. Dak.	Kerr	Thurmond
Chavez	Lausche	Williams, Del.
Cotton	McClellan	Young, N. Dak.
Curtis	Martin	Young, Ohio
Dirksen	Morton	

NAYS—51

Aiken	Hartke	Mansfield
Anderson	Hennings	Monroney
Byrd, W. Va.	Hill	Morse
Cannon	Jackson	Moss
Carroll	Javits	Murray
Case, N.J.	Johnston, S.C.	Muskie
Church	Jordan	Neuberger
Clark	Keating	O'Mahoney
Cooper	Kefauver	Prouty
Douglas	Kennedy	Proxmire
Ellender	Kuchel	Randolph
Engle	Langer	Saltonstall
Ervin	Long	Sparkman
Gore	McCarthy	Symington
Green	McGee	Talmadge
Gruening	McNamara	Williams, N.J.
Hart	Magnuson	Yarborough

NOT VOTING—6

Bible	Frear	Humphrey
Carlson	Fulbright	Wiley

So Mr. DODD's amendment was rejected.

Mr. MORSE. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. MORSE. Mr. President, I should like to have the attention of the Senator from Massachusetts for a moment. Although we have voted on the Dodd amendment, and our proposed modification was not accepted, nevertheless I believe good faith requires that we still offer a perfecting amendment. I should like to suggest to my chairman that, on page 34 of the bill, in line 3, "eighteen months" be changed to "twelve months"; that on line 5 we strike out the words "clear and convincing"; and that on line 8 we change "eighteen months" to "twelve months."

We have previously offered to do that, and I believe we should stand by our offer. If it was good then, it is good now. I suggest that the Senator from Massachusetts ask to amend the bill accordingly.

Mr. KENNEDY. Mr. President, I accept the amendments suggested by the Senator from Oregon. I hope the Senate will accept them.

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Oregon [Mr. MORSE].

The amendments were agreed to.

Mr. MORSE. Mr. President, I have a series of 6 or 7 amendments, and I shall offer them, to the surprise of everyone in the Senate, I believe, with remarkable rapidity. I wish to say something about the amendments and also something about their origin. They are very important as perfecting amendments.

I send to the desk my first amendment, and I yield myself 5 minutes on it.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 38, line 9, after the word "finds" it is proposed to insert the following: "after hearing in accordance with the Administrative Procedure Act."

On page 38, line 12, after the word "removed" insert a comma.

On page 38, line 13, after the word "hearing" insert a comma.

Mr. MORSE. I start out with this amendment because I want to see if I can have an amendment adopted by the Senate which suggests merely the adding of a few commas to a bill. That is all that is involved. The purpose is to provide literary clarity. That is the substance of the first amendment. I will speak to the first amendment and tell the Senate about the origin of the amendments I intend to offer. I have never yet, in my service in the Senate, failed to put all my cards on the table, to use a colloquialism, and I will never fail to do so.

For 15 years the RECORD is replete with the number of times I have stood on the floor and urged to proposed legislation amendments seeking to provide procedural checks on the exercise of discretionary power by the administrators of the laws of Congress.

It happens to be a very deep conviction of mine that essential to a government of law is the necessity at all times to maintain adequate checks upon the discretion of administrative officials.

My chairman knows that in committee on several occasions I said I felt the bill did not provide all the checks it ought to provide on the discretion granted the Secretary of Labor by the bill. I said I thought that whenever he had to render a decision, and whenever he had to make a judgment, which in effect took away a right or a privilege, or which denied an exemption or imposed it on one group and not on other groups, or uniformly on all groups, his decision or judgment ought to be reviewed. I believe there ought to be a check on such discretion.

The Administrative Procedure Act provides adequate checks, and we ought to write them into the bill, as my amendments do, wherever they are not already provided.

That was my position on the bill long before any representatives of labor came to see me. I am sorry that some representatives of employers did not come to me too, because employers have as much interest, and as much at stake, in checking the arbitrary discretionary power of Government officials as do labor leaders or unions, or any other group.

That was my position in committee before any representatives of labor came to me on this matter. I wish the record to show that after I took that position in committee the first representative of labor who came to me was a representative of the Teamsters. I thought the Senate should know that. That does not make these amendments Teamsters amendments. It makes them Morse amendments. I have a long record, as I have said, in favor of checking arbitrary discretion proposed in legislative measures, but I also want the record to show that there is no doubt about the fact that a lawyer representing the Teamsters has made a good many suggestions proceduralwise in regard to amendments to the bill. I wish the RECORD to show also that, in my judgment, I did not agree with the representations of the representatives of labor on an overwhelming majority of the amendments which they suggested to me. It makes no difference to me what the source of an idea is. If the idea or the recommendation proves to be a sound one, it should be adopted on its merits.

Last night, until midnight, some of us met with a lawyer from the Teamsters Union for a final consideration of some of these proposals. We had previously met with lawyers from other unions, not at all connected with the Teamsters Union. I wish to make that statement because the RECORD should show the facts.

I am proud to present these amendments, not because they are sponsored by anyone in the legal profession within the labor movement, but because they are sponsored by me on their merits. After we have completed consideration of the first "comma" amendment, I shall offer a second amendment, which is the first one that deals with the application of the Administrative Procedure Act.

I hope my chairman will follow me very closely, because I believe if he listens to the very brief arguments I will make, he will find himself in a position to accept most of the amendments which I am offering. At least, I hope so.

I yield back the remainder of my time on the first amendment.

Mr. KENNEDY. I yield myself 5 minutes. First, I wish to say that the statement of the able Senator from Oregon is in keeping with the way he approaches every public question. The amendments should be viewed as being of importance, and therefore the Senate should consider them carefully. I do not believe that I shall be able to accept all of them, but I shall be glad to give my reasons, whether the Teamsters Union likes them or not.

The effect of the first one is to make the Administrative Procedure Act apply if the Secretary of Labor should deny to a union which has less than 200 members and an income of less than $20,000 the union's application for an exemption. Is that correct?

Mr. MORSE. Yes. Let me take the Senator through the amendment. Let us turn to page 38. I ask that commas be inserted. I overlooked the first part of the amendment. On page 38, line 9, after the word "finds," I would insert "after hearing in accordance with the Administrative Procedure Act."

The language would then read:

> (g) If the Secretary, upon application of any member of a local labor organization engaged in an industry affecting commerce, finds, after hearing in accordance with the Administrative Procedure Act, that the constitution and bylaws of such labor organization do not provide an adequate procedure—

Then it provides for the rendering of a decision by the Secretary of Labor.

He will have to make a finding whether the constitution and bylaws of such organization do not provide an adequate procedure. Why should not there be a check on that judgment. It will not be very difficult to provide it. It will require a simple hearing, which will take only a few minutes. But it will remove the fear on the part of any labor organization that it may be subjected to an arbitrary exercise of power on the part of the Secretary of Labor. All I say is: Give the labor organization a hearing. It will not take long. I do not think any Secretary of Labor would hesitate at all to give such a hearing.

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

Mr. MORSE. I yield.

Mr. CARROLL. Who will make the decision?

Mr. MORSE. The Secretary of Labor will hold the hearing. He will have to take the testimony and make the record. I suppose the organization will want to give testimony. It will want to say that its constitution and bylaws afford all the protection that is needed.

Mr. CARROLL. Would the decision of the Secretary be reviewable by the courts?

Mr. MORSE. It would be, if the organization wanted to appeal the case under the Administrative Procedure Act.

Mr. CARROLL. So they would have another check and balance.

Mr. MORSE. Certainly; and I am all for it.

Mr. KENNEDY. Mr. President, this is not the amendment I thought it was. This amendment merely provides that the Secretary of Labor is to make a finding that if there is no proper procedure in regard to the removal of an officer the Administrative Procedure Act will be in effect, and that act merely provides that due notice shall be given. It does not in any way weaken the bill; it merely provides equitable treatment.

Mr. MORSE. Every time provision is made for the use of the Administrative Procedure Act, the bill is strengthened.

Mr. KENNEDY. I accept the amendment.

Mr. DOUGLAS. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield.

Mr. DOUGLAS. Is it not true that the parent of the Administrative Procedure Act in the House was the Honorable FRANCIS E. WALTER, and that the parent in the Senate was the late Honorable Patrick McCarran?

Mr. MORSE. I believe that is true.

Mr. CARROLL. Mr. President, will the Senator further yield?

Mr. MORSE. I yield.

Mr. CARROLL. In other words, the amendment simply affords the due process by checks and balances which were created by Congress in 1946 under the Administrative Procedure Act.

Mr. MORSE. I simply want to be consistent with that act. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Oregon [Mr. MORSE] is agreed to.

Mr. MORSE. Mr. President, I call up my second amendment which is at the desk and is marked "Amendment No. 2."

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 43, line 17, at the end of the sentence, it is proposed to insert the following new sentence:

In making determinations under this subsection, the Secretary shall comply with sections 5 and 6 of the Administrative Procedure Act.

Mr. MORSE. Mr. President, I ask Senators to turn to page 43, line 17, of the bill. At the end of that sentence, I simply add, again, a specific reference to the Administrative Procedure Act as a check upon the decisions which will be rendered by the Secretary of Labor in administering this particular section.

I ask the chairman of the committee if he is willing to accept this amendment.

Mr. KENNEDY. Once again, if we may have copies of the amendments, I think we can make our decisions promptly.

Mr. MORSE. I am very sorry. I asked to have copies made available. The explanation of the amendment is that after section (b) page 43, line 17, it simply provides that in making the determinations under this subsection the Secretary shall comply with sections 5 and 6 of the Administrative Procedure Act.

Mr. KENNEDY. I will accept the amendment. Once again, it provides for the application of the Administrative Procedure Act.

I yield back the remainder of my time on the amendment.

Mr. MORSE. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Oregon [Mr. MORSE] is agreed to.

Mr. MORSE. Mr. President, I call up my amendment numbered 3.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 43, line 7, after "file" it is proposed to insert: "information required by said titles."

Mr. MORSE. Mr. President, I think this is a clarifying amendment. It makes clear the type of information which is sought to be filed.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes. It seems to me that on page 43, line 7, instead of saying "information required by title I or title II," the Senator should say: "such information."

Mr. MORSE. I accept the modification.

The PRESIDING OFFICER. Without objection the amendment of the Senator from Oregon [Mr. MORSE], as modified, is agreed to.

Mr. MORSE. Mr. President, I call up my amendment numbered 4.

The PRESIDING OFFICER. The amendment will be read for the information of the Senate.

The LEGISLATIVE CLERK. On page 18, line 21, after the word "Secretary," it is proposed to insert the following: "upon application by a labor organization or employer".

On page 18, line 22, after the word "for" to insert the word "such".

On page 19, line 3, after the word "thereby" to insert a comma and add: *"Provided further,* That the Administrative Procedure Act shall be applicable to such revocations."

Mr. MORSE. Mr. President, if the chairman of the subcommittee will bear with me, we might go through the amendment together. On page 18, line 21, after "Secretary," it is proposed to insert "upon application by a labor organization or employer."

Then, because it is related to the following language, I will proceed to the next line on page 18, line 22: After "for", it is proposed to insert "such."

On page 19, line 3, which is really the heart of the amendment, after "thereby" it is proposed to insert a comma and add *"Provided further,* That the Administrative Procedure Act shall be applicable to such revocation."

I call the attention of the Senate to what is provided in subsection (b):

The Secretary shall have authority to issue, amend, and rescind rules and regulations prescribing the form, time of filing, and publication of reports required to be filed under this Act and such other reasonable rules and regulations (including rules prescribing reports concerning building funds, trusts, or enterprises financed by a labor organization) as he may find necessary to prevent the circumvention or evasion of such reporting requirements.

Again, it is the Secretary's judgment which is called for.

In exercising his power under this section the Secretary shall prescribe by general rule simplified reports for labor organizations or employers for whom he finds that by virtue of their size a detailed report would be unduly burdensome: *Provided,* That the Secretary may revoke such provision for simplified forms of any labor organization or employer if he determines, after such investigation as he deems proper, that the purposes of this section would be served thereby. The Secretary may exempt from the requirements of section 101, for such definite or indefinite periods as he may determine, any labor organization or class thereof temporarily convened either for the sole purpose of negotiating a labor agreement or for carrying out educational activity.

I suggest, on page 19, line 3, after "thereby," the insertion of a comma and the words: *"Provided further,* That the Administrative Procedure Act shall be applicable to such revocations."

Suppose a simplified form has been granted. All at once the Secretary says: "I revoke it."

The union replies: "That is unfair to us. There is no good reason to revoke it. We ought to have the benefit of the simplified form."

To use a hypothetical example to illustrate the procedural point, the union may contend, rightly or wrongly, that a particular Secretary of Labor, for some reason, has a bias against the union. They think he is unfair. They think he is prejudiced. They think he is trying to harass the union. I am talking about the fears which sometimes people, with human frailties, develop in this field.

I simply say that the Secretary ought to be perfectly willing to let the Administrative Procedure Act run its course and say why he thinks there should be a revocation. I think that with this provision in the bill, we will not find any unions coming forward and asking to have the Administrative Procedure Act apply so as to make a record against them, which that procedure will permit, unless they have a case. But they are entitled to a check, it seems to me. They are entitled to the opportunity to have a review. They are entitled to the right, even though they may be dead wrong, in thinking that the Secretary of Labor is discriminating against them in his revocation. That is all I am asking.

Mr. KENNEDY. Mr. President, I should like to accept this amendment, but I do not think I can. The language in the bill was carefully worked out after thorough consultation. I think the Administrative Procedure Act, if applied to page 19, would offer some difficulties for the Secretary. I wonder if it would be possible to have the Senator from Oregon withdraw his amendment.

Mr. MORSE. No; I could not withdraw the amendment, because I really think it will strengthen the bill.

The Senator knows how much I would like to accommodate him. But I could

not very well withdraw the amendment, inasmuch as the bill includes a provision which provides for the exercise of judgment or discretion by the Secretary of Labor. That provision would have a very definite effect, inasmuch as the Secretary of Labor could exercise his discretion—although we pray he never would—to the detriment of a group of workers; he could, if he wished to, exercise his discretion unfairly or in a discriminatory manner. Let us not forget that then they would have to remain in a status quo position until that action by the Secretary of Labor was reversed.

Under my proposal, the worker who was affected would be put in such a position that all he would have to do would be to come forward and, under the Administrative Procedure Act, ask the Secretary of Labor to show his reason for the revocation.

What is wrong with such a provision?

Mr. CARROLL. Mr. President, will the Senator from Oregon yield to me?

Mr. MORSE. I yield.

Mr. CARROLL. I, too, seek information.

Under such circumstances, how could one say that action would be unfair or discriminatory? Can the Senator from Oregon give us an example?

I am generally in agreement with the Senator from Oregon in regard to what we call trusts involving rights.

Under the circumstances, if the Senator from Oregon will give us an illustration of the situation he has in mind, it may help us form our opinion of his amendment.

Mr. MORSE. I think the language of this part of the bill best illustrates the point; so I shall read the language, and then I shall refer to a hypothetical case.

I refer now to page 18, beginning in line 20, and reading as follows:

> In exercising his power under this section the Secretary shall prescribe by general rule simplified reports for labor organizations or employers for whom he finds that by virtue of their size a detailed report would be unduly burdensome.

Mr. CARROLL. What is the purpose of the report? What is the reason for it?

Mr. MORSE. This part of the bill provides either for the much longer reports, which call for much more detailed information; or, in the case of a small union, the bill calls for a much simplified report, which calls for less information.

The Secretary of Labor is to be given that discretion. Let us assume that the Secretary exercised it to the point of saying to unions X, Y, and Z, "File the short report"; and let us assume that they then filed the short report.

Mr. CARROLL. Is the simplified report provided for the purpose of informing the members? What is the purpose of the report?

Mr. MORSE. The purpose is, first, to keep the Secretary informed as to whether the union is operating in a manner inconsistent with the purposes of the act; and also, in the instances in which the reports are available to the members, to have the reports on file, so the union members can obtain them.

So let us assume that unions X, Y, and Z were granted permission, under this discretionary power on the part of the Secretary of Labor, to file the simplified report.

Then the bill provides:

> *Provided,* That the Secretary may revoke such provision for simplified forms of any labor organization or employer if he determines, after such investigation as he deems proper, that the purposes of this section would be served thereby.

Let us assume that the Secretary of Labor granted those unions authority to file the simplified report, on the ground that the longer report would be burdensome. Let us assume that the Secretary of Labor decided, under this discretionary power, to give them that privilege and that advantage. And then let us assume that at a later time he said to them, "I revoke it."

Let us assume that then the affected unions asked the Secretary, "Why? We would like to show that it is still burdensome to us to file the long report, and that you have no reasonable ground for revoking the privilege you have given us to file the simplified report. We do not think you should have the discretion first to blow hot, and then to blow cold—to change your mind from month to month. If you had a good ground for revoking the privilege, that would be different. But presumably the Congress provided for the filing of the simplified report because it was the intention of Congress that if unions found the longer report burdensome, you would grant them the privilege of filing the simplified report. So we do not think you have a good ground for revoking that privilege. We think you are penalizing us unfairly, improperly"—for any of the reasons they might conjure up.

Of course, one of the reasons for the Administrative Procedure Act is really to provide a forum in which emotional attitudes will not prevail, but in which evidence presented under the proper procedure will prevail.

Mr. CARROLL. Let us assume that the Secretary of Labor did do that very thing. Who would review his action?

Mr. MORSE. That would be done in accordance with whatever is provided for under the Administrative Procedure Act.

Mr. CARROLL. Let us assume that the matter went to the Circuit Court of Appeals. What would be the issue? The issue would be whether the Secretary of Labor had properly exercised his discretion in connection with that matter—which is one which, if I may say so to the Senator from Oregon, does not suggest due process, because such discretion would have been conferred on the Secretary of Labor by the Congress. So the issue or the question would be as to the manner in which he had exercised the discretion.

Let me say that I offer this suggestion in all sincerity. I support the Senator from Oregon 100 percent on the matter of due process. But in such a case the act would be a ministerial act.

Mr. MORSE. But it must be exercised reasonably, not arbitrarily. I think the union would have a hard time proving their case; but if they really had a case, they should have an opportunity to prove that the discretion was not exercised reasonably, but, instead, was exercised prejudicially or punitively or in a biased manner.

What would be wrong with allowing them an opportunity to present their case, if they had one?

Mr. CARROLL. But certainly the problem here has to do with the essence of the question of whether they should make a long report or a short report—a complicated report or a simplified report. In my opinion, this matter is not one for judicial review.

Mr. MORSE. But let us not forget that we in the Congress would say, according to this provision of the bill, "You are entitled to file a simplified report, if the filing of a longer report would be burdensome to you."

Mr. CARROLL. But this matter does not involve a question of due process; it relates to a question of administration.

Mr. MORSE. I am sure the Senator from Colorado does not mean that he does not favor providing for a procedural check in any case unless due process is involved.

Mr. CARROLL. But due process is not involved in the exercise of discretionary authority by an administrative officer, unless constitutional rights are involved.

I support the distinguished Senator from Oregon 100 percent on matters of proper review. But I submit to him that in this instance, this proposal would carry that point a little too far.

Mr. President, I submit this point to him, for his consideration.

Mr. MORSE. Mr. President, I shall conclude my remarks by saying that when in this bill the Congress grants a union the right to file a short or simplified report in cases in which the longer report would be unduly burdensome, we mean to grant that privilege as a matter of right that should be granted in practice, and we mean that that privilege can be revoked only when cause is shown, only when it can be shown that there was justification for revoking it. Certainly such cause could not be simply the whim of the Secretary of Labor. Instead, there would have to be some good, demonstrable reason. When the unions affected charged that he did not have such a reason, they should have an opportunity to have his decision reviewed.

Mr. President, I submit my amendment.

Mr. KENNEDY. Mr. President, I yield back all time on the amendment remaining under my control.

Mr. MORSE. Mr. President, I yield back all time remaining under my control.

The PRESIDING OFFICER. All remaining time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Oregon [Mr. MORSE].

The amendment was rejected.

Mr. MORSE. Mr. President, I call up my next amendment, which is No. 5.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 23, in line 21, it is proposed to strike out

line 21, line 22, and line 23, and in lieu thereof insert "in the district court or other court of the United States where the violation occurred or at the option of the parties in the United States District Court for the District of Columbia."

Mr. MORSE. Mr. President, I ask the Senate to turn to page 23 of the bill. It will be noted that my amendment proposes that on page 23, lines 21, 22, and 23 be stricken out and the following words be substituted: "in the district court or other court of the United States where the violation occurred or, in the event of inconvenience to the parties, then in the United States District Court for the District of Columbia."

The amendment covers this type of problem: Unions in my State are 3,200 miles or more from the District of Columbia. When violations occur there, I think it is only reasonable that the first requirement ought to be that the case be tried there, and that the U.S. District Court for the District of Columbia should not be selected unless there is some doubt as to where the violation occurred. I can imagine how that could happen in a good many cases. When there is doubt about it, the Secretary ought to be able to bring the case in the District of Columbia; or, when it is perfectly obvious that the Secretary knows it is for the convenience of the parties, the case should be brought in the U.S. District Court for the District of Columbia.

I think it is pretty important in this democracy of ours, the cost of litigation being what it is and the cost of travel being what it is, that it be provided in the bill that a case should be tried in the district where the violation took place, rather than say, "We will bring it to the United States District Court for the District of Columbia."

I submit my amendment.

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

Mr. MORSE. I yield.

Mr. DOUGLAS. I should like to see if I understand the point which the very able Senator from Oregon is making. Is the Senator from Oregon saying that under the present wording of this clause, the Department of Justice would have the decision as to whether the case would be tried in the district where the violation occurred or in the District of Columbia itself?

Mr. MORSE. That is what I am saying. Let us look at the syntax of the sentence:

> Any such action against a labor organization may be brought in the United States District Court for the District of Columbia—

That is where it can be brought—

> or in the district court or other court of the United States where the violation occurred.

In other words, what I am proposing to do is to rephrase the sentence and say, "In the first instance, you bring it in the district where the violation occurred. If, in the convenience of the parties, the District of Columbia court is the most desirable, bring it there." But if a violation took place in Portland, Oreg., where there is a U.S. court sitting in the Federal courthouse, the litigants should be permitted to say, "That is where we want to have justice rendered to us."

I think that is reasonable, and there should be language in the bill to indicate that is the procedure to be followed.

Mr. KENNEDY. Mr. President, I think this is an acceptable amendment. I am prepared to accept it, and yield back my time.

Mr. CARROLL. Mr. President——

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CARROLL. I think the Senator from Oregon in this case is perfectly correct. I make one qualification for the RECORD. In the event of a conspiracy, I think we should show the intent of the National Legislature that when a crime is committed in a State the case should be heard, insofar as possible, in that State. If the conspiracy extends to other districts, then we ought to lodge discretion in the Attorney General.

Did the Senator from Oregon hear my comment on that subject?

Mr. KENNEDY. Mr. President, I yield myself 2 minutes. I am not sure that the debate may not have distorted the actual meaning of the amendment proposal. The Senator from Colorado stated that his understanding of the amendment was that——

Mr. CARROLL. Mr. President, if I may interrupt the Senator from Massachusetts, the Senator from Oregon was busy conferring and did not hear what was stated.

Mr. MORSE. I beg the Senator's pardon. He knows what was happening.

Mr. CARROLL. If I may repeat what I said, I agree completely with the Senator from Oregon that if a violation occurs within the area of a Federal judicial district, the case ought to be tried there, rather than in the District of Columbia. I make one reservation. Let us assume the crime constitutes a conspiracy and is spread over several districts. I should like to hear the comment of the Senator from Oregon on that point.

Mr. MORSE. I think it is clear, under the amendment, that the case could be tried in the U.S. district court in the District of Columbia.

Mr. CARROLL. Or wherever it is believed the conspiracy can best be proved.

Mr. MORSE. Yes. I think the language "convenience of the parties" in my amendment covers that.

Mr. KENNEDY. Mr. President, I am prepared to accept the amendment and yield back my time.

Mr. MORSE. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Oregon [Mr. MORSE] on page 23, beginning on line 21.

The amendment was agreed to.

Mr. MORSE. Mr. President, I call up my amendment No. 6.

The PRESIDING OFFICER. The amendment of the Senator from Oregon will be stated.

The CHIEF CLERK. It is proposed, on page 8, line 16, to strike out the period and insert the following:

> *Provided*, That in the event of a denial of an exemption of this section the provisions of the Administrative Procedure Act shall become applicable.

Mr. MORSE. Mr. President, I desire to invite the attention of the Senate for a moment to page 8 of the bill, in regard to the matter of exemptions of unions in accordance with size and receipts. Starting on page 8, line 6, the bill reads:

> The Secretary may exempt from the requirements of subsection (b) for such definite or indefinite periods as he may determine any labor organization or class thereof having fewer than two hundred members and having gross annual receipts of less than $20,000, including all sums paid over as dues or per capita tax to a parent or affiliated labor organization (excluding payments received by trustees under section 302(c) (5) or (6) of the Labor-Management Relations Act, 1947, as amended), if he finds that the exemption of such labor organization or class thereof would not interfere with the attainment of the objectives of this Act.

I propose, at the end of the sentence on line 16, to strike out the period and add the following language:

> *Provided*, That in the event of a denial of an exemption of this section, the provisions of the Administrative Procedure Act shall become applicable.

Let me advise Senators of the problem which, as I understand, is of concern to some labor groups. I suppose it is of particular concern to the Teamsters, but I am satisfied they are not alone. They feel that unless they have a right, under the Administrative Procedure Act, to show that they ought to be entitled to an exemption, they might be confronted at some time with an administrative officer who might be prejudiced against them and deny them exemptions.

What we are saying, as a Congress, I respectfully submit, is that Congress is instructing the Secretary of Labor that, as a matter of policy, we believe any labor organization or class thereof having fewer than 200 members and having gross annual receipts of less than $20,000 should be exempt.

That is the policy Congress is laying down. But we are not making a blanket exemption, because there may be some unions with less than 200 members or with less than $20,000 of receipts to which we ought to apply the full force of the act. Therefore, the Secretary of Labor ought to have the right to say, "I do not grant the exemption." But if he does not grant the exemption, the labor organization, upon application, ought to be heard on the exercise of that judgment under the procedures of the Administrative Procedure Act, because such a judgment would have a tremendous effect upon the union involved, whether it was X, Y, or Z.

All I am seeking to have inserted is a safeguard, so that a group will not have the right to say, "We are not going to get a square deal. We are getting a raw deal. We are not getting equal treatment. We are being discriminated against."

I also want to say to those who have any question about this amendment, keep in mind the position in which we are putting the Secretary of Labor.

I desire to stress the desirability of this type of an amendment from the standpoint of protecting the Secretary of Labor. I think the Secretary of Labor is entitled to the procedural safeguard which I have provided in the amendment. The Secretary can say, "Very well; come in under the processes of the Administrative Procedure Act. I will be glad to spread on the record the reason why I think you should not be exempt, since it would interfere with the objectives Congress set forth in the act."

I think if we put such a safeguard in the bill, no union would be resorting to the procedures of the Administrative Procedure Act, unless it had an extremely good case; because, until the union obtained a reversal of the decision of the Secretary of Labor, it would have to be considered as nonexempt.

We would be in no way giving any advantage by agreeing to my amendment, unless and until under the operation of the Administrative Procedure Act there were a decision to reverse the Secretary of Labor.

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

Mr. MORSE. I yield.

Mr. CARROLL. I say to the Senator from Massachusetts that in my judgment the Senator from Oregon is perfectly correct. I believe this involves due process. It involves a notice of hearing and a notice of a trial. It could involve arbitrary and capricious action against 200 people and therefore those people have a right to a hearing. They are entitled to come under the Administrative Procedure Act.

I differentiate between this amendment and the earlier one offered by the Senator from Oregon which involved a mere ministerial question. This is a basic thing. This has a constitutional base in due process. Therefore, it should be reviewable upon arbitrary and capricious action of the Secretary.

Mr. MORSE. I understand the Senator's distinction. I think the Senator is clearly right in this instance. I would go a little further, even, in connection with a so-called ministerial act, when the exercise of the ministerial act has an effect upon and can have detrimental effect upon the people subject to the act.

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

Mr. MORSE. I yield.

Mr. DOUGLAS. I wonder if the Senator from Oregon would consider a modification of the wording of his amendment.

Mr. MORSE. I always try to be reasonable.

Mr. DOUGLAS. I think the modification would make the language more applicable. As I understand, the wording of the pending amendment, in part, is, "in the event of a denial of an exemption" the provisions of the Administrative Procedure Act shall be applicable.

Mr. MORSE. The Senator is correct.

Mr. DOUGLAS. Would the Senator consider adding, after the word "denial," a few words, to make it read: "In the event of a denial of an application for an exemption"?

In its present form the language would seem to require the carrying out of the Administrative Procedure Act whenever the Secretary of Labor denies an exemption. Should not the words "an application for" be included?

Mr. MORSE. I do not want to involve anyone else, but I should like to say there is an individual on the floor, upon whose advice the Senator from Illinois relies as a beneficiary a good many times, as it is true I do upon some of my assistants. That is the language we had in the amendment when we drafted it last night, but in the process of having the amendment copied the words which the Senator from Illinois has just used were by mistake omitted.

I accept the language, and also wish to state that language was used in the original form of the amendment.

When my staff copied the amendment, they did not write that particular language in the amendment. I hope the Senator from Massachusetts will take note of the fact that by oversight or inadvertence those words were left out of my amendment. The amendment should read "denial of an application for exemption."

The PRESIDING OFFICER. The Senator has a right to modify his own amendment.

Mr. DOUGLAS. I thank the Senator from Oregon for the compliment paid to my administrative assistant, and I wish to say I heartily join him in the commendation.

Mr. KENNEDY. Mr. President, it pains me to separate myself from three distinguished colleagues for whom I have a high regard. But, once again, although the agreement reached in the committee was not one in which I concurred completely, but, nevertheless, it was finally agreed to. In my opinion, it would be a mistake to undo this part of the bill, because there are a good many other Senators on the committee who committed themselves to other provisions as a part of a general agreement to support the Kennedy-Ervin bill.

I am willing to go quite far, even in spite of that, with respect to matters of great importance.

Let us consider a situation involving a paper local. The Secretary has made a general rule about exempting unions with fewer than 200 members or $20,000 in income. Let us assume the paper local makes a complaint. The Secretary's information perhaps is sparse. The Secretary may simply decide he wants these financial reports. And I believe he would trammel no one's rights by demanding one without going through a complicated procedure.

I thought the point the Senator from Colorado made 2 or 3 minutes ago was good, and it seems to me this case is parallel. It seems to me that no one's basic, personal rights would be denied by the Secretary, if the Secretary said he wanted financial information from the union.

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

Mr. KENNEDY. I yield.

Mr. CARROLL. The Senator from Massachusetts is a great author and a great statesman.

Mr. KENNEDY. I thank the Senator.

Mr. CARROLL. But I cannot support the Senator on his agreement with the committee where constitutional rights are involved. That is what we are talking about. This is a question of due process.

Mr. KENNEDY. May I ask the Senator a question?

Mr. CARROLL. In a moment. This is a question of due process. We are talking about taking away the rights of people. We cannot do that in the committee, and we cannot do it in the Congress.

Let us talk about the paper locals. I will say, and I am very serious. If the Secretary of Labor wants a report of a paper union he will get a report, because the only thing which is reviewable under the Administrative Procedure Act is an arbitrary and capricious abuse of discretion. Questions of fact are never reviewable.

I hope Senators will believe me when I say that the Secretary of Labor will have full power to meet this objective. It would only be with regard to an abuse of power that there could ever be an appeal to the court of appeals.

I have tried to be very cautious about this matter. This is a question of due process under the Administrative Procedure Act, which can be used to protect the constitutional rights of people who are being discriminated against.

We do not need to worry about paper unions. The Secretary of Labor can take care of such unions and their reports under the amendment offered by the Senator from Oregon.

Mr. MORSE. If the Senator will permit, I should like to mention two things.

First, in complete defense of my chairman, I want to say that the Senator from Massachusetts labored long and hard on this particular section, and this was the solution the chairman worked out.

However, in fairness also to the Senator from Oregon, I think the Senator from Massachusetts will testify that time and time again I raised questions about whether too much power was being given the Secretary of Labor, and stated that each reserved the right, when the bill reached the floor of the Senate, to offer amendments to carry out some of the proposals made in the committee but which did not prevail in the committee.

As to the substantive matter which the Senator from Massachusetts has raised, I want to refer to the paper local union case. I should like to have the Secretary of Labor armed with the Administrative Procedure Act in that instance, so that if any paper local had such bad judgment as to appeal to the Administrative Procedure Act from the Secretary's exercise of judgment in denying the exemption, the Secretary would have

the processes of the Administrative Procedure Act to make clear on the record the type of a labor organization with which he was dealing. That was what I meant a few moments ago when I said amendments like this would strengthen the Secretary of Labor under the bill; they would not weaken him. It is on that basis that I press my amendment.

Mr. KENNEDY. Mr. President, let me say to the Senator from Oregon and the Senator from Colorado that originally I favored a blanket exception for unions with a membership fewer than 200. We finally arrived at this language.

I must say to my distinguished colleague from Colorado that I do not believe this provision involves any question of constitutional rights. The fact of the matter is that all unions are covered by the reporting provisions of the bill. Nevertheless, in order to protect some small unions from being overburdened with paper work, the Secretary is given the right to accord to them the privilege of being exempt.

When the Secretary, after having given them that privilege, decides to revoke it, he takes away no right, he merely suspends a privilege which he has granted.

I believe the language of the Administrative Procedure Act requires substantial evidence in the record as a whole. I do not believe that a Secretary of Labor who has made a judgment in the case of granting an exemption should be required, when he removes the exemption to provide at that time substantial reasons for removing it.

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

Mr. KENNEDY. I yield.

Mr. CARROLL. Let me say to the Senator from Massachusetts that I have no conviction upon this subject, except that which I have acquired from listening to the argument of the Senator from Oregon. It is my impression that the Senator from Oregon said that, in a sense, the Secretary of Labor could proscribe certain unions. Will the Senator from Oregon repeat his statement?

Mr. MORSE. The point which the Senator makes bears on the very argument I wish to make to my friend from Massachusetts. Under the bill as it is now worded, it is proposed to give to the Secretary of Labor, discretion to exempt or not to exempt. I think it is clearly implied that his discretion must be reasonably exercised. It cannot be discriminatory. It must be based on substantial evidence.

Why in the world should he object to having his decision reviewed under the Administrative Procedure Act? Such a provision would strengthen his hand. After we get a few decisions under the application of the Administrative Procedure Act, unions will be rather wary about asking for a review unless they have a good case to show that the Secretary did not have adequate evidence upon which to base his decision.

Let me make one further point. Once we place this section in the bill, we modify the policy that all unions shall be required to file full reports. That no longer would be the case. All unions, unless the membership was less than 200, and their income less than $20,000, would be required to report. With respect to the smaller unions, the Secretary of Labor would be given the right to exempt them if he thought such reporting would be burdensome upon them or if he thought it would be too expensive for them to file full reports.

It is proposed to give the Secretary the power of decision, the power of choice. There would be a very definite effect on a union, based upon whether it received the benefit of the Secretary's judgment, or did not receive the benefit of his favor. What we are saying is that we want some procedure to protect the union in the situation where a Secretary of Labor can be shown, under the Administrative Procedure Act, to be exercising a capricious discretion, and not a reasonable one.

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

Mr. KENNEDY. I yield.

Mr. CARROLL. Let me say to the Senator from Oregon that my position is quite clear now with regard to ministerial acts. Will the Senator from Oregon distinguished this amendment from the amendment which I opposed a short time ago? Why is it different? Explain how this amendment deals with arbitrary and capricious actions on the part of the Secretary of Labor; and the harm that could come to the people of the Nation?

Mr. MORSE. I think the language on page 8 shows the distinction.

Mr. CARROLL. I should like to have the Senator from Massachusetts listen very carefully.

Mr. MORSE. On page 8 of the bill we find the following language:

> (d) The Secretary may exempt from the requirements of subsection (b) for such definite or indefinite periods as he may determine any labor organization or class thereof having fewer than 200 members and having gross annual receipts of less than $20,000—

And so forth. If he finds that the exemption of such labor organization or class thereof would not interfere with the attainment of the objectives of the act, he may grant it.

That is a statement of policy. It is a statement that we favor the exemption of unions with fewer than 200 members, and receipts of $20,000 or less, if the Secretary finds that such exemption would not interfere with the attainment of the objectives of the act.

Mr. CARROLL. Exemption from what?

Mr. MORSE. Exemptions from filing all the reports required elsewhere in the bill. That is costly. It would cost thousands of dollars to file all the reports required under the terms of the bill. I am in favor of such filing. I am also in favor of doing justice to the small union which cannot afford the expense of such filing. We might require the small unions to file much less in the way of reports, and still have a pretty good idea of how they are operating.

It is proposed to give the Secretary the right to decide whether they shall file or not. Then they may or may not receive an exemption. We are asking for an Administrative Procedure Act process if the Secretary proceeds to revoke an exemption without good cause for revoking it. That is all we are asking for.

Mr. CARROLL. Mr. President, I wish to be perfectly frank with the Senator from Massachusetts and the Senator from Oregon. I misconceived the original argument of the Senator from Oregon. After listening very carefully, I now conclude that this action is placed in the category of a ministerial act, with respect to which the Secretary of Labor can say, "I will exempt this union." However, he is left a certain amount of discretion. I was thinking in terms of some individual in the labor union movement, who might be seriously injured.

Mr. MORSE. He would be if the Secretary were to use abusive discretion.

Mr. CARROLL. I do not see the point about the abusive discretion.

Mr. MORSE. He might use abusive discretion.

Mr. CARROLL. This amendment is almost like the one we previously rejected.

Mr. MORSE. I do not believe we should have rejected it, but I think there is a difference between the two.

What I am trying to protect the unions from is a Secretary of Labor who might abuse his discretion. That is one of the reasons for the Administrative Procedure Act, to provide a review of discretionary decisions.

Mr. CARROLL. The only way he could abuse his discretion would be by requesting them to file a report. When he grants an exemption, that is a ministerial act. When he asks unions to file reports, that is a ministerial act. I do not believe that such an act is reviewable under the Administrative Procedure Act.

I wish to qualify what I previously said, because I was under the impression that we were dealing with a denial of due process.

Mr. MORSE. Let us look at the consequences. The revocation may cost thousands of dollars. Suppose a competitive union receives an exemption, and is not required to pay out the thousands of dollars. Suppose the unions are involved in a jurisdictional dispute. I am speaking hypothetically. Let us assume that in a jurisdictional war between two unions the Secretary of Labor is trying to help X union against Y union. Why should not Y union have the right to show that there was no justification, on the basis of an exercise of reasonable discretion, for levying a fine, in effect, of several thousand dollars upon one union, by making it comply with the filing requirement.

Mr. CARROLL. I think such a situation would be limited to a very small group. Therefore I think the financial problem is not so serious. I can understand that there might be some arbitrary and capricious act, but I do not believe it would be reviewable in a court.

As I now reexamine the whole situation, I conclude that the Senator from Massachusetts [Mr. KENNEDY] is not only a great statesman and an author, but a great lawyer.

Mr. MORSE. I will say to my friend from Colorado that I always assume that under our system of justice the least among us is entitled to the same protection as the greatest. The fact that this provision deals with a very small number of men does not change the fact that we should protect them from the kind of arbitrary discretion from which the Administrative Procedure Act was designed to protect all Americans.

Mr. KENNEDY. Mr. President, I yield 1 minute to the Senator from Arizona.

Mr. GOLDWATER. I wish to stand with my chairman on this matter. I am sure the distinguished Senator from Oregon will remember that in the subcommittee we argued this particular amendment at great length. We finally voted to strike it from the bill as reported to the full committee. During the full committee hearings the paragraph was put back into the bill. I hold to the idea that we should not exempt any unions, because most of the trouble we found has been in the smaller unions, as the Senator is well aware. This morning an effort was made to remove this provision from the bill. I was not on the floor, and therefore did not get a chance to vote on it. If the Senator is interested, we could make a motion to reconsider the vote on that proposal and have a vote on it. However, it is in the bill. I believe we talked about it more than about any other paragraph in the bill. I should dislike very much to see it disturbed at this late hour.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

Mr. MORSE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. MORSE].

The amendment was rejected.

Mr. MORSE. Mr. President, I call up my last amendment marked "A."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 54 it is proposed to strike out all after the comma in line 1 and the word "laws" in line 2 and insert in lieu thereof the following: "to enact and enforce general criminal laws with respect to robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, or assault with intent to inflict grievous bodily injury, or conspiracy to commit any of such crimes."

Mr. KENNEDY. Mr. President, I am prepared to accept the amendment, and I yield back my time.

Mr. MORSE. This problem was first raised with me by lawyers for the AFL-CIO. I then went into the merits of it, and I thought it was meritorious. I therefore offer the amendment. I am willing to yield back the remainder of my time, and I ask unanimous consent that a statement explaining the amendment be printed in the RECORD at this point in my remarks.

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

STATEMENT BY SENATOR MORSE

The purpose of this amendment is simply to conform section 507 of the bill, relating to the authority of the States to continue to enact and enforce their general criminal laws to the intention of the committee as expressed in the report. As stated in the report, the intention of the committee in including section 507 of the bill was to make clear that the bill's provisions making embezzlement of union funds a Federal crime and referring to numerous other offenses which are crimes under the laws of the various States should not affect the authority of the States to continue to enact and enforce general criminal laws dealing with the crimes referred to in these provisions. The committee pointed out in its report:

"This section is designed to make clear that section 109(a), making embezzlement of union funds a Federal crime, and the references to certain crimes in section 305 of the bill are not intended to bar the States from continuing to enact and enforce, in the exercise of their general police powers, criminal statutes dealing with the particular crimes mentioned in the bill. The bill is not intended in any way to impair or diminish State authority to enact and enforce such general criminal statutes.

"Other sections of this bill refer specifically to the respective responsibilities of State and Federal Governments with regard to the subject matter covered by the bill. Nothing in this section is to be construed as altering these divisions of governmental responsibility as therein defined."

The amendment is designed, as I said, simply to make the effect of section 507 clear beyond peradventure of any doubt by listing in this section the specific crimes referred to in sections 109 and 305, so that the States may continue to enact and enforce general criminal statutes dealing with these crimes. Without the amendment it might be possible to argue that any State statute dealing with matters specifically covered in the bill—such as the provisions limiting the tours of office of union officers—would be valid if enacted as a criminal statute.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. MORSE].

The amendment was agreed to.

Mr. EASTLAND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. EASTLAND. I ask unanimous consent that the amendment be not read, but be printed in the RECORD at this point. I will explain it.

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

The amendment, offered by Mr. EASTLAND, and ordered to be printed in the RECORD, is as follows:

On page 30, after line 5, insert a new section as follows:

"SEC. 113. (a) That section 9 of the National Labor Relations Act, as amended, is amended by adding at the end thereof new subsections as follows:

"'(i) No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 10, unless there is on file with the Board an affidavit executed contemporaneously or within the preceding twelve-month period by such labor organization and any national or international labor organization of which it is an affiliate or constituent unit declaring that the constitution or bylaws of such labor organization and of any national or international labor organization of which it is an affiliate or constituent unit—

"'(1) provide, that no authorized strike shall be called except upon approval of a majority of the employees in the affected unit voting by a secret ballot in accordance with the following:

"'(A) No strike ballot shall be taken until there shall have elapsed (i) a period of twenty days during which the labor organization shall have made all reasonable efforts to settle the dispute by means of collective bargaining, and (ii) an additional period of twenty days to enable the parties to the dispute to explain fully their respective positions to the employees involved in the dispute and to the public;

"'(B) Any such strike ballots shall be conducted by an election committee consisting of one member selected by the labor organization, one member selected by the employer, and a third member selected by such members. If the employer fails to select a member within five days after having been requested by the labor organization in writing to do so, such member shall be selected by the National Labor Relations Board. If the member selected by the employer or the Board and the member selected by the labor organization are unable to agree within five days upon the selection of the third member, such third member shall be selected by the National Labor Relations Board;

"'(C) The election committee shall promptly prepare and distribute to all employees in the bargaining unit involved in the labor dispute suitable ballots with appropriate instructions and envelopes to enable such employees to execute the ballots, without identification of the voter; such completed ballots to be deposited in ballot boxes accessible only to the election committee as a body; so that in case the eligibility of a voter is in dispute, the signature of such voter will appear on the outer envelope solely for the purpose of identifying his ballot until his eligibility shall be determined;

"'(D) The election committee shall process and count the ballots in such manner that the identity of the individual casting a particular ballot will be unknown to the committee or to any other person, and after the votes have been tabulated shall certify the results of the elections to the parties of the dispute; and

"'(E) If a majority of the employees voting in such election vote to authorize a strike, such strike may be ordered or authorized by the labor organization, but only after the expiration of a period of twenty days during which such labor organization shall have again made all reasonable efforts to settle the dispute by collective bargaining and not later than eighty days following the date upon which such strike was authorized, without further compliance with the requirements of this paragraph (1).

"'(j) Upon the filing of a petition in writing signed by not less than 10 per centum of all of the employees of a bargaining unit or a petition signed by not less than two of the members of the election committee described in subsection (i)(1)(B) of this section, alleging that a strike has been called in contravention of the provisions of subsection (i)(1) of this section, the Board shall then proceed under the investigatory powers granted in this Act to consider this matter, and if the Board determines the allegations to be true, the Board will issue an order declaring that such strike was called without

proper authority and instructing the bargaining unit involved to immediately comply with the provisions contained in subsection (i)(1) of this section. Any labor organization which, within five days, fails to comply with any order issued by the Board in accordance with the provisions of this subsection shall, during the period of noncompliance, be ineligible for certification by the Board as an exclusive representative of any group of employees for collective bargaining purposes, and no investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by such labor organization under subsection (c) of this section during the period of noncompliance, nor shall any complaint be issued pursuant to a charge made by such labor organization under subsection (b) of section 10 during the period of noncompliance.

"'(k) This section shall not be construed to repeal, modify, or affect section 8(d) of the National Labor Relations Act, as amended, or to require that the sixty-day and thirty-day periods specified in said section 8(d) shall be in addition to the periods set forth in this section, except that such strike may not commence until the expiration of the period described in section 8(d)(4) or in subsection (i)(1)(E) herein, whichever is the later: *Provided,* That nothing contained in this section shall be construed to make lawful a strike conducted in violation of a no-strike clause in a collective-bargaining contract: *Provided further,* That nothing herein contained shall be construed to authorize a lockout during the period during which a labor organization may not strike pursuant to the provisions of this section.'

"(b) No labor organization which, during any taxable year which begins after the date of enactment hereof, fails to comply with any order of the National Labor Relations Board issued under subsection (j) of section 9 of the National Labor Relations Act, within the time limits prescribed by such subsection (j), as the case may be, shall be entitled to exemption from Federal income tax under section 501(a) of the Internal Revenue Code of 1954 for such taxable year.

"(c) The tax payable under the Federal income tax laws for any taxable year by a labor organization which has lost its Federal income tax exemption under paragraph (a) for such year shall be reduced by an amount which bears the same ratio to the amount otherwise payable as the number of days in such taxable year for which there was not any failure by such labor organization to comply with any order issued by the National Labor Relations Board under subsection (j) of section 9 of the National Labor Relations Act bears to the total number of days in such taxable year."

Mr. EASTLAND. Mr. President, this is a very simple amendment. The union bosses have boasted all over the United States that they believe in democracy. They believe in democracy for everyone except those in their own domain of influence. Before they could call a strike, the amendment would give the workers, the men who are primarily involved, the right to a secret ballot in order to determine whether there should be a strike. I shall speak briefly on the amendment.

Before a secret strike ballot is taken, the amendment sets forth certain procedures which must be followed. There would have to be a waiting period of 20 days, during which the labor organization must make all reasonable efforts to settle the dispute by means of collective bargaining.

If agreement cannot be reached, an additional period of 20 days is provided to enable the parties to the dispute to explain fully their respective positions to the employees involved and to the public. In the event a strike election becomes necessary, the amendment sets up the machinery for an election committee, to be composed of one member selected by the labor organization, one member selected by the employer, and a third member mutually agreeable to the two selected members.

If the employer fails to select such a member, provision is made for the National Labor Relations Board so to do. If the two selected members cannot agree upon a third, the National Labor Relations Board is empowered to do so.

The election committee is charged with the duty of preparing and distributing to all the employees in the bargaining unit involved suitable ballots with appropriate instructions, and such completed ballots, without identification of the voter, will be deposited in ballot boxes under the charge of the election committee. Where the eligibility of a voter is in dispute, the signature of such voter will appear on the outer envelope solely for the purpose of identifying his ballot until his eligibility shall have been determined. All ballots shall be processed in such a manner that the identity of an individual casting a particular ballot will be unknown to the committee or any other person.

When the votes have been tabulated and certified, if a majority of the employees vote to authorize a strike, the strike may be ordered or authorized by the labor organization, but only after the expiration of a period of 20 days. During the 20-day period the labor organization shall have again made all reasonable efforts to settle the dispute by collective bargaining. If a strike is authorized, it must follow within 80 days from the date upon which it was authorized.

Mr. President, the amendment is a charter of liberty and freedom for union members everywhere from coercion, dictation, and intimidation in making a free and independent choice on the gravest issue that confronts this country. The man who is primarily interested in a strike is the worker whose livelihood and whose welfare are involved.

Why should not the worker have a chance to make the decision as to whether there shall be a strike. The leader who orders the strike and who has made the strike decision and goes to the collective bargaining meeting with the strike decision already made, holding a pistol at the head of management and at the head of the workers, does not lose any of his salary. He does not lose any of the benefits he enjoys. It is the man who labors whose welfare and rights are put in jeopardy, who is concerned. We say we believe in democracy in this country. The unions say they believe in the workers controlling the affairs of the union. Yet when it comes to a strike, which is a right labor has to enforce its demands, why should not that decision be made by the man who is primarily involved?

Mr. President, I will tell the Senate another reason why it is very essential that the amendment be adopted. There is an arrogant Communist named Harry Bridges, who stated on television that in case we aided Chiang Kai-shek in the Far East, he would shut off supplies to the Armed Forces of the United States.

In other words, an arrogant Communist could veto the foreign policy of our country by calling a strike. I say that the rank and file of the members of his union are patriotic American citizens and that they should have the right to say whether a strike should be called and whether their boys should be denied the guns and planes and tanks to defend their country.

Mr. Bridges has just made a trip abroad on which he met Communist agents in Europe and behind the Iron Curtain, and when there was outlined the Communist policy to destroy the United States by Communists within the country in case of trouble with the Soviet Union.

Another organization concerning which committees of Congress have taken considerable testimony is the American Communications Association. That organization has been under investigation. It has been expelled by the CIO because of its Communist domination.

The president of Local 146 of the Commercial Telegraphers Union, a technician for the Western Union Telegraph Co., testified to the ease with which saboteurs could incapacitate the company's Atlantic cables. In case of a strike, they could shut off communications in the Pentagon Building in Washington, D.C.

Will any Senator contend that the members of that union should not have the right to say whether they will strike against their country and cut off communications in the Pentagon Building?

The United Electrical, Radio, and Machine Workers of America is a Communist-controlled union. That union has established bargaining rights with the largest electrical corporations in the industry, companies manufacturing the most sensitive apparatus required for our most strategic defense weapons. It represents 200,000 workers in this key industry. Will any Senator say that a union which represents employees who manufacture the most sensitive weapons used by our country, and whose boys may have to fight for their country, should not have the right to say if they will go out on strike?

What is the reason for this? We talk about democracy, but the bill does not give democracy to the workingman. I say let him vote; let him make the decision.

The amendment provides that, first, there must be 20 days of collective bargaining, and that after that period of time, if the members want to call a strike, the management shall explain its position to the workers, and the union shall explain its position to the workers. The cases of both sides can be laid before them; then it will be up to the workers to decide whether they want to strike. What can be fairer than that? There must be a 20-day cooling-off period.

The International Union of Mine, Mill, and Smelter Workers attempted by a strike during the Korean war to cut off copper supplies which were essential to

the Armed Forces of the United States. Should not the workers who are members of that union have the right to say whether, by their secret ballot, free from intimidation and free from coercion, there should be a strike? I think that is a fundamental charter of the rights of labor. If a union member does not have the right to determine the policies of the union with respect to strikes, he is a slave, and we have slavery, then, within the ranks of organized labor.

The leaders of the unions have entirely too much power. All we say is: Let the man who works for the union, the man who is primarily involved, the man whose salary and welfare are involved, make the decision, and not the leaders. The leaders do not miss their pay checks, they do not miss their benefits. Not at all. It is the man who works in the ranks who loses the benefits. Why should he not be the one to make the decision whether there shall be a strike? Why do we not consider the best interests of the workingman?

Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I understand the Senator from Mississippi wishes to ask for the yeas and nays on the amendment.

Mr. EASTLAND. Mr. President, on my amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I oppose the amendment of the Senator from Mississippi. As I understand, it provides, first, that before a strike can be ordered, a committee composed of representatives of labor and representatives of the employer shall conduct the strike vote.

This matter came before the Senate last year on an amendment offered by the then Senator from Connecticut, Mr. Purtell. There was so little support for the amendment that it was defeated on a voice vote. The reason for its defeat on a voice vote is the very reason why this amendment was not included in the Taft-Hartley Act.

From 1944 to the end of 1946, under the Smith-Connally Act, strike ballots, comparable to the kind suggested by the Senator from Mississippi, were in effect. The experience showed that it cost more than $2 million to conduct a strike ballot in 1946—1 year—and that more than 90 percent of all the votes cast did not support the strike. This was in a time of war, I point out. The ballot was worded: "I am in favor of stopping all war production by voting in favor of a strike." In other words, the amendment was worded in such a way that the burden would be very heavy upon the striker before he would ever agree to call a strike. Nevertheless, under those conditions, even under the pressure of wartime, which certainly should have mitigated against careless consideration, 90 percent of all the ballots voted were against a strike.

Senator Taft felt that such a provision made it more difficult to reach an accommodation. Unions, in order to win strikes, have always held back the very last vote until they could be certain of the outcome. Then they go to the employer and say, "We are not able to make any new concessions. Our members are ready to strike."

So instead of making for a happier relationship between labor and management, it made the relationship worse. That is the reason why the Secretary of Labor, Mr. Mitchell, has opposed this provision. I read from his testimony of last year before the committee:

> Secretary MITCHELL. From the point of view of management, I would think that management would not like to see a strike vote legislated, because a management negotiator will be confronted by a union negotiator saying to him, "Look, I have no discretion in this matter. I cannot make any compromise in our demands, because the Federal Government has taken a strike vote, and my membership by a majority vote says I have to get what I could by asking for it right now."

Therefore Secretary Mitchell opposed the provision.

Figures were presented to show that such a provision would cost $7 million, based on the situation in 1946.

Mr. EASTLAND. Mr. President, what is wrong with this proposal? The employee's interests are primarily involved in a strike. Why should not he be permitted to make the decision? What is wrong with allowing that to be done?

Mr. KENNEDY. Because, based on my experience of 13 years on the Labor Committees, I find that very rarely do unions begin strikes contrary to the wishes of the employees.

After a strike has proceeded for some time, it may be there will be some differences of opinion about when the employees should return to work. But they are free to return to work whenever they want to.

But from 1944 on, according to our experience, very few strikes were called without the support of the employees. Otherwise, the union officers would not long remain in office.

Mr. EASTLAND. But this amendment is exactly what we had in the Smith-Connally Act during the war.

Mr. KENNEDY. That is correct.

Mr. EASTLAND. It worked very well then. It prevented strikes; and it would be a strong weapon now against inflation in this country.

Mr. KENNEDY. My reading of the experience under the Smith-Connally Act is entirely different. Ninety percent of the times when the question of whether to strike was put to the employees, they voted to strike—even during the war. If this provision was so effective in controlling strikes, in 1947, when the Taft-Hartley Act was written—and it was written largely as a result of the strikes which occurred in 1946—why was not this provision included in the Taft-Hartley Act? It was not included because Senator Taft was not convinced of the usefulness of such a provision.

In other words, I believe it would be a mistake to include this provision in a bill dealing with labor reform.

Mr. President, I am prepared to yield back the remainder of the time under my control on the amendment.

Mr. ERVIN. Mr. President——

Mr. KENNEDY. I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, as a matter of fact, when a strike is lawfully conducted, it is a collective arrangement by means of which those who are on strike exercise their most potent economic weapon—namely, their collective refusal to work, except under terms which are satisfactory to them. Is not that correct?

Mr. KENNEDY. Yes; the Senator from North Carolina is correct.

Mr. ERVIN. Under this amendment, as I construe it, there would be at least 60 days, or perhaps more, before they could exercise what is undoubtedly their right to act in concert, to act together, in exercising this economic weapon—namely, collectively to refuse to work, except under conditions satisfactory to them. This amendment would substantially impair that undoubted right.

Mr. KENNEDY. The Senator from North Carolina is correct.

Mr. President, in view of the facts which have been brought out by the Senator from North Carolina, I hope the amendment will be rejected.

I yield back the remainder of the time under my control on the amendment.

Mr. EASTLAND. Mr. President, I yield back the remainder of the time under my control on the amendment.

The PRESIDING OFFICER. All remaining time on the amendment has been yielded back.

Mr. MUNDT. Mr. President, I should like to say a few words.

Mr. MANSFIELD. Mr. President, I yield to the Senator from South Dakota 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 3 minutes on the bill.

Mr. MUNDT. I thank the Senator from Montana.

Mr. President, much has been said about the Smith-Connally Act experience during the war.

I wish to point out, as I did on the floor of the Senate on April 20, that we cannot compare the wartime experience with a peacetime situation, because section 7 of the Smith-Connally Act provided, under its statutory provisions, power for the National War Labor Board to conduct a hearing on the merits of the dispute; and, further, it gave the Board the power to decide the dispute and to provide by order for the wages and hours involved.

So during the war a union could "get a free ride," because it knew that under section 4 the Board had that power, and could exercise it, so that the strike would not take place. So the union could get the benefit of the pressure and the enthusiasm of a strike vote, but without having the strike take place.

So, Mr. President, the statistics as to the number of strikes which occurred at that time are not a proper indication of what would happen in peacetime.

Therefore, I believe that, under the provisions of this amendment, democracy in unionism would be more directly practiced than under any other labor proposal now before us.

Let me point out the significance and the importance of that. A study made by the Department of Labor in 1954 disclosed that of 112 international union constitutions to that date, only 63 contained provisions requiring a strike vote in the locals. That means that 49 international unions, representing nearly 6 million members, can now call strikes without giving the members of the unions the right to make their democratic decision on the question of whether to go on strike.

If we are interested in democratic unionism—and I trust that we are—what is wrong with permitting the union members to vote, under an orderly procedure, on the question of whether they desire to strike or do not desire to strike.

The Eastland amendment provides for a cooling off period, and gives a constructive answer to the millions of American working families who, when a strike issue is before them, desire to make their decision and assert their preference and to vote either for or against going on strike. So I think adoption of this amendment would be a constructive step under democratic unionism; and I trust that the Eastland amendment will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi [Mr. EASTLAND]. All remaining time on this amendment has been yielded back.

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Texas [Mr. JOHNSON], the Senator from Tennessee [Mr. KEFAUVER] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I further announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

On this vote, the Senator from Texas [Mr. JOHNSON] is paired with the Senator from Iowa [Mr. HICKENLOOPER]. If present and voting, the Senator from Texas would vote "nay" and the Senator from Iowa would vote "yea."

On this vote, the Senator from Nevada [Mr. BIBLE] is paired with the Senator from Arkansas [Mr. FULBRIGHT]. If present and voting, the Senator from Nevada would vote "nay" and the Senator from Arkansas would vote "yea."

On this vote, the Senator from Minnesota [Mr. HUMPHREY] is paired with the Senator from Kansas [Mr. CARLSON]. If present and voting, the Senator from Minnesota would vote "nay" and the Senator from Kansas would vote "yea."

I further announce that, if present and voting, the Senator from Tennessee [Mr. KEFAUVER] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and is paired with the Senator from Minnesota [Mr. HUMPHREY]. If present and voting, the Senator from Kansas would vote "yea," and the Senator from Minnesota would vote "nay."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and if present and voting would vote "nay."

The Senator from South Dakota [Mr. CASE] and the Senator from Iowa [Mr. HICKENLOOPER] are detained on official business.

On this vote, the Senator from Iowa [Mr. HICKENLOOPER] is paired with the Senator from Texas [Mr. JOHNSON]. If present and voting, the Senator from Iowa would vote "yea," and the Senator from Texas would vote "nay."

The result was announced—yeas 28, nays 60, as follows:

YEAS—28

Allott	Dworshak	Martin
Beall	Eastland	Mundt
Bennett	Ellender	Robertson
Bridges	Goldwater	Russell
Butler	Holland	Schoeppel
Byrd, Va.	Hruska	Stennis
Capehart	Jordan	Thurmond
Cotton	Lausche	Williams, Del.
Curtis	Long	
Dirksen	McClellan	

NAYS—60

Aiken	Hartke	Moss
Anderson	Hayden	Murray
Bartlett	Hennings	Muskie
Bush	Hill	Neuberger
Byrd, W. Va.	Jackson	O'Mahoney
Cannon	Javits	Pastore
Carroll	Johnston, S.C.	Prouty
Case, N.J.	Keating	Proxmire
Chavez	Kennedy	Randolph
Church	Kerr	Saltonstall
Clark	Kuchel	Scott
Cooper	Langer	Smathers
Dodd	McCarthy	Smith
Douglas	McGee	Sparkman
Engle	McNamara	Symington
Ervin	Magnuson	Talmadge
Gore	Mansfield	Williams, N.J.
Green	Monroney	Yarborough
Gruening	Morse	Young, N. Dak.
Hart	Morton	Young, Onio

NOT VOTING—10

Bible	Fulbright	Kefauver
Carlson	Hickenlooper	Wiley
Case, S. Dak.	Humphrey	
Frear	Johnson, Tex.	

So Mr. EASTLAND'S amendment was rejected.

Mr. McCARTHY and Mr. MUNDT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. McCARTHY. Mr. President, I offer an amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 20, in line 18, after the word "Act", it is proposed to strike out the following:

Provided, That upon acquittal such person may be reimbursed by his principal for expenditures necessarily incurred in his defense.

And in lieu thereof to insert "unless such payments or advances for defense have been duly authorized by the governing body of the labor union or by the employer, as the case may be."

Mr. McCARTHY. Mr. President, I offer this amendment on my own behalf and also on behalf of the Senator from Oregon [Mr. MORSE].

The issue is very clear, and the amendment will take only a few minutes to explain.

The bill provides:

No labor organization or employer shall directly or indirectly pay the fine, or pay or advance the costs of defense, of any officer, agent, employee, or representative indicted for or convicted of any violation of any provision of this Act.

Mr. DOUGLAS. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. BARTLETT in the chair). The Senate will be in order.

The Senator from Minnesota may proceed.

Mr. McCARTHY. Mr. President, the bill further provides:

Provided, That upon acquittal such person may be reimbursed by his principal for expenditures necessarily incurred in his defense.

The amendment which I have offered provides that if the union, through its proper authority, decides it will pay the cost of the defense, it may do so. This would not apply, however, to any fine which might be imposed by the court.

It seems to me this is a reasonable amendment. The bill, even before it was amended, was an extremely complicated measure. I think there is no question that some union officers will get in trouble under the bill, even though they have the best of intentions. Most likely, these will be the heads of unions which do not have highly skilled legal counsel. In addition, there may be some unions which will decide to test the act in court.

It seems to me the officers of the union should be permitted, through the action of the union, to have the cost of defense reimbursed by the union.

There is a further consideration, of course. This does involve a kind of backhanded acceptance that a man is guilty until he is proved innocent, since the bill provides that if the man is convicted, he must pay the cost himself, but if he is acquitted, then the union can pay the cost. Insofar as I can discover, with the help of the Legislation Reference Service, there is no precedent for such law in any Federal statute today.

If we wish to establish the precedent in this act, I suppose we may do so. If we hesitate to do it, and if we think the act should be tested in the courts, and that the men who are indicted should be given reasonable financial support, then I think my amendment should be agreed to.

I hesitate to support a measure which makes it difficult for a man to raise the money which may be necessary for his defense in a court of the United States.

Mr. President, I ask for the yeas and nays on the amendment.

Mr. KENNEDY. Mr. President, will the Senator withhold his request?

Mr. McCARTHY. I withhold the request.

Mr. KENNEDY. As I understand the amendment proposed by the Senator, it provides that if an officer of a union comes into conflict with the act and is brought to trial, if the union, by proper action constitutionally, desires to do so it may appropriate money for his attorney's fee.

Mr. McCARTHY. The Senator is correct.

Mr. KENNEDY. However, under the pending bill, the man would have to pay for his own attorney's fee, but if he were acquitted the union could pay for the cost.

There are two problems involved in this matter. In one case there is no doubt that a good many of the racketeers are able to dominate the unions in such a way that they can get money under almost any guise in order to defend themselves. On the other hand, it is possible that an honest union officer could get into some difficulty, with a complicated act. It is probably true that most corporations pay the costs, if an officer of the corporation gets in some difficulty with the law. Under the Senator's amendment, the payment would be possible only if the man came into conflict with the act?

Mr. McCARTHY. Yes.

Mr. KENNEDY. Would the Senator accept a modification? In other words, I would accept the Senator's amendment if it were modified to state that a man who is convicted shall repay, to the extent possible, the cost of his defense.

Mr. McCARTHY. My amendment is limited to the cost of the defense, and does not apply to the fine. The man would have to pay his own fine.

Mr. KENNEDY. I understand.

Mr. McCARTHY. It seems to me what the Senator proposes is not particularly helpful. The Senator favors giving the man a loan for his defense, but I think in most cases the union should pay the cost of the defense. With the passage of this bill it will be much more difficult for the heads of unions to get the necessary funds. It seems to me the amendment is trimmed about as closely as it should be trimmed, since we have eliminated any right or opportunity for the union to pay the fine and restricted it only to the cost of defense. I think this is an extremely limited proposal.

Mr. KENNEDY. Mr. President, there seems to be some question about the language of the amendment, as to whether or not the cost of the fine would also be included.

Mr. McCARTHY. No. The words "for defense" have been added to the amendment in line 5.

Mr. YOUNG of Ohio. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield to the Senator from Ohio.

Mr. YOUNG of Ohio. It seems to me that the Senator from Minnesota is to be complimented upon offering a very thoughtful and meritorious amendment, which would improve and add some additional degree of justice to this meritorious measure.

Let me say to the Senator from Minnesota that I once served as president of the Cuyahoga County Bar Association in my home city of Cleveland, Ohio. That bar association, composed of lawyers of Cleveland and suburbs, is the second largest county bar association in the United States. I know something about matters of this sort. I believe this amendment should be adopted. I hope it will be accepted by the distinguished Senator from Massachusetts. I think it would perform an act of simple justice.

Mr. KENNEDY. Mr. President, there seems to be some ambiguity about the language of the amendment. As it now reads, in line 5, it is as follows: "unless such payments or advances for defense have been duly authorized," and so forth. Would the Senator be agreeable to substituting the words "for the costs of defense" for the words "for defense"?

Mr. McCARTHY. The language "for defense" was in the amendment as it was read.

Mr. KENNEDY. Evidently there is a little ambiguity, but in order to eliminate any uncertainty, I suggest that modification.

Mr. McCARTHY. I am glad to accept it.

Mr. KENNEDY. In that case I will accept the amendment.

Mr. ALLOTT. Mr. President, will the Senator from Massachusetts yield me 3 minutes? I wish to speak in opposition to the amendment.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Colorado.

Mr. ALLOTT. I invite the attention of the Senator from Minnesota to the fact that his amendment would open wide the door to abuses which have been all too prevalent for years.

To be specific about this situation, one Eugene C. James, of Chicago, treasurer of the International Laundry Workers Union, embezzled more than $165,000 from his own union, of which he was treasurer. He stole more than $165,000 in the course of 2 years.

Mr. McCARTHY. Mr. President, will the Senator yield to me?

Mr. ALLOTT. I yield.

Mr. McCARTHY. Is it the Senator's opinion that if the bill is passed, it will be much more difficult to embezzle?

Mr. ALLOTT. Let me finish the story. Then the Senator will understand why I oppose the amendment.

This case came before the Senator from Illinois [Mr. DOUGLAS], who is present in the Chamber, and I am sure he will verify the facts. After James was brought before the special committee for the investigation of welfare and pension funds, he went home to Chicago. Even after he had taken the fifth amendment for 2 days, we proved that he had stolen $165,000.

He went home, and somehow or other got his union workers to raise a slush fund of $40,000 for his defense. During the past 6 months, by making some compromise payment to the union upon a supposed debt, he has been reinstated as treasurer of the union.

So I must oppose the Senator's amendment. I think this is a classic example of what would happen if the amendment were adopted.

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

Mr. McCARTHY. I yield.

Mr. DODD. Does the Senator from Minnesota believe that an unfaithful officer of a corporation should be able to call upon the treasury of the corporation to defend him against charges of embezzlement?

Mr. McCARTHY. He may call upon it, but if he is to get the money the directors of the corporation must approve.

Mr. DODD. Does the Senator think it is morally right for an embezzler from a corporation to have corporate funds used to defend him against a charge of embezzlement?

Mr. McCARTHY. My friend is convicting the man before he has been tried.

Mr. DODD. No, I am not.

Mr. McCARTHY. In each case, an alleged embezzler is brought to trial. He is not an embezzler until he has been proved guilty.

Mr. DODD. No; but the point is that he has been accused.

Mr. McCARTHY. That is correct.

Mr. DODD. But should the stockholders be called upon to pay the expenses of his defense?

Mr. McCARTHY. I think under certain circumstances the officers of a corporation might approve of paying the cost of his defense.

Mr. DODD. What circumstances?

Mr. McCARTHY. The officers will be held accountable.

Mr. DODD. What circumstances?

Mr. McCARTHY. Each case is decided on its own merits. What we are concerned with is a general principle of law and procedure.

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

Mr. McCARTHY. I yield.

Mr. MONRONEY. Section 109 of the bill reads as follows:

> SEC. 109. (a) Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or the use of another any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer or by whom he is employed directly or indirectly shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

Do I correctly understand my distinguished colleague and friend to say that the man who embezzles union funds, and who is convicted, should be enabled to put the tab on the poor union members whose funds he has embezzled, in case he can receive a majority vote at a special meeting to provide defense funds? This is a new theory of defending embezzlers in positions of trust.

Mr. McCARTHY. This involves a question of defense. He has not yet been convicted.

Mr. MONRONEY. As I read my distinguished colleagues' amendment, if he were convicted, the costs of his defense could be charged to the dues-paying members, if the union bosses could get a few officers together at a special meeting; and an additional cost of $50,000 might be incurred, besides the loss because of the defalcation or embezzlement of the union funds.

Mr. McCARTHY. The Senator has little confidence in the operation of the proposed law. There will probably be hundreds of cases in which people are likely, by accident, to violate this law, if

enacted. So we should give some thought to clarifying the situation. We say, "You can go into court and take your chances, with no defense from the union. If you are convicted you are out. If you are acquitted we will pay the bill."

Mr. MONRONEY. If the president were to embezzle the funds of a bank and were convicted, the Senator would not expect the stockholders to pay for the defense of the embezzling president, would he?

Mr. McCARTHY. Is there anything in the law which would prevent them from doing it?

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

Mr. McCARTHY. I yield.

Mr. MOSS. Is it not true that we are talking about an individual who has been accused of a crime, whereas the distinguished Senator from Oklahoma is talking about an individual who has already been convicted of crime? An individual who is accused of crime is presumed to be innocent, under our law, until he is proved guilty. That is the point. When he is accused he is entitled to legal counsel, to determine whether or not there is proof that can convict him of the crime. That is fundamental in our whole legal system. An individual who is accused is entitled to counsel. At that point he may turn to the organization he represents to have legal counsel provided for him.

Mr. McCARTHY. I agree with the Senator. We are making it difficult for a man to obtain the funds he may need for his own defense.

Mr. BUTLER. Mr. President, will the Senator yield to me for the purpose of asking for the yeas and nays on his amendment?

Mr. McCARTHY. Yes; I yield for that purpose.

Mr. BUTLER. I ask for the yeas and nays upon the McCarthy amendment.

The yeas and nays were ordered.

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

Mr. McCARTHY. I yield.

Mr. CURTIS. About a year ago, when Jimmy Hoffa was on trial here in the District of Columbia, he brought to Washington teamster goons from all over the country. They assembled in a hotel in Washington, and the hotel bill of those who assembled here as witnesses in his defense ran into thousands of dollars, according to the records of the McClellan committee. The Senator's amendment would legalize the payment of that expense out of the funds of the workers, in the case of the Teamsters' Union.

Mr. McCARTHY. I would hope that the amendment would not be argued on the basis of what Jimmy Hoffa might do with it. There are some very fundamental considerations involved. I am sure Jimmy Hoffa would get enough money to defend himself under any circumstances.

Mr. CURTIS. Would the Senator's amendment legalize such a payment?

Mr. McCARTHY. I would assume that it would not eliminate the possibility of his taking advantage of it. I do not believe, however, that Jimmy Hoffa would not find it necessary to take advantage of the amendment in order to get the money he needs. I am concerned about the officers of small unions who get into trouble by accident. They should get some money for their defense. The issue is clear. If the Senator from Nebraska believes the danger is so great that Hoffa will take advantage of the amendment, he should vote against it. If he thinks that Jimmy Hoffa will run wild with the amendment, he should vote against it.

Mr. CURTIS. Jimmy Hoffa is already running wild. The amendment apparently would legalize it.

Mr. McCARTHY. Not any more than now. If the Senator believes that the weaker, smaller unions do not need this protection, he should vote against the amendment.

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

Mr. McCARTHY. I yield.

Mr. KEATING. Before we vote on the issue, it is desirable to clear up the colloquy with the Senator from Utah. An erroneous impression has been created in one respect. The amendment, as I read it, provides that whether a person wins, loses, or draws, so to speak, the union pays the counsel fees. In other words, if there is a crook in the union, he gets his counsel fees paid out of the pockets of the very union members whom he has defrauded.

Mr. McCARTHY. Not unless the union agrees to it.

Mr. KEATING. Of course. If he gets the governing board to agree to it, he gets his counsel fees paid.

Mr. McCARTHY. In the same manner that an officer of a corporation, if he gets the approval of the board, has his fees paid.

Mr. KEATING. The bill as originally drawn provided, in accordance with the normal practices of Anglo-Saxon jurisprudence, that if the person were acquitted he would get a refund. Under the Senator's amendment, as I understand it, whether or not he is acquitted, if he can get the governing board of the union to approve it, he would get his fees paid by the union, out of the very pockets of the people he had defrauded.

Mr. McCARTHY. The Senator talks about a refund. What refund does he refer to? A refund from whom?

Mr. KEATING. He would be paid the legal expenses by the union, if he could get the governing board to pass a resolution.

Mr. McCARTHY. Yes, if he could get the board to pass a resolution authorizing the payment.

Mr. KEATING. The Senator must assume that that would be the case. Under the bill, if he were acquitted, he would have his legal fees paid to him.

Mr. McCARTHY. Yes.

Mr. KEATING. But here we are dealing with a case of conviction.

Mr. McCARTHY. I understand that.

Mr. KEATING. I am not sure that the Senator from Utah understood it.

Mr. MOSS. How can a man who has been accused of a crime wait until the trial is over to employ an attorney to properly represent him at the trial? He cannot wait until the trial is over and then say, "I will go back and get the money to pay the counsel fees." He must retain an attorney at the time he is accused.

Mr. KEATING. That is the problem of anyone who is accused of crime, whether he is a union officer or anyone else. Either he must pay a lawyer to defend him, or he is provided with defense counsel by the court without cost, if he cannot afford to pay counsel fees.

Mr. MOSS. That is true with respect to a corporation official who is accused of a crime. If he can get the board of directors to approve it, he gets his legal fee paid, so that he may hire someone to represent him.

Mr. KEATING. If a corporation official got the board of directors to approve his defense in a crooked deal, the corporation officials would have a stockholders' suit on their hands for personal liability.

Mr. DODD. Mr. President, do I understand correctly that the McClellan bill of rights amendment provides the right to bring suit on the payment of a fee to defend a union official?

Mr. McCARTHY. My amendment would put it on the same basis which now prevails with respect to corporation officials.

Mr. DODD. I thought the McClellan bill of rights was a pretty good thing, but I am wondering now. Let me ask the Senator a question. I believe it is expected in our society that an unfaithful officer, whether he be a private citizen or an officer of a corporation or of a labor union, or a member of a partnership, or any other man who is charged with crime must defend himself. Why should we make an exception in this case?

Mr. McCARTHY. An exception has been made with respect to corporations.

Mr. DODD. No. I do not believe so. I believe that most corporations insist that the individual must defend himself. My point is that an officer charged with infidelity in business is required to defend himself. It may be a hardship on individuals, but that has been our rule. Why should we change it now? I do not know of any other situation where, as a matter of law, when a person is accused of infidelity to his responsibilities, the financial resources of the corporation or association are provided to defend such person.

Mr. McCARTHY. A corporation can do it.

Mr. DODD. I do not believe that is correct. I think that most corporate officers defend themselves. Most stockholders require that they do it. I believe there is a philosophical basis for so doing. I do not know why we should make an exception in the case of a labor organization.

Mr. McCARTHY. In the first place, the Senator is in error on that point. The situation with respect to union resources is different from that of a corporation.

Mr. KENNEDY. I shall be glad to yield back all but 2 minutes of my time, which I promised to yield to the Senator from South Dakota.

Mr. MUNDT. I thank the Senator. I should like to call to the attention of the

Senate, by way of documentary evidence, what would be legalized and legitimatized by the adoption of the McCarthy amendment. There is the case of Joey Glimco, of Teamsters Local 777, who embezzled $124,000 of union funds. Under the McCarthy amendment it would be legitimate to get his legal fees from the very union from which he embezzled the money.

If the Senate wishes a classic case as to what would happen if the McCarthy amendment were adopted, I call attention to the case of Jimmy James, of the Laundry Workers Union in Chicago, who embezzled $990,000 from the union and then employed a lawyer for $15,000 to defend him on the charge of not paying his income tax. His defense was that, since he had embezzled the money, it was nontaxable income. [Laughter.] The union paid the cost of the lawyer.

If we start enacting legislation of this kind, it seems to me we will have to stop having night sessions, or we will be accused of having moon madness.

Then there was Gerald Conley, of the Teamsters Union, from whom he embezzled $61,000. Shall we authorize the payment of his legal fees from the Teamsters from whom he embezzled the money? We should on a yea-and-nay vote unanimously reject this kind of amendment.

Mr. KENNEDY. Mr. President, I yield 1 minute to the Senator from Nebraska.

Mr. CURTIS. Mr. President, it is entirely possible that, if the amendment is adopted, it will be used as a defense for an unlawful expenditure already made.

Mr. MUNDT. If the amendment is adopted, Jimmy Hoffa will throw his hat so high in the air, it will outsputnik sputnik.

Mr. KENNEDY. Mr. President, I yield myself 20 seconds. I had informed the Senator from Minnesota that this amendment would be acceptable. However, the members of the committee who participated in drafting the language of the bill are concerned about maintaining the amendment in the bill. Therefore, I must reluctantly withdraw my offer to accept the amendment. I understand there will be a yea-and-nay vote anyway.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

All time on the amendment has expired. The question is on agreeing to the amendment, as modified, offered by the Senator from Minnesota [Mr. McCARTHY]. On this question, the yeas and nays have been ordered, and the Clerk will call the roll.

The Chief Clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Minnesota [Mr. HUMPHREY] are absent on official business.

I also announce that the Senator from Nevada [Mr. BIBLE] is absent because of a death in his family.

I further announce that the Senator from Delaware [Mr. FREAR] is absent because of illness.

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Nevada [Mr. BIBLE] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. CARLSON] is absent on official business, and if present and voting would vote "nay."

The Senator from Wisconsin [Mr. WILEY] is necessarily absent, and if present and voting, would vote "nay."

The result was announced—yeas 7, nays 85, as follows:

YEAS—7

Chavez	McCarthy	Moss
Hartke	Morse	Young, Ohio
Hennings		

NAYS—85

Aiken	Goldwater	Monroney
Allott	Gore	Morton
Anderson	Green	Mundt
Bartlett	Gruening	Murray
Beall	Hart	Muskie
Bennett	Hayden	Neuberger
Bridges	Hickenlooper	O'Mahoney
Bush	Hill	Pastore
Butler	Holland	Prouty
Byrd, Va.	Hruska	Proxmire
Byrd, W. Va.	Jackson	Randolph
Cannon	Javits	Robertson
Capehart	Johnson, Tex.	Russell
Carroll	Johnston, S.C.	Saltonstall
Case, N.J.	Jordan	Schoeppel
Case, S. Dak.	Keating	Scott
Church	Kefauver	Smathers
Clark	Kennedy	Smith
Cooper	Kerr	Sparkman
Cotton	Kuchel	Stennis
Curtis	Langer	Symington
Dirksen	Lausche	Talmadge
Dodd	Long	Thurmond
Douglas	McClellan	Williams, N.J.
Dworshak	McGee	Williams, Del.
Eastland	McNamara	Yarborough
Ellender	Magnuson	Young, N. Dak.
Engle	Mansfield	
Ervin	Martin	

NOT VOTING—6

Bible	Frear	Humphrey
Carlson	Fulbright	Wiley

So Mr. McCARTHY's amendment, as modified, was rejected.

Mr. MUNDT. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. WILLIAMS of Delaware. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. KUCHEL. Mr. President, on behalf of myself and a number of my colleagues, the Senator from New Mexico [Mr. ANDERSON], the Senator from Pennsylvania [Mr. CLARK], the Senator from Idaho [Mr. CHURCH], the Senator from Oregon [Mr. NEUBERGER], the Senator from Tennessee [Mr. GORE] the Senator from Kentucky [Mr. COOPER], the Senator from New York [Mr. JAVITS], and the Senator from Vermont [Mr. AIKEN] I submit the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 3, after line 17, it is proposed to strike out all down to and including line 24 on page 6, as amended, and to insert in lieu thereof the following:

TITLE I—BILL OF RIGHTS OF MEMBERS OF LABOR ORGANIZATIONS

SEC. 101. (a) (1) EQUAL RIGHTS.—Every member of a labor organization engaged in an industry affecting commerce shall have equal rights and privileges within such organization to nominate candidates, to vote in union elections or referendums, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) FREEDOM OF SPEECH AND ASSEMBLY.—Every member of any such labor organization shall have the right to meet and assemble freely with other members and to express any views, arguments, or opinions, and to express at union meetings his views, upon candidates in a union election or upon any business properly before the union meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided*, That the foregoing is limited so that nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to refrain from conduct that would interfere with its performance of its legal or contractual obligations.

(3) FREEDOM FROM ARBITRARY FINANCIAL EXACTIONS.—(A) The rates of dues and initiation fees payable by members of any such labor organization in effect on the effective date of this subsection shall not be changed, and no new or additional dues or initiation fees shall be imposed and no special or general assessment shall be levied upon such members, except (i) by a majority vote by secret ballot of the members in good standing present at a general or special meeting, after reasonable notice of the intention to vote upon such question, or (ii) by majority vote of the members in good standing voting in a referendum conducted by secret ballot through the mails, or (iii) in the case of a national or international labor organization, other than a federation of national and international organizations, by majority vote at a regular convention or a special convention held after not less than 30 days' written notice to the principal office of each local or constituent labor organization entitled to such notice.

(4) PROTECTION OF THE RIGHT TO SUE.—No such labor organization shall limit the right of any member or officer thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendents or respondents in such action or proceeding, or the right of any member or officer of such labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided*, That any such member or officer may be required to exhaust reasonable hearing procedures (but not to exceed a six-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof: *And provided further*, That no employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance or petition.

(5) SAFEGUARDS AGAINST IMPROPER DISCIPLINARY ACTION.—No member of any such labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

(6) Any provision of the constitution and bylaws or other governing charter of any labor organization engaged in an industry affecting commerce which is inconsistent with the provisions of this section shall be of no force or effect.

SEC. 102. Any person whose rights secured by the provisions of this title have been infringed may bring an action in a district court of the United States for such relief as may be appropriate. Any such action against a labor organization shall be brought in the United States district court for the district where the alleged violation occurred, or where the headquarters of such labor organization is located.

"SEC. 103. Nothing contained in this title shall limit the rights and remedies of any member of a labor organization under any State or Federal law or before any court or other tribunal.

TITLE II—REPORTING BY LABOR ORGANIZATIONS

SEC. 201. (a) Every labor organization shall file with the Secretary copies of its constitution, bylaws, and any other basic documents having similar effect, together with a report, signed by its president or other chief executive officer and by its secretary or other chief records officer, containing the following information:

(1) The name of the labor organization its mailing address, and any other address at which it maintains headquarters or a principal place of business or at which it keeps the records referred to in this title;

(2) The names and titles of its officers;

(3) The initiation fee or fees required from new or transferred members by the reporting labor organization;

(4) The regular dues or fees required to remain members of the reporting labor organization; and

(5) Detailed statements, or references to specific provisions of documents filed under this subsection which contain such statements, showing the provision made and procedures followed with respect to each of the following: (i) qualifications for or restrictions on membership, (ii) levying of assessments, (iii) participation in insurance or other benefit plans, (iv) authorization for disbursement of union funds, (v) audit of union financial transactions, (vi) the calling of regular and special meetings, (vii) the selection of officers and stewards and of any representatives to other bodies composed of labor organizations' representatives, with a specific statement of the manner in which each officer referred to in clause (2) was elected, appointed, or otherwise selected, (viii) discipline or removal of officers or agents for breaches of their trust, and (ix) imposition of fines, suspensions, and expulsions of members, including the grounds for such action and any provision made for notice, hearing, judgment on the evidence, and appeal procedures.

Any change in the information required by this subsection shall be reported to the Secretary at the time the reporting labor organization files with the Secretary the annual financial report required by subsection (b).

Mr. KUCHEL. Mr. President——

Mr. BRIDGES. Mr. President, a point of order.

The PRESIDING OFFICER (Mr. MONRONEY in the chair). The Senator will state his point of order.

Mr. BRIDGES. Mr. President, this question has been voted on.

The PRESIDING OFFICER. Has the Senator from California yielded time to the Senator from New Hampshire?

Mr. BRIDGES. Mr. President, on a point of order no time needs to be yielded.

Mr. KUCHEL. Mr. President, if there is any question involved, I yield such time as my colleague needs to make his point of order.

Mr. BRIDGES. I do not think time need to be yielded for a point of order.

Mr. BUTLER. Mr. President, I object to the yielding of time. I may want some.

Mr. GOLDWATER. Mr. President, as acting minority leader, I will yield the Senator such time as he may need.

Mr. MUNDT. Mr. President, a parliamentary inquiry.

Mr. GOLDWATER. I will yield time on the bill.

The PRESIDING OFFICER. The Senator from Arizona has yielded time on the bill. It is not subject to the unanimous-consent agreement. The Senator from New Hampshire is recognized for such time as he may need to make his point of order.

Mr. MUNDT. Mr. President, a parliamentary inquiry, so that we may be governed in the future on unanimous-consent concessions.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. MUNDT. Are we to understand that if a unanimous-consent agreement is entered into, the Chair can arbitrarily cut off a Member of the Senate from making a parliamentary inquiry or making a point of order unless the sponsor of an amendment is generous enough to yield some time to him for that purpose? If so, we had better revise the way unanimous-consent agreements are made.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the time reserved on the bill was put under the control of the majority and minority leaders. If Members of the Senate on one side or the other desire to be yielded any of the controlled time, it can be yielded by those in control of the time.

Mr. MUNDT. Do I correctly understand it is the ruling of the Chair that on a parliamentary inquiry or a point of order a Senator is precluded from raising it unless one or the other of the Senators in control of the time makes time available to the Senator making the point or raising the parliamentary inquiry?

The PRESIDING OFFICER. When the time has been fixed under a unanimous-consent agreement, the Chair is bound to hold that the time comes under the unanimous-consent agreement.

Mr. MUNDT. I am not quarreling with the ruling of the Chair, but I put myself on notice to the majority leader that I am not going to grant unanimous consent to limit debate when the Chair can deny freedom of speech to a Senator, and I suggest that hereafter we revise unanimous-consent requests to meet this contingency, or I now file permanent objection to any other unanimous-consent agreements.

The PRESIDING OFFICER. The Senator is within his rights to reserve his objection to unanimous-consent requests.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. I ask the Chair to cite the rule which requires that time must be taken out of time scheduled for debate when a Senator raises a point of order or makes a parliamentary inquiry.

The PRESIDING OFFICER. At the request of the Senator from Arkansas, the clerk will read the unanimous-consent agreement which contains the Parliamentarian's reference to an allocation of time being required to discuss a point of order.

The Chief Clerk read as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That effective on the adoption of this order, during the further consideration of the bill S. 1555, the Labor-Management Reporting and Disclosure Act of 1959, debate on any amendment, and any amendment thereto, or motion, or appeal, except a motion to lay on the table, shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion and the majority leader: *Provided,* That in the event the majority leader is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received except those amendments now pending at the desk.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. BUTLER. Mr. President——

The PRESIDING OFFICER. The parliamentary situation is that the distinguished Senator from California was recognized for 30 minutes for the presentation of the amendment he submitted. The Senator sought to yield time to the distinguished Senator from New Hampshire [Mr. BRIDGES] to discuss the point of order the Senator wishes to raise. Objection was made to that, and then time was yielded from the time on the bill by the acting minority leader, the Senator from Arizona [Mr. GOLDWATER], who yielded time to the distinguished Senator from New Hampshire.

The Parliamentarian advises the present occupant of the chair that had the Senator who was recognized, the Senator from California, yielded back his time, or had he time remaining after presentation of his amendment, then the point of order could properly be raised and could properly be discussed. The Senator from California cannot be taken off the floor in order that another Senator may make a point of order.

Mr. ALLOTT. Mr. President, I raise a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLOTT. The point of order is that under rule XX, paragraph 1 of the Rules of the Senate, it is stated:

A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate.

Then the rule goes on to provide what shall happen when an appeal is taken.

I raise the point of order that two Members of the Senate, the Senator from New Hampshire [Mr. BRIDGES] and the Senator from Arkansas [Mr. MCCLELLAN], have been deprived of the floor without the right to make a point of order under rule XX of the Rules of the Senate.

Mr. President, I will add that a point of order is in order even when a Member is speaking; otherwise, it would not be possible to stop improper procedure.

The PRESIDING OFFICER. A point of order can be made when a Senator concludes his speech.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. The Senator who was recognized did endeavor to yield time, for the point of order to be made.

Mr. BUTLER. I appeal to the Presiding Officer——

The PRESIDING OFFICER. Objection was heard, and then time was yielded by the Senator in control of the time for the minority side. The Senator from New Hampshire has the floor to discuss his point of order, and the Chair thinks he should proceed with that discussion.

Mr. ALLOTT. Mr. President, I raise another point of order. Both points of order, by the Senator from Arkansas——

Mr. JOHNSTON of South Carolina. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from New Hampshire has the floor under the time yielded to him by the acting minority leader. The Senator is prepared to discuss his point of order.

The Chair will say again, in connection with the rule cited, that no Senator can be taken off the floor after having received recognition until he has concluded, unless he is proceeding out of order. There was no point of order made that the Senator was proceeding out of order. The point was that the amendment was not in order.

The Senator from New Hampshire has the floor. The business of the Senate will be expedited if the Senate will permit the distinguished Senator to proceed with his presentation of the point of order.

Mr. KUCHEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KUCHEL. Am I correct in my understanding that the Senator from New Hampshire has the floor for the single and sole purpose of raising a point of order?

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Hampshire has the floor under time yielded to him by the Senator from California.

Mr. KUCHEL. I thank the Chair.

The PRESIDING OFFICER. And then under time on the bill yielded by the acting minority leader.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Which time is the Senator using? [Laughter.]

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire may proceed.

Mr. BRIDGES. Mr. President, the evening before last an amendment offered by the distinguished Senator from Arkansas [Mr. MCCLELLAN] was adopted. The amendment was agreed to by a one-vote margin. Then there was a tie vote when a motion to reconsider was made and a motion made to lay the motion on the table. The tie was broken by the vote cast by the Vice President, and the motion to table was agreed to.

Under the rules of the Senate, when a vote is taken on an amendment and a motion is made to reconsider, which motion is tabled, the same amendment cannot be offered again.

The point of order which I am raising is that the amendment which is offered by the Senator from California [Mr. KUCHEL], for himself and other Senators—which I am rather shocked to see offered—in effect calls for action again on the so-called McClellan amendment, and is therefore a violation of the rules. If it is not, then I should like to have stated specifically how the amendment offered by the Senator from California, for himself and other Senators, differs, point by point, from the amendment offered and agreed to, on which there was a motion to reconsider, which was tabled, which was the amendment of the Senator from Arkansas.

The PRESIDING OFFICER. The Chair will advise the distinguished Senator from New Hampshire that an examination of the amendment of the Senator from California shows there is a vast difference and a vast change from the amendment which was adopted by the Senate the night before last, which was presented by the Senator from Arkansas.

Under Senate practice, when an amendment inserting matter in a bill has been agreed to, a motion is in order to strike out contiguous matter preceding such amendment, the language of the amendment itself, and the language of the bill immediately following such amendment, and in lieu thereof to insert certain other language. If such motion were agreed to, it would eliminate from the bill the language of the amendment previously agreed to. Therefore, the Chair holds that the amendment of the Senator from California and his colleagues would insert new matter, would strike out other matter, and is properly before the Senate.

Mr. BRIDGES. Mr. President, because in my opinion it is in spirit a violation of the intent of the Senate rules, I appeal from the ruling of the Chair.

The PRESIDING OFFICER. The ruling of the Chair has been appealed from.

Mr. BUTLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. No second is necessary. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The Senator from New Hampshire is now recognized for 30 minutes for a discussion of the ruling of the Chair, and his position in opposition to it.

Mr. CASE of South Dakota. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 30 minutes, and may yield such time as he desires.

Mr. BRIDGES. I yield to the Senator from South Dakota.

Mr. CLARK. Mr. President, a point of order. An appeal from the ruling of the Chair is not subject to debate.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

The Senator has yielded time to the Senator from South Dakota.

Mr. BRIDGES. I yield 2 minutes to the Senator from South Dakota.

Mr. CASE of South Dakota. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. CASE of South Dakota. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CASE of South Dakota. The inquiry is this: Is the amendment offered by the Senator from California available in printed form for the Members of the Senate?

The PRESIDING OFFICER. It is available in printed form for the Members of the Senate.

Mr. MUNDT. No.

Mr. CAPEHART. Where is it?

Mr. BUTLER. No. Where is it?

The PRESIDING OFFICER. It is not available in print, but it is available in written form.

Mr. BUTLER. Sanskrit?

Mr. CASE of South Dakota. Mr. President, I wish to make an observation.

The PRESIDING OFFICER. The Senate will be in order. The Chair cannot hear the Senator from South Dakota.

The business of the Senate will be expedited if Members will kindly take their seats and preserve order.

Mr. CASE of South Dakota. Mr. President, I wish to make an observation.

We are called upon to pass upon an appeal from a decision which involves a comparison of the language of a new amendment, which is a long amendment and which has just been read, and which, if available, is available in very limited numbers, with the language of an amendment previously adopted. Each Member of the Senate, on the yea-and-nay vote, will have to register whether in his opinion the amendment really offers new matter, so that it avoids the rule of double consideration of amendment which has been adopted and as to which

a motion to reconsider was laid upon the table. It is practically an impossible situation, because obviously there are not enough copies available for every Member to make a comparison and determine whether or not the matter has been previously acted upon and decided.

Mr. SCOTT and Mr. KUCHEL addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor. To whom does he yield?

Mr. BRIDGES. I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I have just asked for a copy of the amendment and have not received it. I should like to have a copy of the amendment in order to act intelligently upon this question. I have asked one of the pages for a copy, and I was advised that it was not available.

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

Mr. BRIDGES. I yield.

Mr. MUNDT. After the Senator from Pennsylvania has concluded reading his copy, I should like to see it also.

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

The PRESIDING OFFICER. Will Senators seeking permission from the distinguished Senator from New Hampshire to yield please address the Chair so that the Senator from New Hampshire may yield in proper order?

Mr. BUTLER. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Florida?

Mr. BRIDGES. I yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, looking at the clock I see that it is now 10:30 p.m. We started this morning at 10 o'clock a.m. We have been in session for 12½ hours. Among the membership of the Senate are two Senators upon whom it is a terrible imposition to have to remain this late.

I have an amendment to offer, with respect to which I think every Senator has notice. I hope it will be interesting enough to be debated. That will require another hour. I feel that to be called upon first to pass upon an appeal from a ruling of the Chair on a matter about which we know nothing, respecting an amendment which has not been printed, about which most Senators have no knowledge, so that Senators do not know what the Chair has ruled upon, is intolerable. How could we possibly pass intelligently on such a ruling at this late hour without having had the opportunity to see what we are passing upon?

Even if the ruling of the Chair should be upheld, and we should proceed with the discussion of the amendment of the Senator from California, it is debatable. In addition, it is subject to amendment. We have had no opportunity to read it, no opportunity to see whether it should be amended. I think it is an outrageous procedure.

I say to the majority leader that I think he is imposing on the membership of the Senate, both on this side and on the other side, by insisting on the Senate remaining in session under these conditions. [Applause.]

I have supported the majority leader, and I expect to continue to support him when he is reasonable; but when he asks the Senate to remain in session for 12½ hours, and then undertake the solution of questions of this type without warning, without notice, without opportunity to be heard, or to see what we are passing upon, I say that that is not reasonable. [Applause.]

Mr. President, I am not foreclosing what I shall do when voting upon the ruling of the Chair. It may well be that the ruling is correct. If so, and if I think it is at the time I vote, I shall vote to uphold it. If I do not think it is, I shall vote not to uphold it.

But that is not the question at all. We are asked to vote here unintelligently, unknowingly, without any information, without any opportunity to obtain information, and in a situation in which the very lives of some Senators are being endangered. I say that is the most unreasonable procedure we could possibly have, and I, for one, will not sit here and remain silent, in a situation which I think calls out to high heaven for its irresponsibility and unreasonableness.

Mr. JOHNSTON of South Carolina and Mr. KUCHEL addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield; and, if so, to whom?

Mr. BRIDGES. I yield 1 minute to the Senator from South Carolina.

Mr. JOHNSTON of South Carolina. Mr. President every Member of the Senate knows that we are in this situation today because the Senate did not study the amendment properly. If the Senate had, probably the Senators would have caught what was in the amendment referred to.

We are called upon at this late hour to consider an amendment consisting of three typewritten pages. I do not know what is in it, and I doubt whether any other Senator knows what is in it, except possibly the few who drafted the amendment.

That being so, I think it would be advisable for the Senate to adjourn tonight, in order to give us time to study this question and enable us to vote intelligently on it at the next meeting of the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a statement which I have prepared in connection with the pending bill.

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

STATEMENT BY SENATOR JOHNSTON OF SOUTH CAROLINA

Earlier this week I voted against the McClellan amendment to the labor reform bill. I based my opposition to this amendment primarily on the issue of States rights. I, likewise, felt that legislation going too far in penalizing labor would have no chance to pass the Congress and I sincerely want to see labor reform legislation enacted this year. Gangsterism in labor unions and corrupt operation of unions must be halted but we cannot achieve this objective by enacting legislation that will destroy the right of trial by jury and give dictatorial powers to the Secretary of Labor that we do not even give to the Attorney General.

In my opinion, the McClellan amendment contains injunctive procedures which if approved in the labor field will open the door for such procedures in the field of civil rights. The McClellan amendment grants the Secretary of Labor power to obtain through the Federal courts injunctions to restrain anyone violating or threatening to violate the provisions of the bill. It is my opinion that the McClellan amendment contains powers far beyond any civil rights legislation yet proposed and it similarly does not contain a jury trial requirement in cases brought under the act. This amendment effectively enforces integration in social activities of unions and, in my opinion, is the first step to a broad Federal FEPC program which will become a menace to management and industry as a whole as well as to labor.

This entire amendment contains every evil which I have fought against in the Judiciary Committee in the field of civil rights legislation. If the McClellan amendment passes, in my opinion, it will open the door for civil rights legislation more severe than has ever been proposed in the U.S. Senate. The McClellan amendment to this labor bill is much stronger than the so-called Douglas civil rights bill. This bill gives the Secretary of Labor power to force integration of thousands of union locals and certainly would set an example or a pattern for the Attorney General to follow in school cases throughout the Nation.

No one in the U.S. Senate is more anxious to see the enactment of fair legislation to restrain corrupt labor leaders from taking advantage of honest working people and to eliminate racketeering of all kinds from labor unions.

But I will never vote for legislation to do this if this same legislation will set the stage to destroy our school systems in the South and place a direct threat against our local and State school officials and, in my opinion, that is what the McClellan amendment does.

I cannot fight in the Judiciary Committee to kill such legislation in civil rights matters and vote for such matters in the field of labor on the floor of the Senate. This is inconsistency. We fought to kill similar harsh civil rights legislation 2 years ago and won most of that fight partly because of support from labor which feared that such powers would spread into the field of labor.

Now the threat is against labor and we had better not grant such dictatorial power to the Federal Government because it will spread into the civil rights field and threaten every single person, labor or otherwise, in this country.

One must be consistent in the battle for States rights. I cannot be for States rights in civil rights matters alone and be against States rights in labor matters. One must be consistent, for once the dam is broken there is no end to the problem.

Mr. BUTLER. Mr. President, I move——

The PRESIDING OFFICER. The Senator from Maryland will take his seat.

Mr. JOHNSON of Texas. Mr. President, will the Senator from New Hampshire yield?

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the majority leader?

Mr. BRIDGES. I yield for 2 minutes to the majority leader.

Mr. JOHNSON of Texas. Mr. President, first I wish to answer the charges which have been made about no notice having been given to Members of the Senate. Some Members may not have observed the notice, but if they will read

the RECORD, if they were present when the notice was given, they will know that it was the agreement of the leadership that the Senate would remain in session until late in the evening, perhaps as late as 11 o'clock this evening.

That agreement was reached because many Members had speaking engagements on Saturday, and desired to be out of the city. It was hoped that the Senate could complete consideration of the bill this evening; and, until the latest demonstration, I believe most Senators intimately connected with the measure felt that that was possible.

I have no disposition to insist that a vote be taken on final passage of the bill this evening, or that the Senate remain in session any longer than a majority of the Senate desires to have it remain in session.

I spent a few hours during the past week attempting to accommodate the senior Senator from Florida [Mr. HOLLAND] who had a speaking engagement in his State, and who insisted that we attempt to complete action on a certain measure so that he could keep his speaking engagement. I do not think I have ever dealt with a person more impatient or one more insistent than he was upon that occasion.

The Senator from Florida was very much interested in the passage of the Hawaii statehood bill. He had been very active in connection with that bill, and I desired that he have an opportunity to vote on it before he returned to his State. So at his insistence, and with the understanding and tolerance of the distinguished minority leader, we pressed for a vote, and obtained a vote, so that the Senator from Florida could be accommodated.

One Senator told me that it was necessary for him to be in his State tomorrow, and that he would like to remain here as late as 1 o'clock, if necessary, to try to vote on the bill this evening.

I am perfectly willing, if it is the wish of the majority of the Senate, to adjourn tonight, and return here tomorrow. I expect to be here. That would inconvenience several Members who have speaking engagements, but if that is the wish of the majority, I have no desire to impose on any Senator.

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

Mr. BRIDGES. I yield.

Mr. BUTLER. Why must we come back tomorrow? What is the urgency of this particular bill? We should have a day or two to study the proposal which has been placed before the Senate. This is the most important part of the bill. This is the heart of the bill; and yet the majority leader wants us to consider it from 11 o'clock tonight until—what time tomorrow? When does the majority leader wish to have the Senate convene tomorrow?

Mr. JOHNSON of Texas. I would be glad to have the Senate convene at noon tomorrow.

Mr. BUTLER. Will the amendment be printed? Will Senators have it?

Mr. JOHNSON of Texas. Yes; it will be printed.

Mr. BUTLER. What is the hurry about it?

Mr. JOHNSON of Texas. There is no hurry about it. The Senator is in a hurry. I am not in a hurry.

Mr. BUTLER. Let us do this thing right.

Mr. JOHNSON of Texas. I will do it right. Much more time will be consumed in consideration of the Kuchel proposal than was consumed in connection with the original bill-of-rights amendment.

Mr. BUTLER. That is why the time for consideration should be longer.

Mr. JOHNSON of Texas. Action on the original bill-of-rights amendment was somewhat expedited.

Mr. BUTLER. That is perfectly correct. But we should have time to consider this proposal.

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

Mr. JOHNSON of Texas. Mr. President, if the Senator from New Hampshire will yield to me, I shall appreciate it.

Mr. BRIDGES. I yield.

Mr. JOHNSON of Texas. In view of the demonstrations, in view of the lateness of the hour, and in view of the apparent desire of many Members not to vote on the appeal from the decision, and in order to show any Members who may desire to suspend now, that I am perfectly willing to suspend, I should like to move that the Senate adjourn until 12 o'clock noon tomorrow.

Mr. HOLLAND, Mr. KUCHEL, Mr. BUSH, Mr. BUTLER, and other Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield? If so, to whom does he yield?

Mr. BRIDGES. I yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, I appreciate the courtesy and graciousness of the Senator from New Hampshire in yielding to me, and I certainly appreciate the graciousness and courtesy of the Senator from Texas for his willingness to adjourn the Senate until tomorrow, instead of keeping us here after this late hour, under these conditions.

I am certainly glad to express again my gratitude for the kindness of the distinguished majority leader on the occasion which he has mentioned. I am sure I could recite to the Senate a good many occasions on which the Senator from Florida showed kindness to the Senator from Texas. However, I thought that was proper, and I am glad I was able to show those kindnesses. I do not regret any of them or apologize for any of them. I am delighted that the Senator has come back to reason and is now proposing to make a motion to adjourn until tomorrow. I hope he will promptly make such a motion.

Mr. JOHNSON of Texas. The Senator from Texas has never been away from reason. I call attention to the announcement I made on Thursday, April 23, immediately after the Senate met. I said:

> I anticipate that unless action on the pending labor bill is concluded soon, we shall have evening sessions for the remainder of the week, lasting until late in the evening, possibly as late as 11 or 11:30 o'clock.

I said that because several Senators had told me that they needed to be away on Saturday. I was attempting to accommodate them just as I had accommodated the Senator from Florida a few weeks prior thereto, by asking several of our colleagues to stay, so that the Senator could get away the next day.

I should now like to make a motion to adjourn, unless the Senator from New Hampshire wishes us to stay in session a little longer.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield for that purpose?

Mr. BRIDGES. I do not yield for that purpose at this time. I yield 1 minute to the Senator from California [Mr. KUCHEL].

Mr. KUCHEL. I shall have to talk very rapidly. First of all I hope that those who have joined with me in offering the amendment to the bill need not apologize to our colleagues. We were under the assumption that tonight would see a vote on the passage of the bill. What are Senators to do if they cannot find access to a machine which will grind out amendments? This is not the first time this procedure has been resorted to. In complete good faith—if I need to say it—we have submitted a proposal which we thought would clean up what we adopted the other night.

If my colleague will let me do so, I should like to have the amendment printed, as well as the one which has just been read, so that they may be on the desks of our colleagues. In that way we could, in good form, proceed to dispose of the amendments tomorrow.

Mr. BRIDGES. I will yield to the Senator for that purpose.

Mr. BUSH. Mr. President, I should like to have the attention of the majority leader, to ask the majority leader if he would not modify his motion so that the Senate will meet at noon on Monday next.

Mr. JOHNSON of Texas. I hope the Senator will not press his request because we have a supplemental appropriation bill to consider. It is of an emergency nature. We have held it behind the pending bill for more than 3 days now. I have announced that we would have a Saturday session. Senators have made their plans accordingly. I said we would have a Saturday session unless we completed action on the bill today. I have obtained the consent of those in charge of the bill and of the minority leadership to a Saturday session. I obtained that consent earlier in the week.

Mr. BUSH. I believe the Senator will agree with me that the impression has gotten around among Senators that we would continue in session today until we finished consideration of the bill. Consequently, commitments have been made for the weekend. They are commitments of an important nature, not frivolous ones, at least those that I know of. I believe that under the circumstances it would be proper and fair to adjourn until Monday. I therefore ask the majority leader to modify his motion accordingly.

The PRESIDING OFFICER. The parliamentary situation is that the Senator from New Hampshire has refused to yield for the purpose of making a motion

to adjourn. The Senator from New Hampshire has the floor.

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

Mr. BRIDGES. I yield 1 minute to the Senator from Oregon.

Mr. MORSE. I should like the attention of the Senator from Texas for a moment. I should like to say to my majority leader that it is perfectly obvious what the pleasure of the majority of the Senate is at this moment. I may read it wrong, but I believe the majority of the Senate feels that, in view of the work which has been done this week and the hours which have been kept this week, and the fact that many of us need a weekend to get some work done, the reasonable program for us to follow now is to recess until Monday at 10 or 11 o'clock, and to proceed on Monday morning.

I believe it would be a good idea to have that amount of time also for a little relaxation on the part of Senators. We know what is happening here. Tensions have become high. I should like to plead with my majority leader that he modify his motion to recess until Monday at 10 o'clock. I would be willing to predict, if the majority leader did that, it would be to his parliamentary advantage for the rest of the session.

Mr. BRIDGES. As I see it, the amendment which has been offered is nothing but a subterfuge to get away from the McClellan amendment which was adopted and on which a motion to reconsider was tabled.

I am amazed that it should be offered. I thought we had acted in good faith. So far as I am concerned, I have stated the reasons for my position, and certainly the reasons of many of the Senators who feel the same way. I stand on the appeal from the ruling of the Chair. I am willing to yield now for the purpose of making a motion to adjourn.

Mr. BUTLER. Mr. President, will the Senator *yield*?

Mr. BRIDGES. I yield.

Mr. BUTLER. I move that the Senate recess until Monday at noon.

Mr. HOLLAND. I hope the distinguished Senator——

The PRESIDING OFFICER. The Chair wishes to know whether the Senator from New Hampshire yielded to the Senator from Maryland for the purpose of making a motion to recess.

Mr. BUTLER. Mr. President, I withdraw the motion.

The PRESIDING OFFICER. The Chair would like, in the interest of orderly procedure, to read from Senate Procedure at page 267, because so many questions have arisen and so many points of order have been made. The Chair will read as follows:

INTERRUPTION OF SENATOR WHO HAS THE FLOOR IS NOT ALLOWED, EXCEPT BY HIS CONSENT

Permission to interrupt a Senator who is in possession of the floor must be acquired through the Chair, by addressing him and inquiring if the Senator will yield.[185]

A Senator in debate should address the Presiding Officer first, and not the individual Member of the Senate.[186]

A Senator in possession of the floor, or who has been recognized does not have to yield or may not be interrupted against his will in the middle of a speech or without his consent,[187] unless he is called to order under rule XIX; [188] no other Senator has a right to question him or to make remarks against his will during the course of his speech; [189] and it is the duty of the Chair to enforce the rule on his own initiative.[190]

Under rule XXXV, relative to a session with closed doors, a Senator may move to close the doors of the Senate for a discussion of business which may, in his opinion, require secrecy, over the objection of the Senator in possession of the floor.[191]

A Senator who has the floor may not be interrupted or taken off the floor without his consent for the purpose of (1) taking an appeal from a ruling by the Chair; [192] (2) suggesting the absence of a quorum; [193] (3) introducing a bill; [194] (4) presenting a conference report; [195] (5) transacting business; [196] (6) submitting a committee report; [197] (7) making a motion for an executive session; [198] (8) acting on a message from the President or the House of Representatives; [199] (9) introducing a matter of morning business; [200] (10) making a parliamentary inquiry; [201] (11) raising a question of personal privilege; [202] (12) presenting a petition to the Senate; [203] (13) considering a privileged matter; [204] (14) making a point of order; [205] (15) introducing a resolution or other matter; [206] (16) making a motion to lay a pending motion on the table; [207] (17) or laying a veto message before the Senate.[208]

The Senator from New Hampshire has the floor.

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

Mr. BRIDGES. I yield.

Mr. MUNDT. I think that was a very informative and useful presentation the Presiding Officer has made.

Mr. COTTON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MUNDT. I might suggest that a sequel could be added in the RECORD, because on Monday, or whenever it is the intention of the majority leader that we meet, we will have to vote on this important point of order. As one Member of the Senate, I have watched the so-called clincher motion year after year. A motion to reconsider a vote is made and then a motion is made to lay that motion on the table. That usually spells finis to the matter. Now we find it was all an idle gesture.

If I understand the tentative ruling of the Chair, it now means that all that is accomplished after a motion is made to reconsider and a motion is made to lay that motion on the table is that, instead of substituting language for that particular amendment, it is necessary to knock out a sentence or two before the amendment and a sentence or two after the amendment, and then it is possible to continue ad infinitum, ad nauseam. If that is correct, it is correct; I do not know.

But I think it would be useful to the Senate if, by unanimous consent, the Presiding Officer of the Senate followed the announcement he made about Members addressing the Senate directly without addressing the Chair, by including at this point in the RECORD, so that we can study it between now and Monday, back-

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[185] June 9, 1914, 63-2, RECORD, pp. 10044-45; July 26, 1947, 80-1, RECORD, p. 10371; July 21, 1941, 77-1, RECORD, p. 6170; Mar. 3, 1949, 81-1, RECORD, pp. 1795-96.

[186] July 21, 1941, 77-1, RECORD, p. 6170; Mar. 3, 1949, 81-1, RECORD, pp. 1795-96.

[187] July 26, 1947, 80-1, RECORD, p. 10371; Mar. 28, 1949, 81-1, RECORD, p. 3274; Apr. 4, 1949, 81-1, RECORD, pp. 3781-82; June 9, 1914, 63-2, RECORD, pp. 10044-45; Feb. 22, 1913, 62-3, RECORD, p. 3662.

[188] Jan. 25, 1938, 75-3, RECORD, pp. 1056-57; July 26, 1947, 80-1, RECORD, pp. 10405-06.

[189] May 19, 1950, 81-2, RECORD, p. 7301.

[190] Aug. 6, 1937, 75-1, RECORD, p. 8358.

[191] Feb. 6, 1903, 57-2, RECORD, p. 1780; Jan. 15, 1912, 62-2, Journal, p. 79, RECORD, pp. 942, 943; Feb. 6, 1917, 64-2, RECORD, p. 2667.

[192] Feb. 22, 1923, 67-4, RECORD, p. 4254.

[193] *See* "Yield for Suggestions of Absence of Quorum," pp. 459-460; Jan. 26, 1921, 66-3, RECORD, p. 2070; July 24, 1947, 80-1, RECORD, pp. 9994, 9996-97, 10000; Mar 3, 1931, 71-3, RECORD, p. 7133; Aug. 14, 1914, 63-2, RECORD, pp. 13727-28; Mar. 22, 1922, 67-2, RECORD, p. 4226; June 5, 1920, 66-2, RECORD, p. 8637; June 6, 1913, 63-1, RECORD, p. 1907; July 16, 1897, 55-1, RECORD, p. 2632.

[194] Aug. 18, 1914, 63-2, RECORD, p. 13902.

[195] Mar. 21, 1950, 81-2, RECORD, p. 3705.

[196] Feb. 28, 1949, 81-1, RECORD, pp. 1585-86; July 6, 1917, 65-1, RECORD, p. 4718.

[197] May 4, 1917, 65-1, RECORD, p. 1782; July 6, 1917, 65-1, RECORD, p. 4718; Aug. 18, 1914, 63-2, RECORD, p. 13902.

[198] July 15, 1921, 67-1, Journal, p. 197, RECORD, pp. 3875-80.

[199] July 13, 1937, 75-1, Journal, p. 411, RECORD, pp. 7109-12.

[200] Dec. 15, 1908, 60-2, RECORD, p. 271.

[201] Mar. 29, 1950, 81-2, RECORD, p. 4300; Mar. 30, 1950, 81-2, RECORD, pp. 4364-65; Dec. 19, 1910, 61-3, RECORD, p. 485; July 27, 1914, 63-2, RECORD, p. 12793; Feb. 22, 1923, 67-4, RECORD, p. 4254; July 24, 1947, 80-1, RECORD, pp. 1007, 10128-29; July 24, 1947, 80-1, RECORD, pp. 9994, 9996-97, 10000; June 18, 1948, 80-2, RECORD, p. 8822; June 19, 1948, 80-2, RECORD, pp. 8966-67; Feb. 28, 1949, 81-1, RECORD, pp. 1585-86; Mar. 28, 1949, 81-1, RECORD, p. 3274; Apr. 4, 1949, 81-1 RECORD, pp. 3781-82; Oct. 13, 1949, 81-1, RECORD, pp. 14403-04; *see also* Dec. 16, 1937, 75-2, RECORD, p. 1612; Mar. 13, 1945, 79-1, RECORD, p. 2107.

[202] Mar. 13, 1933, 73-1, RECORD, p. 267; Sept. 21, 1922, 67-2, RECORD, p. 13079; Feb. 17, 1915, 63-3, RECORD, pp. 3941, 3942; Apr. 16, 1940, 76-3, RECORD, pp. 4575, 4577; Mar. 14, 1940, 76-3, RECORD, p. 6061; Mar. 27, 1947, 80-1, RECORD, p. 2702; June 19, 1948, 80-2, RECORD, pp. 8966, 8968; Oct. 13, 1949, 81-1, RECORD, pp. 14412-13; July 5, 1952, 82-2, RECORD, p. 9540; June 12, 1952, 82-2, RECORD, p. 7090; June 3, 1953, 83-1, RECORD, p. 5957.

[203] July 13, 1921, 67-1, RECORD, p. 3654; Aug. 24, 1921, 67-1, RECORD, p. 5603; Aug. 6, 1937, 75-1, RECORD, p. 8358.

[204] Dec. 8, 1942, 77-2, RECORD, pp. 9387-88.

[205] June 5, 1934, 73-2, RECORD, p. 10479; Apr. 27, 1935, 74-1, RECORD, p. 6500; Feb. 22, 1913, 62-3, RECORD, p. 3662; May 19, 1914, 63-2, RECORD, p. 8828; Apr. 2, 1926, 69-1, Journal, p. 277; Apr. 2, 1937, 75-1, RECORD, p. 3065; Jan. 23, 1946, 79-2, RECORD, p. 234; July 24, 1947, 80-1, RECORD, pp. 9994, 9996-7, 10000; July 24, 1947, 80-1, RECORD, pp. 10007, 10128-29; July 26, 1947, 80-1, RECORD, pp. 10405-06; June 19, 1948, 80-2, RECORD, pp. 8966-67; Feb. 28, 1949, 81-1, RECORD, pp. 1585-86; Mar. 12, 1949, 81-1, RECORD, pp. 2350-51; Apr. 4, 1949, 81-1, RECORD, p. 3782; Apr. 5, 1949, 81-1, RECORD, p. 3875; Apr. 21, 1949, 81-1, RECORD, p. 4889; Oct. 13, 1949, 81-1, RECORD, pp. 14403; *see also* Dec. 16, 1937, 75-2, RECORD, p. 1612; Mar. 13, 1945, 79-1, RECORD, p. 2107; July 27, 1914, 63-2, RECORD, p. 12793.

[206] Dec. 27, 1920, 66-3, RECORD, p. 742.

[207] Sept. 18, 1914, 63-2, RECORD, p. 15258; June 12, 1935, 74-1, Journal, p. 435, RECORD, p. 9186.

[208] May 22, 1935, 74-1, RECORD, p. 7979.

ground documents and precedents which tend to substantiate and buttress the ruling of the Chair. Then we can vote intelligently on this question when it comes before us on Monday. Certainly, as one Senator, I must find that this is a device for getting around what I thought was a clincher motion.

I wonder if the Chair, with the assistance of the Parliamentarians, will undertake to place in the RECORD at this point something which will dilate further upon the reasons for the Chair's ruling.

The PRESIDING OFFICER. The footnotes which the Chair has cited will take care of the justification and the precedents on the order of business. The ruling of the Chair, made with the advice of the Parliamentarian, is subject to the will of the Senate, as the Senator from South Dakota well knows.

The Senator from New Hampshire [Mr. BRIDGES] has held the floor for several minutes for the purpose of discussing why the Senate should overturn the ruling of the Chair. That can be done in an expeditious way, if the Senate wishes to work its will.

Mr. MUNDT. That is very true; but, speaking for myself before voting on whether to overturn the ruling of the Chair, I should like to have in the RECORD some of the precedents and previous decisions dealing with this point. This is certainly not the first time this question has arisen in the Senate. If, indeed, this is an escape hatch from the clincher motion, it is something of which we should all be made aware. If it can be done with respect to this item, it can be followed next week on another motion, and the week after that on another motion. It seems to me we run the risk of following a dilatory tactic which I had assumed the clincher motion was designed to eliminate.

Mr. JOHNSON of Texas. If the Senate wishes to remain in session, I am willing to have it proceed to consider the appeal from the ruling of the Chair and the amendment offered by the Senator from California. But if Senators are tired and want to go home, I am prepared to carry out the plan which the minority leader and majority leader agreed upon early in the week, which was to have the Senate stay in session as late as 11 or 11:30 tonight and then to have a Saturday session, unless action on the bill was completed.

If the Senator from New Hampshire will yield for this purpose, I am prepared to move that the Senate adjourn.

Mr. MUNDT. Mr. President, I believe the Senator from New Hampshire had yielded to me.

Mr. JOHNSON of Texas. Then I am not responsible for keeping the Senate in session. I have been prepared to move that the Senate adjourn. If the Senator from New Hampshire will yield for that purpose, I am prepared to move that the Senate adjourn.

I anticipate this action for what it is. I think some Senators do not want to vote on the motion which has been made. I am prepared to have the Senate vote on it tomorrow after an hour's debate. But I do not want it said that the leadership is keeping the Senate in session if the Senator from New Hampshire will not yield for a motion to adjourn.

Mr. MUNDT. Mr. President, would it be possible for me to get a response from the Chair as to whether we can be provided with a documentation of the Chair's ruling before we vote on the question at the next session?

The PRESIDING OFFICER. The Chair advises the Senator from South Dakota that the decision of the Chair that the amendment included new matter and, in its consideration, would strike out contiguous matter previously passed on is the ruling of the Chair. The Senate has the right to overturn that ruling by a majority vote. Whether to attempt to collect the precedents which would apply to the question whether the changes proposed by the amendment affect an amendment previously adopted, or embrace a considerable amount of new matter, is a matter of discretion and determination on the part of the Chair or by individual Members of the Senate. To plow through years of precedents and to make a study of the yellowed pages of past amendments would require far more time than the majority leader is willing to provide for any adjournment or recess of the Senate.

For these reasons, the Chair advises the Senator from South Dakota that he may make any challenge he wishes to the ruling of the Chair; but the ruling of the Chair, unless it is disagreed to by the Senate, will stand.

Mr. BRIDGES. I myself would like to vote on the appeal from the ruling of the Chair tonight; but I am perfectly willing to yield to the majority leader, if we can have the Senate adjourn until Monday—at any time on Monday—for I think we would be in no better position to vote tomorrow than we are tonight.

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

Mr. BRIDGES. I yield.

Mr. LAUSCHE. In order to vote intelligently upon the appeal to the membership, it is necessary to compare the amendment offered by the Senator from California with the language of the amendment which was voted upon and adopted, and reconsideration denied. I think it is a confession on the part of each one of us that we would be voting without intelligence, if we tried to vote without having both documents before us for comparison.

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

Mr. BRIDGES. I yield.

Mr. MANSFIELD. I do not agree with the statement of the distinguished Senator from Ohio. This is a procedural matter. The Chair, representing the entire Senate, has rendered a decision. We do not have to know what the amendment before us is or how it differs from the original McClellan amendment. What we are testing is the honesty and character of the occupant of the Chair, no matter who he may be.

SEVERAL SENATORS. No, no.

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

Mr. BRIDGES. I yield.

Mr. CHAVEZ. I voted for the McClellan amendment in good faith. I am proud of the vote I cast. I do not feel now that simply because three or four Senators have got together and all of a sudden want to modify the amendment, I should change my opinion. I do not want to change my opinion. I know that I voted correctly because of the telegrams I have received which have been complaining about my vote. [Laughter.] I for one have not changed my mind.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

PETITIONS

Petitions, etc., were presented, and referred, as indicated:

THE WITHHOLDING TAX AND INFLATION—PETITION

Mr. LANGER. Mr. President, I present, for appropriate reference, a paper in the nature of a petition, signed by O. J. Lokken, of Walcott, N. Dak., relating to the withholding tax and inflation. I ask unanimous consent that the petition be printed in the RECORD.

There being no objection, the petition was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

A NON-PROFESSIONAL DIAGNOSIS

I sat in a barbershop waiting my turn. Pearl Harbor was history and Congress was wrestling with the problem of obtaining increased revenues to finance the ensuing fracas. Up spoke another man who was also waiting his turn in the shop: "Let them levy all the taxes they please. They can not collect from me. I spend as fast as I make it." But Congress was wise to him and levied a withholding tax. The man who boasted that he spent the money as fast as he made it, found that he did not get it to spend. The tax was deducted from his pay check before he got the check.

But the spender merely bided his time. VJ day came and with it a lessening of the importance of sacrifice which is the essence of patriotism. And now came a clamor for take-home-pay which, when granted, nullified the withholding provision. To get the same take-home-pay as he had before the enactment of the withholding provision he would have to be granted an increase in pay to offset the amount withheld. As the amount withheld was to pay a tax, the effect would be either to cancel the tax or pass it on to some other taxpayer. The latter was the result. But the one on to whom the tax was passed in the form of higher wages paid or higher prices paid for goods, was in no mood or position to absorb the taxes passed on to him. He passed them on to somebody else and he, in turn, to somebody else. And the flood of inflation which had been growing since the cheapening of the dollar by the New Deal became an avalanche no man can stop. What destruction will follow in its wake no one knows. The outlook is, indeed, a dreary one.

RESOLUTIONS OF ORGANIZATIONS OF NORTH DAKOTA

Mr. LANGER. Mr. President, I present, for appropriate reference, resolutions adopted by organizations in the

State of North Dakota. I ask unanimous consent that the resolutions be printed in the RECORD.

There being no objection, the resolutions were received, appropriately referred, and ordered to be printed in the RECORD, as follows:

To the Committee on Agriculture and Forestry:

"RESOLUTION OF SHEYENNE VALLEY ELECTRIC COOPERATIVE, INC., FINLEY, N. DAK.

"Whereas our rural electrification cooperative has conformed to the area coverage mandate of the Rural Electrification Act; and

"Whereas our area is sparsely settled, having a density of 1.1 member per mile of line; and

"Whereas the Federal Government, through the Rural Electrification Administration, made available funds at 2 percent interest, recognizing the necessity for ample finances at a reasonable rate; and

"Whereas without such consideration from the Rural Electrification Administration as set forth in the original act, our cooperative cannot continue serving its members at the present energy rates; and

"Whereas any change in the interest rates as it applies to future funds for rural electrification expansion would, in our opinion, become extremely injurious to our rural electrification cooperative; and

"Whereas the present controversial interest subject is being engendered by those who are not concerned with balancing the Nation's budget, but by those who are determined one way or another to eliminate the rural electrification cooperatives as a competitor in the electric energy market: Now, therefore, be it

"Resolved, That the board of directors of the Sheyenne Valley Electric Cooperative at this meeting dated March 30, 1959, respectfully urge all 98 U.S. Senators to vigorously oppose any proposition or plan designed to increase the interest rates to the rural electrification cooperatives and/or any plan designed to subject the cooperatives to private finance, which would mean increased money costs.

"SHEYENNE VALLEY ELECTRIC CO-OP.,
"JULIUS ANDERSON, *President.*"

To the Committee on Armed Services:

"RESOLUTION ON ATOMIC TESTING

"Whereas after years of censorship the Government has recently admitted the evils of nuclear weapons testing; and

"Whereas the radioactive particles are falling to earth much faster than anticipated, thus polluting the Nation's milk supply and feed crops; and

"Whereas 9,000 scientists have testified as to the dangerous effects of atomic radiation on human beings and animals in the form of strontium 90 and carbon 14; and

"Whereas there is as yet no protection against all the perils, known and unknown, of atomic fallout; and

"Whereas no government has the moral right to expose its citizens to the cancer potential in strontium 90 or the mutations, defective offspring and birth monsters resulting from carbon 14 in radioactive fallout:

"Therefore we, the members of the Golden Grain Local of the Farmers Union of Bergen, N. Dak., in meeting Saturday evening, April 4, 1959, do hereby strongly urge our Congressmen to do all in their power to put an immediate ban on further A- and H-bomb explosions.

"FRANCIS HOLTE,
"President.
"MRS. WALDEMAR ZABACK,
"Secretary-Treasurer.
"WILLIAM MOXNESS,
"Legislative Director."

To the Joint Committee on Atomic Energy:

"RESOLUTION OF SHEYENNE VALLEY ELECTRIC COOPERATIVE, INC., FINLEY, N. DAK.

"Whereas the expansion of our economy to meet our growing population is dependent upon an abundance of low cost electric energy, and

"Whereas the early maximum development and production of small atomic energy reactor plants, together with large atomic energy reactor plants, will bring about an additional source of cheap energy, and

"Whereas America as a Nation, must compete for that No. 1 position in world leadership through an ever growing economy, and

"Whereas other countries are seeking to reach that No. 1 position through the development and mass production of these reactor plants, and

"Whereas several nations are now already even with and, in some instances, ahead of our country even though America was first to develop the use of the atom: Now, therefore, be it

"Resolved, That the board of directors of the Sheyenne Valley Electric Cooperative at this meeting dated March 30, 1959, respectfully urge all 98 United States Senators to support Senate bill 683; and be it further

"Resolved, That all 98 U.S. Senators use their influence and prestige to encourage mass development of atomic energy for peaceful purposes.

"SHEYENNE VALLEY ELECTRIC CO-OP.,
"JULIUS ANDERSON, *President.*"

GTA DAILY RADIO ROUNDUP

Mr. LANGER. Mr. President, I present, for appropriate reference, the GTA Daily Radio Roundup, prepared by the GTA Public Relations Department, St. Paul, Minn., of Tuesday, April 21, 1959. I ask unanimous consent that the Roundup be printed in the RECORD.

There being no objection, the Roundup was referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

There is an investigation afoot in Washington that may reveal some rather sordid dealings in surplus farm commodities. It comes on the heels of Representative JAMIE WHITTEN's demand for a raking over of Secretary of Agriculture Benson's administration of the farm agency.

A Government Operations Subcommittee of the House of Representatives has launched a long-range probe because stories have been leaking out from various sources that big windfall profits are being made by food processors on such things as sales of surplus dried milk.

The way one newspaper describes it—the Springfield (Mo.) Leader and Press—"Some sharp dealers are cashing in at the expense of both farmers and taxpayers."

House investigators, the newspaper reveals, "have turned up the fact that private traders have been reaping a lucrative harvest in purchasing surplus farm products from the Commodity Credit Corporation and immediately disposing of them to the International Cooperative Administration."

The ICA, incidentally, was established after World War II to help handle aid and foodstuffs overseas.

In one case cited by James R. Naughton, counsel for the House Governmental Operations Subcommittee, "Private traders bought 5 billion pounds of dried milk from the CCC for 9.9 cents a pound and immediately sold that same dried milk to the ICA for 11.9 cents a pound."

That was a neat $100,000 profit on a single deal that involved little more than signing the checks and the contracts.

The milk case was cited by Naughton as just one example. But are there more like it? And how many?

The recent dried milk deal reminds many farmers of a similar fantastic episode several years ago. At that time Agriculture Secretary Benson had been hinting at reducing dairy supports. Several days before the price support cut, a number of big cheese and dairy processors unloaded millions of pounds on Uncle Sam at the prevailing price. A few days later, after the price support was cut, they bought back the same cheese at the new and lower price. The cheese never left the warehouses.

Later, when the deal came out in the open, the Federal Government sued and made partial recovery. National Dairy Products Co. alone was compelled to repay more than $400 million.

"The saddest part of this sad situation," comments the Missouri newspaper, is that in all cases, "the costs are charged to the farm program."

So now Congress is probing Secretary Benson's administration of the surplus program to find out what's been happening since the big cheese deal came off several years ago.

And certainly, the public, including farmers, is entitled to know if it is not getting the best possible return on dollars invested in food and fiber stocks. We'll keep you posted on results of this new investigation through this radio program, sponsored by the farmers who own and operate GTA the co-op way.

RESOLUTION OF THE ORDER SONS OF ITALY IN AMERICA

Mr. WILLIAMS of Delaware. Mr. President, recently the Order Sons of Italy in America adopted a resolution expressing their views on immigration. I ask unanimous consent that the resolution may be printed in the RECORD and appropriately referred.

There being no objection, the resolution was referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Whereas thousands of Americans, in accordance with the terms and provisions of existing laws on immigration dealing with fourth preference cases, have filed appropriate petitions for their brothers, sisters, sons, or daughters residing in foreign nations, and

Whereas fourth preference visas can be issued only when deficiencies occur in the first, second or third preference which are allotted 100 percent of the quota, a rare and unlikely occurrence in counties with low quota numbers such as Italy (5645), and

Whereas the accumulated backlog over a 10-year period now numbers approximately 80,000 petitions, causing an uneasy international situation with national repercussions in many countries, including the United States, and

Whereas Public Law 85-316 permits the reuniting of certain relatives under the conditions as therein stated: Therefore, be it

Resolved by the executive committee of the Supreme Council, Order Sons of Italy in America, at Toronto, Canada, this 4th day of April, A.D. 1959, That we respectfully request the Senate and the House of Representatives of the United States to amend the provisions of existing law or adopt new legislation, which shall include fourth preference quota cases in the same classification as first, second, and third preference quota cases, thus permitting these applicants to enter the United States at an early date and reestablish family units which have been separated for long periods of time through no fault of their own; be it further

Resolved, That copies of this resolution be forwarded to: The President of the United States; the President of the U.S. Senate; the Speaker of the House of Representatives of the United States; the Secretary of State of the United States; the chairmen of the Immigration Committees in the Congress of the United States; the majority and minority leaders in both Houses of Congress; the Director of the Immigration Bureau; each of the grand venerables throughout the United States with instructions that the Senate legislatures of the several States be contacted and urged to adopt similar resolutions to be forwarded as herein stated.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959—AMENDMENTS

Mr. KUCHEL (for himself, Mr. ANDERSON, Mr. CLARK, Mr. CHURCH, Mr. NEUBERGER, Mr. GORE, Mr. COOPER, Mr. JAVITS, and Mr. AIKEN) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 1555) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. THURMOND submitted an amendment, intended to be proposed by him, to Senate bill 1555, supra, which was ordered to lie on the table and to be printed.

Mr. MOSS submitted an amendment, intended to be proposed by him, to Senate bill 1555, supra, which was ordered to lie on the table and to be printed.

Mr. SMATHERS submitted an amendment, intended to be proposed by him, to Senate bill 1555, supra, which was ordered to lie on the table and to be printed.

COST OF PAYING UNGRADED CIVILIAN EMPLOYEES IN NAVY DEPARTMENT

Mr. BYRD of Virginia. Mr. President, the Comptroller General of the United States on April 15, 1959, filed with the Congress a report showing that it costs the Navy Department $2 million a year to pay its ungraded civilian employees by the week instead of conforming with the standard Federal biweekly pay period.

I hope the Appropriations Committees and the Armed Services Committees of the House and Senate will take cognizance of this report by the Comptroller General and act to eliminate this nonessential $2 million annual expenditure.

I ask unanimous consent that the attached statement by me on this subject be included in the body of the RECORD as part of my remarks.

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

STATEMENT BY SENATOR BYRD OF VIRGINIA

I am advised that it costs the Navy Department $2 million a year to pay its ungraded civilian employees by the week instead of conforming with the standard Federal biweekly pay period.

This nonessential Federal expenditure for payroll paper-pushing was reported to the Joint Committee on Reduction of Nonessential Federal Expenditures by the Comptroller General of the United States.

The report was in response to a standing request for notification of unnecessary expenses incident to Federal payrolls developed in the course of the Comptroller General's audits.

In his letter covering the report Comptroller General Joseph Campbell said:

"Contrary to the practice followed by most other departments of the Government, the Navy is incurring unnecessary annual costs estimated to be $2 million to pay on a weekly basis their civilian employees occupying ungraded positions."

The report said "preparing weekly payrolls for more than 200,000 civilian employees * * * considerably increases the cost of payroll preparation and creates an unnecessary burden on payroll departments."

The Comptroller General cited a 1955 report initiated by the Navy itself to show that shifting to a biweekly pay period "would result in considerable savings in manpower, materials, and electronic data processing machine time."

The Navy attempted to justify its practice with the contentions that it is the prevailing practice of private industry in certain areas to pay blue-collar workers by the week; and that to "change to a biweekly pay system would have a profound effect upon our employees' morale."

The Navy's contentions did not impress the Comptroller General. He said other departments and agencies of the Government pay on a biweekly basis; and that the Army and Air Force Departments, employing workers on similar work in the same areas, made the change with no significant difficulty.

The Navy challenged the Comptroller General's estimates of savings, but the Comptroller General cited again the Navy's own study, along with recommendations by "several large naval installations" as the basis for his $2 million figure.

There are some people in the Federal Government who would regard $2 million as less than "chicken feed." I leave the importance of such savings to the judgment of most of the American taxpayers who checked in with their internal revenue collectors April 15.

I congratulate the Comptroller General on his vigilance, and I hope the Navy and all other elements of the Federal Government may find increasing reason to consider the morale of taxpayers who are called upon to meet Federal payrolls and all the rest of $80 billion annual expenditure budgets.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. JOHNSON of Texas. Mr. President, I move that the Senate adjourn until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 10 o'clock and 59 minutes p.m.) the Senate adjourned until tomorrow, Saturday, April 25, 1959, at 11 o'clock a.m.

EXTENSIONS OF REMARKS

The Moscow Fair—U.S. Exhibit on the Role of Religion in American Life

EXTENSION OF REMARKS

OF

HON. THOMAS J. DODD

OF CONNECTICUT

IN THE SENATE OF THE UNITED STATES

Friday, April 24, 1959

Mr. DODD. Mr. President, on April 10, I wrote to George V. Allen, Director of the U.S. Information Agency, and urged that an exhibit depicting the role of religion in American life be included in the forthcoming American exhibit at the Moscow Fair.

I have since received from Mr. Allen assurances that such an exhibit will be included.

I wrote further to Mr. Allen and suggested that the National Conference of Christians and Jews be assigned the task of planning the exhibit, in order that we may be assured that this religious exhibit will be truly representative of America's great religious groups.

Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD my correspondence with Mr. Allen; an editorial from the New Haven Register of April 19, 1959; and an editorial from the Bridgeport Post of April 20, 1959.

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

Mr. GEORGE V. ALLEN,
Director, U.S. Information Agency,
Washington, D.C.

DEAR MR. ALLEN: It has been brought to my attention by visitors to the Brussels Fair that there was not a single display of a religious nature in the American exhibit.

It is incomprehensible to me that an American exhibit designed to portray the various aspects of American life should neglect one of its principal elements, the role of religion.

Millions of visitors from all over the world went through the American exhibit. We missed a wonderful opportunity to demonstrate to these people the importance of religion in the development of our history, and its great influence on contemporary American affairs.

Many of the early colonists of our continent came here in quest of religious freedom. Many of our first settlements were essentially religious settlements.

Throughout our history our great state documents, such as the Declaration of Independence, Washington's Farewell Address, and Lincoln's Second Inaugural, have been expressions of basic moral principles.

Therefore, I consider it inexcusable that any exhibit purporting to be representative of American life should fail to depict its most important aspect.

The next exposition of this kind will be at the Moscow Fair. Our mistakes at the Brussels Fair must not be repeated. The State Department should see to it that the

American display at the Moscow Fair contains a religious exhibit indicative of the fundamental place of religion in American society.

With best wishes.

Sincerely yours,

THOMAS J. DODD.

APRIL 20, 1959.

The Honorable GEORGE V. ALLEN,
Director, U.S. Information Agency,
Washington, D.C.

DEAR MR. ALLEN: On April 10, 1959, I wrote to you urging that an exhibit of a religious nature be included in the forthcoming American exposition in Moscow.

I suggested this because our religions have played such an important role in American history, and their influence on contemporary affairs is so great, that no exhibition which purports to be representative of American life would be complete without a religious demonstration.

I realize that many difficulties will be encountered in preparing an exhibit that seeks to do justice to America's many religious denominations, and their historical contribution to our Nation.

Therefore, I recommend that the National Conference of Christians and Jews be given jurisdiction over planning the contents of this proposed exhibit.

I think this would assure a devout tone, an historical accuracy, and a proper balance that would be agreeable to our Nation's various religious groups.

Sincerely yours,

THOMAS J. DODD.

[From the New Haven Register, Apr. 19, 1959]

A RELIGIOUS NOTE IN OUR MOSCOW SHOW?

Connecticut's Senator DODD has urged the State Department to make plans for a religious exhibit at the Moscow Fair this year. Such a display, stressing the fundamental place of religion in American society, would—he feels—have an important role in defining the origins and the roots of the sort of freedom for which the United States stands.

This is a stimulating proposal.

Certainly one of the fundamental differences between our views and those of the Communist leaders springs from the Kremlin's denial of God, its denial of religion, and its attempted substitution of a totalitarian party ethic for the established beliefs of so many people in so many parts of the world that are now under its control.

"It is incomprehensible to me that an American exhibit designed to portray the various aspects of American life should neglect one of its principal elements, the role of religion," says Senator DODD. And he points out that such an element was neglected in the U.S. show at last year's Brussels World Fair.

"Many of the early colonists of our continent came here in quest of religious freedom. Many of our first settlements were essentially religious settlements. Throughout our history our great State documents, such as the Declaration of Independence, Washington's Farewell Address, and Lincoln's Second Inaugural, have been expressions of basic moral principles.

"Therefore I consider it inexcusable that any exhibit purporting to be representative of American life should fail to depict its most important aspect."

The Dodd proposal is one that the State Department and the American people should weigh most seriously. The religious freedoms which we enjoy and the individual rights which we uphold often promote a sort of bland avoidance of all religious statement in this country. Among peoples abroad, though, the religious diversity which we take for granted and the religious faith which we rarely trouble to defend may be far more impressive than any demonstration of technological progress or political objective. They are a priceless part of our heritage, a fundamental base for our liberty—and a part of our daily living which should not be ignored as we attempt to tell Russia's people of the values we cherish.

[From the Bridgeport Post, April 20, 1959]

AN IDEA, SHARP AND TIMELY

The State Department has received a suggestion from Senator THOMAS J. DODD which should obtain warm and immediate approval. When we take part in the big Moscow fair this summer, in an effort to show Soviet citizens how Americans really live, the Senator says we should include a religious exhibit, to indicate religion's fundamental place in U.S. society.

A picture of an American community would hardly be complete without showing its schools and its churches. Senator DODD in a letter to George V. Allen, U.S. Information Agency Director, recalled that there was not a single display of a religious nature in the U.S. exhibit at Brussels. Our mistakes there, he advised, should not be repeated.

Millions from all over the world went through the U.S. exhibit. Mr. DODD holds that "we missed a wonderful opportunity to demonstrate to these people the importance of religion in the development of our history, and its great influence on contemporary American affairs."

Many of the colonists of our continent came here to seek religious freedom and many of the early settlements were essentially religious. Throughout our history our great State documents have been expressions of basic moral principles.

How better to impress the Soviet citizens with the story of life as it really is in this country? Let us show them that among our freedoms, which they are denied, is the freedom of conscience, of the right to worship God as one pleases or believes is right.

An excellent suggestion and one that will give the Red propagandists something else to attack. And the Soviet people, knowing well that the Kremlin line is phony, will see and believe, and be encouraged.

Tullidge Clinic Dedication

EXTENSION OF REMARKS

OF

HON. A. WILLIS ROBERTSON

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, April 24, 1959

Mr. ROBERTSON. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an address to be delivered by me at the Tullidge Clinic Dedication, at Ararat, Va., on April 25, 1959.

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

TULLIDGE CLINIC DEDICATION

(Address by Senator A. WILLIS ROBERTSON at Tullidge Clinic dedication at Ararat, Patrick County, Va., Apr. 25, 1959)

The happy privilege of joining with Patrick County friends in the dedication of a new clinic reminds me of the fact that my first visit to Patrick was with a young doctor from Franklin County who later located at Stuart for the practice of his profession—Dr. George T. Divers. The time was June 1912; the occasion was the marriage of Dr. Divers to Miss Evelyn Martin, the charming and talented daughter of Dr. R. S. Martin, one of the most beloved men who ever lived in this county.

The remarkable development during the intervening years of Franklin County, where I lived as a boy, and the adjoining mountain counties of Henry and Patrick, has been a source of pride and great satisfaction to me. As a State senator I was fully aware of how our mountain counties were handicapped by the lack of good roads and hence, in the State senate the establishment of a State highway system was my major goal. Four of those who served on the commission to lay out a highway system and who sponsored the legislation to adopt it, are still living—Col. Sinclair Brown, of Salem, Hon. C. O'Conor Goolrick, of Fredericksburg, the senior United States Senator from Virginia, Mr. BYRD, and myself.

During my service in the Congress I have supported the programs to bring electricity and telephones to our farmers, the promotion of scientific farming through Federal and State research and the preservation of fertile topsoil through modern conservation practices. The end result has been to greatly increase the production of the average farmer in Patrick, as well as elsewhere in the State, while good roads have not only facilitated the marketing of farm crops but also have contributed to the improvement of local schools and churches.

In giving credit to technological developments that have improved the economic status of the people of Patrick County let us not lose sight of the fact that today, as in the days of the birth of our Nation the most important product of any community is the quality of its men and women. It takes more than material prosperity to produce character and good citizenship, and Patrick County has met that test. I welcome this opportunity to pay tribute to the example of the ideal family physician set Virginia doctors by the late Dr. R. S. Martin of Stuart and to the political and civic leadership furnished by families like the Hookers, Georges, Joyces, Clarks, and Thompsons (to mention just a few of those I have been privileged to know) and to say nothing of the county's gift to North Carolina of the wizard of tobacco manufacturers, R. J. Reynolds, and his brother who was the grandfather of Richard S. Reynolds, who now heads the greater aluminum empire which has its headquarters in Richmond.

In both the State legislature and in the United States Congress I have appreciated and enjoyed my friendship with the fine and able men who have represented Patrick, including your present Representative in the House, the Honorable WILLIAM M. TUCK.

The high quality of citizenship which has characterized the people of Patrick is due in no small degree to the fact that many of the early settlers were Scotch-Irish who came to Virginia in search of religious and political freedom and who have handed down to succeeding generations a belief in the virtues of representative democracy and self-government so eloquently expressed by Patrick Henry.

You will, of course, recall that Patrick County was formed from a part of Henry County in 1791, only a year after the States had ratified the first 10 amendments to our Constitution which we know as the Bill of Rights.

Those amendments, which Virginia and several other States had insisted upon as a condition to their acceptance of the Federal Constitution, were designed to protect for all time such basic rights as freedom of religion, freedom of speech and freedom of the press, the 10th amendment clearly stating the theory which too many persons have ignored or forgotten today—that basic human rights can best be protected when the power of the central Government is limited.

In the Virginia convention, called to ratify the Federal Constitution, Patrick Henry was a leader of the faction which demanded as-

surance of protection from the possibility of despotic power. He said that Congress, having the power of taxation and the authority to raise an army and a navy, would have "the sword in one hand, and the purse in the other," and he asked: "Shall we be safe without either? * * * Where and when did freedom exist, when the sword and purse were given up from the people? Unless a miracle in human affairs shall interpose, no Nation ever did or ever can retain its liberty after the loss of the sword and the purse."

In the same convention Patrick Henry spoke with prophetic vision when he pointed out that Congress would have the power of involving the Southern States in all the horrors which would result from a total emancipation of their slaves, and predicted that the Northern States, uninterested in the consequences of such an act, and with a controlling majority of votes, probably would be inclined to do this.

Our fathers knew those horrors in the War of 1861–65 and the bitter reconstruction period which followed.

In the Virginia convention George Mason, the author of the Bill of Rights, also pointed out that the power to levy direct taxes given to the central Government was calculated to annihilate totally the State governments.

That has not yet happened but the administration of State governments has been made increasingly difficult by financial pressures resulting from an ever-increasing Federal tax burden required to service a mounting national debt and to carry on programs undertaken by the Federal Government in areas never dreamed of by the Founding Fathers. New spending schemes are introduced with a pious reference to promoting the general welfare but nothing would better promote the general welfare than an economy program, accompanied by a reduction of Federal taxes.

Destruction of State governments may indeed be threatened in the future if the Congress continues to approve legislation authorizing Federal activities which displace those traditionally carried on by the States and localities and if the courts continue to assert, in effect, that there is no practical limit to the bounds of Federal authority.

Believing that the political wisdom of the Founding Fathers has never since been equaled I have been proud, throughout my political life, to call myself a Jeffersonian Democrat, interpreting as best I could, in terms of 20th century conditions, the political philosophy of men like Patrick Henry, James Madison and Thomas Jefferson.

The splendid and much appreciated support I have always received in Patrick indicates your approval of the firm stand I always have taken in behalf of States rights and efficiency and economy in Government. It should be needless, therefore, for me to assure you that as long as I have the privilege and honor of representing you in the U.S. Senate I shall stoutly resist the current trend to override the rights of the sovereign States and to engage in national projects of a socialistic character.

I am happy to say that the construction of a clinic with private funds at a time when many are advocating socialized medicine is in full keeping with Jeffersonian Democracy. I warmly commend the fine spirit of unselfish cooperation of the people of this community whose personal contributions have enabled Dr. Archer Tullidge to make a success of this undertaking.

The decision of Dr. Tullidge to dedicate this clinic to the memory of his deceased brother, George, is in keeping with his own decision to locate in a rural area where there was need for the services of a family physician rather than in a city where the financial rewards for his fine medical training would have been greater.

It has been my privilege to know the family of Dr. Tullidge for many years. It is a fine Christian family, of Scotch-Irish origin, long prominent in the church, civic, and business affairs of Staunton and Augusta County. Mr. and Mrs. George Tullidge, Jr., raised three fine sons, the oldest of whom was George Bowler Tullidge III. He was a sergeant of the 507th Parachute Infantry, 82d Airborne Division, who at the age of 20 years gave his life in the invasion of France, June 8, 1944. Scarcely more than a month before his death Sgt. George Tullidge wrote Tommy, the brother next in age to him, a letter from which I quote the following:

"Mother writes and tells me how big a boy you are getting to be. It seems like a mighty long time since I have seen you boys, and I guess it will be a while longer; probably I will have a hard time even recognizing you. I just know and pray that you will turn out to be the kind of boys that Mother and Dad are teaching you to be. Just take a word of advice from somebody who has had a small look around anyway. Maybe I am not so old, but these 2 years in the Army have shown and taught me lots of things about life that I never dreamed of before. I won't go into a long discussion but just remember when you are out with boys and girls what is wrong and what is right. Please don't let them get you and Arch off on the wrong foot because they will if you are not careful. There are lots of things in life bigger and finer than some immediate pleasures; and some few seeming small things at present can break up the finer ones for you later. * * *

"Another thing that has helped me a lot is my firm belief in the Lord. Oftentimes when I feel depressed and blue it does me an awful lot of good to read my Bible and a little book that Mother sent me. A good belief in Christianity (very broad term) gives a fellow something to grasp when the going gets tough, and it does at times. * * * Best wishes and may God bless you always. Your best pal, George."

It should be a source of inspiration to the people of this community to have a local health center dedicated to the memory of a patriotic boy who gave his life for the perpetuity of our freedom and democratic institutions and to know that the new clinic will be operated by a physician who shares the faith of an older brother who, because of his implicit faith in God and the justness of his cause, could smile when he heard the rustle of angels' wings and say to the Grim Reaper, "O death, where is thy sting? O grave, where is thy victory?"

In the eighth chapter of Genesis it is recorded that after being tossed 40 days and 40 nights by the great flood, the ark of Noah came to rest upon the mountains of Ararat. By the same token may those buffeted by illness and disease find this a new Ararat of rest and solace; a tangible evidence of the fact that God still rules the world in a spirit of love.

Speech of Hon. A. Willis Robertson at Meeting of Tidewater Group of Building, Savings, and Loan Associations, Norfolk, Va.

EXTENSION OF REMARKS

OF

HON. HARRY FLOOD BYRD

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, April 24, 1959

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD a very able speech made by my distinguished colleague, Senator A. WILLIS ROBERTSON, chairman of the Senate Banking and Currency Committee, at the annual meeting of the Tidewater Group of Building, Savings, and Loan Associations at Norfolk, Va., on April 22, 1959.

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

REMARKS OF SENATOR A. WILLIS ROBERTSON AT THE ANNUAL MEETING OF THE TIDEWATER GROUP OF BUILDING, SAVINGS, AND LOAN ASSOCIATIONS, NORFOLK, VA., APRIL 22, 1959

Former President Herbert Hoover, telling in his memoirs of the reasons for the establishment in 1932 of the Home Loan Bank System, said: "The poignant American drama revolving around the loss of the old homestead had a million repetitions straight from life, not because of the designing villain but because of a fault in our financial system."

A happy ending to that old melodrama has been written in the history of the savings and loan industry which was founded for the dual purpose of promoting home ownership and encouraging individual thrift.

Some of us can recall the time when the average first mortgage on a home ran for a period of 5 years or less with no assurance of renewal and when it had to be supplemented by second mortgages at exorbitant interest rates. This meant that too often the borrower, who was prepared to pay carrying charges, could not meet an unexpected demand for principal payments and his home ownership was forfeited. And these individual tragedies became national calamities in times of financial stress when foreclosures pyramided until demand was generated for Federal controls that threatened to wipe out our private enterprise system.

The early savings and loan associations attempted to deal with the problem by larger first mortgages, running for longer periods, which were self-amortizing. But the associations themselves were subject to failure in a period of recession. It was to meet this need that there was created the Federal Home Loan Bank System, to give the savings and loan associations the kind of backing which the Federal Reserve System had given to commercial banks.

The success of the home loan system is indicated by the fact that the 11 banks, now owned completely by members with the original Government investment retired, had in 1958 a capital of more than $800 million and assets well over $2 billion.

Public acceptance of this method of saving and financing home building is indicated also by the steady growth of the member associations. In 1951, when I had the pleasure of addressing the annual convention of the U.S. Savings and Loan League, meeting at Miami Beach, I referred to savings and loan association assets of $17 billion, but the 1958 total for those assets was close to $54 billion and represented a gain of almost $7 billion from 1957 to 1958. In 1951 I spoke also of an annual total loan rate of around $5 billion, but the 1958 rate was just under $12 billion. Meanwhile, savings accounts in these associations had grown by 1958 to a total of nearly $48 billion and exceeded by a small amount the total holdings of individuals in Government savings bonds.

Because I believe in thrift and because I believe that one of the bulwarks of our democracy is individual home ownership, I would have been happy to come here on this occasion just to commend the members of this group on their past success and to wish them well for the future.

It is a double pleasure, however, to be privileged to congratulate a great Virginia newspaper, the Virginian-Pilot, on the public service it has performed in promoting the cause of thrift.

Everyone in this room is aware of the fact that our capitalistic society is founded on the principle of thrift. It is through savings

that capital can be provided for business expansion on the basis of a stable dollar and, of course, the incentive to save would be greatly reduced if citizens did not have the privilege of accumulating assets which they can pass on to their heirs.

Largely because the right is guaranteed under our Constitution to acquire, use and to dispose of property we have become the richest and most powerful nation in the world. Some lose sight of the fact that property rights and human rights are root and branch of the same personal freedom tree.

Another factor in the success of our private enterprise system is the privilege of freely communicating ideas through the press and the newer media of radio and television. As Thomas Jefferson wisely said: "The liberty of speaking and writing guards our other liberties."

So I am happy to join with you in commending the Virginian-Pilot on the exercise of that right in the public interest.

While my ability to lift the veil of the future is no better than yours, I welcome this opportunity to bring to you the best information I have been able to obtain from financial agencies of the Government concerning current economic trends and to make some comment on the significance of those trends.

We are recovering from what has generally been called a recession, marked by a declining volume of business and a level of unemployment which has caused considerable alarm, but facts which I obtained from Government agencies just before coming here present a rather encouraging picture of current business recovery.

In the fourth quarter of 1958 our gross national product surpassed its prerecession level in terms of dollar volume and during the first quarter of this year it rose above the previous high in terms of adjusted value. Industrial production in February was 144 percent of the 1947–49 average and only 2 points under its 1957 high. By this measure, recovery from the recession could be considered completed.

Also, while the pace of recovery has slowed somewhat in the last few months, there are numerous signs of a strong and broadly based expansionary movement. Personal income is rising steadily, furnishing a basis for continued strength in consumer expenditures, which dropped only slightly during the recession. Automobile sales, which showed a weakness in 1958, are up this year. Housing construction, which expanded sharply throughout the last three quarters of 1958, continues at a high level. The decline in business inventories which occurred last year has been reversed and business spending for plant and equipment has again started to rise.

On the whole, recovery in output compares favorably with experience in comparable phases of the two preceding postwar recoveries. There has been some lag in recovery of employment compared with previous experiences, but unemployment in March was 800,000 less than a year earlier, with much of the remaining unemployment concentrated in large cities producing hard goods, such as Detroit, or in spots like the coal-mining areas which have special industry problems.

The existence of unemployed manpower and excess plant capacity may be a cause for concern, but it also can be taken as an indication of our potential for further growth, rising prosperity, and an improved standard of living.

One of the most debated issues today is whether an adequate and sustainable rate of economic growth and price stability can be achieved simultaneously. Some argue that creeping inflation provides the environment most conducive to substainable growth, while others argue that such growth is possible only under conditions of price stability within the framework of a free market system.

I am frankly on the side of those who feel that a little inflation is a dangerous thing and that more inflation can be disastrous.

With general demand expanding, including the demand for investment, it is essential for stability that the volume of saving in the economy be sufficient to finance investment demands. If the supply of saving falls short, there will be pressure to meet these demands through expansion of bank credit, but too much expansion of bank credit would result in excessive expansion of the money supply and lead to inflation.

There has been debate in and out of Congress about controls which are used to avert this type of imbalance. The monetary authorities, by raising reserve requirements, can create a tightness in credit markets with a resultant rise in interest rates and those higher interest rates serve as a brake on credit demands and also as an added incentive to savers to increase their savings, thus helping to bring back into balance the flow of savings and the demand for funds.

Critics of the way these controls have been used complain that higher interest rates increase the cost of Government for servicing our national debt—which is true. They also say that the Government could keep interest rates down by open market purchasing of Government bonds and that this would be helpful to all borrowers, including local government units engaged in public works and businessmen planning expansion. They ignore the fact, however, that such a process of artificially supporting a low interest bond market increases bank funds which become the basis for credit expansion several times the volume of the original transaction and that this is highly inflationary.

Those who say there has been too much emphasis on tight money and rising interest rates should not ignore the fact that steps taken by monetary authorities in 1957–1958 to ease credit conditions resulted in the sharpest rise in the money supply of any of the postwar recessions. The active money supply, consisting of demand deposits and currency, increased at an annual rate of 5½ percent on a seasonably adjusted basis in the first part of 1958 and for 1958 as a whole the money supply expanded by $4.5 billion or about 3½ percent.

But, in addition to the volume of money, we have to consider the velocity of its turnover in order to see the proper relation to possible inflation. The turnover of demand deposits has been rising ever since World War II and during the first 2 months of 1959 it was estimated at the six financial centers outside of New York at a peak of 31.3 times a year while the New York City rate of turnover was 54 times a year.

Balances that people hold idle in their pockets or in banks can be increased with no immediate effect on demand and supply conditions or prices, but when people use their balances more actively, this can add to the aggregate demand without any change in the dollar volume of deposits and currency.

Illustrating the changes in use of funds, in 1955 consumers provided the main impetus to economic expansion through increased purchases of durable goods and homes by a sharp reduction of their financial savings and an increase in the volume of their debt. In 1956 and early 1957, on the other hand, increases in consumers' financial savings made an important contribution toward moderating the rate of economic expansion which was becoming inflationary. In 1958, with a slackening of general economic activity, but with little reduction in the level of personal income, consumers continued to save at a relatively high rate. The savings pattern for 1959 is not yet clear but growth in time deposits at commercial banks is down sharply from the unusually high rates of the previous 2 years. Deposits in mutual savings banks seem to be rising less rapidly than a year ago, but shares in savings and loan associations appear to be rising at close to last year's rate. Consumer decisions later this year as to what they will do with their potential savings can be an important factor in accelerating business demands or slowing down the present expansionary movement.

The problem of monetary authorities in the months ahead will be to govern the rate of monetary growth so as to avoid inadequate expansion, on the one hand, which might choke off further growth, and on the other hand to avoid excessive expansion which might lead to inflation.

But all of the wisdom of the Federal Reserve Board in regulating monetary growth through the manipulation of reserve requirements and rediscount rates and all the fine work being done by building, savings, and loan associations and our commercial banks to encourage thrift, and the investment of savings in business expansion, can be set at naught by a reckless spending program on the part of your Congress.

For instance, during the past 6 years, with personal incomes running at an alltime high, the Federal Government will have added to the national debt by the end of next June the sum of $16 billion. The $8 billion required to service that debt is twice the total expenditures of the Government when I was first elected to the House of Representatives in 1932. The proportion of deficit financing which has been handled by commercial banks has been inflationary since it created bank check money faster than the production of goods and services and lacked the saving grace of the Ricardo theory that a managed currency can be sound provided money is issued solely with relation to the money work to be done.

Marriner S. Eccles, a former Chairman of the Board of Governors of the Federal Reserve System, recently said in Washington that our present economic situation was characterized by "a dangerous inflation psychology." This, he said, was reflected in the strength of real estate prices, the soaring prices of stocks, and the skidding market for bonds and mortgages, particularly securities of the Federal Government. Undoubtedly, the Government spending to which I referred has contributed to this psychology of inflation and the big quection mark of the financial future revolves around the question: When will we have a balanced budget again?

The greatest contribution which the Federal Government could make toward a climate where thrift and savings could flourish is to restrain the urge to spend and to balance the budget.

I am chairman of a Senate committee that has authority to report spending bills, including what is known as the "backdoor approach to Treasury funds." I serve on five subcommittees of the Senate Appropriations Committee that handles 96 percent of the budget. I am confident that my efforts in behalf of economy, a sound fiscal policy and a stable dollar in both the Banking and Currency and Appropriations Committees of the Senate will have the active support not only of this savings and loan group, but also of the bankers I am pleased to see in attendance. While savings and loan associations are more interested in the current home building program than are commercial banks, both organizations have a common goal of preventing inflation, of preserving the stability of the dollar, and of encouraging the American people to save and to put those savings to productive use.

During the last Congress I had the pleasure of working with an advisory committee appointed to assist the Senate Banking and Currency Committee in the study of Federal laws governing our financial institutions.

This advisory committee was composed of representatives of every segment of the financial life of our country and it offered a fine example of harmony and cooperation for the national welfare.

Each member of this group took a broad view of the problem of reviewing all the Federal financial statutes and recommending amendments to bring them up to date. They decided issues on the basis of what was the best way for these institutions to serve the public and compromised their differences in an equitable manner.

A majority of the committee's proposals were incorporated in my bill known as the Financial Institutions Act and, as you know, that bill was passed by the Senate but was killed in the House by the delaying maneuvers of one or two Members. There is no doubt that if the bill had been permitted to come up for a vote in the House it would have passed overwhelmingly.

This, of course, is history now, but I remind you of it to point up one of the most important issues facing the financial world today—that is, you must stick together, because if you don't the political power of those who oppose you will destroy you.

As chairman of the Senate Banking and Currency Committee, I am subject to constant pressures from groups that demand more Government grants and loans for housing, depressed areas, community facilities, small business, and many other areas of direct concern to you. These groups wield a tremendous amount of power, both economic and political, and if they have their way we shall have more and more financial business handled by the Federal Government and less and less under the private enterprise system to which both banks and savings and loan associations belong.

If you do not want the Government to usurp your functions through grants and lending programs; if you do not want the dollar inflated by spendthrift programs to the point where we can have only printing press money, you must use all of your influence, in a united way, on behalf of a sound and independent economy.

You know where I stand in this fight and so long as you keep me in Washington as your representative, I shall continue to battle for economy in government, a reduction in the heavy burden of taxation, and the preservation of our system of free, competitive enterprise.

SENATE

SATURDAY, APRIL 25, 1959

The Senate met at 11 o'clock a.m.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father God, once more a new day opulent with the golden gift of spring lies before us.

In the midst of crushing cares, relentless demands and haunting fears which the Nation's problems bring, may the quieting peace of Thy presence restore our jaded souls. May the Mighty One whose boundless love is in the darkness and behind the darkness, be to us as a covert from the wind, a shelter from the storm, and as the shadow of a great rock in a weary land. Harken to the prayers of our hearts as in our highest moments we forget ourselves and think of Thee.

In the Redeemer's name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 24, 1959, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate a message from the President of the United States submitting the nomination of Lt. Gen. Clovis Ethelbert Byers, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of lieutenant general, which was referred to the Committee on Armed Services.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. JOHNSON of Texas. Mr. President, under the rule, there will be the usual morning hour for the transaction of routine business; and I ask unanimous consent that statements in connection therewith be limited to 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Texas will state it.

Mr. JOHNSON of Texas. When the morning hour is concluded and when the pending business, S. 1555, is laid before the Senate, what will be the pending question?

The VICE PRESIDENT. The pending question then will be on the appeal of the Senator from New Hampshire [Mr. BRIDGES] from the ruling of the Chair.

Mr. JOHNSON of Texas. Have the proponents of the appeal utilized all time available to them?

The VICE PRESIDENT. They have.

Mr. JOHNSON of Texas. Have those on the other side utilized all the time available to them?

The VICE PRESIDENT. Those in opposition have 30 minutes remaining.

Mr. JOHNSON of Texas. Could time on the bill be allocated or used on the appeal?

The VICE PRESIDENT. Yes; if yielded by the two leaders.

Mr. JOHNSON of Texas. Would it be necessary for the leadership to have an agreement to do so; or could the leaders allot such time under the existing agreement?

The VICE PRESIDENT. Under the existing unanimous-consent agreement, the leaders could allocate time on the bill to Senators who wished to speak on the appeal.

Mr. JOHNSON of Texas. No additional agreement would be required in order to do so?

The VICE PRESIDENT. That is correct.

Mr. JOHNSON of Texas. In other words, either the minority leader or the majority leader could allot such time?

The VICE PRESIDENT. Yes; at his own discretion.

PERSONAL STATEMENT

Mr. MANSFIELD. Mr. President, at the close of business last evening, when the point of order which had been raised by the distinguished senior Senator from New Hampshire [Mr. BRIDGES] was being discussed, I made what I consider to have been some intemperate remarks.

I did not then, and do not now, question the right of the senior Senator from New Hampshire to raise the point of order he did in regard to the amendment submitted by the Senator from California [Mr. KUCHEL], on behalf of himself and certain other Senators on both sides of the aisle. In view of the fact that the McClellan amendment, which the Kuchel amendment sought to supersede, had previously been adopted by a one-vote margin, and thereafter, the motion to reconsider had been laid on the table by a one-vote margin, I believe that the point of order raised by the senior Senator from New Hampshire is, on that basis, valid. Therefore, it was then, and is now, my belief that because of the parliamentary situation, it was not necessary for the Senate to compare the provisions of the amendment submitted by the Senator from California, on behalf of himself and other Senators, with the provisions of the McClellan amendment, which had been voted on, adopted, and as to which the motion for reconsideration of the vote had been laid on the table.

My point is that a ruling had been made by the occupant of the Chair, the distinguished junior Senator from Oklahoma [Mr. MONRONEY], and that the ruling he made was based on the advice given him by our very able Parliamentarian, Mr. Charles L. Watkins. It was in that context that I stated last evening, that "what we are testing is the honesty and character of the occupant of the Chair, no matter who he may be."

In order to set the record straight, I have made this statement this morning; and because of the possible misunderstanding of my language, I am stating my point of view in some detail. Because of the implication I may have conveyed, I wish to take this means to put the record straight, and to express to the Senate my regrets for not thinking through in more detail the thoughts I had intended to convey.

Let me say again, Mr. President, that the distinguished senior Senator from New Hampshire [Mr. BRIDGES] had, on the basis of Senate rules and procedure, every right to raise the point of order