Hankin; 1956–57, Dr. Benj. L. Feldman; 1957–58, Philip E. Lerman; 1958–59, Louis Heller; 1959–60, Louis Heller; 1960–61, Armin Solomon; 1961–62, Bernard Goldstein.

Shofar Lodge No. 1388 (instituted November 19, 1939)—past presidents: 1939–41, Avrum Chudnow; 1941–42, Bernard Solochek; 1942–43, Nathan J. Rakita; 1943–44, Sidney A. Levner; 1944–45, Milton Holzman; 1945–46, Lionel Rosenberg; 1946–47, Harry Weintrob; 1947–48, Hy Cofar; 1948–50, Ben Sax; 1950–51, Philip Zarem; 1951–52, Ervin Abrams; 1952–53, Arthur Hirschbein; 1953–54, Dr. Charles Goldstein; 1954–55, Saul Rapkin; 1955–56, Oscar Eisendrath; 1956–57, Dr. Bernard Sharp; 1957–58, Alex Zaidins; 1958–59, Louis Silberman; 1959–60, Matthew J. Berlowitz; 1960–61, Leonard Edelstein; 1961–62, Louis Riches.

Washington Park Lodge No. 1460 (instituted May 4, 1941)—past presidents: 1941–42, Herman Schwartz; 1942–43, Sol Forman; 1943–45, Max Raskin; 1945–47, Manuel Holtzman; 1947–48, Maurice Marks; 1948–49, Clarence Goldberg; 1949–51, Abe Parelskin; 1951–53, William Kay; 1953–54, Davis Cohen; 1954–55, Joe Radoff; 1955–57, Dr. Jack C. Biller; 1957–58, David Gutkin; 1958–59, Harry Sicula; 1959–61, Ervin Wolkenstein; 1961–62, Irving Fields.

Sholom Aleichem Lodge No. 1559 (instituted March 25, 1945)—past presidents: 1945–46, Joseph Bursten; 1946–47, Ben Trosch; 1947–48, Sam Korelstein; 1948–49, Sam Schneiderman; 1949–50, Simon Hoffman; 1950–51, Leon Goldberg, 1951–52, Simon Hoffman; 1952–53, Jacob Joseph; 1953–62, Abraham Gecht.

Milwaukee Memorial Lodge No. 1962 (instituted July 22, 1947)—past presidents: 1947–48, Leo Lichter; 1948–49, C. Irvin Peckarsky; 1949–51, Lawrence Cohen; 1951–51, Norman Saichek; 1952–53, Philip Croen; 1953–55, Arthur L. Kahn; 1955–57, Hyman W. Rubin; 1957–59, Leslie Bern; 1959–60, Leonard S. Marcus; 1960–61, Edwin Goldman; 1961–62, Samuel Gilbert.

Lake Shore Lodge No. 1985 (instituted June 27, 1954)—past presidents: 1954–55, Thomas Kaufman and Gerald Kahn; 1955–56, A. L. Meyer; 1956–57, Adolph Stern; 1957–58, Arthur Posner; 1958–59, Jack Shlimovitz; 1959–60, Robert M. Rice; 1960–61, Gerald Minkoff; 1961–62, Robert Lessin.

Flagstone Lodge No. 2266 (instituted April 2, 1960): 1960–61, Norvall O. Winnik; 1961–62, Shale Yanow.

Century Lodge No. 2304 (instituted February 12, 1961): 1961–62, Robert Temkin.

B'NAI B'RITH TODAY

For more than a century B'nai B'rith has made the goals of humanitarian service and devotion to the Jewish people the basis of its unparalleled achievements.

In exploring the historical record, we note that an important factor in the vitality of the order has been its ability to keep step with the dynamic development of American life. The United States today faces challenges unknown to the struggling young Nation of the 1840's. So, too, the concerns of B'nai B'rith are now focused on problems that are vastly different than those of an earlier era when the physical welfare of Jews was a paramount motivation for a B'nai B'rith involved in philanthropic activities.

Today, the affluent society of modern America has rendered orphan homes and relief funds obsolete. Instead the challenge to Jewish life is to conquer the more subtle erosion of its spiritual heritage and deepen its creativity.

Prime Minister David Ben Gurion, addressing the 1959 triennial convention of B'nai B'rith in Jerusalem, warned that American Jewry was facing "mitat neshika"—"the kiss of death" that comes not from persecution but from the forces of assimilation.

Instinctively, American Jewry rejects this dire prophesy. Moreover, there is much evidence to the contrary, signifying an upsurge in American Jewish life.

Nonetheless, B'nai B'rith recognizes that the future of our community cannot rest on optimistic statements, and the order's current objectives stem from a determination to assure the creative continuity of American Jewry,

For this goal a program of education on all levels is basic. Thus, more than half of B'nai B'rith's annual budget is devoted to educational projects for youth and adults.

The B'nai B'rith Hillel foundations are now operating on 241 campuses in the United States and overseas. In this vital area of service, B'nai B'rith carries almost sole responsibility for deepening the Jewish knowledge and commitment of those who will form our future leadership cadre. The demands upon B'nai B'rith resources are increasing constantly with the tremendous growth in college enrollment and the need to reach the relatively isolated young intellectuals now in academic life.

On a more informal level this educational process is a basic ingredient of the B'nai B'rith Youth Organization, now the largest Jewish youth movement in the world. By combining skillful group work techniques with fine projects and publications, B'nai B'rith provides young people—more than 43,000 at present—with an outstanding program imbued with positive Jewish content.

B'nai B'rith also recognizes that growth in the Jewish educational stature of our youth runs the risk of becoming meaningless unless it is mirrored by similar developments amongst their elders. B'nai B'rith's response to this challenge has been a multifaceted adult education program of informal learning that is pioneering in the development of new ways to involve the Jewish community in cultural and educational activities.

There are manifold obligations undertaken by the order in other areas of Jewish life. Both in the United States and on the international scene, B'nai B'rith is widely regarded as a leading spokesman of the Jewish people. In recent years it has frequently focused public attention on the plight of the Soviet Jewish community. The visit of President Label Katz to the Soviet Union last year, and his representations to the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities are part of an on-going effort to point up to the world the gap between official promises of equality and cultural freedom and the realities of Jewish life in the U.S.S.R.

In the area of community relations, the activities of the Anti-Defamation League of B'nai B'rith have also undergone shifts in emphasis to meet the changing times. The comic caricatures and stereotyping that were vaudeville standbys 50 years ago—and motivated B'nai B'rith to establish the league—no longer exist in a more urbane and sophisticated America. Similarly, the brutal forms of anti-Semitism that erupted during the Hitler era, and which forces here and abroad have sought to utilize as a political weapon, have receded greatly as the body politic becomes more and more aware of the indivisibility of liberty and freedom.

During the postwar years, the Anti-Defamation League moved from the wholly negative aspects of a "defense agency" to widespread programs of democratic education. It also leveled its fire on existing patterns of discrimination. In the past 15 years, through both educational efforts and Federal and local legislation, there has been significant progress in eliminating religious bias in employment and higher education. Today, ADL applies its skills and experience to exposing and combating the pockets of social and housing discrimination that still persist.

The significance of B'nai B'rith as a worldwide movement, with membership in 41 nations of the free world, is reaching greater proportions than ever. Through such structures as the B'nai B'rith International Council, the order seeks to maintain close relationships with Jews in other parts of the world, particularly with the Jewish community in Israel, promoting projects which can add to the strength and potentialities of Jewish life wherever it is lived.

By vigorously implementing its 119-year-old principles in an ever expanding program, B'nai B'rith has demonstrated a continuing ability to make a concrete reality of the ideals of its dedicated founders.

SENATE

TUESDAY, APRIL 24, 1962

The Senate met at 12 o'clock meridian, and was called to order by the President pro tempore.

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

O Thou God of wisdom, in all our fallible ways Thou hast called us to be fellow workers with Thee—channels through which Thy will may be done on earth, as it is in heaven. While we come praying for our ailing world, with a realization that our strength is unequal to our tasks and that our insights are not deep enough for the solving of the tangled problems which confront us, we would pray most of all for ourselves—that the golden glory of April flowers and foliage may be a parable of the blossoms of the divine grace of meekness, gentleness, charity, and forgiveness which shall make the barren wastes of our own lives even as the garden of the Lord.

Now that the time for the caroling of birds has come, in all and through all, may our glad hearts sing:

"This is my Father's world,
And though the wrong seems oft so strong,
God is the ruler yet."

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

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Monday, April 23, 1962, was dispensed with.

TRANSACTION OF ROUTINE BUSINESS DURING MORNING HOUR

On request of Mr. MANSFIELD, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

EXECUTIVE COMMUNICATIONS, ETC.

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

FACILITATION OF WORK OF THE FOREST SERVICE

A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation

to facilitate the work of the Forest Service, and for other purposes (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT ON AIR FORCE MILITARY CONSTRUCTION CONTRACTS AWARDED WITHOUT FORMAL ADVERTISING

A letter from the Secretary of the Air Force, transmitting, pursuant to law, a report on Air Force military construction contracts awarded by that Department without formal advertising, for the period July 1, 1961, through December 31, 1961 (with an accompanying report); to the Committee on Armed Services.

REPORT ON PROCUREMENT RECEIPTS FOR MEDICAL STOCKPILE OF CIVIL DEFENSE EMERGENCY SUPPLIES

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, on the actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes, for the quarter ended March 31, 1962; to the Committee on Armed Services.

REPORT ON PRIME CONTRACT AWARDS TO SMALL AND OTHER BUSINESS FIRMS

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense prime contract awards to small and other business firms, for the period July 1961–February 1962 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON PROVISION OF AVIATION WAR RISK INSURANCE

A letter from the Acting Secretary of Commerce, transmitting, pursuant to law, a report on the provision of aviation war risk insurance, as of March 31, 1962 (with an accompanying report); to the Committee on Commerce.

AMENDMENT OF LAW RELATING TO PERSONAL PROPERTY IN CUSTODY OF PROPERTY CLERK, METROPOLITAN POLICE DEPARTMENT

A letter from the President, Board of Commissioners, Washington, D.C., transmitting a draft of proposed legislation to amend provisions of law relating to personal property coming into the custody of the property clerk, Metropolitan Police Department, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

AUDIT REPORT ON GOVERNMENT PRINTING OFFICE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, an audit report on the Government Printing Office, fiscal year 1961 (with an accompanying report); to the Committee on Government Operations.

REPORT ON REVIEW OF PROCUREMENT OF CERTAIN MAJOR SHIPBOARD EQUIPMENT BY BUREAU OF SHIPS, DEPARTMENT OF THE NAVY

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the procurement of certain major shipboard equipment by the Bureau of Ships, Department of the Navy, dated April 1962 (with an accompanying report); to the Committee on Government Operations.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, and referred as indicated:

By the PRESIDENT pro tempore:

Two joint resolutions of the Legislature of the State of California; to the Committee on Labor and Public Welfare:

SENATE JOINT RESOLUTION 3

"Joint resolution relative to aid to students of foreign countries attending colleges and universities in the United States

"Whereas the United States has long been recognized among nations of the world as a promoter of international cooperation, as a supporter of free institutions of higher learning, and as a firm believer in scientific and educational exchange programs; and

"Whereas the attendance of students from foreign countries at universities and colleges in this country promotes cultural and educational good will and, as such, is an integral part of the Federal foreign aid programs and aims; and

"Whereas although the attendance of such students at colleges and universities in this country is promoted by the Federal Government as part of its foreign relations and foreign aid program, the financial burden of the cost of educating such students falls not on the Federal Government but on the State governments when the students are attending State institutions of higher learning; and

"Whereas California and other States have provided generous reductions in the tuition fees charged such students; and

"Whereas the cost of educating such students constitutes a financial burden on the local taxpayers; and

"Whereas the encouraging of foreign students to obtain their education in the United States lies within the realm of international diplomacy and is therefore properly the responsibility of the Federal Government: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California (jointly)*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to provide Federal funds to subsidize able foreign students attending State institutions of higher learning in this country; and to provide funds to the States to aid in meeting the expense to the States of educating such students in State institutions of higher education; and be it further

"*Resolved*, That the secretary of the senate be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

SENATE JOINT RESOLUTION 5

"Joint resolution relative to establishment of a Youth Conservation Corps

"Whereas the Senate and House of Representatives of the United States are now considering legislation to establish a Youth Conservation Corps; and

"Whereas among the most pressing and depressing problems of today are the rise in unemployment, rising relief costs, and increase of juvenile delinquency; and

"Whereas it has been established that a Youth Conservation Corps would be a most important resource of combating all of these three undesirable phases of our national life; and

"Whereas such a Youth Conservation Corps could achieve essential public improvements, worth more than the cost entailed; and

"Whereas the work most needed to be done generally lies on forest, range, watershed, and recreational lands of public interest: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California (jointly)*, That the Legislature of the State of California respectfully urges Congress to enact legislation as proposed in H.R. 10682, which would authorize the establishment of a Youth Conservation Corps to provide healthful outdoor training and employment for young men and to advance the conservation, development, and management of natural resources of timber, soil, and range, and of recreational areas; and be it further

"*Resolved*, That the secretary of the senate is hereby directed to transmit a copy of this resolution to the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the city council of the city of Pittsburg, Calif., protesting against the enactment of legislation to impose a Federal income tax on income derived from public bonds; to the Committee on the Judiciary.

BILLS INTRODUCED

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

By Mr. DIRKSEN:

S. 3207. A bill to provide for the expansion of the national cemetery at Alton, Ill.; to the Committee on Interior and Insular Affairs.

By Mr. MCNAMARA:

S. 3208. A bill to provide for assistance to States in the promotion, establishment, and maintenance of safe work places and work practices, thereby reducing human suffering and financial loss and increasing production through safeguarding available manpower; to the Committee on Labor and Public Welfare.

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

OCCUPATIONAL SAFETY ACT

Mr. MCNAMARA. Mr. President, I introduce, for appropriate reference, a bill relating to occupational safety. I ask unanimous consent that a covering letter on this bill from the Secretary of Labor to the President of the Senate, and a statement explaining the intent and purpose of the bill, be printed in the RECORD at the conclusion of my remarks.

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

The bill (S. 3208) to provide for assistance to States in the promotion, establishment, and maintenance of safe work places and work practices, thereby reducing human suffering and financial loss and increasing production through safeguarding available manpower, introduced by Mr. MCNAMARA, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The letter and explanatory statement presented by Mr. MCNAMARA are as follows:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 7, 1962.

Hon. LYNDON B. JOHNSON,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting a draft bill, "To provide for assistance to States in the promotion, establishment, and maintenance of safe work places and work practices, thereby reducing human suffering and financial loss and increasing production through safeguarding available manpower."

I am also enclosing a summary statement explaining the need for the legislation and the purpose and effect of the bill.

This proposal is a part of the legislative program of the Department of Labor and has been approved by the Bureau of the Budget as being in accord with the program of the President.

It is in the nature of new legislation and would not amend any existing law.

Yours sincerely,

ARTHUR J. GOLDBERG,
Secretary of Labor.

(Enclosures.)

STATEMENT IN EXPLANATION OF A BILL TO PROVIDE FEDERAL GRANTS TO STATES FOR OCCUPATIONAL SAFETY PROGRAMS

With the growing demands on our productive capacity and the rapidly rising labor force in the United States, there is an urgent need for conservation of skilled manpower through the prevention of occupational injuries. Action by the Federal Government to aid the States in their efforts to prevent injuries on the job has been long overdue.

The attached draft bill, which is a part of the legislative program of the Department of Labor for 1962, would authorize this action. It would provide for financial and technical assistance to States to establish and expand occupational safety programs. The development of safety codes and standards requiring safe workplaces and work practices would be left to the States, as would the creation of a climate favorable to the acceptance and observance of such codes through the voluntary cooperation of labor and management.

NEED FOR EXPANDING OCCUPATIONAL SAFETY PROGRAMS

The prevention of occupational injuries is a matter of national importance, both in terms of the general welfare of the working population and in terms of the reduction of the social costs of occupational casualties. Between 13,000 and 15,000 workers have been killed and 1¾ to 2 million others injured on the job every year for the past 10 years. In 1961, 13,500 workers were killed on the job and 1,836,000 sustained occupational injuries.

Automation, radiation, noise, speed, vibration, and other modern hazards to which workers are now exposed increase the need for competent safety control measures and personnel.

The annual cost to the Nation in wage loss, medical expenses, workmen's compensation payments and lost production in 1961 was estimated at $4.4 billion. Vast as this loss is, it fails to take into account the suffering of the injured worker and the deprivations to his family.

If these figures represented an inevitable minimum of annual occupational casualties, there would not be much to do except deplore the human costs of the Nation's job processes. However, that is not the case. As a result of experience in the field of occupational safety during the past 40 years, safety experts generally believe that we know how to prevent over 90 percent of all work injuries. Where sound safety measures have been adopted there has been a substantial decrease in accidental injuries.

Several of our largest industrial corporations have reduced the frequency of job injuries 90 percent or more in 40 years. Unfortunately, in establishments too small to afford full-time safety engineers, control of accidents has not kept pace with technological developments. As the Nation's work force expands, and as further technological progress is made, more safety consultants with higher qualifications will be required. As the work force becomes more highly skilled, it will be more costly to lose workers due to accidents.

NEED OF THE STATES FOR ASSISTANCE IN EXPANDING THEIR PROGRAM

State labor departments have not, despite strong and sometimes successful efforts, generally obtained sufficient funds to employ adequate staffs. Few State labor departments are properly equipped to advise employers on the ways and means of preventing occupational injuries. Comparison of the safety requirements of the various States and their respective fiscal allocations makes it readily apparent that in many cases State resources are so inadequate as to preclude the attainment of even minimum acceptable levels. Recent studies indicate that more than two-thirds of the States did not have sufficient staff to make one inspection per plant annually in the industrial establishments coming under their jurisdiction.

A study made by the President's Conference on Occupational Safety in 1949 showed that of 37 States reporting, less than two-thirds spent as much as 10 cents per year per industrial worker. Personal contacts with the States and recent safety code comparisons indicate little improvement has been made. With inadequate funds it is impossible for the States to get a properly qualified staff adequate for the job to be done. To assure the same measure of safety for workers throughout the country, there is a need for more uniformity in State occupational safety requirements.

The Federal Government has responsibility for occupational safety and health in several areas, such as mining, railroad operation, aviation control, longshore and harbor work and certain Government contract employment. Programs assisted by funds under this draft bill would be State programs under State law—separate and apart from the Federal programs. The proposal would effect no change in the relationship of Federal and State safety programs. However, expanded State programs within the scope of State law which would be made possible by financial assistance under the proposal might furnish a basis and an incentive for future cooperative arrangements between State and Federal Governments in the discharge of their respective and separate safety responsibilities, saving in time and money. Close cooperation is anticipated between the Federal agencies administering safety functions and the Department of Labor in any matters of mutual interest presented by plans which may be submitted under this proposal.

Safety programs under the Federal Coal Mine Safety Act, which is administered by the U.S. Bureau of Mines, are expressly exempted from this proposal since that act, among other things, also authorizes certain Federal-State action under prescribed State plans. Further, provision is made for the Secretary of Labor to consult the Secretary of Interior before he approves any State plan which relates to a safety program in the mineral extractive industries.

PROPOSED PROGRAM FOR ASSISTANCE TO THE STATES

The proposed bill would provide money for grants to the States to finance part of the cost of establishing and administering improved and more uniform standards to insure safe work places and work practices. Acceptance of such standards through the voluntary cooperation of labor and management would be sought. Through State help the safety techniques now being used successfully in large plants which employ full-time safety personnel could be made available to the small workplaces in which a large percentage of the work injuries occur and in which there is no employed personnel to give safety advice and guidance.

The bill provides that the Secretary of Labor shall annually allot the funds appropriated to carry out this program among the several States. To encourage the development of these plans, grants for the first biennium could be as much as 75 percent of the total cost of the State plan. In the second biennium, Federal grants would be reduced to 66⅔ percent maximum, and thereafter the grants would be made on a matching basis. Before allocation of Federal funds to a particular State could be made, the State would have to submit, and have approved by the Secretary, a plan that accords with certain general requirements set forth in the bill. The actual amount of a particular grant would be determined by such criteria as the special industrial hazards of the State, its financial need, and the adequacy of its existing program. Grants could not be awarded for less than $15,000, except in those few instances where a State has no plan at all, and the necessity exists to create public awareness of the benefits of a safety program. In these cases, grants of not more than $15,000 annually could be made by the Secretary for a period of 2 years in order to promote the formulation of a State plan and an agency to administer it. The Secretary is also authorized to require the plan in lieu of any or all other provisions to provide for the establishment of special projects to list safety techniques or to provide special training and new techniques.

Further, the Secretary is authorized, after notice, and opportunity for a hearing, if he finds that in the administration of a plan there is failure to comply with any requirement of the proposal or any provision required by a plan to withhold funds until he is satisfied there is no longer failure to comply. Judicial review of the Secretary's action is provided in the U.S. circuit court of appeals.

These provisions are administratively sound and would adequately insure the economical use of Federal funds to help achieve the stated purpose of the bill. The program would pay big dividends toward reducing the cost of occupational injuries which in 1961 exceeded $4 billion.

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. WILEY:

Excerpts from address delivered by him at Sturgeon Bay, Wis., on April 16, 1962.

YOUNG AMERICAN MEDALS FOR 1960

Mr. McNAMARA. Mr. President, I am extremely proud to inform the Senate that two fine young citizens of Michigan have been selected as winners of the Young American Medals for 1960.

These Young American Medals for Bravery and Service, as you know—were established by the Congress in 1950 to provide recognition for boys and girls under 19 who perform outstanding acts of bravery or service in a calendar year.

Not more than two Bravery Medals and one Service Medal may be awarded each year—but no award need be made at all if the Young American Medals Committee feels that no candidates meet the high standards.

The winners were announced last week by the Attorney General. They will come to Washington to receive their medals in a White House ceremony to be arranged later.

A winner of the 1960 Young American Award for Bravery is Gordon Bernard

Kilmer, the 15-year-old son of Dr. and Mrs. Paul B. Kilmer, of Reed City, Mich. Gordon won the award for his heroic performance in saving a friend from drowning on Wells Lake, Mich., after their boat had capsized.

Gordon demonstrated remarkable courage and resourcefulness—not only in saving his polio-crippled friend from drowning by towing him some 400 feet to shore—but by reviving him through artificial respiration, after the boy had sunk three times.

Mary Ann Kingry—a 17-year-old senior at Sts. Peter and Paul High School in Saginaw, Mich.—has been named winner of the Young American Award for Service because of her outstanding work on behalf of the Junior Red Cross while she maintained an excellent academic record and took part in a variety of other activities.

Mr. President, I ask unanimous consent that the detailed citations of the accomplishments of these two splendid young people be printed in the RECORD at the conclusion of my remarks.

I am informed by the Justice Department that this is the first time in the history of these awards that two winners in 1 year have come from one State. Those of us from Michigan are most proud of Gordon Kilmer and Mary Ann Kingry.

I think special mention must be made of the fact that Miss Mary Ann Kingry is the first girl ever to win the Service Award. It is worth noting further that this highly prized honor has not been awarded since 1955.

Mr. President, all Americans share a sense of pride in the achievements of these remarkable young people. I know that my colleagues in the Senate join me in expressing the warmest congratulations to Gordon Kilmer and Mary Ann Kingry and their justifiably proud parents.

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

DEPARTMENT OF JUSTICE NEWS RELEASE

An Oregon boy who rescued two younger brothers from their burning home, a Michigan youth who saved a friend from drowning, and a Michigan girl with an outstanding record in the Junior Red Cross, are the winners of the Young American Medals for 1960, Attorney General Robert F. Kennedy announced today.

Mr. Kennedy said Gordon Bernard Kilmer, 15, Reed City, Mich., will receive the Young American Medal for Bravery, at a special White House ceremony to be arranged later.

The Young American Medal for Service will be awarded at the same time to Mary Ann Kingry, 17, Saginaw, Mich., Mr. Kennedy said.

The Bravery Awards will be the 15th and 16th, and the Service Medal the 5th since Congress established the Young American Medals in 1950 to provide recognition for boys and girls under 19 who perform outstanding acts of bravery or service in each calendar year.

Not more than two Bravery Medals and one Service Medal may be awarded annually, but no award need be made. The Service Medal was last awarded in 1955.

The selections, made by the Young American Medals Committee, were approved by the Attorney General. Members of the committee are: J. Edgar Hoover, Director of the Federal Bureau of Investigation, chairman; Archibald Cox, Solicitor General of the United States; and Edwin O. Guthman, Special Assistant for Public Information, executive secretary of the committee.

Mr. Kennedy said:

"The accomplishments of the young people selected by the committee—and of the many other young people nominated for the awards by Governors from across the country—provide renewed evidence of the intelligence, courage, and responsibility of young America today and of adult America tomorrow.

"The medal winners, their parents, and their schools merit warmest congratulations from every citizen."

GORDON BERNARD KILMER

Gordon Bernard Kilmer, born June 8, 1946, one of three children of Dr. and Mrs. Paul B. Kilmer, 350 West Upton Street, Reed City, Mich. He attends Reed City High School.

Gordon was chosen as a medal winner for his heroic performance on the afternoon of June 13, 1960. Gordon, then 14, a friend, Mark D. Seath, 15, and Gordon's golden retriever, King, were sailing in a 14-foot aluminum boat on Wells Lake, near Reed City. While they were in the middle of the lake, the boat capsized, dumping the boys and the dog into the water ranging from 20 to 40 feet in depth.

Seat-type life preservers floated out of reach and the boys had to alternate holding on to the overturned craft because it would not support their combined weight. After about 15 minutes in the cold water, they saw two men at the far end of the lake. Their calls for help were unheard so the boys decided to start swimming. They had swum about a hundred feet when Mark, a one-time polio victim, told Gordon he didn't think he could make it.

Gordon encouraged and coaxed him, but Mark sank. Gordon, then about 10 feet in front of his friend, swam back, dove and dragged Mark back to the surface. Mark, bigger than Gordon, struggled with his rescuer, but Gordon pulled Mark over onto King who was swimming with them. With Mark holding on to King's tail, they again headed for shore.

Young Seath sank again, however, and again Gordon brought him to the surface. He couldn't hold Mark by the hair because of his crew-cut and Mark once again went under. For the third time, Gordon brought him up. He then took hold of Mark's sweatshirt and swam approximately 400 feet to shore.

After reaching the shore, Gordon noted that Mark had stopped breathing, had swallowed his tongue, and that he had turned a deep blue color. He immediately pulled Mark's tongue free and applied mouth-to-mouth respiration, even though he had no previous training in this procedure, until Mark had started breathing again and until he could feel Mark's heart beating.

Gordon then applied another form of artificial respiration until Mark regained consciousness and was able to advise Gordon that he would be all right while Gordon sought aid and called an ambulance. At this point, two men arrived in a rowboat. Gordon left Mark in their care and rowed their boat across the lake to his parents' cottage, which had the only telephone in the area. He called Michigan State police giving instructions so the ambulance could locate his friend.

Another man and woman, however, meanwhile had picked up Mark and brought him to the Kilmer cottage. It was necessary to meet the police and ambulance and redirect them to the cottage.

Young Seath was hospitalized for shock and exposure. He was treated by Gordon's father, Dr. Paul B. Kilmer.

MARY ANN KINGRY

Mary Ann Kingry, born May 6, 1944, one of three children of Mr. and Mrs. Vincent P. Kingry, 1213 Brockway Street, Saginaw, Mich.

Mary Ann was chosen for the Service Medal because of her outstanding work during 1960 on behalf of the Junior Red Cross while she maintained an excellent academic record and participated in a variety of other activities.

She served as a resource member of the midwestern area for the American Red Cross and was chosen as one of two American representatives at the Canadian Training Center of the Junior Red Cross in Ontario, Canada.

Mary Ann was elected secretary of the Midwestern Area Advisory Council of the Junior Red Cross, was appointed to the 16-member National Youth Council of the American Red Cross, and was the subject of a feature article in the Journal of the American Red Cross.

In other activities, she served on her high school student council, was vice president of the Saginaw Youth Council and president of the citywide senior high council.

She was elected sophomore representative to the Sodality Club at her high school, Sts. Peter and Paul, won numerous school, regional, and State debates, and won honors for her mathematics project entry in the Saginaw Science Fair. Mary Ann has continued as a member of the Scholastic Honor Society throughout high school.

WARNING AGAINST SMEAR CAMPAIGNING

Mr. WILEY. Mr. President, for the election year 1962, the people of Wisconsin—both Republicans and Democrats—deserve, in my judgment, first, a thoughtful, careful analysis of problems and issues; second, realistic, not smear-type, evaluations of candidates; third, criticism, as warranted, of present policies, but only if accompanied by constructive alternatives; and fourth, a positive program for progress and peace.

Unfortunately, early primary tactics demonstrate that some individuals—apparently not competent for constructive campaigning—still abuse the public podium; distort, rather than clarify, the issues; and waste the voters' time by inane allegations that reflect neither truth nor the facts of life. For example, candidates for the U.S. Senate have resorted to labeling the Wiley record "left-winger," "soft on communism," ad nauseum.

For 23 years—longer service than any Wisconsin Senator in history—the Wiley record has been one of tough and relentless anticommunism, including a strong internal security program; support of a powerful defense; indefatigable efforts to step up our nonmilitary counteroffensives—politically, economically, psychologically, ideologically; and to mobilize our people in will, spirit, energy, resources, to defeat communism.

Fortunately, campaign tactics of malodorous labeling will win for themselves just what they deserve: obscurity.

Nevertheless, a political campaign offers a candidate a golden opportunity to analyze, discuss, evaluate, and make recommendations for coping with the great challenges of the times. For 1962, I am sincerely hopeful that such high

principles of campaigning—not blanket condemnations by the lazy minded, using distortions of untruths—will be the highlights of the electioneering.

Mr. President, today I received from a former opponent of mine a very fine letter in which he states:

I believe that you will live in history as one who clearly recognized communism for what it is, and spoke out about it.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD my April newsletter and the letter from John Chapple, of the Ashland Daily Press.

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

SENATOR WILEY'S WEEKLY NEWSLETTER FROM OUR NATION'S CAPITAL

EASTER, 1962

The symbol of the crucified Christ reawakens in the soul of humanity—particularly in adherents of the Christian faith—a recollection and reappreciation of spiritual values.

On the horizons of the world, however, the darkly gathering clouds of communism—an anti-Christ of the times—threatens the existence of religious life for all people.

The would-be gods of communism—Khrushchev, Mao Tse-tung, and fellow fanatics—would, allowed to triumph, supplant—gradually, then completely—all spiritual life with a materialistic political-economic system.

Kneeling in our Garden of Gethsemane, then, we pray: "Lord, let this cup pass from us." To be powerful, however, prayer cannot be just a passive, intangible man-and-God communication. The great will, rather, can be accomplished only by infusion of right spirit, thought, and idea into human souls, and then transformed into reality by the sweat of the brow.

Observances of Easter can have greater significance if we, individually, become rededicated to ever higher moral and spiritual principles and ideals; gird ourselves with the truth to make, and keep, men free; preach the gospel of respect for God-created human life and moral-ethical values; and seek and find the door of understanding through which all men may voluntarily join in the battle for the triumph of freedom, and good, in the world.

NEEDED: CONGRESSIONAL HEARINGS ON ICE AGE NATIONAL PARK IN WISCONSIN

The preservation of Wisconsin's moraines is desirable for our economy, as well for preservation of these natural formations—sculptured long ago by glaciers—of great scientific, geological, historical, and scenic significance.

For these reasons, I have introduced legislation to establish an Ice Age National Park in Wisconsin. After studying my bill, the Department of the Interior supported the idea of preserving the moraines, and made alternative recommendations.

Now, the time has come for action. Consequently, I am urging early hearings by the Senate Committee on Interior and Insular Affairs to (1) consider both my original bill and the Department's recommendations; (2) adopt necessary accommodations between the two approaches for preserving the moraines; and (3) expedite legislation for a "go-ahead" on the project for preserving these moraines of great significance to Wisconsin.

FOREST FIREFIGHTERS CALLED OUT EVERY 5 MINUTES

Every 5 minutes during 1961 a forest fire started and burned an average of 346 acres an hour. Statistics compiled by the Department of Agriculture's Forest Service are based on reports from national forest, State foresters, and agencies in the Department of the Interior and the Tennessee Valley Authority. Forest fires totaled 98,512 during 1961 compared to 103,387 reported in 1960. Acreage burned showed a greater drop—from 4,478,188 acres in 1960 to 3,045,374 in 1961—as a record low.

In Wisconsin, the record for 1961 was not so favorable to the reduction in numbers of countrywide forest fires. The figures increased from 1,253 acres to 1,906; the acreage burned likewise increased from 6,078 acres in 1960 to 13,317 in 1961. One thousand eight hundred and eighty-one of the fires were estimated as having been caused by debris—undetermined causes—smokers, and railroads were responsible for the remainder. The fire record for Wisconsin still needs improving. Let's protect Wisconsin's forests!

DEAR SENATOR AND MRS. WILEY: Your Easter message was a deeply touching and inspiring one.

Your discernment of communism as an anti-Christ of the times is one of the truly great statements of all of the leaders of our times.

I believe that a generation and more from now, I believe that you will live in history as one who clearly recognized communism for what it is, and spoke out about it.

Sincerely, and with deep admiration,

JOHN CHAPPLE.

THE LITERACY TEST BILL

A SHOCKING AND SHAMEFUL ACT

Mr. JAVITS. Mr. President, we are today beginning a civil rights battle to vindicate the Constitution, sustain and implement the 15th amendment, and secure the voting rights of thousands of Americans disenfranchised by abuse of literacy tests in certain Southern States. It is sad and yet symbolic that we must do so under the pall of another sad chapter in race relations in our country.

The current campaign of the White Citizens Council of New Orleans to cast away destitute Negroes from their native States to other cities will surely go down in history as a shocking and shameful act.

I have undertaken a study of the legislative means that may be necessary to deal with the extralegal aspects of this situation. But in the meantime and quite apart from the requirements of law, New Yorkers have already shown that they will receive innocent instruments of domestic injustice in the same way they have received the oppressed and the exploited throughout modern times—in the same way they have received refugees from czarist Russia, from Nazi Germany, and from Hungary, Poland, Cuba, and other places.

And I have no doubt that other cities of the North, within applicable law, will meet their responsibilities to these fellow human beings, too.

I do harbor some doubt, however, as to whether those who are responsible for this shameless stunt truly understand the moral issue involved.

A destitute person is a destitute person whether he lives in New Orleans or New York; and whether he is black or white. The challenge to our society is that we must erase such human suffering, not exploit it.

I believe the American people will be aroused by this heartless display of theatricalism at the expense of the indigent. It is a hoax that will fool no one. It is a gimmick that may call attention to the plight of the underprivileged, but it cannot camouflage the ugly fact that Negroes are being deprived of their rights in key areas of the South.

It is in every sense a strange backdrop to the effort to enact a bill barring unreasonable literacy tests for voting.

But this action by the White Citizens Council of New Orleans—and the filibuster that is advertised to begin today—can only serve to spotlight the fact that in 16 southern counties of large Negro population, not a single Negro was registered to vote in 1959; that in other counties fewer than 5 percent of eligible Negro citizens were registered; that there is widespread disenfranchisement of Negroes through the shocking misuse of literacy tests; and that college educated Negroes—even college professors—have been denied the right to register by the arbitrary action of registrars.

These are the simple truths which will not be lost on the Nation in this debate.

I believe Americans will be sickened by the spectacle of other Americans playing a game of spite; and I believe they will reflect their strong feelings in the struggle that is to begin in the Senate today. The chances for a successful cloture vote on a civil rights bill—the first in history—will, I believe, be materially enhanced by this development.

The PRESIDENT pro tempore. Under the 3-minute limitation, the time available to the Senator from New York has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 30 seconds more.

The PRESIDENT pro tempore. Without objection——

Mr. RUSSELL. Mr. President, if that is to be the custom here, that is quite all right. I do not desire to object; but some of us may have statements which may somewhat exceed the 3-minute limitation, and I wish to be sure that the same custom is to be followed.

Mr. JAVITS. Mr. President, I can assure the Senator from Georgia that any time he wants to limit his statement to 30 seconds, I shall not make objection.

Mr. RUSSELL. Mr. President, I refuse to be bound by any such limitation, and I object to any further extension at this time——

Mr. JAVITS. Mr. President, I ask unanimous consent that I may finish the sentence I began.

Mr. RUSSELL. Mr. President, I do not like——

Mr. MANSFIELD. Mr. President, I object.

PUBLIC TAKING OF PRIVATE PROPERTY

Mr. SPARKMAN. Mr. President——

The PRESIDENT pro tempore. The Senator from Alabama.

Mr. SPARKMAN. Mr. President, the case of Griggs against Allegheny County, decided by the Supreme Court of the

United States on March 5, 1962, again highlighted some of the issues involved in the public taking of private property rights for Federal or federally assisted programs. This particular case related to the taking of an air easement in connection with a federally assisted airport.

I have long been concerned about the legal and economic aspects of the acquisition of property for Federal or federally aided programs. My concern has arisen in part from numerous hearings held before the Senate Subcommittee on Housing. Testimony has repeatedly detailed some of the effects on owners, tenants, nearby properties and businesses, and all taxpayers of the acquisition of sites, especially for the urban renewal and the Federal highway programs. In the case of urban renewal, the Urban Renewal Administration has indicated in its report on "Relocation from Urban Renewal Project Areas" that a cumulative total of over 32,000 families, 10,000 individuals, and 6,900 business concerns were displaced from urban renewal sites in the United States through mid-1960. And the President's transportation message indicates that, under the interstate highway program alone, 15,000 families and 1,500 businesses are being displaced each year.

To relieve private businesses of some of the burdens that may be imposed by public acquisition of commercial properties for urban renewal project sites, the Housing Act of 1961 incorporated two important amendments. One amendment removed the ceiling on relocation payments to private business concerns, and provided for full reimbursement of total certified actual moving expenses. The other amendment authorized the Small Business Administration to make loans on special terms under its disaster loan program in order to assist small business concerns in reestablishing their businesses, provided such concerns suffered substantial economic injury as a result of displacement from the urban renewal, Federal highway, or any other construction program conducted by or with funds provided by the Federal Government.

While these amendments should help to remedy some inequities that may arise from the acquisition of property for Federal or federally assisted programs, additional measures may well be necessary to assure a fair and just distribution of costs and benefits under all Federal or federally aided programs, and to establish uniformity in acquisition practices and procedures among these programs. It is for these reasons that I have been concerned about the legal and economic consequences of all Federal and federally aided property acquisition. In both the 86th and 87th Congresses, I introduced legislation to establish a nonpartisan commission authorized to conduct a thorough and impartial study of compensation to persons affected by property acquisition under all Federal and federally aided programs, including a review of the present methods and procedures, and the awards and the amounts of awards, to be followed by a final report with specific recommendations.

As I said on the floor of the Senate on January 30, 1961, in introducing S. 671:

> This study should be broad enough to cover all land acquisitions under Federal and federally assisted programs, such as highway programs, public works programs, urban renewal programs, and military programs. It should be broad enough to cover all land acquisition, no matter how the property is acquired or by whom. It should be broad enough also to cover all the widespread effects of these land acquisitions—their effects on owners, on tenants, on nearby property and businesses, and on others affected by the acquisition. It should be broad enough to cover the benefits and burdens of these land acquisitions, in relation to the persons and businesses involved and to the Federal programs under which the properties are acquired. For example, the study should include the extent to which the costs of Federal programs are borne by individuals or firms whose property is taken or whose property or business is either destroyed or reduced in value by the taking of neighboring property, and the extent to which these costs are borne by the general public which underwrites these programs. It should also include consideration of the benefits which these programs may provide for persons and businesses in affected areas.

Several months after I introduced S. 671 in the 87th Congress, the House Committee on Public Works voted to establish a select subcommittee of its own to conduct a study along lines similar to those of the two bills I had previously introduced. According to a resolution of the Committee on Public Works dated August 24, 1961, the select subcommittee was established "to make a comprehensive study of the acquisition of property under Federal or federally assisted programs, through condemnation proceedings, or otherwise, and to conduct hearings, receive testimony, and develop legislative proposals, if appropriate."

To indicate how the House subcommittee was established and to outline its objectives, Mr. President, I ask unanimous consent to insert at this point in the RECORD a press release announcing the creation of the subcommittee and an address by the chairman of the select subcommittee made before the American Association of State Highway Officials several months ago.

Soon after the House Select Subcommittee on Real Property Acquisition was set up, I wrote identical letters to Congressman CLIFFORD DAVIS, chairman of the select subcommittee, and to Congressman ROBERT E. JONES, ranking member, expressing my interest in the proposed activities of the subcommittee. In response to my letter, Congressman DAVIS said in part:

> Your excellent statement of January 30, 1961, on introducing S. 671 provides a clear picture of the need for this study so that the Congress may be satisfied "that all persons affected by the acquisition of property by the United States or under Federal or federally assisted programs shall receive fair, just, and equal treatment." The Bureau of the Budget in reporting on S. 671 and several similar House bills, expressed the administration's endorsement of the project and suggested that it might be accomplished most effectively by a legislative committee. Our Committee on Public Works created the select subcommittee to implement this suggestion.

Congressman JONES, in his reply, noted that "we intended that the study the select subcommittee should undertake would be of the same broad and inclusive character as what your bill, S. 671, proposed."

Mr. President, I ask unanimous consent to have inserted at this point in the RECORD a copy of the identical letters I addressed to Congressman DAVIS and Congressman JONES, and a copy of their replies to me.

It is my understanding that the House Select Subcommittee on Real Property Acquisition, under the direction of Mr. Henry H. Krevor, as its chief counsel, now has the study well in hand. It will be a study, I am sure, that will provide some illuminating insights into the general process of property acquisition, in which either private or public parties, or both, may be involved, as well as into the specific details of public acquisition for various Federal or federally aided programs. As the first study of its kind ever made, it will undoubtedly furnish important guidelines for Federal policies relating to property acquisition in both urban and rural areas. The study should present an opportunity to analyze not only the legal but also the economic aspects of property acquisition as one stage of the general process by which uses of land change from time to time.

The able membership of the Select Subcommittee on Real Property Acquisition, the high caliber of its staff, and the significant objectives of its operations suggest to me that there is no further need for action by the Senate on S. 671 at this time. I can assure the House select subcommittee that I, as well as my other colleagues in the Senate, will follow their progress with keen interest. I should like to take the liberty of sending to the select subcommittee any cases that may come to my attention highlighting problems involved in acquiring property for Federal or federally aided programs. I feel certain that all Senators will be glad to furnish whatever assistance may be helpful.

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

Hon. CLIFFORD DAVIS,
Chairman, Select Subcommittee on Real Property Acquisition, Committee on Public Works, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have been informed of the appointment of the Select Subcommittee on Real Property Acquisition and of its plans to undertake a study of real property acquisition by Federal, State, and local governments for Federal and federally assisted programs.

I have been interested in this subject for some time. During the last Congress I introduced a bill, S. 2802, which would have established a commission to make a study of this subject. On January 30, of this year I introduced a revised bill, S. 671, for the same purpose. For your information I enclose a copy of the statement I made at the time I introduced S. 671, together with a copy of that bill. I also enclose a copy of a letter I wrote to Senator MCCLELLAN on June 5, 1961, commenting on various suggestions made by agencies with respect to the bill and also pointing out references to the problems involved in the bill which arose in connection with the hearings on the housing

legislation of 1961, together with a copy of these hearings.

As I understand it, it is the intention of the select subcommittee to make the same study in as comprehensive and impartial a fashion as I had in mind for the Commission proposed in S. 671. If this is the case, it would seem to me unnecessary to take any further action with respect to S. 671.

I was interested to note that the committee has named Mr. Henry H. Krevor as the chief counsel for the select subcommittee. Mr. Krevor is, I know, an acknowledged authority in this field, and I am glad to say was of substantial assistance to my staff in reviewing and revising S. 2802 of the 86th Congress for introduction this year as S. 671.

I should appreciate being advised of your plans with respect to this study in order to determine whether any further action is necessary with respect to my bill, S. 671.

Sincerely yours,

JOHN SPARKMAN.

DECEMBER 7, 1961.

Senator JOHN SPARKMAN,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR: I appreciate very much your interest in the new Select Subcommittee on Real Property Acquisition and your kind remarks about our chief counsel.

The purpose of this bipartisan subcommittee is to make a comprehensive study of existing laws, practices, and procedures in the acquisition and evaluation of real property required for Federal and federally assisted programs to determine whether they are unfair either to property owners because of inadequate payments or to the taxpayers because of overpayments; and to produce a considered report with sound recommendations and legislative proposals, if appropriate. It is to be an impartial, objective study project, and is not designed as an investigation into alleged improprieties or irregularities. Additional details are set out in the enclosed copy of an address which I presented before the American Association of State Highway Officials at its annual meeting this year.

Your excellent statement of January 30, 1961, on introducing S. 671 provides a clear picture of the need for this study so that the Congress may be satisfied "that all persons affected by the acquisition of property by the United States or under Federal or federally assisted programs shall receive fair, just, and equal treatment." The Bureau of the Budget, in reporting on S. 671 and several similar House bills, expressed the administration's indorsement of the project and suggested that it might be accomplished most effectively by a legislative committee. Our Committee on Public Works created the select subcommittee to implement this suggestion.

The work of this subcommittee is just getting underway and we are going to need a great deal of help. As I see it, the success of the study will depend, in large measure, upon the action taken in the early stages. If you have any additional thoughts as to specific problem areas which should be explored, or any other comments or suggestions concerning the study, they will be most welcome.

With all good wishes, I am,
Very sincerely yours,

CLIFFORD DAVIS.

[Press release, Sept. 15, 1961]

The newly created Select Subcommittee on Real Property Acquisition of the House Committee on Public Works held an organizational meeting today and named Henry H. Krevor as its chief counsel. The subcommittee is preparing to undertake a comprehensive and impartial study of real property acquisition by Federal, State, and local governments for Federal and federally assisted programs.

This is the first study of its kind ever undertaken by the Federal Government and will embrace all pertinent Federal and State laws, practices, and procedures for the evaluation and acquisition of real property by both negotiation and condemnation, to ascertain if laws and practices are unfair either to property owners because of inadequate payments or to taxpayers because of overpayments. The appraisal process and techniques now employed in measuring the value of property taken or damaged for public improvements will be thoroughly analyzed to determine its accuracy and effectiveness of application.

This study is expected to require about 2½ years to complete, and the subcommittee will conduct hearings, receive testimony, and develop legislative proposals, if appropriate, and report its findings and recommendations to the Committee on Public Works for transmittal to the Congress. Two of the largest programs to be included in the study are the acquisition of property for the construction of navigation and flood control dams and other facilities by the Army Corps of Engineers and for construction of Federal-aid highways by the States, under supervision of the U.S. Bureau of Public Roads. The cost of right-of-way for the 41,000 mile National System of Interstate and Defense Highways, alone, is estimated to cost over $6¼ billion.

Mr. Krevor, who will direct the subcommittee staff in carrying out the study, is well experienced in the field of land acquisition. From 1952 to 1957 he was with the Acquisition Division of the Army Corps of Engineers, where he served as chief of the civil works section of the Condemnation Branch, and from 1957 until the present time he has been Assistant General Counsel, Chief of the Lands Division, of the Bureau of Public Roads.

Representative CLIFFORD DAVIS, Democrat, of Tennessee, is chairman of the subcommittee, and the other members are Representative ROBERT E. JONES, Democrat, of Alabama; Representative ED EDMONDSON, Democrat, of Oklahoma; Representative FRANK W. BURKE, Democrat, of Kentucky; Representative HAROLD T. JOHNSON, Democrat, of California; Representative HOWARD W. ROBISON, Republican, of New York; Representative WALTER L. MCVEY, Republican, of Kansas; Representative WILLIAM H. HARSHA, Republican, of Ohio; and Representative JOHN C. KUNKEL, Republican, of Pennsylvania.

ADDRESS BY HON. CLIFFORD DAVIS, OF TENNESSEE, BEFORE THE AMERICAN ASSOCIATION OF STATE HIGHWAY OFFICIALS, DENVER, COLO., OCTOBER 9, 1961

I should like to talk with you today about a congressional study which is just getting underway and which will be of great importance to the Federal-aid highway program and to you personally. On August 24 of this year, the Committee on Public Works of the House of Representatives created a Select Subcommittee on Real Property Acquisition, on which I am privileged to serve as chairman.

This subcommittee is bipartisan, with five Democrats and four Republican members. We are charged with the responsibility of making an impartial, nonpolitical, objective, and comprehensive study to determine if existing laws, practices, and procedures in the acquisition and evaluation of real property acquired for Federal and federally assisted programs are unfair either to property owners because of inadequate payments or to the taxpayers because of overpayments.

It is now estimated that the study will require about 2½ years to complete. Our study will include the acquisition of real property for Federal projects by the Departments of Justice, Defense, Interior, Agriculture, Post Office, and Health, Education, and Welfare; and by the Atomic Energy Commission, Veterans' Administration, General Services Administration, Federal Aviation Agency, Tennessee Valley Authority, Capitol Architect, and others.

The Federal-aid programs to be embraced in the study will include acquisitions of real property for highways, airports, urban renewal, and others. We are particularly interested in the Federal-aid highway program for it involves the acquisition of more property at greater expenditure of public funds than any other single program, and it directly affects people throughout the entire country.

As you know, the cost of right-of-way for the 41,000-mile Interstate System alone is estimated to be over $6¼ billion, almost 16 percent of the total cost of the Interstate System. This is a lot of money.

I know that you share the desire of the members of the subcommittee to assure that this money is properly expended in return for value received, and at the same time to assure that property owners are adequately compensated.

In recent years, there has been growing attention, at the Federal, State, and local levels, to the question of adequacy of just compensation under the traditional concepts of eminent domain.

This is not startling in light of the vast increase in the amount of real property being acquired for the many and various kinds of public improvements and the increasing complexities in measuring the value of property taken.

The Constitution of the United States and that of each of the several States assure that property will not be taken without due process of law and without payment of just compensation. Neither the Constitution of the United States nor the Federal statutes define "just compensation," and the same is generally true as to State laws.

Interpretation of the requirements and limits of just compensation has been a judicial function of the courts. They have generally held that just compensation is measured by the market value of real property taken, plus the diminution in market value of the owner's remaining real property resulting from the taking and the use to be made of the property taken. This measure of just compensation presupposes a willing seller and a willing buyer; however, in the acquisition of property for public improvements, the seller is often unwilling to sell, but is forced to do so.

When the "willing seller" rule for determination of compensation is applied to an unwilling seller, it is obvious that there may be dissatisfaction, controversy, and litigation. In some instances the property owners are greedy and try to obtain more than they are entitled to under any test of fairness and equity; in other instances the property owners suffer real and substantial losses for which they cannot be paid under existing laws.

In these latter cases, courts have been known to engage in judicial legislation, juries often effect compromises, appraisers sometimes exercise flexibility in arriving at opinions of value which strain if not completely distort the appraisal process, and negotiators and those authorized to approve settlements on occasion depart from sound concepts of market value, all in the name of serving "basic justice."

However, this is not justice; it is giving preferential treatment to some, without equal protection to all. If our present laws and procedures are inadequate or unfair they should be changed. On the other hand, if they provide for the proper meas-

ure and payment of compensation, they should be applied uniformly.

During the past decade, the Congress and many State legislatures have been urged to correct alleged inequities in existing law. The proposed changes have taken many forms. For example, bills have been introduced in the Congress to require payment for business losses, loss of goodwill, moving costs, the value of personal property located on real property taken, and expenses of litigation, including attorney fees.

There have been bills before the Congress to require that buildings and other improvements be appraised on the basis of their current replacement cost irrespective of their actual market value; to require, in addition to all other compensation, payment of an amount equal to the average annual net income earned from agricultural properties during the preceding 5 years; and to provide for payment, in addition to the market value of the property taken, of the difference between such value and the cost of locating and purchasing suitable replacement property.

You are familiar with similar legislation considered by your own State legislatures. It is true that most of these bills have not been enacted into law; but there is a growing sentiment among Members of Congress, Federal, State, and local officials, and the public generally, that the laws and practices for the acquisition of property for public use have not kept pace with the advances of society and that some inequities may exist.

Though the market value definition runs through the whole history of just compensation, there have been expressions in some of the cases indicating that an owner should actually be indemnified for all losses in the value of his property resulting from a public improvement, rather than to be paid the fair market value of the property taken for the improvement.

This has been demonstrated by laws which have been enacted in some States to provide for payment for damages not generally regarded as compensable in eminent domain, such as may result from changes of highway grade, interference with air, light, and view, and interference with access by creating a cul-de-sac.

Other State statutes have been enacted to require payment of costs of moving personal property and for litigation expenses, including attorney and expert witness fees. On the Federal level, Congress has authorized the Defense Department agencies and the Department of Interior to reimburse owners and tenants for moving costs, in amounts not to exceed 25 percent of the value of property taken; and the Housing and Home Finance Agency may pay fixed sums up to $200, without relation to actual expenses, for moving of individuals and families, and "the total certified actual moving expenses" of businesses. The Tennessee Valley Authority also has authority to pay moving costs.

In practically every instance the proposed or enacted legislation has been piecemeal, designed to meet a specific problem, the correction of which sometimes produces even greater problems through lack of uniformity.

This same pattern of legislation is evident in the present Congress. As you know, the Federal-Aid Highway Act of 1961 was amended in the Senate to include in the definition of "construction" advisory and administrative expenses in connection with the relocation of building tenants. This provision was eliminated in conference because of objection by the House conferees.

The House Committee on Public Works also now has before it legislation recommended by the General Services Administration which would authorize reimbursing owners and tenants for moving expenses, losses, and damages, in amounts not to exceed 25 percent of the value of the real property acquired in connection with the acquisition of real property by the United States for any Federal use.

Such a piecemeal approach is inefficient and wasteful of time, money, and effort; it ignores the desirability of consistency in governmental activity and of reasonable uniformity in treatment of all the people; and it results in varying amounts being paid to property owners, depending upon which Federal agency happened to take their property, or for which Federal or Federal-aid program it is being acquired.

Furthermore, the isolated consideration of only one of the many elements of value, damages, expenses, and benefits which make up the total picture of losses suffered and compensation received, is neither fair to property owners nor to the taxpayers, for it cannot be viewed in proper perspective alone.

The Committee on Public Works believes there is real need for a comprehensive and impartial study of the acquisition of property for Federal and federally assisted programs. We do not believe it should be assumed that property owners generally are not adequately compensated.

It is true that property owners are not paid for some kinds of damages, losses, and expenses which may be related to the taking of their property and the construction and use of public improvements.

It is also known that the amounts awarded by courts are often substantially more than the amounts of negotiated settlements for comparable properties. It is also recognized that under the laws and practices of many States, the public does not receive credit for all benefits accruing to property owners' remaining properties from public improvements.

We are undertaking this study with open minds and without any preconceived opinions as to what our findings and recommendations will be. The valuation and acquisition of real property is highly technical and complex, and we are well aware of the controversial nature of the subject matter, particularly so since fundamental differences of opinion give rise to thousands of litigated condemnation cases each year.

This is the first comprehensive study ever undertaken of real property acquisition by Federal, State, and local Governments for all Federal and Federal-aid programs. The subcommittee is determined to make a thorough and impartial study, and to produce an objective report with sound recommendations, together with legislative proposals if appropriate.

We realize the seriousness of this undertaking, for what we do can have a lasting impact upon Federal and State legislation and upon the expenditure of public funds by all levels of government. It may also materially influence negotiation and condemnation practices and appraisal techniques.

We are most fortunate in securing Mr. Henry H. Krevor as our chief counsel. Many of you know Mr. Krevor.

He is a member of the AASHO right-of-way committee and has served as Assistant General Counsel, Chief of the Lands Division, of the Bureau of Public Roads since 1957. Prior to joining Public Roads he was employed in the acquisition division of the Army Corps of Engineers for a period of 5 years, where he was chief of the civil works section of the condemnation branch.

It is particularly appropriate that the man who will direct our staff activities has had firsthand experience in both the largest Federal land acquisition program and the largest Federal-aid program with which we will be concerned. I am indebted to Mr. Rex Whitton for releasing Mr. Krevor from the Bureau for the period that the subcommittee is in existence.

The magnitude of legal and factual material to be considered in a comprehensive and exhaustive study of this kind can become overwhelming, and it is essential that the work proceed in orderly progressive steps.

The staff will first compile and analyze existing laws, practices, and procedures. Then the subcommittee will examine the effectiveness and acceptability of these laws, practices, and procedures in the light of experience in their implementation and the attitude of modern society, to identify specific problem areas.

Once this has been accomplished, the most difficult work begins, which is to weigh in the balances of equity and fairness the interest and welfare of affected property owners with that of the public, so as to draw informed and sound conclusions upon which recommendations may be passed. We plan to make use of all pertinent material which has already been developed, such as the excellent compilation and analysis of highway laws prepared by the highway laws committee of the highway research board, which work was done under the sponsorship of your organization.

It is also planned to contact all appropriate Federal and State agencies to secure information and data on all aspects of real property valuation and acquisition. Again, some of this material is already assembled in usable form, such as the State highway departments' right-of-way procedure manuals and the periodic reports of interstate right-of-way condemnations filed with the Bureau of Public Roads.

Also, the land economic and severance damage studies which have been pioneered by the California State Highway Department, promoted by public roads, and undertaken by many States, will be of immeasurable value, particularly as to the adequacy of current appraisal processes and techniques in measuring damages to remaining property in partial takings.

After completion of preliminary work by the staff, the subcommittee will hold hearings and invite testimony from Federal, State, and local officials, bar associations, judicial organizations, right-of-way and land-acquisition associations, appraisal societies, property owners, educators, and others.

We are going to need a lot of help, and we are looking to the State highway departments and the Bureau of Public Roads, among others, to serve as reservoirs of wise counsel and advice. In the near future you will be asked to supply information and material relative to your laws, practices, and procedures for the appraisal and acquisition of real property, and the results obtained in their application, as well as to identify problems which you believe the subcommittee should consider.

At an appropriate time, you will be afforded an opportunity to testify at hearings of the subcommittee. However, any suggestions or thoughts which you may have at any time relative to the study are welcomed, and solicited.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate Finance Committee be permitted to sit during the session of the Senate today.

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

Mr. MANSFIELD. I ask unanimous consent that the Antitrust and Monopoly Subcommittee of the Committee on the Judiciary be permitted to sit during the session of the Senate today.

Mr. RUSSELL. Mr. President, reserving the right to object, and I shall not object in this instance, I must point out that a few weeks ago, when we had a rather lengthy debate over a companion subject, objection was made to committees meeting.

The PRESIDENT pro tempore. Does the Senator reserve his right to object?

Mr. RUSSELL. I reserve my right to object, yes, and I shall not object. I merely wish to say I shall not object today, but on subsequent days objection may be made to committees meeting while the Senate is in session.

Mr. DIRKSEN. Mr. President, reserving the right to object, I share the feeling of the Senator, and I joined with him in objecting before. It does happen, however, that committees have not had notice. Witnesses are here from out of town, and we ought to give the committees an opportunity to clear their desks and hear the witnesses; but, if necessary, I may join in any objection when this important business is before the Senate. I hope Senators will be here, and not scattered through three buildings.

Mr. RUSSELL. I am glad to have that statement by the distinguished minority leader. I am not impressed with the statement that notice has not been given, because I think considerable notice has been given. However, I shall not object today. If I object tomorrow or the day following, I hope the distinguished minority leader will join me.

Mr. DIRKSEN. I shall do so.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none.

INJUSTICES SUFFERED BY ALASKA HOMESTEADERS REQUIRE REMEDIAL ACTION

Mr. GRUENING. Mr. President, recently, with the cosponsorship of 10 of my colleagues, I introduced a bill, S. 3107, to establish in the Department of the Interior, a Board of Public Lands Appeals. The impetus for the introduction of such legislation was, on my part, the many injustices suffered by Alaska homesteaders because of the lack of any effective and practical machinery in the Department of the Interior to redress grievances or to protect homesteaders against arbitrary and capricious actions by employees in the Bureau of Land Management or the Geological Survey in that Department.

During the 86th Congress, I sought to obtain legislation protecting the oil and gas rights of the Alaska homesteaders. In the face of strong opposition by the Department of the Interior, all the legislation that could be obtained, Public Law 86–789, provided justice for a relatively few homesteaders and then only on the Kenai Peninsula.

I argued at the time that the statute was clear and that the Secretary of the Interior was without power to confiscate the land and improvements of a homesteader who refused to waive his oil and gas rights. I pointed out that the statute permitted the Secretary only to issue a patent reserving the oil and gas rights to the Federal Government. Many Alaska homesteaders, faced with the necessity of raising money to develop their land, were virtually forced to sign waivers.

The speedy passage of S. 3107 will give the homesteader assistance—a practical appeal procedure with the appeal being heard at a convenient location by an objective individual.

Recently the American University Law Review published a legislative note written by my research assistant, Joseph J. Brewer, ably presenting support for the legal position advanced by many of the embattled homesteaders of Alaska during the course of hearings on my bill. Of course, being an article presented for publication in a law review, it could not detail the human issues involved in the struggle of the Alaska homesteaders to prove up on their land. To the enormous obstacles of climate and terrain were added the manmade roadblocks of interminable delay, misinformation, legal technicalities and misinterpretations.

The article presents carefully, with the points well documented, the legal pitfalls encountered.

I ask unanimous consent that the article by Joseph J. Brewer of Anchorage, Alaska, now a student at the Washington College of Law of the American University, appearing in that school's Law Review in the issue for January 1962, and entitled "A Bill Designed To Do Equity to a Small Group of Homesteaders in Alaska by Quitclaiming Oil and Gas Rights to Them," be printed in the CONGRESSIONAL RECORD immediately following these remarks.

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

LEGISLATION NOTE: A BILL DESIGNED TO DO EQUITY TO A SMALL GROUP OF HOMESTEADERS IN ALASKA BY QUITCLAIMING OIL AND GAS RIGHTS TO THEM. 74 STAT. 1028 (S. 1670) (1960) [1]

This was a bill granting mineral rights (specifically, oil and gas rights) to the entrymen in certain homestead lands in the State of Alaska, to alleviate hardships accruing to the entrymen as a result of certain procedural actions by the Department of the Interior. Although the final version of the bill was made applicable only to lands located in a 6-mile-wide strip along Cook Inlet on the Kenai Peninsula, the underlying problem involves basic rights of homesteaders throughout the vast land areas of Alaska. The problem arose from a document of April 22, 1957,[2] under which the Gelogical Survey reclassified sedimentary lands in all States and territories as "prospectively valuable" for gas and oil.[3] The reclassification had the direct result of destroying the homesteaders' prospective mineral (oil and gas) rights in their lands—rights which they had every reason to believe had become vested—and it was from this deprivation that S. 1670 granted relief to Kenai homesteaders.

The Department's action poses a question as to whether it represents a departure both from its own prior practice and from case law governing the subject. For the last four decades, Alaskan entrymen's mineral rights have been determined by the act of March 8, 1922,[4] as supplemented by traditional Interior Department practices and relevant case law concerning such mineral rights. Under the 1922 act, where lands classified as mineral were concerned, title could pass to the settler only with reservation of mineral rights to the United States.[5] As to nonmineral lands, the practice of the Department of the Interior was both to grant oil and gas leases and to allow homestead entries on the same land. Where no lease had been granted on the same tract, a patent eventually would be granted the homesteader, conveying the mineral rights to him, provided that the U.S. Geological Survey, in a report required prior to issuance of final patent, indicated the land was not mineral in character.[6] Where a lease had been granted, a patent would issue to the homestead entryman but it would be subject to the outstanding lease; however, if the tract remained classified as nonmineral in character, the mineral rights reverted to the homesteader upon expiration of the lease.[7]

This was the situation existing at the time of the Department's blanket reclassification in 1957. That document, by placing all sedimentary lands in the category of "prospectively valuable" for gas and oil, had the effect of barring any entryman on affected lands, to whom final patent had not yet issued, from obtaining mineral rights to the land he had entered and improved.

If there had been no reclassification, homestead entrymen on such tracts would have gained their mineral rights to their

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[1] Sec. 1 of the act reads as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby quitclaims as of the date of this Act or as of the date of issuance of patent, whichever is later, to the patentee or to his lawful heirs if title to the lands prior to the date of this Act had by devise or succession passed out of the patentee, all right, title, and interest of the United States in and to oil and gas deposits in lands in the Kenai Peninsula in the State of Alaska patented to homestead entrymen pursuant to homestead entries on which all requirements of the homestead laws had been complied with prior to July 23, 1957, except for the actual submission of acceptable final proof."

[2] Hearings on S. 1670 before the Subcommittee on Public Lands of the Senate Committee on Interior and Insular Affairs, 86th Cong., 2d sess., 253 (1961).

[3] Id. at 250–252.

[4] 48 U.S.C. 376, 377; 42 Stat. 415.

[5] Ibid., which reads in part: "* * * homestead claims may be initiated by actual settlers on public lands of the United States in Alaska known to contain workable coal, oil, or gas deposits, or that may be valuable for the coal, oil, or gas contained therein, and which, are not otherwise reserved or withdrawn, whenever such claim shall be initiated with a view of obtaining or passing title with a reservation to the United States of the coal, oil, or gas in such lands, and of the right to prospect for, mine, and remove the same; * * * should it be discovered at any time prior to the issuance of a final certificate on any claim initiated for unreserved lands in Alaska that the lands are coal, oil, or gas in character, the patent issued on such entry shall contain the reservation required. * * *" [Actually, it has been possible to homestead in Alaska since the Act of May 14, 1898 (30 Stat. 409), as amended, but the 1922 Act allowed homestead entry on mineral land, not previously permissible. Acts relative to homesteading public lands subsequent to 1898 and prior to 1922 were specifically barred from application to Alaska, as will be noted, infra. See notes 9 and 27 (the Act of July 17, 1914)].

[6] Supra note 2, hearings at 240.

[7] Ibid.

land upon compliance with homestead law requirements, as some did prior to the reclassification.[8] Following reclassification, on land subject to a lease the mineral rights no longer would revert to the homestead entryman at the expiration of the lease, as they would have prior to the reclassification,[9] and the entryman had no hope of ever gaining control of the leased subsurface rights to his land. On homestead tracts not subject to any lease, mineral rights were statutorily reserved to the United States,[10] as soon as the blanket reclassification went into effect.[11]

S. 1670 was introduced in the U.S. Senate early in 1959 to provide relief to Alaska homesteaders who, because of the reclassification of their lands, suddenly were confronted with the imminent deprivation of part of the rights they normally would have expected to gain.[12]

[8] Id. at 96.

[9] Supra note 2, hearings at 240. (S. 1670 referred only to Alaska since in the 11 Western public lands States south of Canada, it was mandatory, by statute, before any entry was allowed, to classify the individual tract, or homestead site. That statute, known as the Taylor Grazing Act, 43 U.S.C. sec. 315–315n, was never in force in either the Territory or State of Alaska. The 1922 statute that applies to Alaska refers to land that has been withdrawn, classified or reported as valuable for it mineral content.)

[10] Supra note 5.

[11] Control of surface rights to the land, as well as subsurface rights, was lost by the entrymen under the blanket reclassification, since under the 1922 act lessees could enter the land to use or occupy "so much of the surface thereof as may be required" incident to the mining and removal of minerals. The United States could always lease its reserved mineral rights. However, while the Department's practice under existing regulations was to require a $1,000 bond from the lessee if the oil or gas lease application was filed after the homestead entry was filed, no bond was required if the gas or oil application preceded the homestead filing. Thus a lessee, if his application was filed first, could enter the homestead and destroy crops or damage buildings, without liability to the homestead. See 43 CFR 66.2(b) and 43 CFR 66.6.

Furthermore, when the land was opened to homestead filing, many entrymen were not told of overriding oil and gas leases on the tracts they selected. When they were subsequently informed of that situation, many of them deemed it unfair, since a flood of leases had been applied for, and granted, at a time when the land was subject to a withdrawal order; thus, the homestead entrymen thought no other applications for the land existed, only to learn later that such applications were granted at a time when they—the would-be homesteaders—were barred from competing, insofar as priority of filing applications was concerned. Had they been forewarned of overriding leases at the time of their entry, it presumably would have been possible to select other land, or, at the very least, they would have known the risk to which the land they wanted was subject. See also note 2, supra at 195, 197, 201 where instances of damage were cited for which there were no compensation payments forthcoming.

[12] Supra note 2 at 94. See also 43 CFR sec. 192.71 providing that a homesteader may contest the classification of the land he's entered as "mineral." To defeat the required reservation to the United States of mineral rights to his land contestant must prove land was not known to be valuable for mineral content at time of reclassification. The reclassification document was marked "Not for public inspection." Supra note 2. Thus, it would have been impossible for a homestead entryman to refute a document he could not have known existed.

Litigation in the area underscores the fact that the courts' historical stand has been in direct opposition to the Department's criteria and procedure in the 1957 reclassification of the land. The reclassification of 1957 apparently was made, not on the basis of known mineral content, but instead, on the basis of the same data that was available when the land previously was classified as nonmineral.[13] It has long been held that in order for land to be classified as mineral, its mineral character must be clearly established.

In *Davis's Adm'r* v. *Wiebbold*,[14] where two conflicting patents, one mineral and one nonmineral, had been issued, the court held that in order for the mineral patent to be valid, the land referred to would have to be known to contain valuable minerals prior to the issuing of the patent. In *Steele* v. *Tanana Mines Ry. Co.*,[15] where plaintiff sought to enjoin the company from building a railroad over a placer mining claim, the decision favoring the railway company was affirmed.

The court held the company had obtained a right-of-way from a prior homestead entry claimant and the land was not considered so valuable for minerals as to defeat the homestead entry.[16] The case was cited as controlling and the principle followed in *Meyers* v. *Pratt*,[17] some 13 years later. In the oft-cited case of *Diamond Coal & Coke Co.* v. *United States*,[18] where patents to land known to be valuable for its minerals were obtained fraudulently and subsequently were annulled, the court held that in order for the land to be considered valuable for minerals, the known condition of the land would have to be such as to justify expenditure for the profitable extraction of the minerals.[19]

[13] Id. at 99.

[14] 139 U.S. 507 (1891).

[15] 148 F. 678 (9th Cir. 1906).

[16] In the words of the court: "Doubtless colors of gold may be found by panning in the dry bed of any creek in Alaska, and miners, upon such encouragement, may be willing to further explore in the hope of finding gold in paying quantities. But such prospects are not sufficient to show that the land is so valuable for mineral as to take it out of the category of agricultural lands and to establish its character as mineral land when it comes to a contest between a mineral claimant and another claiming the land under other laws of the United States." Id. at 680.

[17] 255 F. 765 (1919) (Held, colors of gold found in mountain streams on forest land opened for agricultural entry near Juneau, Alaska, was not sufficient to overturn agricultural entrant's claim).

[18] 233 U.S. 236 (1914).

[19] Id. at 239, 240. "[I]t must appear at the time of the proceedings which resulted in the patent the land was known to be valuable for mineral; * * * that the known conditions at the time of those proceedings were plainly such as to engender the belief that the land contained mineral deposits of such quality and in such quantity as would render their extraction profitable and justify expenditures to that end." The court further held that the good faith of the agricultural entryman cannot be impugned by reason of any subsequent change in conditions; i.e., that at the time of entry his purpose was to develop agriculture, not to glean a profit from any potential mineral discovery. See also; *Deffeback* v. *Hawke*, 115 U.S. 392 (1885) (proof of land's known mineral value at time of entry determines whether land is more valuable for mineral than agricultural purposes); *Bay* v. *Oklahoma Southern Gas, Oil & Mining Co.*, 13 Okla. 425, 73 P. 936 (1903) (burden of proof falls on party alleging land's mineral character, not on homestead entryman, to overcome nonmineral classification); *McLemore* v. *Express Oil Co.*, 158 Cal. 559, 139 Am. St. Rep. 147 (mineral claimants must show by a "preponderance of testimony" that land in question is more valuable for minerals than for agriculture before homestead claim can be defeated); on the latter point, see decisions rendered by the Department of the Interior, with precisely same holding; *Cresswell Mining Co.* v. *Johnson*, 8 L.D. 440 (1889); *Dobler* v. *Northern Pac. R. Co.*, 17 L.D. 103 (1893), *Winscott* v. *Northern Pac. R. Co.*, 17 L.D. 274 (1893), *Aldritt* v. *Northern Pac. R. Co.*, 25 L.D. 349 (1897). In *McLemore*, supra, court held mineral claimants must show land more valuable for mining than agricultural purposes "as a present fact; not that it might possibly hereafter develop minerals in such quantity, and of such character, as to establish its mineral value."

In the light of those decisions it would seem to follow that the Department of the Interior had no solid basis for approving reclassification of all sedimentary lands in the country as "prospectively valuable" for gas and oil in the absence of some clear and reasonable indication that the hitherto nonmineral portions of such lands were valuable for mineral deposits, or were mineral in character. This is especially clear in the apparent absence of evidence of changed data on which to base such a reclassification.[20]

Following a July 1957 oil strike on the Kenai Peninsula, entrymen were asked to waive oil and gas rights before final entry for homesteading was granted.[21] By definition "waive" means to relinquish something voluntarily, especially, a right which can be legally enforced. If there were no doubts that the Government owned outright the mineral contents of the lands involved under the April 1957 reclassification, a request for a waiver from the entryman—asking him to relinquish a right which the Government insisted by its Reclassification Act that he did not have—would appear to be superfluous. It also would appear to be contrary to the express provisions of the statute which merely requires reservations in lands "known to contain workable coal, oil, or gas deposits * * * or that may be valuable for the coal or gas." [22]

The means by which homesteaders were deprived of mineral rights on their homesteads raises the question of whether the Department's action constituted a denial of due process. In *United States* v. *348.62 Acres of Land In Anchorage Recording District, et al.*,[23] in which the court decided in favor of a homestead entryman and against the Federal Government over disputed lands, it was said that a qualified entryman, who "enters public land with intent to acquire title, has a vested right of which he can only be deprived by failure to comply with the law." Also, it was stated that where the "right to a patent has once become vested in a purchaser of public lands, it is equivalent, so far as the Government is concerned, to a patent actually issued. The execution and delivery of the patent after the right to it has become complete are mere ministerial acts of the officers charged with that duty." In *Orchard* v. *Alexander*,[24] where it was disputed as to which of two entrymen had a better claim to patented lands, the court held that lack of notice and a hearing insofar as one of the interested parties was concerned clearly was denial of due process.

These cases establish the proposition that homesteaders' rights cannot be taken away arbitrarily. Here, the entryman had an implied statutory right to obtain the mineral rights to lands not classified as mineral in character, in the absence of interim discovery of minerals on such lands. This

[20] Supra note 2 at 99.

[21] Id. at 97.

[22] Supra note 4.

[23] 10 Alaska 351 (1943).

[24] 157 U.S. 372 (1895).

therefore was a right which could not be destroyed without, at the very least, the granting of due notice and proper hearing at which the Government might establish reasonable grounds for the deprivation. The failure of notice and hearing thus would seem to amount to a denial of procedural due process.

In an opinion of the Solicitor, Department of the Interior, dated January 27, 1958,[25] the act of July 17, 1914 [26]—which was not applicable in Alaska—is relied on as authority for holding that land "prospectively valuable" for minerals requires reservation to the Government. "Prospectively valuable" apparently is equated in the opinion with "coal, oil, or gas in character" as required by the 1922 act.[27] The language of the 1914 act, however, is "reported as valuable," [28] a description not synonymous with "prospectively valuable."

Cases hereinbefore cited [29] indicate that the value of land for mineral development is not established unless the mineral content is known sufficiently to induce informed persons to expend money to extract the minerals contained.[30] Yet, the Department approved reclassification of the lands as "prospectively valuable" without benefit of substantial proof of the kind referred to in case law,[31] and in former decisions of the Department itself.[32] Case law, as we have seen, holds that more than mere inferences are necessary to switch classification from nonmineral to mineral. It would appear that no additional discoveries of oil and gas were reported upon which to base such a reclassification, so broad as to include the U.S. portions of sedimentary lands throughout the North American Continent.[33]

As to entrymen on lands on which there had been no determination as to mineral content, the 1922 act would seem to provide that mineral rights shall revert to the United States only on condition that, prior to issuance of a final certificate, it should "be discovered that the lands are coal, oil or gas in character." [34] Therefore, as to such entrymen—including the Kenai Peninsula settlers herein involved—the deprivation of mineral rights by the blanket reclassification of April 1957 would appear to be an obvious ultra vires action.

As to land on which homestead claims had not been filed as of the date of the reclassification, a somewhat more difficult problem of statutory interpretation is involved. The act requires reservation to the United States of mineral rights of lands "known to contain workable coal, oil, or gas deposits," or lands "that may be valuable for the coal, oil, or gas contained therein." [35] Does the latter alternative clause represent authority for Department reclassification in the absence of objective evidence of actual existence of such mineral deposits? The Solicitor of the Department, in the memorandum of January 27, 1958,[36] would seem to take the affirmative position, relying primarily on the contention that Congress' intent was to require mineral reservation in lands "reported or believed to be valuable." However, it is hardly to be supposed that Congress intended such a "belief" to be established in an arbitrary and capricious manner, based on nothing more than mere conjecture on the part of the Department. The Department reversed its "belief" as to the nature of the lands involved, without benefit of any new data or evidence as to mineral content, in its blanket reclassification order. Whatever the congressional intent, it would not seem to provide justification for arbitrary action.

The Alaska lands affected were withdrawn, in 1948, from all entry, sale, location, or settlement until 1952, when gradually, by specific blocks of homestead tracts, they were again opened for agricultural entry. During the time of the withdrawal, and notwithstanding the existence of the withdrawal order, the Department of the Interior accepted and granted oil and gas applications to lease, or offers to lease, much of the land,[37] a situation which many homesteaders, ignorant of outstanding leases, deemed unfair.[38]

When S. 1670 was introduced it met with the opposition of the Department of the Interior, and was not finally passed until late in 1960, and then in modified form, becoming Public Law 86–789. The original version would have extended quitclaims by the United States to gas and oil rights in favor of several hundred homesteaders in the process of proving up on lands they had entered, but who had not yet received final patent. The final version, however, was limited to those who had entered the once-withdrawn lands of the Kenai Peninsula, and who had met every requirement as provided in the homestead statutes, except for submission of final proof of entry as of July 23, 1957, the date of the announcement of the oil strike on the Kenai. The Department of the Interior accepted this version, since the Secretary felt that some homesteaders who might have submitted final proof prior to the oil strike, may have refrained from doing so due to the existence of a suspension order of the Department in granting use of land in the area, for a 15-month period prior to the oil discovery.[39]

Since passage of the act, some two dozen entrymen of those affected have received final patents to their homesteads, which grant them full subsurface or mineral rights to the land, according to decisions by the Department of the Interior.

In view of the language of the statutes and past practices of the Geological Survey in classifying public land tracts individually, as well as case decisions on the subject, the 1957 action of the Department approving the reclassification of the lands would appear to be questionable from both legal and equitable standpoints, as well as perhaps amounting to an ultra vires act. Control of the mineral rights to those lands in all probability would have reverted to potential homestead patentees at expiration of the leases, in many instances at least, if classification had continued on the basis of known mineral character of the lands. Those rights have now been denied the vast majority of Alaska homestead entrymen who had not received patents to the land prior to July 23, 1957, because of the questionable reclassification.

It should be clearly noted that section 1 of the act of September 14, 1960 [40] (S. 1670), in no way nullifies or reverses the action of the Department. In that sense, it is not a complete remedy. The view has been expressed that the rights denied homestead entrymen in this manner should have been restored by administrative action within the Department itself.[41] In its limited form as passed by Congress, the measure excludes homesteaders from its provisions unless they were located on the Kenai Peninsula. Homesteaders in other locations of the vast land areas of Alaska, who may have been subject to the same inequities, were denied any form of legislative relief when the original version of the bill was amended severely. Thus, S. 1670 was restricted to what amounts to a private relief bill for a handful of homesteaders. Even though the original version of the measure was broader in scope, it would not have reversed or amended the Department's action. Thus, any such relief measure is seen as less desirable than would be departmental action to reverse what may have been an abuse of power by the Department.

JOSEPH BREWER.

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[25] 65 I.D. 39, Opinion M–36483 (NOTE.—Prior to 1930, Department of the Interior land decisions were abbreviated L.D., see note 19, supra. With volume 53 in 1930, the Public Lands reference was dropped from title and citations thereafter referred to as I.D.).

[26] 38 Stat. 509, 30 U.S.C. 121–123.

[27] Supra note 5.

[28] Supra note 26.

[29] *McLemore* v. *Express Oil Co.*, supra note 19; *Diamond Coal & Coke* v. *United States*, supra note 18.

[30] Supra note 29.

[31] Supra notes 18 and 19.

[32] See note 19, supra.

[33] Supra note 2 at pp. 250–253.

[34] See notes 4 and 5, supra.

[35] Ibid.

[36] Supra note 25.

[37] Supra note 2 at 96, 97.

[38] Supra note 11.

[39] Supra note 2 at 186–187.

[40] Supra note 1.

[41] Supra note 2 at 211.

TRANSPORTATION OF NEGRO FAMILIES TO THE NORTH

Mr. KEATING. Mr. President, I commend my distinguished colleague from New York for calling attention to a shocking situation in our Nation.

Mr. President, as we are about to engage in debate on the basic rights of American citizens, it is fitting that we take note of press reports to the effect that white citizens councils are planning to export Negro families by giving them one-way bus transportation to northern cities such as Washington and New York. I commend the attitude, of which we have read, taken by New York that it will receive these expatriates of other States in accordance with the Constitution of the United States and in accordance with our basic laws.

Mr. President, it is fitting that the Senate consider the words inscribed on the Statue of Liberty and that all Americans do so. This inscription was not designed as a welcome to New York City, but to the Nation. It is shocking at this date in our history to discover that some of our fellow Americans cannot find a home and opportunity in land their forefathers were brought to more than a century ago. I cannot believe that the cruel and callous actions of the White Citizens Council represent the sentiments of any substantial group in our population, either in the North or South.

We all know our brethren from the South have the same compassion that those of the North have; I cannot believe this small group speaks for any substantial number of the people of any area of our country.

But where are the voices of protest and indignation? Have they been drowned out by fear or by years of complacent acceptance of the second-class

status under which Negro citizens have suffered?

Incidents such as these portray in human terms the sum and substance of what this effort for civil-rights legislation means.

Our great communications media can do much to direct public attention to the significance of the debate we start today by publishing pictures of the Statue of Liberty on front pages and television screens, dramatizing for all Americans our responsibility to uphold the principles upon which our Republic was founded.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President——

The PRESIDENT pro tempore. Is there further morning business?

Mr. JAVITS. Mr. President——

The PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, if all other Senators seeking recognition in the morning hour have been recognized, I seek recognition again in the morning hour.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. McCLELLAN. Is the morning hour over?

The PRESIDENT pro tempore. No. The Senator from New York has been recognized.

Mr. JAVITS. Mr. President, if the Senator from Arkansas desires recognition, I shall take my seat, for I am not entitled to recognition until all other Senators seeking recognition have been recognized.

Mr. McCLELLAN. I thank the Senator.

The PRESIDENT pro tempore. The Senator from Arkansas is recognized.

(The remarks of Mr. McCLELLAN may be found in the Appendix of the daily RECORD.)

THE LITERACY TEST BILL

Mr. JAVITS. Mr. President——

The PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I should like to finish one sentence I began when I was last recognized.

Mr. President, it seems to me we are at least in the possibility of facing a historic moment, when there may be a successful vote to close debate in connection with the debate on a civil rights bill. If so, it will be the first such event in history. I think it is highly desirable, and I think it is richly deserved by the unanimous findings of the Federal Civil Rights Commission, upon which the measure which is to be before us is based.

Mr. President, it seems to me that the chances for such a motion being successful will be very materially enhanced if there is truly a recognition of what is occurring, how serious it is, and the desperation or extremism to which people can be driven by the persistence of such a situation as we find in respect to voting, and other violations of basic civil rights in one area of our country.

Mr. President, I hasten to point out that of course there are violations of such rights in other areas of our country, including the North, but in those areas the whole governmental machinery and the whole social climate are in favor of redressing people's rights and not denying them.

Finally, I wish to say that I hope what is happening in New Orleans may give to the American people enough realization of what is at stake, both at home and throughout the world, so that they will use their influence in terms of marshaling public opinion to help us see, at long last, that there is an effective cloture vote. I believe that, coupled with the full effort of the administration in this area, as well as our effort on the minority side, may have a desirable result.

Finally, I should like to join with my colleague, the Senator from New York [Mr. KEATING], who was kind enough to commend me for raising the question—and I commend him—in the hope and the prayer that there will be an expression of very keen feelings on the part of our fellow Americans from the South with respect to the shameful exhibition in New Orleans. We know that there are millions of very fine, high-minded Americans in our Southern States. It will be very good for the rest of the country to hear from them in this situation.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. RUSSELL. Mr. President, what is the unfinished business which the Senator asks be laid before the Senate?

The PRESIDENT pro tempore. The unfinished business is the bill for the relief of James M. Norman, H.R. 1361.

Mr. RUSSELL. Was that bill made the unfinished business yesterday, or on what day?

The PRESIDENT pro tempore. One day last week; April 17.

Mr. RUSSELL. Mr. President, has any announcement been made by the distinguished majority leader as to his intention? We have been reading in the newspapers a good many stories as to what is to be proposed. We have heard from Senators on the floor that a certain piece of proposed legislation will be brought before the Senate.

Has any official announcement been made as to what vehicle is to be used to bring this proposed legislation before the Senate? If so, it has escaped my attention. I must confess I was not on the floor yesterday. The Senate was briefly in session, and it adjourned before I was able to get over.

We from my part of the world know that in election years we must look out for one of these biennial invasions of the South by people who find nothing whatever wrong in their own areas but who desire to see that all the people of the South live and act according to their concepts. I know certain voices become very strong in these election years.

However, I should like to know—if the frailties of the southern people are to be corrected—as to what is the vehicle which the distinguished leadership intends to use for that purpose.

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

Mr. RUSSELL. Yes; I am glad to yield.

Mr. MANSFIELD. There was no notice given to anyone I know of that the bill, which is the unfinished business, would be the vehicle; but, as long as the Senator has raised the question, this will be the vehicle for the literacy test amendment.

Mr. RUSSELL. May I inquire, Mr. President, as to whether or not the hearings which were held before the subcommittee have been printed? I do not expect the Senators to restrain themselves from proceeding with the bill to await any detailed study and consideration given before the subcommittee or the full committee as is the case with other legislation, but I know that the subcommittee has pursued the hearings very vigorously. I saw some of the statements presented to the subcommittee and found them to be very enlightening. I should like to inquire as to whether or not those hearings have been printed.

The PRESIDENT pro tempore. The Chair has no knowledge as to the printing of the hearings.

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

Mr. RUSSELL. I am glad to yield.

Mr. MANSFIELD. It is my understanding that the hearings before the subcommittee headed by the distinguished Senator from North Carolina [Mr. ERVIN] have been concluded and that they are in galley proof and will be available in the next day or so. I am quite certain that they will be on the desks of all Senators long before this debate is concluded.

Mr. RUSSELL. Mr. President, I can assure the distinguished Senator that if the Senator from Georgia has anything to do with it, the hearings will be printed. When hearings have been held, I think the hearings should be made available before the discussion of the subject matter is commenced. The Senator, of course, knows that is the general practice; that we usually have printed copies of hearings available.

I do not think anyone would charge the distinguished Senator from North Carolina [Mr. ERVIN] with any dereliction as to processing the hearings. If

such a charge has been made, I have not seen it.

Of course, we get into some rather weird situations when we meet proposed legislation of this type to come before the Senate. Judging from the issue which has been drawn in distinguished papers, such as the New York Times, which somewhat sets the tone for the so-called liberal press in this country, as set forth in an article I read on yesterday, it appears that this issue which the Senator says the Senate will consider, that it is claimed a group of sadistic southerners, inspired by the most sordid motives, desires to take advantage of our Negro citizens. I should like to read a part of the article from yesterday's New York Times:

> The Senate is scheduled to touch off a talking match Tuesday over the administration's major civil rights proposal for this session.
>
> The issue will be a bill to limit discriminatory use of literacy tests to keep Negroes from voting in the South. The measure would declare anyone with a sixth-grade education literate for voting purposes.
>
> Southerners have sworn to fight the literacy bill to the end. Their weapon will be talk. They have made clear that, if necessary, they will open a full-scale filibuster.

So far as I am advised, with the exception of an editorial in the Washington Post, questioning the constitutionality of the bill, that somehow slipped by, it has seldom been brought to the attention of those who depend upon our most prominent media of communication for the transmission of news that a very serious constitutional question is involved in the issue, and that the southerners, whose sole weapon this article charges will be talk, feel that we are armed with what was once a weapon more potent than the good blade Excalibur when borne by King Arthur—and that is the Constitution of the United States of America.

We are convinced that we are living up to our obligations under our oaths of office to oppose the measure with every means at our command because it offends express provisions of the Constitution. As I have said, we know that biennially we shall be confronted with proposed legislation of the sort we are now talking about. It is rather remarkable that it is always presented in an election year.

I try to read the hearings held in regard to such proposed legislation. I had noticed in such of the hearings as I have been able to see that practically every witness, including the Attorney General and the dean of the Harvard Law School, who presides over the Civil Rights Commission, stated to the committee that there were existing laws dealing with the abuses this bill claims to attempt to remedy.

I digress for a moment to say that I believe there are more laws, both civil and criminal, aimed at punishing the denial of the right of any citizen to vote than there are laws to protect any two or three other rights inherent in citizenship in the United States.

I see that it is contended there are 100 counties in which voting rights have been violated. I daresay there are almost 3,000 counties in which the crime of murder is committed. If voting rights are withheld and denied, it is a criminal offense. We know that the Department of Justice of the United States has a vast horde of lawyers at its disposal. My latest information is that there are almost 2,000 such lawyers in the employ of the Justice Department and are supported by the taxpayers. The taxpayers are also defraying their expenses to travel about the country. If the matter were pursued with zeal, it seems to me that those 2,000 lawyers should cover the 100 counties in which there are claimed violations, and the violators could be punished under existing law, without our undertaking, by simple statute, to repeal two clauses of the Constitution of the United States.

I am well aware that certain organizations that are very potent in the political life of our country are pressing the issue. I am well aware of the fact that certain political organizations have advised the present administration to get rid of the South, drive it out of the Democratic Party, and make their big play an effort to get the votes of those in the cities to which the people have now moved and live in vast numbers. There are great masses of seething humanity in the cities. I am aware that such advice has been given. I do not know why the Attorney General of the United States has seen fit to demand a new law when he well knows there are existing laws under which violations could be prosecuted. I do not know of any contention that has been made anywhere that Federal judges or Federal juries in the Southern States have failed up to the present time to do justice in any of the cases that have been brought in that area.

Never in the history of this country has the Federal judiciary been as subservient to the views of the Department of Justice as it is at the present time. In case after case we have seen the Supreme Court of the United States take the briefs filed by the Department of Justice—sometimes as amicus curiae; not even a party to the case—transpose the wording of the brief of the Department of Justice, and hand down what they solemnly, but somewhat erroneously, have designated as "their decision" or "their opinion."

With a few heroic exceptions the inferior Federal courts have vied with each other to see which could stretch the most recent decision of the Supreme Court the farthest.

When the Department has said that there are laws covering every incident of which complaint is made, it is difficult to understand why an issue should be brought here that would wipe out the right of States to prescribe qualifications and confuse that issue with alleged denial of qualified voters to register. It is certainly not necessary to twist or distort the Constitution in this fashion when there are existing laws which could be used to punish offenses which, we are told, are limited to 100 of the 3,000 counties in the United States.

I do not think anyone would claim that the Attorney General of the United States is too lazy to set in motion the vast Federal machinery of almost 2,000 lawyers, the FBI, and all the other powers he has. He is a man of action and energy. He has not hesitated to utilize such power in the prosecution of gangsters and labor leaders who, in his view, were somewhat out of line. He has not hesitated to use that great power in the past 2 weeks to require the most mighty men in industry and business to knuckle down to the demands of our central Government.

But in this peculiar category of cases in which there is demand for legislation by the groups to which I have referred, he is not willing to utilize existing law which he and other witnesses have stated cover such cases, but is demanding new and revolutionary legislation to repeal two parts of the Constitution, and, in addition, to invade the lawful domain, the powers, and the rights of the several States.

Mr. President, that is very strong evidence to me that the proposed legislation, to represent it in even the most kindly light, has a somewhat political flavor. I believe that the right to have a vote counted fairly when it has been cast is as important as the right to avoid other discriminatory practices in the exercise of State qualification laws with respect to the registration of voters.

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

Mr. RUSSELL. Not at this time.

Mr. President, I have heard contention after contention with respect to frauds of one kind or another that take place in great cities in which machine bosses control politics. We do not hear anything on the floor of the Senate about that. No legislation is proposed that would say, "We are going to see that the bosses who control the huge cities of the United States do not exploit the great power that is theirs, financial and otherwise, to control the votes of thousands of citizens of those communities." These are accepted as minor matters. They are merely little peccadilloes, not worthy of any consideration whatever. They are not brought up here or presented as bills to the attention of the Senate. Of course we understand that the white people in the South must be made the whipping boy. In 1960 the Democratic Party with the help of the South, gained control of both branches of the Government. It may be that the ADA and similar groups were right when they said that the present-day Democratic Party would be much better off if the South were driven out of the party.

Mr. President, if we are driven out of the house of our fathers we will take with us in that last hour when we go, the ark of the covenant of the democracy of Jefferson and Jackson—the Constitution of the United States. We will still be opposing all efforts to twist, distort or destroy that priceless charter.

We understand, of course, that in certain areas the Constitution is considered to be completely outmoded. Some people have put the Articles of Confederation and the Constitution of the United States in about the same category, and consider the Constitution as just so much of a hindrance in the great march to progress they would lead if unhampered by the limitations on unbridled power found in that document. Being afraid that a direct junking of the Constitution would arouse our people, they have resorted to a whittling process in court and Congress to destroy it by degrees.

So if the ADA is successful in driving us out of the Democratic Party, we will at least carry with us the Jeffersonian and Jacksonian principles and will have a Democratic Party that will appeal to more than the temporary passions and prejudices of the great mass of people who live in the cities of the United States.

The odds against us are great enough, as we undertake to defend what we believe to be the principles of the Constitution of the United States, without also having our actions misrepresented constantly, day after day, hour after hour, as merely an effort to keep Negroes in the South from voting. In my own State of Georgia, the voting by Negroes is the least of our racial issues. I know that the Civil Rights Commission stated that there are two or three counties where they are not registered. If that is true and force or coercion has been the cause the action is in violation of already existing law. It is the duty of the Department of Justice to prosecute such cases, as they prosecute other categories of offenses. There are over 200,000 Negroes registered in the State of Georgia, and they vote as freely as the white people do. Their rights in that regard are the same as those of the white people and their bloc voting has been controlling in some of our elections.

My attitude toward the proposed legislation is based on the fact that I am completely convinced—and I am not referring in any invidious fashion to the two authors of the bill—that this is an attempt by force to bring the bill to the Senate in an effort to rewrite the Constitution without going through the amending process that is prescribed in that document.

Mr. President, there is no issue that can be properly solved in our system of government on the theory that the "end justifies the means," especially if it means wiping out portions of the Constitution of the United States by simple statute.

As I have said, some of us feel that we are under enough handicap by reason of a paucity of numbers, without being compelled to fight under the illusion, as the country is being told over and over, that we are undertaking to persecute and tread down upon our Negro citizens in the South.

I wish to say to some of our colleagues who still have some freedom of action in the Senate, and who still exercise independence of action, that they might well consider long and prayerfully the wisdom of making this proposed excursion with the "end justifies the means" people. We will undertake to see to it that they will have an opportunity to consider it long and, we hope, they will ponder it prayerfully.

It is inevitable that there will come a time when those who play politics with the Constitution of the United States will be hoist by their own petard. After the Constitution has been twisted and distorted, the time will come when constitutional guarantees will have been eliminated, and they will find the same weapons used against them. They might well consider that indeed.

Mr. President, in view of the statement that has been made by the distinguished majority leader, and also in view of the fact that I regard this matter to be of vital importance, I should like to suggest the absence of a quorum before we proceed with the issue. I do suggest the absence of a quorum.

Mr. JAVITS. Mr. President, will the Senator withhold that suggestion and yield for a question?

Mr. RUSSELL. I yield.

Mr. JAVITS. I should like to have the Senator's comment on a statement of the Attorney General. It is a very brief statement. He made the following statement on the bill before the committee:

> Our experience shows that existing laws are inadequate. The problem is deep rooted and of long standing. It demands a solution which cannot be provided by lengthy litigation on a piecemeal, county-by-county basis. Until there is further action by Congress, thousands of Negro citizens of this country will continue to be deprived of their right to vote.

Mr. RUSSELL. Yes; I read that statement. Of course I read it. However, there are also other clauses and conclusions in the Attorney General's testimony. I do not have the text of it before me. He explicitly stated that there were laws in existence which deal with this subject. That is a plea in confession and avoidance. He is taking the easy road. He says he wants Congress to legislate rather than expect him to prosecute under existing laws. The Civil Rights Commission has found a condition to exist in a hundred counties. Of course I do not regard their statement as wholly objective. Assuming it is correct, why does not the Government institute a number of lawsuits, to be carried on by that Department? Certainly the Department is adequately staffed. It has multiplied the number of its lawyers in recent years. Of course, the Attorney General had to try in some way to justify the bill he had drawn. Either he or some other witness stated that if it were not for the findings of fact which were in it, the bill would not be constitutional. I do not quote verbatim, but certainly that was the inference he drew.

Since when can findings of fact in a statute be used as justification for the wiping out of two clauses of the Constitution of the United States? I care not how deplorable a situation may be; the Constitution of the United States cannot legally be repealed except through the process of constitutional amendment and letting the people of the country have an opportunity to pass on such a proposal, as is provided in the Constitution.

We know who are the forces behind the bill. Whatever may be said in the publicity, the opposition to this movement is being waged by honest men who firmly believe that they are fulfilling their oaths to defend the Constitution of the United States.

Mr. MANSFIELD. Mr. President——

Mr. RUSSELL. Mr. President——

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. JORDAN in the chair). The question is, Is there objection to the request of the Senator from Montana that the unfinished business be laid before the Senate?

Mr. RUSSELL. Mr. President, I have a right to suggest the absence of a quorum, in order to have a quorum present before the question is determined. I have suggested the absence of a quorum. The Constitution of the United States may be outmoded; but one of the few provisions of the Constitution which is written into the rules of the Senate is that a quorum shall be present for the transaction of business. I demand the enforcement of that rule.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 45 Leg.]

Boggs	Humphrey	Smathers
Cannon	Jackson	Sparkman
Capehart	Javits	Stennis
Case, S. Dak.	Jordan	Symington
Curtis	Keating	Talmadge
Dirksen	Mansfield	Thurmond
Douglas	McClellan	Tower
Dworshak	Monroney	Wiley
Gruening	Moss	Williams, N.J.
Hayden	Pastore	Williams, Del.
Hill	Russell	Young, N. Dak.
Holland	Saltonstall	

The PRESIDING OFFICER. A quorum is not present.

ADJOURNMENT

Mr. MANSFIELD. Mr. President, I am about to move that the Senate adjourn until 12 o'clock noon tomorrow, but before I do so, I wish to compliment the distinguished senior Senator from Georgia for making the suggestion that a quorum was not present. I express the hope that from now on there will be much more than a quorum present.

Mr. President, I now move that the Senate stand in adjournment until 12 o'clock noon tomorrow.

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

The PRESIDING OFFICER. The motion is not debatable.

The motion was agreed to; and (at 1 o'clock and 36 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, April 25, 1962, at 12 o'clock meridian.