your request, we will be more than happy to detail certain areas which appear to be most flagrant.

Thank you for your assistance and interest.

Sincerely yours,

THE CONSAD CORP.,
ROBERT S. SNOYER,
President.

Now that is Mr. Snoyer's record of treatment his firm has received since he acted as a patriotic American. You will note when you read the memorandum that 2 weeks ago Mr. Snoyer came to Washington to complain to the Signal Corps about this treatment. He talked for 90 minutes with Gen. H. L. Scofield, after being diverted to that officer by the man with whom he actually had an appointment.

What action did he get from Scofield? Well, in my opinion, General Scofield said in effect, "Very interesting, if true. But your problem is outside my area of responsibility now. My main concern these days is with the new Defense Supply Agency. Take your problem up with Signal Supply Headquarters in Philadelphia."

This sort of statement was made by the head of the Signal Corps procurement division. It is an outrage that is absolutely incredible. You might ask why is it happening. I think there are several reasons:

First. Even the honest members of the Signal Corps procurement system apparently feel that this investigation is a blot on their record for they are a part of the procurement mechanism that this manufacturer has helped prove can be perverted for corrupt ends. Apparently honest members of the Signal Corps feel that as originators and administrators of this system, this investigation is a reflection on them. So they are doing everything possible to discredit this firm. It is the old story of "close ranks" and "protect one of your own"—even if your own is crooked.

Second. The stake that the remaining corrupt officials have in discrediting this firm is obvious. The entire electronics industry is watching to see what happens in this case. If this firm can be made an example, if it can be harassed out of the procurement field, it will stand as a lesson to all other contractors. If you blow the whistle on the Signal Corps—or on other corrupt procurement officials in any service—then "you'll get it in the neck." So keep your mouth shut and pay the shakedowns and kickbacks that are often necessary for smaller firms to get Government business.

Mr. Speaker, this situation cannot be permitted to continue. If Signal Corps officials from the chief signal officer, Gen. E. F. Cook, and the chief procurement officer, General Scofield, on down do not put a stop to this—immediately, without equivocation—then we may as well say goodby to all hopes for honesty—and equally important, for economy—in defense procurement. Such action is a blaring invitation for every procurement officer in every service to wheel and deal with impunity, to milk the taxpayers dry by selling defense contracts with under-the-table payments like they were being peddled on an auction block.

I understand that this situation has been brought to the attention of the Justice Department, and that the Attorney General is taking a personal interest in the matter. He is to be congratulated. Someone has to see to it that a firm which does its civic duty—and there are far too few firms willing to take such steps—is not penalized as a result.

I would like to make one thing clear at this point. I am not suggesting that this firm be rewarded for the brave action it took. Nor does this firm expect a reward. All I am asking—and all the Consad Corp. is asking—is that it be treated no differently than any other firm doing business with the Signal Corps. It is entitled to no more, but it is also entitled to no less.

Personally, I intend to demand from the Department of Defense and the Signal Corps a full report on this situation—an explanation why this was permitted to happen and a list of the names of the persons responsible. I also intend to recommend that the General Accounting Office, if possible, act as an impartial arbitrator in this situation to determine whether this firm is being subjected to discriminatory treatment by the Signal Corps' west coast office.

I hope that all other fellow Members of Congress interested in honesty and economy in procurement—and particularly my colleagues from this firm's home State of California—will join with me in calling the public's attention to this shocking situation and in urging the Defense Department to stop this disgraceful conduct on the part of the Army Signal Corps.

I am today directing a letter to Secretary of Defense McNamara asking for a full investigation of this outrage by the Defense Department Intelligence Agency. If the Secretary's performance in this case follows past patterns, do not look for any earthshaking developments. I say this because I have been denied information on military procurement by the Secretary of Defense himself.

To conduct a study such as mine it is necessary to have "before the fact" information on procurements. For some time I was receiving this information from several agencies. Since the findings began to come out, however, and since I have been proving that the taxpayers' money is being thrown to the winds, the Secretary of Defense himself has had me purged from lists to receive such information. He, too, follows the "close ranks against the foe" approach of all the rest of the military.

If this sort of action is typical of the man who has been called the "whiz kid" of the Defense Department, then I think it is time he went back to the Ford Motor Co. where he belongs and we got a Secretary of Defense who will cooperate with the Congress and who will work for the best interests of the American people.

The reason the Defense Department has shut off information to me is the same reason why reprisals are being taken against Consad and others. We are hitting the tender spots. We are uncovering the waste, the inefficiency, and the corruption. In short, Mr. Speaker, we are hitting them where they live, and they are trying to cut me off to stifle my work. I want to state here and now that the Secretary of Defense or no other person can do that, and I shall continue to investigate every example of abusive procurement I can uncover.

That, then, is the report on reprisals against Consad. What is Secretary McNamara going to do about it? Is he going to do anything? I think you will agree that it is indeed a shameful situation and one that should be corrected.

In closing, I want to inform my colleagues that I have just received a report on another phase of my study from the Comptroller General which shows that an American industry received a 100-percent larger profit for making a simple power supply than should have been the case. Next week I intend to spell out the facts in that case, and I think the Justice Department should proceed against the company, demanding return of the excess profits.

SENATE

FRIDAY, AUGUST 17, 1962

(Legislative day of Tuesday, August 14, 1962)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President.

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

Our Father, God, with so much of the earth in fetters of the mind and body, we are grateful for this free land, throned in richness between the seas.

For borders without guns, for frontiers which are swinging gates, for unity in diversity, for peace that holds a continent in its blessed sway, and for equality of opportunity which beckons all to its summits, we lift the Te Deum of our thanksgiving.

May those called by the people's choice to defend our heritage and to administer the affairs of the Nation make daily choice of decisions determined by spiritual integrity amid the corruption that is in the world through the lust of power, that without fear or favor they may contend steadfastly for the right, as Thou dost give them to see the right.

In the name of the Redeemer, we pray. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, August 16, 1962, was dispensed with.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its

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reading clerks, announced that the House had passed, without amendment, the bill (S. 2020) to amend part IV of subtitle C of title 10, United States Code, to authorize the Secretary of the Navy to develop the South Barrow gasfield, Naval Petroleum Reserve No. 4, for the purpose of making gas available for sale to the native village of Barrow and to other non-Federal communities and installations, and for other purposes.

The message also announced that the House had passed the bill (S. 3597) to amend title 38, United States Code, to permit, for 1 year, the granting of national service life insurance to certain veterans heretofore eligible for such insurance, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5423. An act to amend title 10, United States Code, to authorize the Secretary of the Navy to take possession of the naval oil shale reserves, and for other purposes;

H.R. 12081. An act to authorize the Secretary of the Army to convey certain land and easement interests at Hunter-Liggett Military Reservation for construction of the San Antonio Dam and Reservoir project in exchange for other property; and

H.R. 12900. An act making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and certain river basin commissions for the fiscal year ending June 30, 1963, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H.R. 5423. An act to amend title 10, United States Code, to authorize the Secretary of the Navy to take possession of the naval oil shale reserves, and for other purposes; and

H.R. 12081. An act to authorize the Secretary of the Army to convey certain land and easement interests at Hunter-Liggett Military Reservation for construction of the San Antonio Dam and Reservoir project in exchange for other property; to the Committee on Armed Services.

H.R. 12900. An act making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and certain river basin commissions for the fiscal year ending June 30, 1963, and for other purposes; to the Committee on Appropriations.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, in my own time, and with the concurrence of the Senate, would it be possible to proceed to the consideration of executive business, to consider nominations on the Executive Calendar, and then return to the regular time; or would it be advisable to withhold that?

The VICE PRESIDENT. A motion to proceed to the consideration of executive business is in order at any time, and is privileged.

Mr. MANSFIELD. Mr. President, I withhold it.

CALL OF THE ROLL

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

The VICE PRESIDENT. The absence of a quorum has been suggested, and the clerk will call the roll.

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

[No. 200 Leg.]

Bottum	Jordan, Idaho	Morse
Burdick	Keating	Pastore
Carlson	Kefauver	Pearson
Cotton	Lausche	Robertson
Dirksen	Mansfield	Russell
Gore	McGee	Smathers
Hayden	Metcalf	Smith, Mass.
Holland	Miller	Talmadge

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Washington [Mr. MAGNUSON], the Senator from Michigan [Mr. MCNAMARA], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from Arizona [Mr. GOLDWATER] and the Senator from Kentucky [Mr. MORTON] are detained on official business.

The VICE PRESIDENT. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms is instructed to execute the order of the Senate.

After a little delay, Mr. AIKEN, Mr. BARTLETT, Mr. BEALL, Mr. BENNETT, Mr. BOGGS, Mr. BUSH, Mr. BYRD of Virginia, Mr. BYRD of West Virginia, Mr. CANNON, Mr. CASE, Mr. CHAVEZ, Mr. COOPER, Mr. CURTIS, Mr. DODD, Mr. DOUGLAS, Mr. ELLENDER, Mr. ERVIN, Mr. FONG, Mr. GRUENING, Mr. HART, Mr. HARTKE, Mr. HICKENLOOPER, Mr. HILL, Mr. HRUSKA, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. JORDAN of North Carolina, Mr. KERR, Mr. KUCHEL, Mr. LONG of Missouri, Mr. LONG of Hawaii, Mr. LONG of Louisiana, Mr. MCCARTHY, Mr. MCCLELLAN, Mr. MONRONEY, Mr. MOSS, Mr. MUNDT, Mr. MUSKIE, Mrs. NEUBERGER, Mr. PELL, Mr. PROUTY, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SCOTT, Mrs. SMITH of Maine, Mr. SPARKMAN, Mr. STENNIS, Mr. SYMINGTON, Mr. THURMOND, Mr. TOWER, Mr. WILEY, Mr. WILLIAMS of Delaware, Mr. YARBOROUGH, Mr. YOUNG of North Dakota, and Mr. YOUNG of Ohio entered the Chamber and answered to their names.

The VICE PRESIDENT. A quorum is present.

COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM

The Senate resumed the consideration of the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

Mr. MORSE. Mr. President, I call up my amendment V and ask that it be read—that my statement in support of the amendment be inserted and—then let the guillotine fall.

Mr. PASTORE. Mr. President, may we have order, please?

The VICE PRESIDENT. The Senate will be in order.

The amendment of the Senator from Oregon will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 38, lines 8 through 10, it is proposed to delete everything starting with "shall" on line 8 and ending with "such" on line 10, and to insert in lieu thereof "determine whether such negotiations are solely business negotiations. In any case where that Department determines that foreign policy considerations are relevant, the Department shall conduct or supervise such negotiations throughout the course of any business."

STATEMENT OF SENATOR MORSE IN SUPPORT OF AMENDMENT "8-13-62—V"

1. The following testimony offered before the Senate Foreign Relations Committee conclusively demonstrates that the language in the bill relating to "business negotiations" needs clarification, and that the clarification should be in the direction of securing to the State Department the authority to conduct or supervise negotiations in which it discerns a vital national foreign policy interest.

2. Under H.R. 11040 the State Department is powerless to enter "business negotiations" unless invited by the corporation.

3. Despite random assertions during the consideration of this measure that the Secretary of State interprets the act as adequate, the fact is that the language is not adequate in the opinion of witnesses who are distinguished international lawyers and one of whom, Mr. Cohen, is a former legal adviser to the State Department.

"Mr. GROSS. I have three points to make briefly.

"In the first place, 'business negotiations,' as a phrase, even in the excerpt that you just read, Senator LAUSCHE, is not defined, and I submit it is not definable.

"Secondly, we are talking here about a legislative proposal which would give statutory authority to a corporation on its own to engage in business negotiations, which is unprecedented.

"In the third place, there is no reference in this legislation to policy considerations and policy negotiations.

"What has been done here is to take the original section 402, revise it to refer only to business negotiations, and leave out any reference whatever to the responsibilities or authority of the Department of State with any other kind of aspect of negotiations.

"It is, speaking as a lawyer, like drafting a codicil to a will and then throwing away the will."

* * * * *

"PURPOSE OF MAKING LEGISLATIVE HISTORY ON NEGOTIATION CERTAIN

"Senator LAUSCHE. To conclude, will you, Mr. GROSS, explain what you want us to establish by the legislative history?

"You want us to in some way indicate the limitations that this corporation will have imposed upon it in carrying on negotiations; is that correct?

"Mr. GROSS. Two things, Senator LAUSCHE, very briefly summarizing:

"First, I would think that our foreign policy interests would be well served by reinserting in the bill the reference to the United Nations in section 201(a)(5).

"Secondly, it seems to me that the national interests would be well served by going back to the original version of section 402. If that is not the will or wish of the Congress, then at the very least, section 402 should be amended so as to give to the Department of State, or, better still, to the President or his delegate, the authority to determine what is a 'business negotiation.'

"And, thirdly, in order of priority, if that is not satisfactory to the Congress, then, as a poor third, that the legislative record and the report of this committee should make it explicitly clear that that is the congressional intent.

"Senator LAUSCHE. That that is what?

"Mr. GROSS. That that is the congressional intent.

"Senator LAUSCHE. That is, that the limitations shall be on business negotiations?

"Mr. GROSS. That the President or his delegate should have the explicit authority to determine what is a business negotiation.

"Senator LAUSCHE. That is in the first three, but if you are not successful in getting any one of the first three suggestions, and you are left only to the establishment of a legislative history, what would you do?

"Mr. GROSS. Just that point, that the committee in its report, I respectfully submit, should, at the very least, set forth the interpretation by the Committee on Foreign Relations that section 402 is intended and is designed to give to the President or his delegate the authority to determine whether or not a particular negotiation in a specific case is or is not a business negotiation."

* * * * *

"CONCERN WITH DELEGATION OF AUTHORITY TO CONDUCT DIPLOMATIC NEGOTIATIONS

"Mr. COHEN. My secondary concern is with the delegation of the authority to conduct diplomatic negotiations to a hybrid corporation. The administration, in the bill they first submitted, carefully provided that the State Department should have complete control over the negotiations with foreign governments.

"The bill now before you gives the power of handling business negotiations to this hybrid corporation, be it a public or private corporation, I do not know.

"The proponents of the legislation say the corporation is subject to the supervision or guidance of the President and State Department but the language of the bill is very equivocal. Whether it gives more power than the power merely to advise rather than direct the corporation is not clear.

"And I would draw your attention to the fact that business negotiations at this stage cannot be distinguished from negotiations that involve the widest and most important public interest.

"Even if the bill could be construed as the proponents try at the present time to construe it, to say that it gives the President power of direction, it is hazardous to say that the corporation or the courts would so construe it in view of the legislative history.

"But even if the State Department has power of direction, the State Department is still in the position of having to farm out its negotiations to, and having to handle its negotiations through this company. I think the President and the State Department should be in complete command of these negotiations and should not be obliged to act through a private or public corporation.

"If they want to use and need this corporation or other experts in private industry, they can, of course, use them.

"But I do not think the President and the Secretary of State, even if they should wish to do so, should be permitted to delegate their authority to negotiate with foreign countries to a private corporation."

4. The section originally proposed by the President [sec. 402] would have given clear and unambiguous authority to the State Department to conduct or supervise international negotiations. In view of the fact that this was stricken from the bill, and that the Senate has resisted several attempts, including one by the majority whip, to restore this authority, the foreign policy interests of the United States Government are gravely imperiled by, at least, confusion—probably the delay, expense and vexation of adversary proceedings—and, at worst, the exercise of foreign policy functions by the corporation in the absence of any determination.

5. It is therefore urged that the Senate, as it may do with ease at this point, resolve the ambiguities of the act clearly in behalf of the authority of the President and the Government of the United States.

Mr. PASTORE. Mr. President, if there are no further comments on this amendment, I move to lay the amendment on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the amendment to the committee amendment offered by the Senator from Oregon.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up my amendment PPPP. In support of this amendment I will file a statement at this point pursuant to the unanimous-consent agreement reached last night.

The VICE PRESIDENT. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 37, between lines 13 and 14, it is proposed to insert the following new subsection:

(d) In consideration for the authority conferred upon the corporation by this Act, the corporation, under such regulations as the President shall prescribe, shall provide telecommunication services without charge for communications of a public service nature—not less than 1½ hours of the daily transmittal time of the satellite communication system as such communications shall be defined by such regulations.

STATEMENT OF SENATOR MORSE IN SUPPORT OF AMENDMENT 8–13–62—PPPP

This and the next amendment I shall offer (8–13–62—TT) are directly supported by testimony rendered by Director of the USIA Edward R. Murrow in the Senate Foreign Relations Committee as follows:

"IMPORTANCE OF WORK OF THE USIA

"However, I have scanned your testimony this morning, and I have a few questions in regard to it.

"It is true, is it not, that in the years immediately ahead the United States has a great responsibility in the field of foreign policy of seeing to it that the peoples in the underdeveloped areas of the world are informed in regard to the advantages of freedom over the enslavement of communism?

"Mr. MURROW. Yes, sir.

"Senator MORSE. It is true, is it not, that your fine organization—and I happen to be one who thinks your organization is doing an effective and magnificent job—has a great responsibility to the American people to see to it that we do the best possible job of exporting the ideals and the ideas of freedom to the underdeveloped areas of the world?

"Mr. MURROW. That is the way we conceive our function, yes, sir.

"Senator MORSE. Mr. Murrow, to do that it is going to be necessary, is it not, to really step up our information programs and services into Latin America and southeast Asia and Africa?

"Mr. MURROW. Yes, sir.

"Senator MORSE. That is a very costly program, is it not?

"Mr. MURROW. It is.

"Senator MORSE. Am I correctly informed that the present budget of the USIA is in the neighborhood of $125 million a year?

"Mr. MURROW. No, sir.

"Our budget for the last fiscal year was $111.5 million. We asked for an increase for the current fiscal year of about 14 percent.

"Our mark from the House Appropriations Committee was $120.5 million for the current fiscal year. We have not yet appeared before the Senate committee.

"Senator MORSE. We do not even have $125 million yet?

"Mr. MURROW. That is correct.

"COMMUNICATIONS RATES PAID BY USIA

"Senator MORSE. My recollection from reading your testimony is that if your agency put out an hour-and-a-half program a day into these underdeveloped areas of the world which you list in your statement, it would cost in the neighborhood of $900 a million a year at commercial rates?

"Mr. MURROW. That is correct, sir.

"Senator MORSE. What rates do you pay at the present time for the programs that you send around the globe under our existing international communications system in relationship to commercial rates or modified commercial rates?

"Mr. MURROW. Where we use commercial facilities for radio particularly, we pay the normal commercial rate. As a matter of fact, in servicing our shortwave transmitters aboard, we do, to the largest extent possible, use our own facilities, that is, our own, home-based shortwave transmitters. We make no use of cables to transmit television pictures under so-called slow scan system.

"DESIRABILITY OF RATE REDUCTIONS FOR USIA

"Senator MORSE. Would it be desirable, Mr. Murrow, if we set up a satellite communications system, to have the facilities of that system made available to our Government for the transmitting of the type of freedom programs that you and I have had in mind as we have been discussing this problem?

"Mr. MURROW. It seems to me that that would be desirable, sir.

"Senator MORSE. Is there anything in this bill that guarantees to the U.S. Government a reduction in commercial rates for the transmission of U.S. programs of freedom to the areas of the world where the Communists are a 24-hour-a-day-and-night threat to freedom?

"Mr. MURROW. No, sir.

"Senator MORSE. Would I be fair and accurate in my appraisal of the bill if I said that, at best, in its present wording, the bill would make it possible for negotiations to be conducted in regard to rates, but that there is no guarantee that the ownership of

the system would have to agree to any reduction in rates?

"Mr. MURROW. Yes, sir, that is correct.

"Senator MORSE. Would you oppose an amendment to this bill that made a condition precedent upon the corporation created by the bill that there be the transmission of X number of hours at cost to be decided befor the final amendment is drafted?

"Mr. MURROW. Senator MORSE, I am not here to propose amendments.

"I thought it my duty to call to the attention of this committee the order of magnitude of the costs that would be involved.

"I have no language to propose.

"Senator MORSE. Let me make very clear, Mr. Murrow, that I respect your position, and I do not want in any way to ask a question that, in your opinion, would place you, shall I say, in a sort of conflict-of-interest position.

"Yet you and I are talking here about a great problem that confronts this Republic in the years ahead, and, as a member of the Foreign Relations Committee of this Senate and chairman of the Subcommittee on Latin American Affairs, I am greatly concerned about the battle for freedom in Latin America. I am satisfied that it is only going to be a matter of a very short time before Russia is going to have her communications satellites up there, and she is going to be using them. They are not going to be used on any so-called commercial-rate basis.

"They are going to recognize their use of their satellites as part of their so-called defense program—their program to enslave men's minds, not to free them.

"That is why I ask the question. I have respect for your knowledge in this field—I will put the question this way:

"Do you agree with me that the bill in its present form does not guarantee to your Agency any reduction in commercial rates for any program or programing that you may wish to develop if this bill should become law?

"Mr. MURROW. There is no such guarantee in the bill as it stands.

"Senator MORSE. If commercial rates have to be paid not only by your Agency but by any other sponsor or group in Latin America, southeast Asia, or Africa for a freedom information program, would we not be faced with the handicap that it is going to be very difficult to get sponsors for such programs in those countries already in serious economic plight?

"Mr. MURROW. This would depend upon a political decision, I should think, by the receiving country, Senator MORSE, as to whether they chose to pick up from the satellite a given program and relay it over their domestic facilities.

"INABILITY OF UNDERDEVELOPED COUNTRIES TO PAY FOR SATELLITE COMMUNICATIONS

"Senator MORSE. Do you think that because of that fact, this committee and this Congress might well be faced with requests from these economically poor countries in the years to come for increases in American foreign aid to pay these commercial rates to an American monopolistic corporation which has the rights to transmit these programs into a foreign country?

"Mr. MURROW. Senator, I do not know whether such requests would be likely to be forthcoming.

"Senator MORSE. Where do you think they would get the money?

"Mr. MURROW. They might in some cases be able to provide it themselves.

"Senator MORSE. Have you looked into their present sources of income? Do you realize that many of these countries would be in economic chaos right now if we were not already supplying millions of dollars of foreign aid?

"Mr. MURROW. I am aware of that, sir.

"Senator MORSE. My questions and your answers have brought out one foreign policy point that I now want to make by way of a brief observation. I realize there are some members of the committee who do not like to have me make observations.

"What bothers me about this bill is that you set up this corporation, and you give it legal rights under this bill, and what amounts, in fact, to a monopolistic control over the sending of great programs for freedom around the world. As far as Government programs are concerned, you are going to have to pay rates far above cost or you are going to have to get a government in an underdeveloped, poverty-stricken foreign land, which is already being threatened by communism because it cannot bring to the masses of the people a higher standard of living, in the position where it is going to have to ask the United States for more foreign aid to subsidize these programs. The U.S. Treasury will then be paying through this foreign government the commercial rates to this monopolistic corporation. Or else you are going to deny the masses of the people of those countries the programs that I think you and I know we have got to get to them, if we are going to win this cause for freedom.

"I have been in these parts of the world. I know what your programs do. I know the terrific job that USIA is already doing in raising serious doubts in these underdeveloped areas of the world about communism and the benefits of freedom. That is why I have urged for some time now that we get this issue before this committee for a discussion of the foreign relations aspects of this bill.

"This is a vital one, and that is why the senior Senator from Oregon has been saying to the American people, as he did in Seattle last night, 'I want to point out to you that this bill is full of direct and hidden subsidies to an American monopolistic corporation that is going to be created by it, and, instead of us really having a free hand in transmitting these messages, we are going to find ourselves in a whole series of litigious negotiations with A.T. & T. and the other carriers that are going to be involved in this bill.'

"I want to say to you—and I am not asking for agreement—in my judgment, the testimony that you have given here this morning about the costs of these programs for an hour and a half a day, which is short enough time, and, in many instances, in some of these countries should be much longer, shows what a tremendous cost it is going to be right out of the pockets of the American taxpayers. This leads me to the next question. Please watch my time, Mr. Chairman."

Mr. PASTORE. Mr. President, if there are no further comments on this amendment, I move to lay the amendment on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the amendment offered by the Senator from Oregon to the committee amendment. [Putting the question.] The ayes appear to have it.

Mr. KEFAUVER. Mr. President, I ask for a division.

The VICE PRESIDENT. A division has been requested.

On a division, the motion was agreed to.

Mr. MORSE. Mr. President, I call up the amendment at the desk identified as "TT." The testimony previously inserted bears with equal force upon the desirability of this amendment.

The VICE PRESIDENT. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 37, line 7, after the word "and" it is proposed to add "the corporation shall receive such communications services at preferential rates".

Mr. PASTORE. Mr. President, if there are no further comments on this amendment, I move to lay the amendment on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the amendment offered by the Senator from Oregon to the committee amendment.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up the amendment intended to be proposed by the Senator from Tennessee [Mr. KEFAUVER], for himself and other cosponsors, identified as "RR." I shall also support this amendment with a statement for the RECORD.

The VICE PRESIDENT. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 33, line 11, after the word "person", it is proposed to insert the following: "*Provided, however,* That Congress expressly reserves the right to direct the Commission to require any communications common carrier to divest itself of part or all of its voting stock in the corporation in an amount determined by Congress, such direction and determination, if any, to be made subsequent to review by Congress of the report by the Commission authorized and directed by title V of this Act."

On page 40, following line 14, it is proposed to insert the following:

TITLE V—FEDERAL COMMUNICATIONS COMMISSION'S INVESTIGATION OF THE COMMUNICATIONS INDUSTRY

SEC. 501. It is necessary, in aid of legislation by the Congress and for the use of governmental agencies, particularly with respect to space satellite communications and other rapidly advancing areas of communication technology; for the information of the general public; as an aid in providing more effective rate regulation; and for other purposes in the public interest; that accurate and comprehensive information be procured and compiled regarding both the domestic and international operations of American Telephone and Telegraph Company and other communication common carriers.

Mr. MORSE. Mr. President, may we have order, so that we can hear the clerk?

The VICE PRESIDENT. The Senate will be in order.

The legislative clerk resumed the reading of the amendment, as follows:

SEC. 502. The Federal Communications Commission is hereby authorized and directed to investigate and report to the Congress no later than January 20, 1964, on the following matters with respect to the American Telephone and Telegraph Company and other communication common carriers, including all of their subsidiary, affiliated, associated, and holding companies, and any other companies in which any of them have any direct or indirect financial interest, or which have any such interest in them, or in which any of their officers or directors hold

any office or exert any control or whose officers or directors hold any office or exert any control in them. The report shall give particular emphasis to all aspects of the following matters which have occurred since 1939:

(a) The corporate and financial history, and the capital structure and the relationship of such company and of its subsidiary, affiliated, associated, and holding companies, including the determination of whether or not such structure may enable them to evade regulation or taxation, or to conceal, pyramid, or absorb profits, or to do any other act contrary to the public interest.

(b) The extent and character of intercompany service contracts and all transactions between communications common carriers and their subsidiaries, affiliated, associated, or holding companies, and particularly between the American Telephone and Telegraph Company and the Western Electric Company and other manufacturers of electrical communication equipment; the cost of and sale prices of equipment, material, or devices to operating companies or users; the profits upon such sales and the effect of such sales upon the rates or upon the rate base of operating companies when used as a basis for charges; and the probable savings to operating companies and the public by purchasing equipment under a system of competitive bidding.

(c) The reasonableness of rates and charges; and, the extent to which subscribers or users of communications services have borne the cost of research and development, including but not limited to the maintenance and support of Bell Telephone Laboratories, Incorporated.

(d) The effect of monopolistic control upon the reasonableness of rates and charges, upon competition in the communications industry, and upon the character of services rendered, and any unfair or discriminatory practices.

(e) The effect of mergers, consolidations, and acquisitions of control in the communications industry, including the determination of whether there has been any "writeup" in the purchase price of property, equipment, or intangibles, the fairness of the terms and conditions of any merger, consolidation, or acquisition, and the public interest therein, and the effect thereof upon rates or service.

(f) The accounting methods of the communications common carriers, particularly with reference to depreciation and reserve accounting, apportionment of investment, revenues, and expenses between State and interstate operations, employee pension funds, executive compensation, and valuation of properties for both rate and tax purposes.

(g) The methods of competition by communications common carriers amongst themselves and with other companies including the determination of whether or not there has been any sale or refusal to buy from or sell to competing companies, or suppression of patents, and the expansion of communications common carrier companies into various fields.

(h) Whether or not the communications common carriers have sought through propaganda or the expenditure of money or the control of channels of publicity to influence or control public opinion, legislative or administrative action, or elections.

(i) All other matters in any way bearing on the reasonableness of rates and charges, quality of service, the extent of concentration, and competition in the communications industry.

Mr. MORSE. Mr. President, the Senate is not in order.

The VICE PRESIDENT. Senators will cease conversation. The Senate will be in order. The Senators cannot hear the clerk read the amendment.

The clerk may proceed.

The legislative clerk continued to read, as follows:

SEC. 503. As used in the resolution the term "communications common carrier" shall include all subsidiary, affiliated, associated, and holding companies or corporations and all companies directly or indirectly associated or connected with telephone companies, either by direct or indirect stock ownership, interlocking directorates, voting trusts, holding or investment companies, or any other direct or indirect means.

SEC. 504. For the purposes of this resolution the Federal Communications Commission is hereby authorized to hold hearings; to contract for stenographic reporting service; to utilize its regular personnel, facilities, jurisdiction, and powers insofar as practicable; and to employ for the purposes of this investigation such additional experts, including engineering, accounting, legal, and other assistants as may be found necessary, without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; and to make such other expenditures, including necessary travel expenses, and expenditures for printing and binding, as it deems necessary. The Commission is also hereby authorized to have access to, upon demand, for the purposes of examination, and the right to copy, any books, papers, correspondence, memorandums, and other records of any person, partnership, company, or other organization being investigated, whether such books, papers, correspondence, memorandums, or records are in the possession of the company under investigation or are in the possession of other persons, firms, or corporations; to require by subpena the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records which the Commission deems relevant or material to the inquiry, at any designated place of hearing within the United States; to administer oaths and affirmations, to require persons, partnerships, companies, or other organizations to submit to the Commission in writing reports and answers to specific questions, furnishing such information as the Commission may require relative to the inquiry. Such reports and answers shall be made under oath or otherwise as the Commission may prescribe and shall be filed with the Commission within such reasonable period as the Commission may prescribe, unless additional time be granted in any case by the Commission. In case of contumacy or the refusal to obey any subpena or other order issued hereunder, the Commission may invoke the aid of any court of the United States, within the jurisdiction of which such inquiry is carried on, or where such party guilty of contumacy or refusal to obey resides or has his place of business, in requiring obedience to such subpena or other order and any such court of the United States shall have jurisdiction to issue its order enforcing such subpena or other order of the Commission in whole or in part; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in such cases may be served wherever the defendant may be found.

SEC. 505. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,265,900, to be made immediately available to the Federal Communications Commission for the purposes of the investigation and report herein authorized and directed, and the Commission shall make special reports to Congress on its progress and its findings in this investigation.

STATEMENT BY SENATOR MORSE IN SUPPORT OF AMENDMENT 8-11-62—RR

1. Throughout the consideration of satellite communication bill, it has been repeatedly pointed out that, since its inception in 1934, the Federal Communications Commission has not conducted a formal rate hearing upon the American Telephone & Telegraph Co., although such a study has repeatedly been recommended by the Commission's staff and has been requested by a committee of the Congress.

2. The testimony of Chairman Minow in the Senate Foreign Relations Committee is replete with admissions that the FCC has never adequately regulated A.T. & T. of which the following excerpts are examples:

"FCC CURRENT REGULATION OF A.T. & T.

"Senator LONG. When you testified before my subcommittee—I believe that was last year—you admitted that in the history of the Federal Communications Commission there has never been a formal determination of what the rate base of A.T. & T. actually is.

"Mr. MINOW. I think since the 1930's the Commission has never conducted a formal rate case on the record. We have followed for the last 30 years a policy of continuous review, of a continuous analysis of the rates.

"Senator LONG. Now, let me ask you this. Would it be true that most, if not all the rate reductions you have won from A.T. & T., were voluntarily agreed to by that company.

"Mr. MINOW. Well, they were the result of negotiation. I think there were several 'show-cause' orders issued from time to time which resulted in a negotiated reduction.

"Senator LONG. Can you be in position to fix precisely the rate of any given service performed by that company if you have never had a formal determination of what the rate base actually was?

"Mr. MINOW. The approach the Commission has taken for 30 years is to keep a constant eye on the rates. We look at them every month. In September of this year we are going to have the company down again as we do periodically.

"I might add, Senator, we do have at the moment underway at the Commission, I think, five hearings going on involving the A.T. & T., which are record hearings. These are on specific services, TELPAK, WADS, WATS, and so on. We have five going on right at this moment.

"IMPORTANCE OF RATE BASE DETERMINATIONS

"Senator LONG. What is the significance of a formal rate determination or formal rate base determination?

"What is the significance of it? Why do people do it at all? Why do commissions do it?

"Mr. MINOW. Well, to establish on a record, under cross-examination of witnesses and accountants and experts, what the elements are that go into rates which may be in controversy, into the rate base, and what the carrier needs to provide adequate service to the public. There are a whole host of regulatory standards that have been established through the years.

"Senator LONG. In the absence of this formal determination, is the Commission in a position to go to court and win a case for a major rate reduction?

"Mr. MINOW. No, sir."

* * * * *

"PERSONNEL REQUIREMENTS OF FCC

"Senator HUMPHREY. I think that is very fair.

"I have one final question.

"You said you have 140 staff members for the Federal Communications Commission?

"Mr. MINOW. For the Common Carrier Bureau for regulating the common carriers.

"Senator HUMPHREY. Have you asked for additional staff this year?

"Mr. MINOW. We have, Senator HUMPHREY.

"Senator HUMPHREY. Have you been granted it?

"Mr. MINOW. The House Appropriations Committee has granted it. We are awaiting our hearing before the Senate Appropriations Committee next week.

"Senator HUMPHREY. How much additional staff do you think will be required to regulate this agency properly?

"Mr. MINOW. For space alone we need 21. The real problem is not the number of people; it is the caliber. We need good, talented cost accountants and experts.

"Senator HUMPHREY. How is your salary structure today for obtaining these people?

"Mr. MINOW. Hopeless. Hopeless.

"Senator HUMPHREY. May I add that I am sure that this is possibly the case. As you know, we have large numbers of the American public that want the public interest protected but at cutrate prices.

"Mr. MINOW. It cannot be done.

"Senator HUMPHREY. So the carrier can pay twice or three times as much for the person that you need to regulate the carrier. The Government of the United States is supposed to be able to recruit people on sort of a charity basis for the common good to regulate these giant monopolies."

* * * * *

"CONGRESSIONAL REQUEST FOR OVERALL RATES OF A.T. & T.

"Senator MORSE. Has a hearing on the overall rates charged by A.T. & T. ever been requested by a committee of Congress?

"Mr. MINOW. Not that I am aware of; no, sir.

"Senator MORSE. I am informed, and I will check it for the facts, that the Antitrust Subcommittee of the House Judiciary Committee on January 30, 1959, made a request for a hearing as to interstate rates and the Commission took no action.

"Mr. MINOW. That was January 1959. That was before I was there. I am not aware of that."

3. It should also be noted that the Attorney General, in his testimony, also conceded this inadequacy on the part of the FCC.

"PROJECTION OF PUBLIC INTEREST

"Attorney General KENNEDY. But I think that the FCC, I would hope, is going to start to meet its responsibilities.

"I think that I would agree with you that in the past frequently it has not met its responsibilities, and I would hope that we get better people continuously to serve on the FCC and that they would do this in a better fashion.

"But the answer is to get the proper authority and get the proper people to serve on the FCC."

4. Earlier this year, an independent management consultant firm, employed by the Bureau of the Budget, concluded specifically that the FCC has not done its job in regulating A.T. & T. in the past and is not equipped to do so in the future. Its finding appears below:

"ORGANIZATION AND MANAGEMENT SURVEY OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE BUREAU OF THE BUDGET, MARCH 1962 (BOOZ, ALLEN & HAMILTON, MANAGEMENT CONSULTANTS)—(PPS. 271–309)

"(PPS. 271–309)

"*XIV. Common Carrier Bureau*

"2. The Common Carrier Bureau Is Not Well Equipped To Meet Its Responsibilities In the Face of a Rising Workload

"This outline of Common Carrier Bureau duties has sketched areas of responsibility of an order of magnitude and significance which exceeds the Bureau's resources. Neither the physical facilities, the staff, nor the budget provided the Bureau properly reflects a recognition of the Bureau's statutory obligations. Handicapped by inadequate provision of the means of insuring a satisfactory level of regulatory activity, Bureau management has never been tested by measuring performances against feasible program objectives. Further, there is evidence that much of the Bureau staff believes that the Commission had far less interest in the Bureau's activities than is warranted. Under these circumstances, Bureau management has been adequate but uninspired.

"Regulatory statutes such as the Communications Act obviously are intended to take effect under reasonable standards of administration. Without extending to the minute examination of each aspect of the financial and operating practices of every subject company in the country, the law presumably intends that the public interest in common carrier communications be protected by a reasonable level of Federal regulatory activity. Toll charges on interstate telephone calls, for example, may be reviewed to establish their reasonableness without questioning to the penny every calculation that went into toll rate determination.

"In sum, the regulatory activities of the Federal Communications Commission are expected to reflect an effort to provide reasonable protection of the public interest, convenience, and need. In this, the Common Carrier Bureau has not been so organized, staffed, and otherwise equipped so as to be entirely successful. This is particularly true of the attempt to regulate the telephone industry, for which the gross original cost of plant is valued at 25 times that of all other common carrier telecommunications activities regulated by the FCC, and where the largest single component—the Bell System—constitutes the largest corporate enterprise in the world. Further, the Bell System accounts for 96 percent of the telephone plant in service and 97 percent of the operating revenues received by all telephone companies fully subject to FCC regulations. About 25 percent of Bell System operating revenues are derived from interstate and foreign operations, and the percentage is increasing. The existence of this huge strategic enterprise places a particular burden on the Federal Government to look to the public interest.

"That the Common Carrier Bureau has been active in pursuing its duties in part is evidenced by appendix I, which tabulates the rate reductions and increases negotiated between the American Telephone & Telegraph Co. and the FCC since 1935. However, it is clear that the important functions of surveillance and regulation of common carrier rates and rate base have not been adequately undertaken. These functions do not seem to have been accorded an appropriately high priority by the Commission in the allocation of resources and direction of attention. While the staff has sought to establish essential criteria for judging rates of return, the Commission, in fact, has established no firm criteria governing such rates of return and does not demonstrate that the reductions negotiated actually bring the overall rate of return down to reasonable limits. This activity merits far greater emphasis if the public interest is to be properly served.

"The list of Bureau functions which are explicit or implicit in the Communications Act is in fact a lengthy one. A tabulation of those which, for lack of staff and budget, are performed in a superficial manner, or are performed for a small fraction of the total area of responsibility, also would prove lengthy. It would include such items as the following:

"Since January 1, 1956, accounting compliance reviews have been accomplished for only 14 of 24 Bell System companies and 9 of 40 independent telephone companies. Appendix J illustrates this by listing the dates on which accounting compliance reviews were last conducted for fully subject independent telephone companies.

"In 1960, Bell System purchases from the Western Electric Co., a Bell subsidiary, amounted to $1.8 billion, which amount becomes part of the rate base on which the Bell companies expect a return. Apart from occasional review of periodic reports, no examination of the books of Western Electric or other leading telephone equipment manufacturers has been undertaken to determine the reasonableness of charges to the Bell System.

"Under the Communications Act depreciation rates—a major factor in an industry with an increasingly faster rate of obsolescence for much of its equipment—must be prescribed by the FCC. Rates of Bell System companies can be reviewed every 3 or 4 years, at best. Although depreciation rates in general use are scanned for unusual factors, in fact, no depreciation rates have been prescribed for the independent companies subject to the FCC.

"The method of timing and billing long-distance telephone calls never has been adequately examined.

"Tariffs for the relatively new broad band and private line services require study of level and structure which has not been possible to date on a scale in keeping with the rapid development of significant new services.

"Disparities which exist between inter- and intra-state telephone rates for comparable distances are blamed by State authorities for inequities in revenue distribution and consequent adverse effects on local tax yields. Additional accounting studies are needed to establish acceptable separations and division of revenue.

"This list is susceptible to considerable extension. The point is that the Bureau is in no position to establish the reasonableness of charges in most areas of common carrier service.

"3. The Common Carrier Bureau Should Be Restricted and Strengthened to Improve Its Effectiveness

"This report makes recommendations which seek to improve the operations of the Common Carrier Bureau by the use of better organizational patterns and practices, and by the strengthening and realinement of the staff in various divisions and offices. However, the implementation of these recommendations must be accompanied by an increase in support where indicated, if it is to result in the more effective accomplishment of the regulatory obligations set forth in the statute."

5. In addition, as more people of experience become aware of the issues in the satellite communications legislation, increasing support for such an investigation began to reach me. An example is former Secretary of the Interior Julius A. Krug who, on July 28, 1962, gave me the following comments:

"COMMENTS OF JULIUS A. KRUG, FORMER SECRETARY OF THE INTERIOR, REGARDING AMENDMENT AUTHORIZING AN INVESTIGATION OF A.T. & T.

"1. I was one of the leaders in the congressionally authorized investigation of A.T. & T. and its subsidiaries in 1934, 1935, and 1936. To the best of my knowledge, that investigation, now already more than 25 years behind us, was and is the only comprehensive investigation of A.T. & T. in its history. Among other things, that investigation accomplished the first drastic reduction in long-distance telephone rates in the United States.

"2. A.T. & T. claims, out of one side of its mouth that it is a private enterprise and out of the other side, says that it is a closely regulated public utility. We both know that neither is true. Any analysis of the A.T. & T.'s reports to the Federal Communications Commission will show that the A.T. & T. and its subsidiary companies have virtually been unregulated over the years. The reason for this may be conjectural, but my own experience is, that in some cases, the Bell System

controls the State commissions and, in almost every case, even if A.T. & T. did not try to control these commissions, they are so inadequately staffed and so woefully incompetent that they are unable to deal with the complex problems involved in regulating the Bell Telephone monopoly."

* * * * *

"3. You might well insist upon an amendment that would require a comprehensive investigation of the Bell Telephone System in the more-or-less manner established by Franklin Roosevelt's legislation which was enacted, I believe, in the early 1930's, or shortly after his taking office as President.

"4. With all respect to Chairman Minow, I should think such an investigation should be made independently of the Federal Communications Commission. You may not share my opinion, but I have found FCC even less competent to deal with a huge monopoly than two of the State regulatory agencies, and I am not saying much for even the better of the State regulatory agencies. I have found, in long experience with regulatory agencies, including the Wisconsin Commission, the Kentucky Public Service Commission and the Federal Communications Commission, all of which I served directly in key responsibilities, as well as relations before many other Federal and State regulatory agencies, that they are just unable to deal with public service problems involving monopoly and giant monopoly, such as A.T. & T. and the Bell Telephone System.

"5. My experience with TVA as Manager of Power and later as Consultant, leads me to believe that direct public ownership of at least a large segment of the public utilities industry is the only cure for the monopolies. We both know these so-called investor-owned utilities are not controlled by the investors at all. In fact, they have less voice in management than the people of Russia have in running the Kremlin. The control of these giant monopolies is completely in the hands of management. This management consists of a handful of men who can mobilize enormous resources, including public relations resources, behind their self-made policies.

"Keep in the fight. This matter is even more important than civilian control in atomic energy. I noted in the paper Saturday, July 28, that our late mutual friend Senator Brian McMahon is being honored for his accomplishment in that area in recognition of that long battle."

6. This proposed amendment would accomplish the highly desirable purpose which the evidence overwhelmingly supports. Its consideration on the merits and passage would be an indication of the good faith of the proponents of this legislation in seeking to bring about actual, effective regulation of A.T. & T. and the proposed satellite corporation.

Its rejection would, in all likelihood, mean that A.T. & T. and the proposed corporation will continue to be "regulated" in name only.

Such a consistent refusal to impose regulation upon the country's largest monopoly cannot help but have consequences of a worldwide and historic nature.

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

The VICE PRESIDENT. The absence of a quorum is suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, I move to lay on the table the amendment of the Senator from Oregon.

Mr. MORSE. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the amendment of the Senator from Oregon to the committee amendment. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOUGLAS. Mr. President, I make the point of order that the Senate is not in order.

The VICE PRESIDENT. The Senator from Illinois makes the point of order that the Senate is not in order. Senators will cease conversations and take their seats.

The Chief Clerk resumed the calling of the roll.

Mr. GRUENING (when his name was called). On this vote I have a pair with the junior Senator from California [Mr. ENGLE]. Were he present and voting he would vote "yea." If I were permitted to vote I would vote "nay." I withhold my vote.

Mr. RUSSELL. Mr. President, I demand order in the Senate. Senators are standing around talking, and we cannot hear what is transpiring in the Senate.

The VICE PRESIDENT. The Senator from Georgia makes a point of order. The Senate will be in order. Senators will take their seats and cease conversations.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Washington [Mr. MAGNUSON], the Senator from Michigan [Mr. MCNAMARA], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from New Jersey [Mr. WILLIAMS] would each vote "yea."

On this vote, the Senator from New Mexico [Mr. ANDERSON] is paired with the Senator from Colorado [Mr. CARROLL]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Colorado would vote "nay."

On this vote, the Senator from Nevada [Mr. BIBLE] is paired with the Senator from Idaho [Mr. CHURCH]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Idaho would vote "nay."

On this vote, the Senator from Wyoming [Mr. HICKEY] is paired with the Senator from Pennsylvania [Mr. CLARK]. If present and voting, the Senator from Wyoming would vote "yea," and the Senator from Pennsylvania would vote "nay."

On this vote, the Senator from Washington [Mr. MAGNUSON] is paired with the Senator from Michigan [Mr. MCNAMARA]. If present and voting, the Senator from Washington would vote "yea," and the Senator from Michigan would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The Senator from Arizona [Mr. GOLDWATER] and the Senator from Kentucky [Mr. MORTON] are detained on official business and, if present and voting, would each vote "yea."

The result was announced—yeas 64, nays 15, as follows:

[No. 201 Leg.]

YEAS—64

Aiken	Hickenlooper	Pastore
Beall	Hill	Pearson
Bennett	Holland	Pell
Boggs	Hruska	Prouty
Bottum	Humphrey	Randolph
Bush	Jackson	Robertson
Byrd, Va.	Johnston	Scott
Byrd, W. Va.	Jordan, N.C.	Smathers
Cannon	Jordan, Idaho	Smith, Mass.
Carlson	Keating	Smith, Maine
Case	Kerr	Sparkman
Chavez	Lausche	Stennis
Cooper	Long, Mo.	Symington
Cotton	Mansfield	Talmadge
Curtis	McCarthy	Thurmond
Dirksen	McClellan	Tower
Dodd	McGee	Wiley
Ellender	Metcalf	Williams, Del.
Ervin	Miller	Young, N. Dak.
Fong	Monroney	Young, Ohio
Hartke	Mundt	
Hayden	Muskie	

NAYS—15

Bartlett	Javits	Moss
Burdick	Kefauver	Neuberger
Douglas	Long, Hawaii	Proxmire
Gore	Long, La.	Russell
Hart	Morse	Yarborough

NOT VOTING—21

Allott	Clark	Kuchel
Anderson	Eastland	Magnuson
Bible	Engle	McNamara
Butler	Fulbright	Morton
Capehart	Goldwater	Murphy
Carroll	Gruening	Saltonstall
Church	Hickey	Williams, N.J.

So the motion to lay on the table Mr. MORSE's amendment was agreed to.

Mr. MORSE. Mr. President, I call up the amendment designated "6–15–62—I" submitted by the Senator from Tennessee [Mr. KEFAUVER] for himself, Mrs. NEUBERGER, Mr. MORSE, Mr. LONG of Louisiana, Mr. YARBOROUGH, Mr. CLARK, and Mr. BURDICK, and ask that it be read. The amendment provides for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. On page 27, line 6, after the period, it is proposed to insert:

All inventions and other technology furnished by the Administration to the corporation shall be in the form of a nonexclusive license for which the corporation shall pay a reasonable royalty. Any inventions developed by the corporation from the inventions and technology furnished by the Administration shall be made available to the United States in the form of a nonexclusive royalty-free license.

STATEMENT OF SENATOR MORSE IN SUPPORT OF AMENDMENT 6-15-62—I

I believe the most comprehensive and persuasive summary of the interest of the Government and the taxpayer in the patent field, is an article by Senator RUSSELL B. LONG which appeared in volume 21 of the Federal Bar Journal during the winter of 1961. So that it will be available to all Senators it will be included as a part of this statement:

"FEDERAL CONTRACT PATENT POLICY AND THE PUBLIC INTEREST

"(Lecture by Senator RUSSELL B. LONG, U.S. Senator from Louisiana and chairman, Subcommittee on Monopoly, U.S. Senate Small Business Committee)

"According to my value system a policy is in the public interest if it does the following:

"1. It tends to accelerate the rate of scientific achievement.

"2. It encourages economic growth.

"3. It promotes efficiency in the economic system providing the consumer with the goods and services he requires at the lowest possible prices.

"4. It tends to promote and maintain a free competitive society.

"5. It tends to reduce great inequalities of income and wealth.

"6. It must not offend our sense of what is fair and just.

"On the other hand, a policy which does not accomplish these ends I would consider contrary to the public interest.

"Using the above criteria, it is the contention of this essay that the patent policies of the Department of Defense, the Post Office Department, the Treasury Department and other agencies which give away to the contractor monopolies on Government-financed inventions are injurious to this Nation. The policies of the Atomic Energy Commission, the Department of Agriculture, the Tennessee Valley Authority, and the National Aeronautics and Space Administration, on the contrary—if administered intelligently—serve to promote the general welfare.

"I. Standard arguments for relinquishing title

"There are five principal arguments used by the proponents of the license theory,[1] a system under which, except for a mere license to use, the Government completely relinquishes to private contractors all rights to the results of research and development financed with public funds. These are:

"1. It is necessary to give exclusive commercial rights, a monopoly, to a private firm to insure that the Government-financed invention is produced for civilian consumption;

"2. If the Government takes title or puts an invention into the public domain by making it available to anyone, investment in its production will be discouraged;

"3. The rate of increase in productivity and national output would be retarded;

"4. If private monopolies are not given to the contractor, the cost of the contract to the Government would increase and some firms would be reluctant to take contracts.

"5. Inventors will lack incentive if the Government takes title.

"These are the standard arguments which the so-called 'license theory' proponents indiscriminately advance, but which are palpably contrary to reality. Let us examine them carefully.

"II. Analysis of arguments

"1. The claim that civilan products would not be produced without the protection of a patent monopoly is not true. An examination of the structure of our economy shows that those commodities and services which make up the largest part of our gross national product lie outside the patent field.

"Products and markets are constantly developed in fields where there is no patent protection. The required outlays are made partly because producers must keep up with their innovating competitors if they want to stay in business, because they believe that the natural headstart which their own innovation gives them over their competitors will allow them to recover the expenses of developing the products and markets. If there is a demand for a product, businessmen will produce it—patent or no patent.

"The absence of a monopoly position has not discouraged the entry of firms into color film processing. As a result of the Eastman Kodak judgment which opened up the field of color film processing, many new firms have been established. Prior to the consent judgment only one firm, Eastman Kodak, processed color film. There are now over 200 firms, mostly small business, competing against each other as well as offering strong competition to Eastman.

"The manufacture of blockmaking machinery is another relevant example. Within 4 years after the entry of an antitrust judgment in the case of the *United States* v. *Besser Manufacturing Company et al.*, a total of 13 companies undeterred by a lack of patent protection were issued licenses for the manufacture of this machinery. The price fell from the prejudgment price of $53,000 per machine to $32,000, a 40 percent decrease in price.

"Consider the result of the consent judgment of January 1956 withdrawing patent protection from IBM.[2] Many companies, both large and small, availed themselves of the rights granted under the provisions of the judgment. Today numerous small firms are manufacturing tabulating cards and at least two firms are manufacturing presses on which such cards are made. Even IBM's profits for the first 6 weeks of 1959 were up 27 percent over the first half of the preceding year, and this is because of the rapid expansion of new markets for the machines developed by IBM and its competitors.

"In addition, competition in this industry, created in part by the consent judgment, has forced down prices. In short, the public, the new competitors, as well as IBM itself, have benefited from the newly created competitors in this industry.[3]

"2. The argument that putting an invention into the public domain will automatically discourage investment in and exploitation of publicly owned inventions is really a part of the previous argument and is equally inconsistent with reality. An examination of the records of the TVA, the Department of Agriculture, and the Department of Health, Education, and Welfare discloses that businesses do take licenses and produce items for the civilian market even though there are no exclusive commercial rights. An interesting example is the patent on the development of frozen orange juice concentrate which was developed cooperatively with the Department of Agriculture and the Florida Citrus Commission at a cost to each of about $70,000 and which now has wide use. This development has returned to the farmers in the 1958-59 season alone around $120 million for oranges that are now processed in frozen orange concentrate.

"The Aerosol bomb is another example of a publicly developed and owned invention which has been put to great use by industry. Licenses for the production of fertilizers and insecticides have also been secured and have been exploited. No sooner did the Public Health Service give the go-ahead signal for U.S. manufacture of a new polio vaccine that can be taken by mouth, when at least four large vaccine makers immediately applied for Government licenses to make the new vaccine commercially.[4]

"According to the Small Business Administration, there are on the average four inquiries for every Government-owned patent published in the SBA Products List Circular from small businessmen who are interested in expanding their activities or entering new fields. In 1960, for example, an estimated 1,000 inquiries were received about 232 published Government-owned patents, which are available to all citizens.[5]

"Members of the patent bar sometimes point to the low utilization rate of patents owned by the Department of Defense. This is, of course, the natural result of the Department's policy of retaining title only when the contractor has decided that the invention is of no interest to him. In other words, the Department of Defense is left only with those inventions which private firms have already decided are not worth exploiting for themselves, or are not even worth keeping for sale to others. Needless to say, the contractor would take the title, even if there was a remote possibility that the Government-financed invention might turn out to be valuable in the future. This indicates the lack of value of the inventions left with the DOD, and it is, therefore, not surprising that other businessmen are not hastily using these rejected patents.

"Allowing private firms, on the other hand, to keep patent rights gives no assurance that an invention will be exploited. The biggest companies, those that get over 96 percent of Government research and development dollars, have used or are about to use only 50.6 percent of all patents held by them. The corresponding figure for smaller companies, which gets less than 4 percent of Government R. & D. dollars is 75.5 percent.[6] For industry as a whole, the overall average estimate of used patents would be 52.2 percent.[7]

"3. The contention that the rate of increase in productivity and national output would be retarded if the Government takes title to inventions it has financed is actually a conclusion dependent on the validity of the previous two arguments, which are its necessary conditions. Since these two arguments are untenable, the conclusion is in-

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[1] The view that in Government-financed research and development contracts, the contractor should be given all rights to resulting inventions and the Government should retain merely an irrevocable, nonexclusive, royalty-free license for governmental use.

[2] Address by Robert Bicks, attorney general, Antitrust Division, Department of Justice, before the Patent Law Section of the American Bar Association, Miami Beach, Fla., Aug. 26, 1959.

[3] Ibid.

[4] Wall Street Journal, Aug. 25, 1960.

[5] Derived from information supplied by the Administrator of the Small Business Administration in a letter dated Jan. 23, 1961, to Senator SPARKMAN, chairman of the Senate Small Business Committee. This letter is in the committee's files.

[6] Journal of Political Economy, December 1959, vol. LXVII, No. 6, p. 632, note (17).

[7] Patent, Trademark, and Copyright Journal of Research and Education, fall, 1959, vol. 3, No. 3, pp. 237-238.

valid. In fact, the contention of this essay is that if the Government takes title, and adopts an affirmative, imaginative policy the effect will be just the opposite. The rate of growth of our national output and of our scientific achievement would actually be accelerated.

"4. One of the arguments most frequently advanced is that if exclusive commercial rights are not given to the contractor, the cost of the contract to the Government would increase and some firms would be reluctant to take the contracts.

"Whether the cost of R. & D. contracts would increase is difficult to say. The Atomic Energy Commission does not pay any more for comparable R. & D. than the Department of Defense, even though the patent policies differ. Many firms would not exist without the Government contracts (the Aerojet-General Corp., for example, exists almost wholly on Government contracts) and such firms are unable to demand a higher price.

"For the Government to pay more than necessary is in fact the equivalent of a subsidy. The firms which devote a small part to Government work would be in a better position to demand higher prices but will not necessarily get it if we can introduce greater competition in the field of research. In addition, the value of Government R. & D. to industry is extremely great. Some companies derive a breadth and depth of technical knowledge that they could not be able to achieve solely from commercial R. & D. It permits the maintenance of a large, well-rounded scientific and engineering staff.

"Government R. & D. is extremely valuable to the health, prosperity and perhaps even the existence of numerous firms. Government-financed R. & D. frequently subsidizes and augments their own R. & D. efforts. Business firms are not unaware of this, for they are constantly urging such agencies as the AEC to give them such work.

"A few statements by businessmen themselves reveal the value of Government R. & D. contracts in their commercial work:

"1. Mr. A. E. Raymond, senior vice president of the Douglas Aircraft Co., Inc., says: 'Military experience in operation and design is very useful commercially because the military is pushing for performance primarily rather than safety. They try out new developments first, so commercial planes always derive some benefits from military designs.'

"Mr. Raymond was unable to estimate the amount his company saved through military-sponsored research in developing the DC-8, but stated that: 'If we hadn't had the military experience, we couldn't have built it at all.'[8]

"2. A Raytheon Manufacturing official stated: 'We always benefit from military R. & D. inasmuch as it permits us to maintain a large well-rounded scientific and engineering staff. From their research efforts, we derive a breadth and depth of technical knowledge that we would not be able to achieve solely from commercial R. & D.' [9]

"Raytheon's development of radar for the Navy during World War II, with the resulting growth of a staff skilled in radar principles, is probably a classic example of Government-sponsored R. & D. enhancing a company's profit capabilities. 'Today, we're a leading producer of commercial ship radar, the basic know-how for which we gained from the Navy work,' a Raytheon official says. 'The commercial work is in addition to the radar Raytheon turns out for the military,' he added."[10]

"3. Companies also say that doing military-sponsored research often gets an earlier evaluation of how its work is going than it would if the research was aimed only for commercial markets:

" 'When competing in the commercial market, you often spend several years in the laboratory conceiving and developing a product, and then you take time to develop a market program and to test it, before you finally get around to putting the decision of your success up to the public. But when you're selling to the military, they're interested in technological improvements just over the horizon—the best brainwork to this point. The Government is able to provide an early evaluation of your R. & D. effort,' so says the executive vice president of Litton Industries, Inc., an electronics concern.[11]

"The small companies are frequently the loudest in their praise of Government R. & D. They say, accordinging to the Wall Street Journal [12] that with the aid of Government research money they're able to investigate fields that would be too expensive for them to look into with just their own resources.

"4. 'A company our size couldn't afford to be in this basic research if it weren't for Government contracts' according to Ralph F. Redemske, vice president of Servomechanisms, Inc.

"5. Another major advantage from Government R. & D. contracts is that the research contractor, more often than not, turns out to be the production contractor. Any business, big or small, learns how to make something new, advancing the state of the art, which very often leads to commercial or Government production contracts.

"Working for the Government can be so profitable that the Aerojet-General Corp., solely on Government contracts, and within a period of 17 years, increased—40,000 times from an initial investment of $7,500 to a market value of $300 million [13] at the end of 1959, with only modest additions of outside capital.

"III. Real costs of relinquishing title

"But even if there is an increase in costs—and I doubt there would be—we should be prepared to pay it.

"The present system has a very high hidden cost. It may not show up in the cost of Government expenditures on research and development, but it certainly does show up in the cost of the lower rate of diffusion of inventions and the higher prices associated with exclusive commercial rights, thus restricting the practical application of many of the pathmaking discoveries of recent years.

" 'In an era in which economic progress depends so much on scientific research, such chronic underemployment of technical knowledge might have, in the long run, an even more deleterious effect on the rate of economic growth than idle capital or unemployed labor.' [14]

"These are real costs.

"Another real cost to society is described by one of the witnesses before the Monopoly Subcommittee of the Senate Small Business Committee.

" 'It must also be remembered that the granting of patent rights involves a wastage of whatever resources competitors use to "invent around" the patent in order to enable them to compete with the patentee in the same market. Too, it is not uncommon for patentees to devote considerable resources to the quest for patentable alternative solutions, even inferior ones, in the hope of fencing in the original patent.' [15]

"It hardly becomes a national Government interested in promoting progress and growth to aid and abet in these resource-wasting activities by granting patent rights to firms performing research for it, especially when nothing is obtained that might offset these drawbacks.

"It is easy to understand why patent lawyers equate 'inventing around' with progress and growth. For them it means more private patents and greater value for existing patents, which in turn means more business for them. From a national point of view, however, public investments which encourage such activities represent waste in Government.

"Dr. Dowling, before Senator Kefauver's Antitrust and Monopoly Subcommittee, was critical of the wasteful nature of the competition in the pharmaceutical industry. 'Under the present system,' he said 'a successful pharmaceutical company works at a frenetic pace to produce slight modifications of existing drugs in order to keep abreast of its competitors.' [16]

"In view of the scarcity of imaginative scientists and the abundance of unsolved problems, how can we justify—from a national point of view—the use of scarce resources for seeking alternative solutions to problems which have already been satisfactorily solved?

"When so many inventions and discoveries which could be of great benefit to our people—to all people—are waiting to be made, how can we justify the assignment of a research force to search for inventions that are not intended for use at all—but merely to erect barriers to possible competition? This is especially unjustified when the public is paying for wasted effort, the only purpose of which is to make the public pay a still higher price for something that the public has already paid for twice—first for the cost of the discovery, second for maintaining the private patent monopoly.

"Such wastage of resources is an important cost which certainly cannot be underestimated.

"Another cost to the public, which cannot be ignored, results from well-known past abuses of the patent privileges both in terms of growth and national defense. Many of the firms which had been guilty of the worst kind of patent abuses in the past are now among the most favored major Government research and development contractors.

"Many of the largest Government contractors who have benefited most from the Department of Defense's largesse of the public's resources are firms which are violators of our country's laws. In the past several months the General Electric Co., Westinghouse, Allis-Chalmers and a host of others have been indicted 20 times for criminal violations of collusive price fixing, rigging bids, allocating markets and other antisocial acts.[17] The granting of patent rights by the Government to these firms continues to expose the public to the various potential abuses without providing us with any compensating advantages.

"Finally, how about the argument that some firms would be reluctant to take a Government R. & D. contract? This is really an irrelevant consideration and should not

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[8] Wall Street Journal, June 10, 1959, and reprinted in the daily CONGRESSIONAL RECORD Appendix, June 19, 1959, pp. A5307–5309.

[9] Ibid.

[10] Ibid.

[11] Ibid.

[12] Ibid.

[13] Hearings on Patent Policies of Departments and Agencies of the Federal Government—1959, before the Monopoly Subcommittee of the Select Committee on Small Business, 86th Cong., 1st sess., Dec. 8, 9, and 10, 1959, testimony of Emerson S. Reichard, Jr., director of contracts, Aerojet-General Corp., pp. 70–97.

[14] Leonard S. Silk: "The Research Revolution," McGraw-Hill Co. 1960, p. 8.

[15] Hearings, supra, note 13, pp. 20–21.

[16] Subcommittee on Antitrust and Monopoly, Committee on the Judiciary: "Administered Prices in Drug Industry," pt. 24, 86th Cong., 2d sess., 1960, pp. 14167–14182 (Hearings, Sept. 7, 8, 9, 12, 13, 14, 1960).

[17] New York Times, Dec. 9, 1960, pp. 1 and 22. These corporations were found guilty of antitrust charges, were fined, and some of their officers imprisoned. The Washington Post, Feb. 7, 1961, p. 1.

merit attention. Some firms will be reluctant to take a Government contract for any number of reasons. The important point is that there are competent firms willing to do the work. Admiral Rickover has stated that many firms are constantly urging the AEC to give them research opportunities because these firms know the great benefits flowing from this type of work. The Department of Agriculture, HEW, and the NASA have had similar experiences.

"The National Aeronautics and Space Administration has reported a few cases where the contractor refused a NASA research and development contract. A careful examination reveals, however, that the Department of Defense was willing to give the contractor the same contract as NASA's but with only a license to the Government to manufacture and use the invention for governmental purposes which NASA could not do under the law. Under such circumstances, it was to the contractor's benefit to refuse the NASA contract and take the other agency's contract. In another case the refusal by one contractor led to the development of an alternative source, a beneficial result.[18]

"If our Government has to depend on any one or even a few companies to do its work, we are in a very bad situation which should be remedied immediately. The Government should either help build up several firms to put them into a position so they can competently fulfill the most rigorous governmental needs or, if necessary, the Government should perform the work itself. The Government should have innumerable competent sources from which to purchase both research and development services as well as needed procurement items. If the Government should find itself at the mercy of any one or several companies, it should develop its own capacity and provide for its own needs.

"5. It is sometimes—but not too often—argued that scientists and inventors will be discouraged for lack of incentive, if the Goverment takes title. This argument is, of course, not susceptible of demonstration and is usually advanced as a last resort. Under the standard industry employment contracts, the firms doing Government research, developmental and related work would get the right to their employees' inventions if the Government did not. It is inconceivable that it would make any difference to the inventor, who actually does the inventing, whether this invention becomes the property of his employer or of the Government. This is especially true of investors who realize that in any event the Government—not the company—is the ultimate employer.

"IV. Reasons why Government should take title

"If our Nation desires to attain the objectives of growth, efficiency, free competitive enterprise and social justice previously mentioned, the Government must stop giving away to private firms patent monopolies resulting from Government-financed inventions.

"A. The Rate of Scientific and Economic Growth Will Be Accelerated

"The reason rests on the fundamental fact that the diffusion of scientific knowledge throughout our society is a prerequisite for scientific and economic progress and a rise in general productivity. The American Society of Mechanical Engineers became so alarmed at the delays in the dissemination of scientific knowledge that they started a major study of the problems.[19]

"The present policies of the Department of Defense are serious impediments to the creation and dissemination of new knowledge. These policies are retarding the rate of our scientific advance and are undermining the very security of our country. This is due to two reasons.

"First, by giving away all commercial rights to Government-financed inventions, the Government itself is offering commercial incentives for putting more resources into applied scientific research as against basic scientific research. More resources will be used to adapting to the civilian market a device originally designed for Government use, instead of pushing outward the frontiers of knowledge through basic research. This is certainly in conflict with the Government policy to encourage basic scientific research to discover new scientific principles.

"Second—and this is a crucial point—the policy of giving away to private firms the patent rights to Government-financed inventions and discoveries tends to erect walls between scientists and to prevent a free interchange of information. As a great biologist has stated:

" 'Two minds may strike from each other sparks which neither would have generated separately. Not infrequently, two pieces of knowledge and two different outlooks, coming from different minds, fit together like pieces of a jig-saw puzzle, and provide the answer or the clue to a longstanding problem.' [20]

"Each new invention multiplies the possible combinations of existing ideas, thereby widening the scope for originality. Many imperfect ideas and inventions are always lying dormant, lacking only some element which can bring them to life. One example of this phenomenon is the modern jet engine which is a combination of jet propulsion and the gas turbine. If, for example, a metal should be discovered lighter for a given strength than anything known, it would make practicable many devices hitherto frustrated by gravity, and it would have widespread influence upon the design of many types of machines. New hard alloys remained useless until, with the invention of tungsten carbide tools, methods were discovered of working these alloys. When the General Electric Co. combined with the Krupp Co. of Germany during the thirties to raise and maintain at high levels the price of tungsten carbide, the result was to slow down considerably a new technology.

"The opportunity for invention therefore continually proliferates. A new invention can, therefore, open up new fields through its cross-fertilization with older ideas, thus clearing the ground for other possible major innovations.

"The importance of the most rapid and thorough dissemination of new scientific and technical knowledge throughout our society, therefore, cannot be overemphasized. James M. Jagger, personnel director of Arthur D. Little, Inc., a well-known research and development concern, describes the conflicting attitudes in industry of scientists and management [21]:

" 'If a breakthrough is made in industry, the company wants to keep it from the competition, but the scientist wants it published. He's interested in the recognition of his peers and colleagues, not profits.'

"According to the Wall Street Journal,[22] most companies require that all their researchers' writings be cleared with management before publication, and competitive situations or patent problems occasionally delay or prevent publication. The same article quotes a scientist who hit upon a new idea in the physics of glass-forming, which was a definite advance of the art but the company was not willing to let it out.[23]

"One of the witnesses [24] before our Senate Small Business Committee described the policies of a very major laboratory in this country. He found that this firm had the most elaborate facilities—special bibliographic services and library facilities—to extract scientific information from hundreds of journals. They did this to save a lead time of only 2 weeks over the publicly available abstract service. To save 2 weeks, it paid to operate a rather large and expensive facility.

"On the other hand, the outgo of knowledge from this firm was quite different. Taking the data of the last 5 years of the papers published in the scientific literature by employees of the laboratory, the investigator found that there was a period of 3 to 5 years that intervened between the private circulation of these research reports inside the firm and the public availability of these reports. In summary, it paid this firm to make a large outlay to gain 2 weeks in the intake of knowledge, but there was a period of 3 to 5 years for knowledge to get out—and a considerable part of it never does get out.

"In our technological era, the scientific community consumes information virtually as quickly as it is produced. Hence this information must be distributed as quickly as possible within firms. In addition, the fruits of research of one firm are often external economies to other firms allowing them to become more efficient, to adopt new processes and techniques, to open up new scientific, industrial, or commercial possibilities. To the extent that the results of research do not flow rapidly throughout our society, the public is deprived of one of the chief benefits of the research it is sponsoring. It is only through a policy similar to that of the AEC that the most rapid dissemination of all discoveries could be insured. There is no incentive to keep them secret.

"The AEC has taken aggressive and effective action in the devolpment of an information-processing system, which distributes technical information in the broadest and most expeditious manner.[25]

"On the contrary, under the policy of the Department of Defense—'* * * the know-how which is paid for by the taxpayer and which should be public domain for the benefit of everyone and under the Government's control, is actually controlled by the contractor.

" 'It is thus difficult for the Government to know what has been developed at its expense and to make the know-how available in connection with later contracts'.[26]

"This kind of an attitude is perfectly reasonable for a private concern desiring to maintain or increase its market position. But here is a very clear case where the interest of society as a whole or even industry as a whole is in conflict with the interests of particular firms. Since Government-sponsored research is in trail-blazing fields like atomic energy and space, this conflict is even greater.

" 'A telling example of productivity increase that can, in the long run, be brought by absolutely free access to a steady flow of advanced technical ideas is offered by American agriculture. Traditionally, the bulk of agricultural research in this country was financed by Federal funds, and its results were put at the disposal of the poten-

[18] Hearings, supra, note 12, p. 271.

[19] "Lag in Applying Science Decried," New York Times, Sept. 10, 1959.

[20] A. S. Parkes: "The Art of Scientific Discovery," Midway, vol. 1, No. 3, p. 71.

[21] "Handle with Care," Wall Street Journal, Apr. 16, 1969.

[22] Ibid.

[23] Ibid.

[24] Testimony of Prof. Seymour Melman, Columbia University, "Hearings," supra, note 12, pp. 222–223.

[25] Committee on Government Operations, U.S. Senate: "Documentation, Indexing, and Retrieval of Scientific Information," S. Doc. 113, 86th Cong., pp. 15 and 45.

[26] Report of the Subcommittee on Defense Procurement to the Joint Economic Committee, "Economic Aspects of Military Procurement and Supply," p. 26.

tial users free of charge. In consequence, agricultural productivity has been increasing by leaps and bounds, finally even creating a glut of cotton and wheat.[27]

" 'Here is what the senior editor of Business Week writes about transistors: "When the semiconductor industry began its growing, Bell Labs held basic design and process patents covering the entire field. The growth gained tremendous impetus from Bell's policy of putting these virtually in the public domain'." [28]

"B. A Free Economy Will Be Encouraged and Safeguarded by Increasing Competition

"Competition brings about lower prices and provides the greatest opportunities for those who have the most to offer. Monopoly, on the other hand, implies the power to limit production and to restrict entry into industries and occupations. It enables the possessor of this power to levy tribute upon the whole community and denies some of our citizens the opportunity of making their fullest contribution to the well-being of our society. Our objectives should be removal of all possible obstacles to the establishment and growth of small and moderate-sized firms and their penetration into new economic areas. The present policy of the Department of Defense of allowing huge companies to improve their already formidable patent structures at the public's expense by its very nature frustrates the attainment of these objectives.

" 'Whatever their merits, it is undeniable that patent rights confer monopoly powers on the patentee. Patents enable their owners to restrict the use of inventions, thereby restricting the contributions to the national product that the patented inventions could make, in the hope that the resulting higher market price will make possible (monopoly) profits in excess of what could be earned under competitive conditions. To deny this feature of the patent system would be tantamount to denial of any usefulness of the patent system.' [29]

"The policies of the Department of Defense, the National Science Foundation, the Post Office Department, and the Treasury Department, in giving away to private companies patent rights to inventions developed at Government expense, coupled with the fact that 95 percent of Government research and development funds go to the largest companies, tends to promote monopoly. This was the conclusion of the Attorney General of the United States in his report of November 8, 1956.

"Given the present distribution of research facilities in industry, the granting of exclusive commercial rights to private firms doing Government-financed research is giving a major advantage to the larger firms. This further accelerates the pace of economic concentration.

"On the other hand, the policies of the Atomic Energy Commission, the Department of Health, Education, and Welfare, the Department of Agriculture, and the Federal Aviation Agency of taking title to inventions produced with public funds and making them available to the public, have just the opposite effect for the following reasons:

"1. They help to remove at least one of the factors which make for economic concentration, viz, the accumulation of a large number of patents by a small group of industrial giants.

"2. Small business is able to use the results of the research capabilities of the large corporation which have many facilities too expensive for the small company or the individual.

"3. Scores of small businesses would benefit by the ability to enter new fields from which they had hitherto been excluded.

"4. One barrier to the entry of new—and particularly small—firms into an industry is found in the cost advantages of established firms, many of which have accumulated valuable know-how from Government-financed research and development.

"An established firm may use the patent to keep out new firms altogether by denying the use of patents or can impose royalty charges for their use which raises the entrant's cost. This cannot happen if the Government owned the patent, and there is no reason to allow it to happen, if the research on which the patent is based is paid for by the taxpayers.

"The effects of Department of Defense policies were clearly revealed by the testimony of two small business witnesses before our committee. A large company developed a camera for the U.S. Government with public funds. A small dynamic company through competitive bidding won the right to produce a quantity of these cameras for the Government. Because the original developer had title to the cameras and parts, the small company had extreme difficulty in getting the necessary information to build it, even though the Government had paid the development costs. But this is not all. The large company wanted a 7½-percent royalty from the small company on each camera made by it. The result was that the latter would have had to start off at a 7½-percent cost disadvantage from the very beginning.

"The other case was that of the small businessman whose company overhauls and repairs instruments in aircraft. By giving the equipment manufacturers exclusive rights to Government-sponsored developments, the Government has undermined the ability of any other company to compete for the overhaul of aircraft instruments. For, by forcing the Government to disqualify all bidders other than the original manufacturer, owing to the inability of the other companies to obtain the necessary repair parts, components, or test equipment from the sole source of supply, the original company can name its own price and conditions.

"Big firms have many tremendous advantages over small firms. They have the power that goes hand in hand with size; they are supposed to have the manufacturing know-how. It is not fitting for the U.S. Government to add to the already great power of the huge giants to the detriment of their smaller competitors.

"Let me take a specific example of a major defense contractor recently examined by the General Accounting Office.[30]

"The contractor's employees, as a condition of employment, were required to assign to the contractor any invention, developments, and discoveries made or conceived during the period of their employment.

"In accordance with the Armed Services Procurement Regulations, the contractor obtained the patent rights, with the Government receiving a nonexclusive, royalty-free license.

"As of June 30, 1959, this contractor had filed applications for 95 patents. Out of this number, 11 applications were for inventions which the contractor himself characterized as primary inventions, that is, developments believed to be sufficiently basic and important to provide a basis for a new industry or an entirely new product line; or one which may have a major effect on the expansion or conversion of an existing industry or product line.

"The inevitable conclusion is that the U.S. Government has spent public funds to give one private company the power to control whole industries—to exclude everyone it wants to exclude; to charge any price it wants to charge.

"Incredible as it sounds, several agencies have provisions in their research and development contracts which can prevent the Government from using the very inventions which it pays to develop. The National Science Foundation and the Post Office Department, after giving away title to Government-sponsored inventions, merely take a nonexclusive, nontransferable, and royalty-free license to practice by or for the U.S. Government throughout the world, each subject invention in the manufacture, use, and disposition according to law of any article or material, and in the use of any method. In addition—and this is a direct quote from a Post Office Department R. & D. contract—'* * * no license granted herein shall convey any right to the Government to manufacture, have manufactured, or use any subject invention for the purpose of providing services or supplies to the general public in competition with the contractor or the contractor's commercial licensees in the licensed fields.'

"Now, what does this mean? The Railway Express Agency claims that it competes with the parcel post service of the Post Office Department, and has so testified before the Senate Post Office Committee. Under the provision, it can probably take the Post Office Department to court and block the Government from using those very machines for the benefit of the taxpayers which the taxpayers paid to have developed. What is the function of the Post Office Department if not to provide services to the general public?

"A case involving the National Science Foundation is even worse from the point of view of the public interest because the Foundation deals with more basic inventions. The National Science Foundation signed a contract with a rather large company to do research in the area of weather modification. This problem is of tremendous importance to many areas throughout the country * * * in fact, throughout the world. But what do we find in the contract? The same kind of a provision is included whereby the Government could not provide services to the general public in competition with the contractor or the contractor's commercial licensees. Now, to whom would the Government provide weather modification services, if not to the public? A private firm in possession of exclusive commercial rights in this field could charge the public all the traffic will bear even though the public paid all the costs of inventing and developing the means of control.[31]

"Frequently we hear that big businesses do not need patents; that they can use other means to prosper and grow; that it is the small firms that need them.

"An indication that big firms don't fall for their own propaganda is that they fight so violently to secure patent rights even when the Government pays for research. They have fought against Government antitrust suits with all their resources to prevent the opening up of their huge patent portfolios as in the RCA, I.T. & T., IBM and other cases.

"Some companies say that they are interested in patents only for defensive purposes,

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[27] Silk, supra, p. 7.

[28] Silk, supra, p. 75.

[29] Testimony of Professor Hamberg, University of Maryland, hearings, supra, note 12, pp. 17–21.

[30] Statement of Robert F. Keller, General Counsel, U.S. General Accounting Office, before the Subcommittee on Patents, Trademarks and Copyrights of the Committee on the Judiciary, U.S. Senate, May 17, 1960, pp. 5–31.

[31] We are informally advised that the National Science Foundation has recently adopted a revised patent policy on its weather modification program to provide that ordinarily, unless the grantee's or the contractor's equities justify some different arrangement, the National Science Foundation will retain the right to determine the disposition of patent rights resulting from the research supported.

so they cannot be excluded from various areas of our economic life. If the Government retains its property rights, this objective will be attained.

"But is it true that small business depends more on patents for protection than big business? Two of our small business witnesses testified to the contrary. A relatively small number of small businesses have prospered because of the special patent privileges granted by the Government and would possibly be injured by their removal. This is not a necessary result. Such possible losses, however, are not of major significance when compared to the great gains which would accrue to the small business community, to the economy as a whole, and consequently, to the ultimate consumer if the Government adopted the policy of dedicating to the public that for which the public pays.

"For every small business inconvenienced by the necessity to compete more vigorously, as a result of a policy of dedicating to the public patents paid for by the public, scores of small businesses would benefit by the ability to enter new fields from which they had hitherto been excluded. As a result of the Eastman Kodak judgment, opening up the technology of color film processing, for example, many new firms have come into existence. Where only one firm processed color film previously, there are now about 8 concerns processing Kodachrome and over 200 processing Kodacolor, mostly small businesses, and offering strong competition to Eastman in many parts of the country. Similar examples can be found in many industries. The facts controvert any general statement that small business would suffer more than big business in a policy dedicating patent rights to the public. On the contrary, they have much more to gain.

"There is an important difference between protecting small business and protecting particular small business concerns that happen to have favored positions. Small business can survive only if we try to invigorate competition. If we allow the present Defense policy to continue; we are not really aiding small businessmen; we are merely helping a number of giant firms plus a small minority of small businessmen, and we are killing the opportunity of many of our younger people to enter small business.

"C. It Is Immoral To Give Away Patent Monopolies on Government-Financed Inventions

"There is no ethical and moral justification for the Government to give away the resource of scientific knowledge as well as property rights to it.

"The granting of patent privileges is justified only insofar as it serves as an incentive to take risks. The hope of securing monopoly profits is supposed to be the inducement for inventors to exert their inventive efforts or for corporations to risk their money on uncertainties connected with expensive development and the building up of markets.

"But where are the risks in Government-financed research and development contract? There really are none. Practically all R. & D. contracts let by Federal departments and agencies are on a cost-plus basis. No matter how expensive a project turns out to be, costs are covered by the Government. Moreover, there is no risk in finding a market for the new product. The market is there, waiting eagerly, in the form of the Federal department or agency for whom the research and development has been performed. The whole thing is virtually a riskless venture for the contractor. Even the possibility of contract cancellation cannot be considered a risk, for the firms have invested none of their own funds and are generally granted, in addition, a return well in excess of costs.

"The whole 'incentive' argument is therefore untenable. If there are no risks, there is no justification for a monopoly profit resulting from a patent. To quote one of our witnesses:

" 'But since the patent rights are clearly not needed to serve as an inducement to invent and innovate, while they simultaneously impede the diffusion of technological knowledge uncovered at public expense, the granting of patent privileges to the contracting firms clearly gives society none of the alleged advantages of the patent system while foisting upon us one of its decisive disadvantages.

" 'In short, we are faced with the unconscionable situation in which the Federal Government taxes the citizens of this country to secure funds for scientific research, on the ground that such research promotes the general welfare and then turns the results of such research over to some private corporation on an exclusive, monopoly basis. This amounts to public taxation for private privilege, a policy that is clearly in violation of the basic tenets of any democracy. Such a violation might possibly be justified on the ground that it leads to greater enhancement of the general welfare then adherence to a basic principle would; but in the present cases, no offsetting gains are in the offing. Under the circumstances, it seems palpably evident that new discoveries derived from research supported by public funds belong to the people and constitute a part of the public domain to which all citizens should have access on terms of equality.' [32]

"There are cases, however, where private companies have already invested their own resources and have established commercial positions in fields in which the Government is interested. Obviously, such equities should be recognized. It is equally obvious that if the Government uses public funds, its equities also should be recognized.

"An additional distinction should be made between firms which have acquired background information at the public expense and those that have acquired background at their own expense. Some firms have built up background almost solely at Government expense. Such firms would have no equities to be recognized. The same would apply to commercial firms that have established new divisions for research in the space and atomic fields, where background could have been acquired only at Government expense.

"In summary, the general objective should be to protect the interests of the private concern doing business with the Government and at the same conscientiously safeguarding the interests of the Government as the trustee of the public interest.

"D. Double Standard

"Furthermore, the present patent policies of the Defense Department impose a double standard upon our national life. When one private firm pays another firm to develop something for it, the first firm expects and gets the rights for which it is paying.

"This position is summarized by the Martin Co., an important contractor of the Defense Department, which stated that when Government funds are involved, its subcontractors are allowed to retain title to inventions, improvements, and discoveries.

" 'On the other hand, when the Martin Co.'s own funds are involved, title to inventions conceived or reduced to practice by subcontractors vests in the company.' [33]

"When corporations that seek contracts to do research for the Government employ their own scientific and technical staffs, they require an ironclad contract to assure them that all patent rights will belong to the employers. In other words, when the scientist takes a job with a contractor, he agrees to turn over all proprietary rights resulting from his work to his employer.

"Similarily, the Government would be neglectful of the national interest if it did not secure for all the people the valuable rights for which it pays.

"It is a well-known common law doctrine that when an employee, employed to engage in research, succeeds in inventing or developing, the invention is the property of the employer. This was stated very clearly in the Peck and other cases: 'By the contract Peck engaged to "devote his time to the development of a process and machinery" and was to receive therefor a stated compensation. Whose property was the "process and machinery" to be when developed? The answer would seem to be inevitable and resistless—of him who engaged the services and paid for them, they being his inducement and compensation, they being not for temporary use but perpetual use, a provision for a business, a facility in it and an asset of it, therefore contributing to it whether retained or sold.' [34]

"In research the economic relationship of an employee to his employer is similar to that of a contractor selling his services to another person or firm. There may be some differences, but in essence these are not relevant. Such a fact that an employee generally works on the property of his employer whereas a contractor works on his own property perhaps physically distant from the Government is not crucial to our analogy. Both are selling research services; both are paid for these services; the type of product resulting from their work is the same. The factors being used are talent and background. The end product is knowledge, techniques, data, prototypes, and all the rights appertaining thereto, and this is what the Government pays for.

"*V. Goals of our society as contrasted with U.S.S.R.*

"We must remember that many of the basic goals of our country—maximum output, the highest rate of economic and scientific progress—are also among the most important goals of the Soviet Union.

"It is true that in our country the output to be maximized is chosen chiefly by individual consumers. In the Soviet Union, on the other hand, the output to be maximized is chosen primarily by a central, dictatorial body. There is thus a difference in content. The goal is the same.

"Where, then, do we differ from the Soviets? What makes our system different from theirs?

"Our supreme goal is—or should be—the development of the individual, the creation for the individual of a maximum area of personal freedom and personal responsibility. Our concept of the humane, liberal society is one in which every individual should be encouraged and given every opportunity to make the most of himself. The self-reliant, responsible, creative citizen is the very foundation of democracy and of every institution that recognizes the dignity of man. This goal is our ultimate ethical value, and this is the crucial difference between the Soviet system and ours.

"Our problem, therefore, is that of continually trying to enlarge the individual's share in conducting his own life, and in this the policy of competition has played an important role. Competition tends to reduce limitations to individual freedom, challenges individual capabilities, and better proportions rewards to efforts.

"Political liberty can survive only within an effectively competitive economic system. Yet our own Government has been undermining the vitality of competition through policies which serve to decrease the freedom and responsibility of individuals in many industries or those who wish to enter them.

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[32] Testimony of Professor Hamberg, hearings, supra, note 12, pp. 17–21.

[33] Hearings, supra, note 12, p. 448.

[34] *Standards Parts Co.* v. *Peck*, 246 U.S. 50 (1926).

"The present patent policies of the Department of Defense, by giving to private companies the control of products and industries, aids in restricting the range of productive activities open to the individual and reduces the scope for individual freedom within an area, and is thus in conflict with the whole spirit of the free enterprise philosophy with its aims of decentralized market power.

"Many Members of Congress have thought about this problem, and have come to the same conclusion—that where the Government pays for research, it should obtain patent rights in any resulting invention or discovery so that these may be available for the use of all the people instead of a relatively small number of contractors. This was the principle which sparked the struggle in the atomic energy field in 1954. The Congress reaffirmed the principle again in the coal research and development bill (H.R. 3375, now Public Law 599), the helium gas bill (H.R. 10548, now Public Law 777), and the saline water bill (S. 3557), which was passed by the Senate during the last session of Congress. The basic provisions of the Atomic Energy Act were also reenacted in the first session of the last Congress.

"VI. Attitude behind demands for private ownership of publicly financed inventions

"What is especially disturbing is the spirit behind these policies. Those very businessmen who demand property rights on inventions and discoveries paid out of public funds are generally those very people who object most vigorously when the Government aids sectors of our society other than their own.

"Here is what a business publication recently wrote about Government prodigality: '* * * yet if there is one prodigious uncontrolled source of waste in the United States today, whether in the form of farm price supports, shipping subsidies, padded payrolls or outright graft, it is Government. Unlike private buyers and sellers, moreover, public officials thus far apparently have learned precious little about the value of a dollar.' [35]

"If this publication really considers the level of morality in business higher than that in Government, it has no understanding of the role of Government in our society. It is American life in general that shapes and conditions the goals, methods, and ethical standards of men in politics and Government. The moral standards of the country provide the ethical environment which in turn conditions the standards of behavior of public officials. Low standards or high standards in the country generally are reflected in low or high standards in Government.

"The insistence by patent lawyers and a segment of the business community on a double standard, a refusal by certain big concerns to do research for the Government during a national emergency unless they received all resulting rights, an attitude of trying to squeeze out of the Government whatever they can, a feverish scrambling for all kinds of subsidies—all this can conduce only to the acceptance of ruthlessness and a very low level of morality in our national life.

"Inventions resulting from Government contracts are the products of expenditures of public funds for the performance of a governmental function; the public has, through its representatives, ordered and paid for the research and the resulting knowledge and inventions. Why, then, should the public be taxed for its use or permitted to use it upon restrictive conditions advantageous to no one but the patent owner? There is no obligation on the part of the contractor to exploit the patent or to make the invention available for use by others; he may even suppress the invention if this would best serve his economic interests, with the result that technological improvements financed with public funds would be denied to the public to serve a private interest.

"VII. Scientific and technical knowledge are a natural resource—What aims should control?

"Scientific and technological research conducted or financed by the U.S. Government represents a vast national resource, rivaling in actual and potential value the public domain opened to settlement in the last century. Because the control of patent rights in inventions resulting from such activities means the control of the fruits of this resource, it is important to determine upon a policy for the Government which will have the following aims:

"1. The policy should serve the public welfare, which would involve the most widespread use of the invention in the interests of the health, safety, and prosperity of the Nation.

"2. The policy should stimulate the progress of science and the useful arts.

"3. Such a policy should be consistent with our American system of free competitive enterprise.

"VIII. Specific recommendations

"In order to attain our objectives, the Congress should enact a law with these three features:

"1. The United States Government should acquire title and full right of use and disposition of scientific and technical information obtained and inventions made at its direction and at its expense, subject to waiver of Government title when the equities of the situation so require.

"2. Needless to say, the acquisition of title is not enough. Constructive use of the patents so acquired by the Government is required to achieve public benefit in return for the public funds invested in their development. For that reason, there should be established a Federal Inventions Authority which would administer all Government-owned patents and make necessary determinations in the administration of the act. It would be affirmatively charged with the duty of protecting the public interest in scientific and technological developments achieved through the activities of departments and agencies of the U.S. Government and would be charged with the dissemination of knowledge so developed in order to stimulate invention and innovation which will cut costs, produce new products, and increase per capita industrial production through efficiency and new technology.

"In order to secure the fastest and fullest use of inventions, discoveries, and innovations, an expanded program of utilization research could be undertaken as a means of widening the uses of Government-owned patents.

"In order to make utilization information readily available to all, the authority can engage in those activities necessary to carry out this function, such as aiding libraries to:

"(a) acquire collections of publications having descriptions of inventions, helpful to inventors, business, and the general public;

"(b) inform business and industry (plants, factories, construction, and engineering organizations) of new techniques and innovations in their fields of interest;

"(c) provide inventors and innovators with knowledge of advances in their areas of interest;

"(d) give instructions in the use of technical, scientific, and economic literature in libraries and schools.

"3. The policy should stimulate discovery and invention in the public interest by providing for the making of generous monetary awards as well as public recognition to all persons who contribute to the United States for public use scientific and technological discoveries of significant value in the fields of national defense or public health, or to any national scientific program, without regard to the patentability of the contributions so made."

[35] Barron's, Oct. 10, 1960, p. 1.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Oregon to the amendment of the committee.

Mr. PASTORE. Mr. President, unless there is to be debate, I move to lay the amendment on the table.

Mr. MORSE. Mr. President, I ask for the yeas and nays on the motion to table.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Oregon to the amendment of the committee. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Washington [Mr. MAGNUSON], the Senator from Michigan [Mr. MCNAMARA], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from New Jersey [Mr. WILLIAMS] would each vote "yea."

On this vote, the Senator from New Mexico [Mr. ANDERSON] is paired with the Senator from Colorado [Mr. CARROLL]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Colorado would vote "nay."

On this vote, the Senator from Nevada [Mr. BIBLE] is paired with the Senator from Idaho [Mr. CHURCH]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Idaho would vote "nay."

On this vote, the Senator from Pennsylvania [Mr. CLARK] is paired with the Senator from Wyoming [Mr. HICKEY]. If present and voting, the Senator from Pennsylvania would vote "nay," and the Senator from Wyoming would vote "yea."

On this vote, the Senator from California [Mr. ENGLE] is paired with the Senator from Alaska [Mr. GRUENING]. If present and voting, the Senator from California would vote "yea," and the Senator from Alaska would vote "nay."

On this vote, the Senator from Washington [Mr. MAGNUSON] is paired with the Senator from Michigan [Mr. MCNAMARA]. If present and voting, the Senator from Washington would vote "yea," and the Senator from Michigan would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT],

the Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The Senator from Arizona [Mr. GOLDWATER] and the Senator from Kentucky [Mr. MORTON] are detained on official business and, if present and voting, would each vote "yea."

The result was announced—yeas 64, nays 15, as follows:

[No. 202 Leg.]

YEAS—64

Aiken	Hickenlooper	Pearson
Beall	Hill	Pell
Bennett	Holland	Prouty
Boggs	Hruska	Proxmire
Bottum	Humphrey	Randolph
Bush	Jackson	Robertson
Byrd, Va.	Johnston	Russell
Byrd, W. Va.	Jordan, N.C.	Scott
Cannon	Jordan, Idaho	Smathers
Carlson	Keating	Smith, Mass.
Case	Kerr	Smith, Maine
Chavez	Lausche	Sparkman
Cooper	Long, Mo.	Stennis
Cotton	Mansfield	Symington
Curtis	McCarthy	Thurmond
Dirksen	McClellan	Tower
Dodd	McGee	Wiley
Ellender	Metcalf	Williams, Del.
Ervin	Monroney	Young, N. Dak.
Fong	Mundt	Young, Ohio
Hartke	Muskie	
Hayden	Pastore	

NAYS—15

Bartlett	Javits	Morse
Burdick	Kefauver	Moss
Douglas	Long, Hawaii	Neuberger
Gore	Long, La.	Talmadge
Hart	Miller	Yarborough

NOT VOTING—21

Allott	Clark	Kuchel
Anderson	Eastland	Magnuson
Bible	Engle	McNamara
Butler	Fulbright	Morton
Capehart	Goldwater	Murphy
Carroll	Gruening	Saltonstall
Church	Hickey	Williams, N.J.

So the motion to lay on the table was agreed to.

Mr. YARBOROUGH. Mr. President, I call up the amendment identified as "9-11-62—EE," and ask that the amendment be read by the clerk. The amendment is under the name of the Senator from Tennessee [Mr. KEFAUVER] and I am one of the cosponsors.

The VICE PRESIDENT. The amendment will be reported.

The LEGISLATIVE CLERK. Beginning with the word "Such" on page 34, in line 20, it is proposed to strike out everything through page 35, line 2, and insert in lieu thereof the following:

Fifty per centum of such nonvoting securities, bonds, debentures, and other certificates of indebtedness authorized for issuance at any time by the corporation shall be reserved for purchase by communications common carriers and such purchasers shall in the aggregate be entitled to make purchases of the reserved shares in a total number not exceeding the total number of the nonreserved shares of any issues purchased by other persons. At no time shall the aggregate of such nonvoting securities, bonds, debentures, or other certificates of indebtedness held by communications common carriers directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to their direction or control exceed fifty per centum of such nonvoting securities, bonds, debentures, or other certificates of indebtedness issued and outstanding.

Mr. YARBOROUGH. Mr. President, Senators can find the language to which the amendment refers on page 34, in lines 18, 19, and 20.

Under the bill as it came from the committee, the voting stock was to be divided into two parts—50–50—one part, each, for the communications carriers and for the general public who might wish to purchase it. But there is no such requirement in the bill in regard to nonvoting stock, bonds, debentures, and other certificates of indebtedness.

The purpose of the amendment is that when nonvoting stock, bonds, or other certificates of indebtedness are issued the public also will have an opportunity to purchase 50 percent of them. The corporation might have $500,000 of capital stock, and subsequently might vote to issue $100 million of bonds and debentures; and the telephone company could buy them—but with no requirement that the public have an opportunity to subscribe to 50 percent of them. In that event the telephone company could absolutely dominate the corporation, and could pay interest on these bonds, debentures, preferred stock, or other certificates of indebtedness but could decide to pay no dividends on the common stock.

Most corporate financing is done in this way—by issuing preferred stock, nonvoting stock, or bonds, debentures, and other types of certificates of indebtedness.

The purpose of this amendment is to apply the 50–50 requirement of public opportunity to purchase and participate in all the securities of the corporation.

We have heard it stated over and over that the corporation is to be controlled 50–50 by the communications carriers and by the general public. But the bill is not drawn up that way.

This amendment would merely give the general public an opportunity to buy 50 percent of the total financial structure of the corporation, thus bringing to fact the unsubstantiated present claims of the advocates of the bill.

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

Mr. YARBOROUGH. I yield for a question.

Mr. KEFAUVER. Is it not true that the President of the United States and the witnesses for this bill and the Senator in charge of the bill on the floor have loudly proclaimed that one way the public might be able to get something back for what the taxpayers have spent on research and development——

The VICE PRESIDENT. Will the Senator suspend until the Senate is in order, so the Chair can hear the Senator?

The Senator may proceed.

Mr. KEFAUVER. So that the taxpayers can get something back for the research and development for the money they have paid that went into the satellite system was their participation in the purchase of securities? Has not that been loudly proclaimed as the little crumb that might come to the taxpayers of the Nation?

Mr. YARBOROUGH. That has been widely advertised by the proponents. I do not know which particular one. I am not answering which particular Senator, or whether the President said it. I have heard over and over in the committee and on the Senate floor that the public will have 50 percent participation. I am not attempting to say which particular advocate said that. I heard it so much, that I don't remember who said it. I did not write down who said it. But it has been said over and over again that this was a 50–50 corporation. This amendment would assure that it would be, but it will not be if this amendment is defeated. If this amendment is beaten, the public's opportunity to participate will be limited to a very small shred.

Mr. KEFAUVER. As the bill now stands, the public has no right guaranteed to it to have an opportunity of buying any part of the nonvoting stock, the preferred stock, the debentures, bonds, or other securities that might be offered by the corporation. Is that correct?

Mr. YARBOROUGH. That is absolutely correct, and that type of financing may well be, and probably will be, the overwhelming kind of financing done by the corporation, and that is where the real profits will be made.

Mr. KEFAUVER. Is it not true that this would probably be the way the corporation will be largely financed, for this reason: that when A.T. & T. or some other telephone company bought a bond, under the authority, if granted authority by the Federal Communications Commission—and it indicated it would grant the authority—it would immediately put the purchase price of that bond into its rate base, so that domestic telephone users would have to pay for the bond and at the same time the company would get interest and dividends on the bonds? In other words, it would be assured of getting a double return?

Mr. YARBOROUGH. Absolutely. The bill authorizes the investment to be put in the rate base, and the bond or other certificate indebtedness is the way most of the financing of the corporation would be done. The corporation would put the cost of it in the corporate rate base for ratemaking purposes, and would get interest at the same time, so it would thus get a double return. Therefore it would have an incentive and a desire to buy all it could of that kind of debenture. It would take the express provision of this amendment to give the public a chance to buy such debentures.

Mr. KEFAUVER. Is it not true that if Ford Motor Co., or Morgan Guaranty, or any individual who had enough money to buy a bond, would like to have a rate base like that of A.T. & T., by which it could have that bond paid for; but at least it should have the opportunity of participating and being able to buy a bond and share in the interest or dividends that might be paid on the bond or preferred stock, should it not?

Mr. YARBOROUGH. The provision also applies to preferred stock. My answer to the Senator is "Yes." If a citizen bought a share of these certificates, he would not thereby get a double return, as would A.T. & T., but he might get such a healthy return that he might want to buy a share. I feel that if such an investment was open to the

public, the public's share would be fully subscribed, because the prospective investor would know that A.T. & T. was going to put its moneymaking funds into that kind of security, rather than into common stock, because when it purchased that kind of security it would get a double return. Therefore, if the public could buy 50 percent of the nonvoting stock kind of securities, it would. I think investment advisers would recommend it as a good purchase, because with the telephone company's being able to buy 50 percent of it and its being able to write off the cost in its rate base, the public would be sure that the company was going to make it a paying proposition.

Mr. KEFAUVER. Is it not true that the Senator from Texas [Mr. YARBOROUGH] and the Senator from Alaska [Mr. BARTLETT] brought this matter up in their minority views? They urged in the committee that the public be treated just as the communication carriers would be treated. Did not I, in testifying before the Commerce Committee, point out this fatal defect in the bill? But, for some reason, the favoritism toward A.T. & T. and the other communication carriers has not been corrected, and is this not one of the fatal defects of the bill as it now stands?

Mr. YARBOROUGH. That is correct.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the minority views of the Senator from Alaska [Mr. BARTLETT] and myself printed with the report of the Commerce Committee.

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

MINORITY VIEWS

PART I

As President Kennedy has pointed out, science and technology have progressed to such a degree that communication through the use of space satellites has become possible. A global satellite communications system is an exciting thing to think about. It truly represents one of the most revolutionary and dramatic developments of this century. Man's ability to utilize space has created a new international resource that can further the cause of world peace and understanding and bring all the people of the world a better life. The benefits which mankind will derive from the conquest of space are as vast as this new frontier itself.

I. Communications satellites will have international, political, economic, and social impact

A satellite communications system will have social, economic, and political benefits for all the countries of the world. Such a system will, of course, be international in the truest sense and will require international cooperation on an unprecedented scale.

The United States is far from alone in its interest or its efforts in satellite communications. Soviet publications have announced that the Russians expect to launch a communications satellite in the near future. Indications are that they expect to make use of a high-altitude or synchronous-type satellite. One such Soviet satellite appropriately placed in 24-hour equatorial orbit would afford communications coverage for virtually all the Communist-held world as well as Far East areas. Three or four such satellites could provide worldwide coverage.

The Japanese have recently announced that they plan worldwide television coverage of the 1964 Olympic games through the use of a satellite system consisting of three or four satellites in 24-hour orbit.

In addition, there are presently at least five other countries, not including the United States, that are engaged in the construction of ground stations. Some of these countries are also experimenting with the development of communications satellites themselves.

II. Government research has made United States the leader

To date research and development conducted by our Government has kept this Nation in a position of leadership in the field of space communications.

In testimony before the Senate Antitrust and Monopoly Subcommittee, Assistant Attorney General Loevinger noted that—

"Satellite communication is made possible through research and development paid for by Government funds because of the national interest in the establishment of such a system."

The programed expenditures on space communications alone of the National Aeronautics and Space Administration and the Department of Defense through fiscal 1963 give an indication of the costs involved.

Amounts spent by U.S. Government

	Million
NASA, space communications alone:	
Fiscal 1960	$3.1
1961	29.5
1962	94.6
1963	[1] 85.4
Total, 1960–63	212.6
Department of Defense, space communications alone:	
Fiscal 1959 and before	8.6
1960	16.4
1961	42.0
1962	92.0
1963	[1] 100.0
Grand total, NASA and DOD [2]	471.6

[1] Proposed.

[2] Kerr committee staff report of Feb. 25, 1962, pp. 1 and 2.

This does not include the many billions of dollars that have been spent on our overall space program in developing technology and competence, absolutely necessary for a satellite communications system. Without this expenditure of billions of dollars by the taxpayers of the United States, there would be no space satellite communications system. The importance of the space program to satellite communications is illustrated by the following statement of Mr. John H. Rubel, Assistant Secretary of Defense, made before the Senate Space Committee:

"About 90 percent, I would say of the problem associated with the communications satellite system really doesn't have much to do with communications, Mr. Chairman. It has to do with launch vehicles, it has to do with spacecraft that you put into orbit, it has to do with controlling those spacecraft when they are up there in orbit, it has to do with the life of electronic and mechanical equipment in space. All of these are technologies and techniques that are being developed by the Department of Defense, partly as part of our communications satellite efforts, but not exclusively so. I just can't imagine that this kind of effort could successfully be undertaken by any organization other than both the NASA and the Department of Defense" (transcript 462, Kerr committee hearing).

III. Satellite legislation not necessary now

At this time the United States is moving forward with all possible speed toward the establishment of an operational satellite communications system. The alleged urgency for legislation at this time to decide upon the legal organizational structure for operations of the system does not exist. It will be at least a year before we have conducted the experiments and studied the technical information necessary for a decision on an operations system.

Before the Senate Antitrust and Monopoly Subcommittee, Samuel M. Barr, vice president of Western Union Telegraph Co., testified as follows:

"Senator KEFAUVER. Suppose you had a corporation of $200 million right now. What would it do with the money?

"Mr. BARR. Well, for an appreciable period of time it would sit on its hands. Deferral of this legislation until next year will not delay the development of a space satellite communications system in any degree."

IV. Committee bill would create a private monopoly

The legislation which has been recommended by the majority of this committee would create a private corporation that would own and operate the U.S. portion of a worldwide satellite communications system. This corporation would be a Government-created private monopoly. Such legislation is without precedent in the history of the United States. It runs counter to the historical and traditional hostility to private monopoly that has served as a foundation of this country's economic system of competitive free enterprise.

Not only does the committee bill create a private monopoly, it would go even further and bestow on that single private monopoly the benefits of billions of dollars of the taxpayer's money. This legislation, if enacted, likely would constitute the biggest giveaway in the history of the United States.

All the elements necessary for the very existence of an operational satellite communications system have been financed by all the taxpayers of the United States. It is our belief that all these same taxpayers should receive the benefits of the system when it becomes operational. There can be no justification for giving this vast resource that has been financed by the taxpayers away to a small group of stockholders for their private gain. The taxpayers have already paid for their right to share in the returns.

V. Government will continue to have a leading role

Even if a decision were made to place ownership and control of this country's satellite communications system in a private monopoly, the Government would necessarily continue to have its leading role. The Government would be required to—

1. Furnish launch vehicles.
2. Launch the satellites and provide launch crew and associated services.
3. Consult with the private corporation regarding technical specifications for satellites and ground stations and in determining the number and location of such facilities.
4. Coordinate continuing governmental research and development with the activities of the private corporation.
5. Insure that the satellite system established is technically compatible with existing facilities with which it will interconnect.
6. Insure that present and future access to the system on an equitable and nondiscriminatory basis is made available to all authorized communications carriers.
7. Preserve competition in the field of supplying goods and services to the corporation.
8. Supervise any change in the internal structure of the private corporation.
9. Insure that opportunities are provided for foreign participation in the system.
10. Insure that the corporation provides communication services to areas of the world where such services may be uneconomical, if it is determined that providing such services would be in the national interest.

11. Last, but no means least, the Government would have to regulate the ratemaking process.

VI. Broad-based ownership illusory

The argument has been made that the rights of the people are protected by making it possible for some of them to buy stock in a private satellite corporation. This overlooks the fact that only a small percentage of the American people own or can afford to own stock in any private corporation. Many millions of these people who will never be able to own a single share of stock in a private satellite corporation do pay taxes, however, and have contributed to the investment that will make a satellite communications system possible. It would certainly not be in keeping with our standards of equity and fairness for Congress to give away to a few this investment of all the taxpayers.

VII. More competition would insure faster development

The satellite communications system is a revolutionary development that will be used for both domestic and international communications. It will inevitably be competitive with existing facilities owned by the communications common carriers: their oversea telephone cables or domestic long-distance telephone or telegraph lines. The committee bill would allow the communications common carriers to own up to 50 percent of the voting stock in a private satellite corporation and an unlimited amount of nonvoting securities, bonds, debentures, or other certificates of indebtedness. Even though there is a limitation on the number of directors that can be elected by the communications carriers, their financial interest in a private corporation would give them extensive control over the corporation.

By allowing this element of control to pass into the hands of the communications carriers, we would lose the competitive stimulus to maximum advances in all fields of communication.

Historically, our public policy of prohibiting one form of transportation from owning or controlling a new form of transportation has fostered active competition, development, and innovation in the transportation industry. This successful policy should also be followed with regard to communications carriers and the satellite system. Thus, in the interest of fostering competition and innovation in the communications satellite field, separate ownership of international communications carriers and the communications satellite system is not only advisable but essential. Private ownership and control of the space satellites would carry with it a built-in conflict of interest that would inevitably tend to slow down the most rapid development and maximum utilization of the best possible satellite system.

In our efforts to move ahead and in our competition with the U.S.S.R. we cannot afford the risk of delay by allowing a private monopoly the right to protect its present investment in communications equipment at the expense of the national interest. In testimony before the Senate Antitrust and Monopoly Subcommittee, Assistant Attorney General Loevinger observed:

"There would be a natural reluctance on the part of companies with large investments in existing facilities to take speedy action which would make these facilities obsolete. A company controlled by A.T. & T. could scarcely avoid considering the effect of satellite facilities on existing investments in cable facilities."

If the communications satellite system were owned by the United States, the Government would not send or receive telegrams nor would it operate telephones or radiophones. The Government would merely sell or lease channels on the space satellites system to privately owned communications systems for their use as a part of their communications system.

VIII. Satellite operation intimately connected with foreign relations

The successful establishment of an operational satellite communications system will require the cooperative efforts of the nations of the world on an unprecedented scale. Every phase of operations of the satellite system will be intimately connected with foreign policy. It is unrealistic to assume that there can be a meaningful separation of negotiations into categories of "business" which do not affect the national interest and "other" which do affect the national interest. A system which will ultimately link the entire world, provide for telephone, telegraph, television, and radio communication, and be used for data transmission, weather, navigation, mapping, and oceanography is obviously an instrument of national policy. We cannot afford to delegate to a private monopoly the function of conducting American foreign policy. It is impractical to try to separate out the communications function alone and assign that to a private corporation and retain the responsibility for all the other phases of a satellite system in the Government.

A truly global satellite communications system must be made available to all nations, including the less developed nations of the world. We have begun negotiations with the Soviet Union which we hope will lead to peaceful joint uses of space and space technology. President Kennedy, in his letter of February 1 to Premier Khrushchev, specifically mentioned communications by satellite as one of the areas for cooperation.

The State Department, under the supervision of the President, is the only agency which is qualified or experienced enough to represent the United States in the conduct of the negotiations that will be necessary for the establishment of the satellite communications system.

IX. Federal Communications Commission not an effective regulator

The proposal of the committee bill to create a private monopoly to own and operate our satellite system is based on the proposition that the Federal Communications Commission will regulate the corporation and thereby insure that the public interest is protected. Any assumption that the Federal Communications Commission can or will do the job adequately is not supported by the facts. A recent study of the Federal Communications Commission made for the Bureau of the Budget by Booz-Allen-Hamilton, private management consultants, concluded that the Federal Communications Commission has had neither the will nor the way to regulate the communications common carriers. This study stated that the important functions of surveillance and regulation of common carrier rates and rate bases had not been adequately undertaken.[1]

Many other functions of the Federal Communications Commission with respect to the communications carriers have been performed in only a superficial manner, or for only a small fraction of the total area of responsibility.

The Federal Communications Commission in general, and its Common Carrier Bureau in particular, have been suffering from a lack of staff and budget. Furthermore, there is evidence to indicate that the Commission is relatively uninterested in the activities of its Common Carrier Bureau. Clearly, it would be folly to turn over the job of regulating a private satellite corporation to the FCC as it is presently constituted and financed.

X. Government ownership would insure that the whole Nation benefits

Government ownership is the only way to insure that all of the potentially vast revenues from this taxpayer-financed system will accrue to all the people. Only under Government ownership can we be sure that the necessary research and development is

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[1] Excerpt from "Organization and Management Survey of the Federal Communications Commission," by Booz, Allen & Hamilton, management consultants, March 1962:

"THE COMMON CARRIER BUREAU IS NOT WELL EQUIPPED TO MEET ITS RESPONSIBILITIES IN THE FACE OF A RISING WORKLOAD

"This outline of Common Carrier Bureau duties has sketched areas of responsibility of an order of magnitude and significance which exceeds the Bureau's resources. Neither the physical facilities, the staff, nor the budget provided the Bureau properly reflects a recognition of the Bureau's statutory obligations. Handicapped by inadequate provision of the means of insuring a satisfactory level of regulatory activity, Bureau management has never been tested by measuring performance against feasible program objectives. Further, there is evidence that much of the Bureau staff believes that the Commission has far less interest in the Bureau's activities than is warranted. Under these circumstances, Bureau management has been adequate but uninspired.

"Regulatory statutes such as the Communications Act obviously are intended to take effect under reasonable standards of administration. Without extending to the minute examination of each aspect of the financial and operating practices of every subject company in the country, the law presumably intends that the public interest in common carrier communications be protected by a reasonable level of Federal regulatory activity. Toll charges on interstate telephone calls, for example, may be reviewed to establish their reasonableness without questioning to the penny every calculation that went into toll rate determination.

"In sum, the regulatory activities of the Federal Communications Commission are expected to reflect an effort to provide reasonable protection of the public interest, convenience, and need. In this, the Common Carrier Bureau has not been so organized, staffed, and otherwise equipped so as to be entirely successful. This is particularly true of the attempt to regulate the telephone industry, for which the gross original cost of plant is valued at 25 times that of all other common carrier telecommunications activities regulated by the FCC, and where the largest single component—the Bell System—constitutes the largest corporate enterprise in the world. Further, the Bell System accounts for 96 percent of the telephone plant in service and 97 percent of the operating revenues received by all telephone companies fully subject to FCC regulations. About 25 percent of Bell System operating revenues are derived from interstate and foreign operations, and the percentage is increasing. The existence of this huge strategic enterprise places a particular burden on the Federal Government to look to the public interest.

"That the Common Carrier Bureau has been active in pursuing its duties in part is evidenced by app. I, which tabulates the rate reductions and increases negotiated between the American Telephone & Telegraph Co. and the FCC since 1935. However, it is clear that the important functions of surveillance and regulation of common carrier rates and rate base have not been adequately undertaken. These functions do not seem to have been accorded an appropriately high priority by the Commission in the allocation of resources and direction of attention. While

comparatively less profitable but highly important areas, such as weather, space research, and navigation, will proceed at the maximum rate. If the Government owns the satellite communications system, including both the satellites themselves and the ground stations, it can bring competition into the communications field.

XI. Government corporation would foster competition

A Government corporation can insure competition in the procurement of the equipment and services used by the communications satellite system. It is essential that all interested parties engaged in producing and selling communications and related equipment be given unrestricted chance to provide such equipment to the system whether or not they are owners of the system. This will enhance the chance for small business to participate in the development of the communications satellite system.

The committee bill cannot insure unrestricted opportunity to furnish equipment for the communications satellite system, since the major international communications carriers are integrated with the largest communications equipment manufacturers. Vertical integration of international communications carriers and the manufacturers of the equipment they use, moreover, inhibits a free competitive system. The choice which is before us is between Government ownership of a taxpayer-financed resource, with operation for the benefit of all the American people, or ownership by a Government-created private monopoly.

PART II

The foregoing arguments and observations show that a publicly owned communications satellite corporation would be far superior to the proposed private corporation. The public corporation, moreover, would avoid the pitfalls inherent in the proposed private corporation. Even, the committee bill, however, requires amendment in several respects to effectively accomplish the purpose for which it is offered.

Section 201(a)(6), page 25, line 20:

The language of section 201(a)(6) provides that the President shall insure the appropriate utilization of the commercial system for general Government purposes that do not require a separate communications satellite system to meet unique Government needs.

This indicates that the President is expected, in fact required, to see that all Government communications will be channeled through the commercial system even though the Government might have its own satellite system, e.g., Advent or Relay, that could be used at a smaller cost to the Government. This, in effect, would provide a continuing subsidy to the private corporation. It is easy to visualize a Government-owned system whose existence is necessary in the national interest going unused while the Government pays a private monopoly for communications services that are already available to it.

Section 201(c)(1) page 27, line 17: Under section 201(c)(1) the Federal Communications Commission need only consult with the Small Business Administration and get recommendations on measures and procedures intended to provide small business concerns an equitable opportunity to participate in the procurement program of the corporation. This provision, as it is written, affords no real protection to small business. It is merely window dressing without substance. In view of the fact that the communications carriers who will be major investors in the corporation are also in the manufacturing business, and since the noncarrier stock can be held by large corporations engaged in manufacturing and supply, there should be strong language to guarantee the small business concerns a role in this important undertaking.

Section 201(c)(7), page 29, line 7:

With reference to this section and the ownership of ground stations, the bill should provide that the ground stations will be owned by the satellite corporation. Only if the corporation owns the ground stations as well as the satellites will it have a communications system.

If the ownership of the ground stations is left to the communications carriers, they will, in effect, have control of satellite communications. If the ground stations and satellites are owned by the corporation, it may be possible to improve the competitive structure of both domestic and international communications.

Mr. Nicholas Katzenbach, Deputy Attorney General, appeared before this committee and testified in support of the President's recommended satellite bill. His comments on the subject of ownership of ground stations by the private satellite corporation are well worth repeating here:

"There are very good reasons for considering the ground stations to be properly part of the communications satellite system for which the proposed corporation will be responsible. But for the system, the ground stations would have no purpose.

"I am advised that technical compatibility between the satellites and the ground stations in any system is clearly mandatory, and that progress from initial satellites to more efficient and desirable types will not be possible if the ground stations would not be compatible with the improved satellites. There is a real danger that ground stations if separately owned by the carriers may, because of their high cost, represent an obstacle to technical growth so as prematurely to freeze the type of system.

"It is also important to note that satellites and ground stations will be technically able to handle all forms of communications, such as voice, record, and television, while particular carriers who might own ground stations may only hold authorizations for certain types of communications.

"Moreover, as anyone generally familiar with public utilities will realize, there may be different peaks in the demands for service, varying with the types of service or with the particular carrier. A more efficient utilization of the system could be achieved by pooling the capacity necessary to meet these varying peaks, thus conserving scarce radio spectrum allocations, rather than providing separate and partly overlapping reserves of capacity for each carrier and for each type of service. Having the corporation own and operate its own ground stations also could mean greater reliability, guaranteeing continuity of service in emergencies, such as failure at one ground station, by the ability quickly to reroute traffic through other ground stations under its own management.

"In addition, there might well be a savings in capital expenditures by avoiding the unnecessary duplication of ground stations constructed by the various carriers. Construction of ground stations as part of the corporation's assets would also facilitate regulation of rates by the FCC, because the costs involved could be isolated, rather than becoming hopelessly entangled in the present economic jungle of long-distance and oversea telephone services, the rates of which the FCC has thus far found it impossible to investigate or regulate effectively.

"To summarize, there are good reasons to believe that, with the corporation owning the ground stations, technical improvement to exploit a vigorous evolving technology might be more rapid, capital requirements and operating expenses might be minimized, the radiofrequency spectrum might be more effectively utilized, reliability in emergencies and to meet peak traffic demands might be enhanced through pooling or rerouting, negotiations of the corporation with foreign entities might be simplified, and FCC regulation might be facilitated."

Section 302, page 31, line 6: The President must approve the original articles of incorporation of the corporation. Under the original administration proposal, S. 2814, section 302, approval by the President was required for the original articles of incorporation and for any amendments thereafter. In addition the President was given the power to initiate amendments. This power over amendments should definitely be restored. Without it, the mere power to approve the original articles has little real substance. Under the District of Columbia Corporation Act, section 29–921, the articles of incorporation can be amended by a vote

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the staff has sought to establish essential criteria for judging rates of return, the Commission, in fact, has established no firm criteria governing such rates of return and does not demonstrate that the reductions negotiated actually bring the overall rate of return down to reasonable limits. This activity merits far greater emphasis if the public interest is to be properly served.

"The list of Bureau functions which are explicit or implicit in the Communications Act is in fact a lengthy one. A tabulation of those which, for lack of staff and budget, are performed in a superficial manner, or are performed for small fraction of the total area of responsibility, also would prove lengthy. It would include such items as the following:

"Since Jan. 1, 1956, accounting compliance reviews have been accomplished for only 14 of 24 Bell System companies and 9 of 40 independent telephone companies. App. J illustrates this by listing the dates on which accounting compliance reviews were last conducted for fully subject independent telephone companies.

"In 1960, Bell System purchases from the Western Electric Co., a Bell subsidiary, amounted to $1,800,000,000, which amount becomes part of the rate base on which the Bell companies expect a return. Apart from occasional review of periodic reports, no examination of the books of Western Electric or other leading telephone equipment manufacturers has been undertaken to determine the reasonableness of charges to the Bell System.

"Under the Communications Act, depreciation rates—a major factor in an industry with an increasingly faster rate of obsolescence for much of its equipment—must be prescribed by the FCC. Rates of Bell System companies can be reviewed every 3 or 4 years, at best. Although depreciation rates in general use are scanned for unusual factors, in fact no depreciation rates have been prescribed for the independent companies subject to the FCC.

"The method of timing and billing long-distance telephone calls never has been adequately examined.

"Tariffs for the relatively new broad band and private line services require study of level and structure which has not been possible to date on a scale in keeping with the rapid development of significant new services.

"Disparities which exist between interstate and intrastate telephone rates for comparable distances are blamed by State authorities for inequities in revenue distribution and consequent adverse effects on local tax yields. Additional accounting studies are needed to establish acceptable separations and division of revenue.

"This list is susceptible to considerable extension. The point is that the Bureau is in no position to establish the reasonableness of charges in most areas of common carrier service."

of two-thirds of the outstanding shares entitled to vote. (In some instances class voting is provided for.) If it is important that the President approve the articles of incorporation, as it surely is, then it is equally important to foreclose the possibility of accomplishing by amendment what would not have been approved originally. The President should have a continuing power to protect the public interest with respect to the contents of the articles of incorporation.

This would not subject the day-to-day affairs of the corporation to Presidential supervision. There is no provision in the bill which affects management's normal control over the bylaws, which provide for the operational aspects of the corporation's business. Section 29–909 of the District of Columbia Corporation Act which would apply to the corporation provides:

"The power to make, alter, amend, or repeal the bylaws of the corporation shall be vested in the board of directors unless reserved to the shareholders by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation" (June 8, 1954, 68 Stat. 190, ch. 269, sec. 24).

Section 303(b), page 32, line 17: This section states that no officer of the corporation shall receive any salary from any source other than the corporation during the period of his employment by the corporation. Because of the unique character of the proposed form of business organization, a very strong provision is needed to guard against any possible conflict of interest. The fact that the communications carriers are even to be allowed to own stock in the satellite corporation requires an exemption to the antitrust laws. Protection of the public interest requires that officers and directors of the private corporation be forbidden to have any direct or indirect financial connection with any communications carrier or equipment manufacturer, or supplier of the satellite corporation.

Section 304(a), page 33, line 1: The original proposals for a private satellite corporation would have limited ownership to a small group of international communications carriers. This was the class identified by administration spokesmen as the "favored few." Subsequent proposals have included provisions that would allow the public to participate to some extent in the ownership of the corporation. Two principal reasons have been advanced for broadening the ownership base: (1) It would give the taxpayers who have already financed the necessary technical competence the chance to invest further in the hope of receiving a financial return. It was stated that it would be "unconscionable" to exclude the public, and (2) it would help avoid domination of the satellite corporation by a single communications carrier.

Attorney General Kennedy in his testimony before the House Commerce Committee stated the administration position as follows:

"It is our firm conviction that the general public should be permitted to participate in this proposed corporation. A monopoly created by legislation should not be turned over to a favored few. This is even more true when the probable success of this venture has been assured by governmental research and development at considerable cost to the taxpayers.

"Public participation will help us to avoid domination by a single carrier. It will help to insure competition in all its ramifications. It will help to insure speed. Such a corporation would be interested in developing the widest possible usage of the system as soon as possible. It will help to insure adequate private financing if we do not close the door to noncarrier investment."

If private ownership is the final choice, these, of course, represent important considerations. However, section 304 as finally drafted will not accomplish the desired objectives. Section 304 states that the shares of voting stock initially offered shall be sold at a price not in excess of $100 a share and in a manner to encourage the widest distribution to the American public.

First of all the philosophy of insuring the widest possible distribution to the American public should apply to all issues of voting stock and to all issues of nonvoting securities, bonds, debentures, and other certificates of indebtedness authorized under section 304(c). Only by so doing can we be sure of real participation by the public.

Second, if the taxpayers who have financed the present investment in space communications technology are to be brought into the corporation, the price of the stock should be set low enough that the average taxpayer can buy the stock; $100 a share is far too high. Only a small percentage of the shares listed on either the New York or American Stock Exchanges sell for as much as $100 a share. The price of stock in the satellite corporation should be set at $10 per share, or certainly not more than $25 per share.

If a private corporation must rely on public participation to protect the public interest, the corporation should be organized in such a way that widespread public participation will actually result.

A final point with regard to financing the corporation: Under section 304(b)(3) noncarrier stockholders are limited as to the amount of stock a single stockholder, syndicate, or affiliated group can own. The limit is 10 percent of the shares of voting stock outstanding. Fairness requires that this limitation be applied equally to the communications carriers. The same limitation of 10 percent should apply to both carriers and noncarriers with respect to ownership of nonvoting securities, bonds, debentures, and other certificates of indebtedness authorized under section 304(c).

Section 402, page 38, line 4: The President's original bill, S. 2814, "Section 402; Conduct of Foreign Negotiations," provided as follows (S. 2814, p. 17, sec. 402):

"The corporation shall not enter into negotiations with any international agency, foreign government, or entity without a prior notification to the Department of State, which will conduct or supervise such negotiations. All agreements and arrangements with any such agency, government, or entity shall be subject to the approval of the Department of State."

The bill as approved by the majority of this committee contains as a substitute for that section the present "Section 402: Notice of Business Negotiations" (H.R. 11040, Rept. No. —, sec. 402, p. 38).

"Whenever the corporation shall enter into business negotiations with respect to facilities, operations, or services authorized by this act with any international or foreign entity, it shall notify the Department of State of the negotiations, and the Department of State shall advise the corporation of relevant foreign policy considerations. Throughout such negotiations the corporation shall keep the Department of State informed with respect to such considerations."

This narrowing of the role of the State Department will endanger the position of the United States in its efforts to compete with the Soviet Union in the race for space. It amounts to a delegation of the conduct of American foreign policy to a private corporate monopoly.

RALPH W. YARBOROUGH.
E. L. BARTLETT.

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

The PRESIDING OFFICER (Mr. SMITH of Massachusetts in the chair). Does the Senator yield?

Mr. YARBOROUGH. I yield for a question to the distinguished Senator from Oregon.

Mr. MORSE. Will the Senator accept the very sincere congratulations and the thanks of the senior Senator from Oregon for offering this amendment as a check against the monopolistic giveaway which the bill proposes to provide the A.T. & T.?

Mr. YARBOROUGH. I would like to accept that congratulation if I were entitled to it, but the major portion of the credit should go to the distinguished Senator from Tennessee, the major author of the amendment. I am merely a coauthor. The Senator from Tennessee did the major research. When it came before the Commerce Committee he alerted me to this defect in the bill. So, while I have been sponsoring it in the committee and here, the real credit should go to the distinguished Senator from Tennessee, whose years of work in the Antitrust and Monopoly Subcommittee have been fruitful of great good for the people of the United States.

Mr. MORSE. Is it not true that the Senator from Texas is cooperating with those Senators who are opposing the bill by offering the amendment, although it was offered by the Senator from Tennessee and cosponsored by the Senator from Texas and others of us, because the Senator from Tennessee and the senior Senator from Oregon and some of the rest of us on the team fighting for the protection of the public interest have practically exhausted all of our time under the shocking gag rule that the leadership of the Senate has placed upon the Senate as the result of cloture?

Mr. YARBOROUGH. I agree with the Senator from Oregon. This bill in its present form reminds me of an experience I had as a youngster. Two of us were seining for perch in a creek down in my State. A large aggressive fish with very sharp teeth we call alligator gar was in the pool in the creek. It made a run on the seine and tore it up. We had a seine with a line on top of the water with corks and a line on the bottom with some lead sinkers. When we reached the end of the pool, the middle part of the seine was gone. The condition of that seine reminds me of the condition of this bill. We had remaining a seine with a line with corks at the top of the water and a line with lead sinkers at the bottom of the pool and in between the seine looked worse than a sieve, with nothing to hold a catch. It was as this bill which has no adequate body to hold and to protect the public rights and interest.

Mr. MORSE. Does the Senator agree with me that this amendment is essential if we are to protect the public rights to equal and fair opportunity to buy securities, even in connection with the monopoly being set up under the bill, and if we do not do it we are going to entrench even deeper the stranglehold of the A.T. & T. over the American public?

Mr. YARBOROUGH. The distinguished Senator from Oregon is abso-

lutely correct. Regardless of the merits of the amendment, the gag rule prevents full discussion. I think if there were full discussion, Members of the Senate who serve on the Finance Committee and the Banking and Currency Committee, and others who have great knowledge of financial matters would consider it and would adopt it. All the amendment does is give the public a chance to buy half of the stocks and bonds of the corporation, just as the proponents have said that there would be 50–50 participation; but that opportunity is not provided the public. The failure to protect the public was demonstrated by the last preceding vote on the amendment. It is shocking that there were only 17 affirmative votes on that amendment, which would protect the rights of the public on the question of patents.

We could not even get an amendment to protect the public patent rights agreed to, because there was not time left under this "gag rule" even for discussion, to bring it to the attention of the Senate.

Mr. MORSE. Does the Senator from Texas know——

Mr. YARBOROUGH. I yield for one more question only. My time is running out.

Mr. MORSE. Does the Senator from Texas know of a single amendment that he or any of the other Senators in our group, in opposition to the bill, have offered to the bill which is not in our sincere, honest judgment necessary to protect the public interest?

Mr. YARBOROUGH. All the amendments that I have offered, or seen offered, or voted for, I think are necessary to protect the public interest. This "gag rule" has been in effect. Even the Democratic Party whip, the Senator from Minnesota [Mr. HUMPHREY] offered an amendment, to try to protect the power of the President, and that amendment offered by the whip of the Democratic Party, though he is in favor of the bill, was guillotined down, just as was any amendment offered by those of us opposing the bill.

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

Mr. YARBOROUGH. I will yield if the Senator will use his time.

Mr. MILLER. The Senator cannot do that, I understand.

Mr. YARBOROUGH. I yield for a question.

Mr. MILLER. I should like to ask the Senator why his amendment would delete the last sentence of the subsection, beginning on line 24, page 34. Is it the Senator's intention to do so?

Mr. YARBOROUGH. I shall have to get a copy of the amendment back from the desk.

Mr. MILLER. The last sentence reads:

> The voting stock of the corporation shall not be eligible for inclusion in the rate base of the carrier.

That would be excluded from the bill by the Senator's amendment, if the amendment is agreed to.

Mr. YARBOROUGH. I shall have to get a copy of the amendment from the desk. That was not my memory of the effect of the amendment.

Mr. President, that is not my interpretation of the amendment, as to its effect.

My time is running out. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 2 minutes remaining.

Mr. YARBOROUGH. I have only 2 minutes remaining of my total time?

The PRESIDING OFFICER. Yes.

Mr. YARBOROUGH. I yield the floor.

Mr. PASTORE. Mr. President, this discussion proves how much or how little Senators have studied the bill which came from the Committee on Commerce. If the Senator is talking about the bill which came from the Committee on Aeronautical and Space Sciences, he might have a good premise, but this matter was thought about and well considered by our committee. We went out of our way to correct precisely this matter.

The reason why we provided the 50–50 provision on the voting stock is because the voting stock will control the corporation. With respect to bonds, debentures, loans and other obligations, of course, that is a different matter. There we would not provide the 50–50 requirement.

What would we do? We would leave it to the discretion and to the responsibility of the Federal Communications Commission. We wrote that in the bill. Before any of these bonds could be issued, or before any of the debentures could be issued, it would be necessary to go to the FCC to get permission. That is what we provided in the bill. I think this precisely answers the question raised by the Senator.

I ask Senators to look at page 27 of the bill, at the language which reads:

> The Federal Communications Commission, in its administration of the provisions of the Communications Act of 1934, as amended, and as supplemented by this Act, shall—

The word is "shall," I say to my friends.

> (8) authorize the corporation to issue any shares of capital stock, except the initial issue of capital stock referred to in section 304(a), or to borrow any moneys, or to assure any obligation in respect of the securities of any other person, upon a finding that such issuance, borrowing, or assumption is compatible with the public interest, convenience, and necessity and is necessary or appropriate for or consistent with carrying out the purposes and objectives of this Act by the corporation.

It might well be that 75 percent of such securities will go to the public. It might well be that the FCC might permit 100 percent of it to go to the public.

When Senators stand on this floor and say that the public is to be deprived of these securities, I say they are not reading the terms of the bill.

I move to lay the amendment on the table.

Mr. MORSE. Mr. President, will the Senator withhold his motion for 30 seconds?

Mr. PASTORE. I withhold the motion.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MORSE. Mr. President, in 30 seconds I wish to say that we have no confidence in the FCC, on the basis of its sorry record in relation to A.T. & T. The amendment is necessary as a check on the FCC.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

Mr. YARBOROUGH. Mr. President, may I use 5 seconds?

Mr. PASTORE. Mr. President, I withhold my motion for 5 seconds.

The PRESIDING OFFICER. The Senator from Texas may proceed.

Mr. YARBOROUGH. I merely point out that there is no requirement in the bill that the general public have 50 percent of the stock. I am glad to hear the distinguished Senator say that under the terms of the bill the Federal Communications Commission can order that the public have 50 percent, because we will have that as a part of the legislative record, and perhaps the public will get some protection which otherwise would not exist.

Mr. PASTORE. The FCC can find that 100 percent of the securities be for the public, which is even better than would be provided by the amendment offered by the Senator from Texas.

Mr. President, I move to lay the amendment on the table.

Mr. KERR. Mr. President, will the Senator withhold for 10 seconds, please?

Mr. PASTORE. Mr. President, I withhold my motion.

The PRESIDING OFFICER. The Senator from Oklahoma may proceed.

Mr. KERR. Mr. President, any license granted under the bill could not exceed 5 years in term and could be revoked by the Federal Communications Commission, on proper notice, at will. It is not only inaccurate but also foolish to talk about the Federal Communications Commission not being in a position to protect the public interest.

Mr. MILLER. Mr. President, will the Senator withhold his motion for an additional 15 seconds?

Mr. PASTORE. I withhold my motion.

Mr. MILLER. Mr. President, I yield myself 15 seconds.

I invite the attention of the Senate to the fact that under the amendment the sentence starting in line 24 on page 34 would be removed. That sentence provides:

> The voting stock of the corporation shall not be eligible for inclusion in the rate base of the carrier.

I believe that the removal of that language by the amendment would be very defective and very undesirable.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the amendment which has been called up, identified as "8–11–62—EE," may be amended by striking out, on line 2 of page 1, the words "page 35, line 2," and by inserting in lieu thereof the words "the word 'Commission' on line 24, page 34."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

Mr. KERR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oklahoma will state it.

Mr. KERR. Is the Senator from Texas the author of the amendment?

Mr. YARBOROUGH. Yes; I am a coauthor. I called up the amendment.

Mr. KERR. I think the Senator ought to be permitted to have the amendment in whatever shape he wants it when it is tabled.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none, and the amendment is so modified.

Mr. PASTORE. Mr. President, I move to lay the amendment, as modified, on the table.

Mr. DOUGLAS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Rhode Island [Mr. PASTORE] to lay on the table the amendment, as modified, offered by the Senator from Texas [Mr. YARBOROUGH], to the committee amendment.

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

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Alabama [Mr. HILL], the Senator from Washington [Mr. MAGNUSON], and the Senator from Michigan [Mr. MCNAMARA] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alabama [Mr. HILL], and the Senator from Wyoming [Mr. HICKEY] would each vote "yea."

On this vote, the Senator from New Mexico [Mr. ANDERSON] is paired with the Senator from Idaho [Mr. CHURCH]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Idaho would vote "nay."

On this vote, the Senator from Nevada [Mr. BIBLE] is paired with the Senator from Colorado [Mr. CARROLL]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Colorado would vote "nay."

On this vote, the Senator from Pennsylvania [Mr. CLARK] is paired with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from Pennsylvania would vote "nay," and the Senator from Mississippi would vote "yea."

On this vote, the Senator from California [Mr. ENGLE] is paired with the Senator from Alaska [Mr. GRUENING]. If present and voting, the Senator from California would vote "yea," and the Senator from Alaska would vote "nay."

On this vote, the Senator from Washington [Mr. MAGNUSON] is paired with the Senator from Michigan [Mr. MCNAMARA]. If present and voting, the Senator from Washington would vote "yea," and the Senator from Michigan would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The Senator from Arizona [Mr. GOLDWATER] and the Senator from Kentucky [Mr. MORTON] are detained on official business and, if present and voting, would each vote "yea."

The result was announced—yeas 68, nays 11, as follows:

[No. 203 Leg.]

YEAS—68

Aiken	Hickenlooper	Pearson
Beall	Holland	Pell
Bennett	Hruska	Prouty
Boggs	Humphrey	Proxmire
Bottum	Jackson	Randolph
Bush	Javits	Robertson
Byrd, Va.	Johnston	Russell
Byrd, W. Va.	Jordan, N.C.	Scott
Cannon	Jordan, Idaho	Smathers
Carlson	Keating	Smith, Mass.
Case	Kerr	Smith, Maine
Chavez	Lausche	Sparkman
Cooper	Long, Mo.	Stennis
Cotton	Mansfield	Symington
Curtis	McCarthy	Talmadge
Dirksen	McClellan	Thurmond
Dodd	McGee	Tower
Ellender	Metcalf	Wiley
Ervin	Miller	Williams, N.J.
Fong	Monroney	Williams, Del.
Hart	Mundt	Young, N. Dak.
Hartke	Muskie	Young, Ohio
Hayden	Pastore	

NAYS—11

Bartlett	Kefauver	Moss
Burdick	Long, Hawaii	Neuberger
Douglas	Long, La.	Yarborough
Gore	Morse	

NOT VOTING—21

Allott	Clark	Hill
Anderson	Eastland	Kuchel
Bible	Engle	Magnuson
Butler	Fulbright	McNamara
Capehart	Goldwater	Morton
Carroll	Gruening	Murphy
Church	Hickey	Saltonstall

So Mr. PASTORE's motion to lay on the table Mr. YARBOROUGH's amendment, as modified, to the committee amendment, was agreed to.

HONORARY CITIZENSHIP FOR SIR WINSTON CHURCHILL

Mr. LAUSCHE. Mr. President, yesterday the Senator from West Virginia [Mr. RANDOLPH] introduced a joint resolution which would authorize the conferring upon Sir Winston Churchill of honorary citizenship in the United States. I join with the Senator from West Virginia in supporting his joint resolution. I have spoken to him and have asked his consent to become a joint sponsor with him, and he has granted me that right. I therefore ask unanimous consent that my name be included as one of the sponsors of the joint resolution.

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

Mr. LAUSCHE. It is fitting that we do this. Churchill was one of the great leaders in the last war. It was his spirit and his courage and his leadership which instilled confidence in the people of the West that the great march which Hitler was making would not eventually end in success for dictatorship and tyranny. When the lights of hope were dimmed, when the people in England were in great despair, when Hitler was marching to victory, it was this great Englishman who rallied the people of the world to the cause of freedom. There is nothing that we can do in this country except confer this honorary citizenship on Sir Winston Churchill, which the Senator from West Virginia has moved in the form of a joint resolution. I join with him. I hope the other Members of the Senate will subscribe to it also.

Mr. KEFAUVER. Mr. President, will the Senator yield in his time?

Mr. LAUSCHE. I yield in my time.

Mr. KEFAUVER. Mr. President, I wish to join with the distinguished Senator from Ohio in sponsoring the joint resolution. I believe that the reason why the light of freedom burns in the world today is due in great measure to the courage and leadership and tenacity of Winston Churchill. I ask consent that I may be allowed to cosponsor the resolution.

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

COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM

The Senate resumed the consideration of the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

Mr. MOSS. Mr. President, I call up the amendment identified as "8–11–62—BB."

The PRESIDING OFFICER. The amendment will be stated.

Will the Senator indicate by whom the amendment has been submitted?

Mr. MOSS. The names of the Senators on the amendment are KEFAUVER, NEUBERGER, MORSE, LONG of Louisiana, YARBOROUGH, CLARK, and BURDICK. It is identified as "8–11–62—BB."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 27, line 3, strike out "feasible" and insert in lieu thereof "deemed appropriate by the Administration."

Mr. MOSS. This is a very simple amendment. It comes under title II, which provides in subparagraph (b) (6) that the National Aeronautics and Space Administration shall "to the extent feasible, furnish other services on a reimbursable basis, to the corporation in connection with the establishment and operation of the system."

The only test is whether it is feasible for NASA to do it. I do not believe that

this is a reasonable requirement. I believe that NASA should have the power to determine to what extent it is appropriate for NASA to furnish these services to the corporation.

Therefore, the language should be changed and the standard should be changed from one of simple feasibilty to a standard of appropriateness. The test should be the extent to which it is deemed appropriate by NASA to cooperate, not simply the test of feasibility. If the language remains in the bill as it now stands, the determination is with the corporation. As long as what it requested were feasible, NASA would have to do it for the corporation.

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

Mr. MOSS. I yield to the Senator from Tennessee for a question.

Mr. KEFAUVER. Is this not typical of the one-way street that we find all through the bill; that is, everyone does something for the corporation—the President works for the corporation, NASA works for the corporation—but there is no reciprocity with respect to what the corporation does for anyone else?

Under the provision in the bill, is it not true that if we content ourselves, as we do by the passage of the bill, with a low-orbit Telstar system of communications, which will require 300 or more satellites to be kept in orbit, if it is to be successful, meaning that ever so often they will have to be replaced, when the corporation calls upon NASA to use its rocket power to put these satellites in orbit, the only test will be feasibility? We might be in a war, and it would still be feasible for NASA to use its rocket power to put a satellite in orbit, but it might not be the right thing to do in time of war. Is it not true that if we were at war, rockets might be needed for military purposes, but still, when requested by the corporation, NASA would have to use its precious rocket power to put satellites in orbit for the corporation?

Mr. MOSS. The Senator is correct. Under the language as it stands in the bill, the provision is mandatory on NASA. It says that NASA shall do thus and so, and the bill lists the number of things that NASA shall do, which are mandatory commands. There are six such requirements which NASA must do on a feasibility basis. NASA must do this by law, regardless of what other priority considerations may be in existence at the time. If the substitute language is adopted, the administration will have the power of decision and the power to determine whether it is appropriate that NASA shall furnish these services, and if NASA feels that it is not appropriate to do it, it may decline to do it.

Mr. KEFAUVER. Is not the Senator a member of the Armed Services Committee?

Mr. MOSS. No; I am not a member of that committee.

Mr. KEFAUVER. I know that the Senator has been very much interested in the Air Force and in rocket power. Does it not seem to be absolutely necessary for the defense of this country that NASA at least have the right to decide whether rockets are needed more for satellites or more for the military defense of the United States?

Mr. MOSS. The Senator is correct. I have taken a great interest in military activities, and I am an active reservist of the Air Force. I have continued my interest in these matters. The Senator has stated correctly that the power of decision must remain with NASA or with the administration to determine what should be done from a priority standpoint under a particular circumstance. The power should not be passed off to the corporation to decide. I might point out that this is not limited to rockets, but that it involves any other service. So long as it was feasible to do so, NASA would be bound to furnish the service, under the terms of the bill.

Mr. PASTORE. Mr. President, I believe we are playing with semantics. I understand the point that has been made by the distinguished Senator from Utah. I sympathize with his objective. What he has in mind is precisely what was intended by the language in the bill. The construction the Senator places on the language is precisely what I construe feasibility to be. It means circumstances obtaining at the time. When we read that language in conjunction with the powers of the President, which includes the power to "provide for continuous review of all phases of the development and operation of such a system, including the activities of the communications satellite corporation," I believe this situation is completely covered. This amendment could pretty well be decided one way or another. However, I must remain consistent, and therefore I respectfully move to lay the amendment on the table, with the understanding that the legislative history indicates precisely the objective that is being sought to be accomplished by my good friend from Utah.

Mr. KEFAUVER. Mr. President, I ask for a division.

Mr. MOSS. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. GRUENING (when his name was called). On this vote I have a pair with the junior Senator from California [Mr. ENGLE]. If he were present and voting, he would vote "yea." Were I at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Hawaii [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], and the Senator from Michigan [Mr. MCNAMARA] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY], are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT] would vote "yea."

On this vote, the Senator from New Mexico [Mr. ANDERSON] is paired with the Senator from Colorado [Mr. CARROLL]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Colorado would vote "nay."

On this vote, the Senator from Nevada [Mr. BIBLE] is paired with the Senator from Idaho [Mr. CHURCH]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Idaho would vote "nay."

On this vote, the Senator from Pennsylvania [Mr. CLARK] is paired with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from Pennsylvania would vote "nay," and the Senator from Mississippi would vote "yea."

On this vote, the Senator from Wyoming [Mr. HICKEY] is paired with the Senator from Hawaii [Mr. LONG]. If present and voting, the Senator from Wyoming would vote "yea," and the Senator from Hawaii would vote "nay."

On this vote, the Senator from Washington [Mr. MAGNUSON] is paired with the Senator from Michigan [Mr. MCNAMARA]. If present and voting, the Senator from Washington would vote "yea," and the Senator from Michigan would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senators from Maryland [Mr. BUTLER and Mr. BEALL], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The Senator from Arizona [Mr. GOLDWATER] and the Senator from Kentucky [Mr. MORTON] are detained on official business and, if present and voting, would each vote "yea."

The result was announced—yeas 61, nays 17, as follows:

[No. 204 Leg.]

YEAS—61

Aiken	Hickenlooper	Pell
Bennett	Hill	Prouty
Boggs	Holland	Proxmire
Bottum	Hruska	Randolph
Bush	Humphrey	Robertson
Byrd, Va.	Jackson	Russell
Byrd, W. Va.	Johnston	Scott
Cannon	Jordan, N.C.	Smathers
Carlson	Jordan, Idaho	Smith, Mass.
Case	Kerr	Smith, Maine
Chavez	Lausche	Sparkman
Cooper	Long, Mo.	Stennis
Cotton	Mansfield	Symington
Curtis	McCarthy	Talmadge
Dirksen	McClellan	Tower
Dodd	Miller	Wiley
Ellender	Monroney	Williams, N.J.
Ervin	Mundt	Williams, Del.
Fong	Muskie	Young, N. Dak.
Hartke	Pastore	
Hayden	Pearson	

NAYS—17

Bartlett	Keating	Moss
Burdick	Kefauver	Neuberger
Douglas	Long, La.	Thurmond
Gore	McGee	Yarborough
Hart	Metcalf	Young, Ohio
Javits	Morse	

NOT VOTING—22

Allott	Clark	Long, Hawaii
Anderson	Eastland	Magnuson
Beall	Engle	McNamara
Bible	Fulbright	Morton
Butler	Goldwater	Murphy
Capehart	Gruening	Saltonstall
Carroll	Hickey	
Church	Kuchel	

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BURDICK in the chair). The committee amendment, as amended, is open to further amendment.

HONORARY CITIZENSHIP TO SIR WINSTON CHURCHILL—ADDITIONAL SPONSORS

Mr. YOUNG of Ohio. Mr. President, on August 9, I introduced Senate Joint Resolution 215, authorizing the President of the United States to issue a proclamation declaring Sir Winston Churchill to be an honorary citizen of the United States of America. It was recorded in the CONGRESSIONAL RECORD on that date.

The joint resolution reads as follows:

Whereas Sir Winston Churchill has occupied a prominent world position of leadership, both in his native land and in the struggle of the free world against nazism, facism, and communism; and

Whereas this great leader also has earned for himself a position of prominence among the literary giants of the English-speaking worlds as a writer, a historian, and an orator; and

Whereas, being the son of an American mother and an English father, Sir Winston Churchill, more than any other, truly epitomizes the union between the two great English-speaking peoples; and

Whereas it is fitting that the Congress of the United States, on behalf of the grateful American people, expresses its high appreciation of the outstanding contribution this great statesman has made to the cause of freedom; and

Whereas it is also appropriate that this honor be bestowed as a means of furthering our Nation's hopes of an Atlantic Union as proposed by the President on the Fourth of July 1962: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed to issue a proclamation declaring Sir Winston Churchill to be an honorary citizen of the United States of America.

SEC. 2. The Secretary of the Senate is instructed to transmit a copy of this joint resolution to Sir Winston Churchill.

On August 9, I addressed the Senate in this regard—as is shown by the CONGRESSIONAL RECORD for that day. Apparently my distinguished colleague, the senior Senator from Ohio [Mr. LAUSCHE], was not aware of that fact. Had I thought of it, or had he been present, I am sure he would have joined in sponsoring the joint resolution. I shall be glad to have him be a cosponsor of the joint resolution.

Mr. LAUSCHE. I am delighted to do so.

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

Mr. YOUNG of Ohio. Mr. President, may I point out that on August 1, I also addressed the Senate, as is recorded on page 15195 of the CONGRESSIONAL RECORD, and referred to Sir Winston Churchill. I make this statement for the information of my colleagues. My statement appears in the RECORD under the caption "Hero of Two Nations."

Thereafter, my office received a telephone call from the office of the disglad to have the Senator from West Virginia [Mr. RANDOLPH], expressing interest in the joint resolution which I introduced. I know that the Senator from West Virginia has since then introduced a similar measure. I would be glad to have the Senator from West Virginia also join in sponsoring my joint resolution.

Without taking much further time on this subject, may I say that Sir Winston Churchill is undoubtedly among the greatest men in the free world today. A thousand years from now, men and women in far-off places will give thanks that in a dark and grave period in the history of the world, this indomitable man grasped the leadership of free men and free women. Under his courageous leadership, the evil forces of aggression and tyranny were thrown back, and men and women the world over were restored to their simple dignity as creatures of God.

Mr. President, I hope the Senate Judiciary Committee will promptly report one of these joint resolutions—either the one introduced by the senior Senator from West Virginia [Mr. RANDOLPH] or the one introduced by me. I urge its passage.

In conclusion, I ask unanimous consent that the names of the distinguished senior Senator from Oregon [Mr. MORSE] and the distinguished senior Senator from Tennessee [Mr. KEFAUVER] be added as cosponsors of Senate Joint Resolution 215, which I introduced.

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

OUR FINANCIAL AID TO UNSTABLE LATIN AMERICAN COUNTRIES SHOULD BE SUSPENDED

Mr. GRUENING. Mr. President, on July 19, I took the floor of the Senate to praise President Kennedy's action in suspending Alliance for Progress aid to Peru. At the same time I urged that similar action be taken in regard to Argentina and Brazil, whose governments were and are so unstable that there can be no assurance that they will last an appreciable time, and, therefore, that the commitments which they make or are asked to make in exchange for our financial aid will be honored by their successors.

Nevertheless, it was announced in the press that half a billion dollars were shortly to go to Argentina, mostly for bail-out operations. If this sort of thing goes on, the Alliance for Progress will be totally wrecked. The only chance of success for this worthy and yet difficult program is for us to insist on the fulfillment of the conditions that President Kennedy stipulated when he first announced the Alliance for Progress. Those conditions were that there would be specific evidence of self-help, tax reform, land reform, anti-inflation measures, and a general willingness on the part of the recipient nations to do their part. No such things has happened in much of Latin America; but our aid has gone to these governments nonetheless.

In substantiation of the position I have taken, it is interesting to note that the Washington Post, which has long been an enthusiastic and uncritical supporter of every aspect of our foreign-aid program, this morning published as its leading editorial one entitled "Alliance in Trouble."

The Post very properly states that the United States needs a clearer set of priorities. One priority would be to suspend all aid to countries dominated and controlled by military juntas who have set aside the constitutional electoral process. There is no prospect of a democratically minded regime emerging or of any real progress when the military caste and cliques which have bedeviled many Latin American countries continue to impose their arbitrary will. That is what has happened in Peru and Argentina, and is in the making in Brazil.

I ask unanimous consent that this editorial be printed at this point in the RECORD, in connection with my remarks.

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

ALLIANCE IN TROUBLE

Perhaps the most accurate judgment is contained in the slogan posted over Teodoro Moscoso's desk: "Be Brief. We Are 25 Years Behind." Perhaps too much was promised too soon, without sufficient warning of the difficulty of the task. Possibly the administrative machinery has too many gears and not enough lubricant. Whatever the explanation, the first birthday of the Alliance for Progress is an occasion less for joyous celebration than for sober stocktaking about a program that has still to get off the ground.

A year ago today in Punta del Este, 20 American Republics approved a charter that began with this preamble: "We, the American Republics, hereby proclaim our decision to unite in a common effort to bring our people accelerated economic progress and broader social justice within the framework of personal dignity and political liberty."

The Alliance was conceived as a 10-year program involving $20 billion in investment from the United States, Western Europe, international lending agencies and private capital. The goals include an average growth rate of 2½ percent, elimination of illiteracy by 1970, economic integration, increased life expectancy, agrarian and tax reform. But the record of the first year has been damaging to the Alliance's political goals, disappointing in economic and social fields and less than electrifying as a psychological antidote to apathy.

Clearly some setbacks to the Alliance have been beyond control and merely reflect the accuracy of President Kennedy's warning that there is not an American solution for every problem. The disheartening crisis in Brazil caused by President Quadros' abdication, the military overthrow of President Frondizi in Argentina, and the coup d'etat in Peru all sprang from internal forces beyond outside influence.

It was unrealistic, moreover, to expect a 10-year program to begin with a dramatic breakthrough in overdue social reforms. No democratic country can be asked to end the injustices of centuries overnight, and in fact modest progress is being made in encouraging land and tax reform. In light of Latin America's exploding population and lack of technicians, the investment development program was bound to have a halting start.

Where the Alliance can be faulted is in its failure to make its design understandable, to catch the imagination and create a new sense of community among Americans, North and South. Nominally, Mr. Moscoso is the U.S. Administrator of the Alliance, but in fact the program is being run like a football team with too many quarterbacks in which the ball is lost from sight amid aimless runners.

It may be that much of the Alliance must remain hope deferred. What the United States can do now, however, is to create a clearer set of priorities and to enroll the energies of more Americans, North and South, into immediate and practical efforts. Cities on this continent could adopt cities to the south, business and professional groups could cooperate in inter-American ventures, agricultural colleges here could undertake food production programs in Latin America.

If the Alliance is to succeed, it will have to be more than a government-to-government program. The paucity of achievement in the first year is understandable; the sense of apathy, however, is a just reproach. What has been missing in the Alliance is not goodwill, money, and intelligence. It has been strong and certain leadership.

Mr. GRUENING. I likewise ask unanimous consent that an article by Tad Szulc, the knowledgeable New York Times' expert on current Latin American affairs, entitled "Latin Instability Besets Alliance," which lucidly gives the facts on this unhappy situation, be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GRUENING. I note, also, in this morning's paper an Associated Press dispatch which indicates that the military junta in Peru will get U.S. recognition. I see no objection to that. In fact, I believe that we cannot arbitrarily withdraw recognition because there is a change of regime. We must continue to maintain our diplomatic contacts. But I am hopeful that this does not mean that we will resume our financial aid until such time as we can have definite assurances that the reciprocal policies which we allege are essential to our giving aid will clearly be put into effect. If the United States does not do this, it is showing to the rest of the Latin American nations that they need not comply with the conditions that the United States has stipulated.

Let it be pointed out that this is in no sense an attempt to compel any nation to do what its government does not wish to do. It merely says that if they want our aid, they must take certain steps to help themselves. If they do not take those steps, they will not get our dollars. We have not pursued that policy hitherto, and the time is long past when we should have done it.

EXHIBIT 1

[From the New York Times, Aug. 17, 1962]

LATIN INSTABILITY BESETS ALLIANCE—FEAR THAT UNREST ENDANGERS U.S. AID PLAN GROWS AS IT COMPLETES ITS FIRST YEAR

(By Tad Szulc)

WASHINGTON, August 16.—The first anniversary of the signing of the Alliance for Progress Charter comes tomorrow against a background of deep convulsions in South America's two largest nations and serious unrest elsewhere in the hemisphere.

It is not argued here that the crises in Argentina and Brazil and instability elsewhere have directly affected the performance of the Alliance. But there are increasing fears in the administration that the political upheavals place the program in serious jeopardy.

The dangers to the Alliance stem from tendencies in Latin America toward military dictatorships on the one hand and toward ultranationalism and far-leftist sentiment on the other. Both tendencies may have paralyzing effects on the Alliance just as its economic and social development programs get started.

The ouster of democratic regimes would pull one of the main planks from under President Kennedy's concept of the Alliance. The program's fundamental philosophy is that Latin America's human and material development should come about within the scope of democratic institutions.

The idea is to prove to Latin Americans, some still doubtful of the feasibility of democracy, that their lagging standards can be improved without recourse to revolution and the totalitarian methods of Premier Fidel Castro of Cuba.

The military junta that overthrew the constitutional government in Peru last month and annulled the results of the general election presented the United States with a difficult problem. Four months earlier, Washington had accepted the contention of Argentina's civilian-military regime that the March ouster of President Arturo Frondizi did not interrupt the constitutional process.

But the Peruvian case appeared so clear cut that the administration did not hesitate to suspend diplomatic relations and halt the flow of alliance funds to Peru, except for the highly successful school-lunch programs, considered to be a humanitarian undertaking.

In the month that has elapsed since the coup, the junta has consolidated its power and has avoided dictatorial attitudes. Thus the United States has been all but forced to resume diplomatic relations. This step is expected within the next few days.

AID RESUMPTION IN DOUBT

No decision appears to have been made, however, as to whether alliance aid to Peru should be resumed. The resumption of aid would signify to many Latin Americans that a U.S. willingness to compromise with the political principles of the alliance. But failure to resume aid might eventually affect Peru's economic and, therefore, political stability and delay the basic reforms that the United States seeks.

This week, the threat that an outright military dictatorship might rise to power in Argentina is creating additional problems. An army group there is demanding control of the government of President Jose Maria Guido. It insists on strong measures that it is defending the ideals of the revolution that overthrew the dictatorship of Juan D. Peron in 1955.

To be consistent with the policy followed in the Peru case, the administration is inclined to suspend relations with any Argentine dictatorship and cut off financial aid, which is the bulk of aid to that country.

DANGERS IN BRAZIL

But the mounting economic disorder in Argentina may counsel against this, on the ground that further weakening of the Argentine peso may lead to new social convulsions and a revolutionary climate pitting the military against leftist forces.

A political challenge of another kind is causing concern in Washington about Brazil, a country once hopefully seen as the anchor for the Alliance for Progress.

There, a drifting Government with nationalistic, neutralistic and leftist tendencies was seeking full powers from Congress to put some of these policies into effect. The regime also seeks to combat runaway inflation, which in a year decreased the value of the currency by more than 1 percent in relation to the dollar.

Direct financial assistance to Brazil has been suspended since last April because the administration feels that further aid in the absence of a responsible fiscal policy in Brazil in pointless.

The only major continuing assistance is for "impact" development projects in the Brazilian northeast under a $131 million initial loan and grant package. But even this aid, considered one of the most important under the Alliance, is endangered by Brazilian policies.

A section of the foreign aid legislation provides for the curtailment of aid to countries that have nationalized U.S. property and failed to take "appropriate" steps toward fair compensation within 6 months.

In Brazil negotiations are stalled on compensations to the International Telephone & Telegraph Co. for the seizure of its telephone company in the southern part of the country. Furthermore, earlier this month the state of Espirito Santo took over a power plant of the American & Foreign Power Co. with what American interests considered an inadequate explanation.

If these two cases are not satisfactorily resolved, Alliance aid to Brazil might have to halt in February.

LETTERS OF SENATOR YOUNG OF OHIO

Mr. GRUENING. Mr. President, we have as one of our colleagues one who is beloved and delightfully known for his sense of humor. He is known for many other sterling qualities. He is known for his intelligent opposition to the shelter program, which he has often pointed out as one of the most colossal boondoggles that has ever been attempted to be foisted on the American people. He is happy to note, as I am, that the House of Representatives has canceled the entire proposed appropriation for this nonsense.

He is also known for his wonderful letters to his constituents. The letters to his constituents have been made the subject of a delightful article in the Reporter magazine of August 16, 1962, entitled "Letter Rip." I ask unanimous consent that it be printed at this point in my remarks.

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

LETTER RIP

"Write your Congressman," the old saying used to go. "He'll send you some seeds." Nowadays, more likely he will send you a polite letter. No matter how chaotic or how reasonable your views, no matter which side of a controversy you choose to take, it is normal congressional procedure to thank you for expressing yourself and to promise that your opinions will be kept in mind when the matter comes to a vote.

Knowing this to be true, we did not know what to make of a story we heard not long ago about a man who wrote a nasty letter to Senator STEPHEN M. YOUNG, Democrat, of Ohio, protesting that Mrs. John F. Kennedy had had a horse transported free to this country from abroad. What would happen if he tried to do that? the man wanted to know. "Dear Sir," Senator YOUNG replied, "Acknowledging your letter wherein you insult the wife of our President, am wondering why you need a horse when there is already one jackass at your address."

The story seemed too good to be true at the time, but now, having ourselves inspected Senator YOUNG's correspondence files, we are prepared to believe anything. In fact, the doughty Senator, who does not plan to run again, is doing nothing less than living out every public servant's dream. We can only try to imagine how astonished the regular purveyors of abuse must be—accustomed as they are to gentle tolerance—to find that when they call the Senator names he calls them names right back. "You are lower than a snake's tail," he told one constituent. "As one Methodist to another," he wrote an overwrought minister, "may I suggest that you concentrate on preaching the Gospel instead of insulting a public servant." "Folks like you," he gaily informed one correspondent, "who claim that many Protestant ministers are Communists and who ignore altogether the serious threat against our country coming from Communist Russia and Red China, are like individuals who hoist their skirts from imaginary mice." Vilification earned by his stand on the medicare bill provoked yet another bawling out: "I unhesitatingly assert you have not read the bill, have not read any committee hearings and reports relating to surgical and medical care for the elderly. You have probably been impressed by some pamphlet or book received from one of your insurance companies. I will cast my vote in accord with my study and information and my conscience."

Dramatic as some of his longer harangues may be, however, we are convinced that Senator YOUNG's talent reaches its fullest flower in his frequent one-sentence replies. Not long ago, for examples, he received a lengthy and all too familiar tirade from a constituent in Ohio. The correspondent had no end of venomous remarks to make about welfare recipients, labor unions, the minimum wage, foreign aid, Chester Bowles, Nelson Rockefeller, and Earl Warren, to name just a few of his targets. We reprint the Senator's reply in full:

"DEAR SIR: What else is new?

"Sincerely yours,

"STEPHEN M. YOUNG."

COMMITTEE MEETING DURING SENATE SESSION ON MONDAY, AUGUST 20, 1962

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the subcommittee of the Committee on the Judiciary considering the Thurgood Marshall nomination be permitted to meet on Monday next during the session of the Senate.

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

COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM

The Senate resumed the consideration of the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

Mr. KEATING. Mr. President, I should like to discuss briefly my reasons for favoring the bill before the Senate. It is in many ways the only piece of important legislation proposed that has come before the Senate this year that could rightly be termed "new." This bill breaks vital new ground. The Congress is called upon many times to consider and approve legislation of far-reaching significance but never, in my estimation, has it been presented with a bill more significant than this one, a bill to push forward the frontiers of knowledge and experience. We have been actively engaged in space research for more than 5 years now, but it has been research run strictly by the Government for military and exploratory purposes.

I do not take issue with this approach—since the discovery of America, governments have been at the forefront of civilization's expanding horizon. But the government cannot remain in a monopoly position forever when it comes to frontiers. Just as transportation to the new world soon ceased to be the exclusive province of the Spanish Government, so the exploration and exploitation of outer space cannot remain exclusively in the hands of the American Government. We are now in the process of making this first crucial transfer of authority from public to private enterprise. What we do now will be of enduring significance to the history of our efforts in outer space. Against what we do now will be measured our wisdom, our foresight, and the character of our civilization.

It seems incredible to me, Mr. President, that there can be any question under these circumstances as to our course of action. Our Nation has been founded upon, and has prospered under the principle of free and private enterprise. In the last century, private enterprise has learned to accept the regulatory function of the Federal Government where the interests of the people are concerned. All of these principles and traditions of American business have been written into the present bill.

Communications in this country have always been the concern of private business; business has had a lot of experience in the field; business is eager to join in the new venture. To alter this tradition, particularly at a time when our actions will be weighed on the fine scale of history, would be a sad mistake. We should not be afraid of private enterprise; we should instead be proud of its accomplishments, proud of the accomplishments it can make in the future. For in doing so, we are in effect being proud of our country.

A moment ago, I alluded to the role of Federal regulatory agencies in the conduct of American business enterprise. The bill contains provisions for two important types of regulation, in addition to those normally exercised by the FCC. The Federal Communications Commission is authorized to take appropriate measures with respect to competitive procurement of all equipment and services connected with the satellite corporation. I need not elaborate on this problem for my colleagues—the familiar practice of wholly owned supply subsidiaries is well known and has been discussed in this Chamber to the point of exhaustion. What A.T. & T. buys from Western Electric may rightfully be the concern of the FCC under the terms of the bill, but it is hardly a proper or appropriate argument for rejecting the whole bill in the Congress. It is sufficient that the bill now before us provides unmistakably for competition in equipment procurement and for close FCC supervision in this field. Similarly, the bill empowers the FCC to take appropriate measures to insure equal and fair access by all communications carriers to the facilities of the corporation. Monopoly has been a subject of frequent concern in the communcations field, but given the conscientious application of the law by the FCC, it need not become one in outer space.

There is a real need for action now, as time is running out. Already the Russians have two orbiting astronauts, or cosmonauts, and are working also on satellite communications. In 1963, our Administrative Radio Conference is scheduled to convene in Geneva to consider the question of space communications and to allocate frequencies in the projected network. Obviously, any nation which has a smoothly functioning communications corporation by that time will be in a strong position to exert leadership at the Conference and guide future development. The United States has always been proud of its efforts to promote the peaceful uses of outer space—this Conference is a tangible and promising means to achieve a small part of that aim. It would be foolish for the United States to go to Geneva unprepared and to let this opportunity pass.

Let us look then at the arguments raised by opponents of the present bill.

First, Mr. President, the opponents of this bill argue that this legislation will be licensing a monopoly. It is said that the American Telephone & Telegraph Co., which admittedly controls a large portion of the communications networks in this country, will be able to exert a stranglehold of power over the corporation that will be formed. It has also been said that representatives of A.T. & T. have been lobbying for this bill, whereas no other company has expressed a similar interest.

I ought to say at this point, I think, as a Senator from New York, where the A.T. & T. has its principal offices, where most of the executives of A.T. & T. either reside or have their offices, that it would have been the natural thing, if there were any lobbying going on, that they would have lobbied their own Senator.

I have had two or three informal conversations with executives of A.T. & T. The total time spent was perhaps as much as 10 minutes. So far as I know, there have been no letters written. Representatives of one other communications company have also spent perhaps 2 minutes with the Senator from New York.

All the talk about a huge lobby by A.T. & T. with regard to this bill, so far as the Senator from New York is concerned, is only a fiction, a fantasy.

The first argument which is made against the bill can be very easily answered, concerning the monopoly of A.T. & T. Let us look at the record. I venture to say that the opponents of the bill could not point to a single business, firm, or commercial operation which came to this city to testify against this proposed legislation and in favor of the proposal which has been made by the distin-

guished Senator from Tennessee, the distinguished Senator from Oregon, and other Senators.

Let the Senators who maintain that they oppose this bill because it would put every other communications common carrier or equipment supplying firms at a disadvantage, point to a single one of those firms which makes the same argument.

Mr. President, I do not deny the power and resources of A.T. & T., but I think some of my colleagues may be underestimating the power and resources of the other firms in this communications business, to defend themselves against any monopolistic practices of any one company.

Furthermore, if this bill is not passed, the dangers of a monopoly will be infinitely greater, since A.T. & T. can go ahead alone. Telstar has given it a real headstart and without this bill, other firms will not have the opportunity to get in the field at all. It will be left entirely to A.T. & T. Therefore, I say that the creation of a monopoly in A.T. & T. is being furthered by the opponents of the bill and would be furthered by defeat of the bill.

Second, Mr. President, it is said by some of the opponents of this bill that despite guarantees within the bill for full access to facilities and free competition for equipment it will be impossible to enforce the proposed law because the Federal Communications Commission has never made a comprehensive study of A.T. & T. telephone rates. I cannot see the value of this argument. It is the same thing as saying that since we cannot trust the Government to regulate the industry properly, we must therefore hand the entire industry over to the Government, not just to regulate but also to run.

Mr. President, I make no particular defense for the Federal Communications Commission. In some instances, the FCC has certainly not done the job it ought to do, but the very deficiencies of Government regulatory agencies are to my way of thinking added proof of the undesirability of handing this entire enterprise over to the Government. To do the job required under this bill, the FCC will undoubtedly need some beefing up. But to reject this bill on the grounds that the FCC will not be able to do a good job in enforcing it is like throwing the baby out with the bath.

To make a comparison close to home, Mr. President, I am reminded of a situation here in the Senate. Many of the rules of this body make it very difficult to act promptly and effectively on proposed legislation. Would this be a valid basis for arguing that the entire Senate should be bypassed and a new Government body set up to do the same work? I hardly think so. The answer for both the Senate and the FCC is to get ahead with the necessary reforms, not to try to bypass the body entirely.

Third, Mr. President, the argument is made that there is no hurry to pass this legislation, that in fact we would do far better to wait for the development of what is know as a synchronous satellite. A synchronous satellite would be placed in orbit at an altitude of approximately 22,000 miles with an orbital velocity such that it would make one revolution about the earth in exactly 24 hours. It is clear that if the orbit of the satellite could be synchronized with the earth's rotation, so that in effect the satellite would appear to be standing still in the heavens, it would be far easier to construct a ground station to keep track of the satellite. One or two synchronous satellites could do the same job as dozens of lower altitude satellites, with a considerably reduced outlay for ground station equipment now necessary to track lower orbiting satellites. A synchronous communication satellite, generally known as Syncom, obviously represents an advance over the type of satellite now under consideration. If we could go directly to this type of operation, a large number of terminal stations would not have to be built. Therefore opponents of this legislation insist that if the satellite communications corporation or other common carriers go ahead to construct expensive ground terminals, they will hold back development of the more advanced and more economical Syncom system.

That is in substance, Mr. President, the argument of the opponents of the measure.

Mr. President, the obvious answer to this argument is that there is no reason why this should be posed as an either-or proposition. In 18 months we could have lower orbit satellites operating, while under the best of circumstances, it will be several years—scientists differ, but certainly it will be a number of years—before we have rockets powerful enough to send a Syncom 22,000 miles up into space and control it. The Advent program to get a satellite into high altitudes has recently experienced several setbacks. It has been transferred from the Army to the Air Force. The long-term prospects are excellent, but the short-term outlook is not good. There is, therefore, no reason why our entire communications satellite program should wait for this development when it is perfectly possible to set a less sophisticated satellite communications program into effect very soon.

Perhaps the best answer to those who say that a private satellite corporation would block progress in this direction is given in the testimony of representatives of Hughes Aircraft Co. before the Senate Committee on Aeronautical and Space Sciences. Hughes Aircraft is under contract to NASA to develop and control in orbit the first synchronous satellite. Hughes Aircraft therefore probably has a stronger and more direct motive for wanting a Syncom satellite communications system than even the Senators who oppose this legislation. Yet, the spokesmen for Hughes Aircraft, when they appeared before the Senate Space Committee, strongly supported the bill as reported by the Commerce Committee. Let me quote directly from the testimony of Dr. Allen E. Puckett, vice president of Hughes Aircraft:

> The construction and operation of such a system—Syncom—would be most properly accomplished by a publicly owned, profit-making corporation, similar to that described in bill S. 2814; the counterpart of bill we are considering.

These are the words of the vice president of Hughes Aircraft:

> This would provide appropriate incentive and opportunity for competition to insure most economical and useful service to the public.

Finally, Mr. President, it is said that this bill represents a giveaway, that Government research and technology is being given to private corporations which will then charge the public for its use. Those who make this argument should come right out and admit that everything the Government does is a giveaway. Defense contracts, welfare services, public works projects, in fact the whole gamut of Government activity is a giveaway in that Federal services or facilities or dollars are being transferred from Government hands to non-Government hands. Let us make it clear that in this instance the only thing the Government is transferring is a certain amount of technology and rocket launching know-how. Far more development and experimentation is necessary before anyone is going to make a single cent from this transaction. In fact, before anyone makes a cent on it, we will have to have in operation an effective communications satellite system. I consider it no disgrace, no giveaway, and certainly no disregard of the public interest for the Government to contribute to this mighty project where Government cooperation is necessary. But, where the job can be done by others. I see no reason to drag the Government in at the taxpayers' expense to duplicate the know-how of the publicly owned communications companies.

Collateral to that point, when the proposed legislation was first advanced by the administration, it was proposed that stock in the proposed corporation should be sold at $1,000 a share. I felt that the general public should have an opportunity to participate in this great venture, but a large part of the investing public cannot afford to pay $1,000 a share. People who are able to pay only $25 a share ought to have an opportunity also to buy a share or two of the stock in order to get in on the venture, if they wish to do so.

I am delighted that the committee accepted the view that the stock would be sold at $100 a share. I personally would favor a reduction of that figure to $25 a share. One of the amendments pending at the desk would reduce it to $10 a share. I think that figure is a little low, but I would support that as against $100.

Mr. President, I favor letting the small investor having the opportunity to feel that he is a part in this great and historic enterprise. Having made that statement, I think a warning should nevertheless be sounded to those small investors who may wish to invest in the proposed corporation. For, in my judgment, it will be a substantial period of time before the corporation will be a money-making venture. Therefore, I think that any investor who goes into it should bear in mind and should realize that his investment is not likely to yield

him any return for a substantial period of time.

Private enterprise has brought this Nation to its present pinnacle of economic success. It is not a peculiar economic organization that the United States happened on by chance. It is an important and necessary complement to a representative form of government in which each individual has the opportunity not only to undertake political activity but also to work economically in the direction of his choice. It is not accident that we have chosen the path of free enterprise, for that is the path which will be chosen by freemen everywhere who have the knowledge, the initiative, and the energy to move forward.

Were the people of the United States to disown the source of their greatness and turn their backs on the successful methods of the past in order to establish a Government monopoly in outer space—and that is the only monopoly which has any relevancy in this debate—namely, a Government monopoly—it would be highly detrimental to our objectives in the United States and in the rest of the world.

If big business occasionally endangers the rights of the individuals—and I would be the first to concede that it does—that is wicked, of course. However, how much more dangerous is the threat of big government, with no checks at all on the rights and opportunities of our citizens?

The Federal Government is big enough right here in Washington and around the world. There is no reason to set up a Federal octopus of authority in outer space when private initiative can do the job efficiently, effectively, and competitively. In the exciting race for the frontiers of space, let it not be said that the American people had to wait to be led by the hand of a paternalistic government. Let it not be said that the imagination and the enterprise of America is concentrated in Washington.

Incidentally, I might say that so far as the people are concerned, that is one reason why the labor unions involved here are so strong for the bill. The working men and women who are members of these unions do not want to work for the Federal Government. They feel that their economic interests are best served by working for private enterprise.

Therefore I say let us open the way for all industry and for all our people, and for all those working in these industries, and for the small investors to join in the exciting and tremendously important exploration of outer space and the resources which it offers for the peaceful benefit of all mankind.

HEALTH CARE PROGRAMS FOR THE AGED

Mr. KEATING. Mr. President, being one of the fearless five or unintelligent five or independent five, or whatever kind of five one wishes to call us, who voted for what I believe was an eminently fair and reasonable social security health care plan for the aged last month, I feel I should say a word or two about recent developments in New York State. We failed in our attempt here in the Senate. Those of us who were on the losing side in this Chamber took it in good spirit, and there has been no bitterness.

Immediately following that vote I pointed out that it was up to the States to improve State systems of health care for the aged and to do what they could under the circumstances which existed pending the introduction of a proposal of a similar nature, perhaps in the next Congress.

I am delighted today to call the attention of the Senate to a new program in the State of New York, under which seven major insurance companies have pooled their resources to offer new, broader, noncancelable health insurance for persons over 65 years of age. This program has been in the planning stages for several months and was announced only yesterday by the New York State commissioner of insurance and the seven companies involved in the project. It follows upon enabling legislation recommended by Governor Rockefeller and passed at the last session of the New York State Legislature.

We cannot lie still merely because we were knocked down once.

We must continue to deal with the problem in every effective way possible. A number of things can be done which should be a part of our program of action.

One is the kind of pooled health insurance which the State of New York has just adopted. I understand that Connecticut, Mississippi, and Massachusetts have similar programs.

The second is to urge and encourage the States in every possible way to make fuller use of the existing Kerr-Mills law.

The third way is to get the kind of tax help which has just been cleared by the House Committee on Ways and Means to permit employers a tax deduction for prepaid health care for retired workers.

The fourth method is the continued efforts of doctors, hospitals, public welfare departments, and private agencies to meet the needs of aged persons who are faced with catastrophic illnesses. Excellent progress is being made in this area. This kind of work must be fostered and encouraged in every way possible.

Finally, we should continue to work on the kind of realistic and appropriate Federal health care insurance program which has, for the time being, been bogged down. These are the things which we can and should do now.

I commend the New York State officials and the seven private insurance companies involved for the great strides they are making to provide sound private health care protection for the aged. I am delighted with this development; it is highly constructive. At least in the State of New York, it will be a great help to older citizens who have great difficulty, in many instances, in meeting their medical and hospital costs.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article entitled "Seven-Company Pool Offers Insurance to Aged in State," written by Farnsworth Fowle, and published in the New York Times for today, August 17, 1962.

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

SEVEN-COMPANY POOL OFFERS INSURANCE TO AGED IN STATE—NONPROFIT HEALTH COVERAGE AUTHORIZED BY ALBANY WILL COST $10 A MONTH

(By Farnsworth Fowle)

A new health insurance plan for New York State residents aged 65 and over was announced yesterday by a pool of commercial insurance companies.

The insurance will cost 10 to 20 percent less than present policies, according to an independent estimate. A basic health plan will be offered at a monthly premium of $10 a person. The cost of a major medical plan, giving extended coverage, will be $9.

The last legislature, acting at the request of Governor Rockefeller, authorized such a pool to operate on a tax-exempt, nonprofit basis. Premiums paid by subscribers will be used to pay benefits and cover administrative costs, but not to pay dividends to the companies' stockholders.

In the initial enrollment period—October 15 to November 15—all residents of the State 65 or over who are not actually in hospitals will be admitted to the plan without physical examination. Those in a hospital may apply and receive coverage starting 31 days after their discharge, except that coverage for the condition that sent them to the hospital will commence 6 months after the effective date.

CROSS SECTION EXPECTED

The 1-month open-enrollment offer is not unusual. Experience shows that when many persons sign up in a short period they are likely to be a fair cross section of good and bad risks, whereas if enrollment without examination is open indefinitely, an excessive proportion of below-average risks is expected.

Representatives of the seven member companies in the pool met yesterday to form the New York 65 Health Insurance Association, which will shortly file the plan and premium rates with the State superintendent of insurance.

They chose Morton D. Miller, vice president of the Equitable Life Assurance Society, as president. The other companies in the pool are the Fidelity & Casualty Co., of New York (American Fore Loyalty Group), the Guardian Life Insurance Co. of America, the Metropolitan Life Insurance Co., the New York Life Insurance Co., Security Mutual Life Insurance Co., and the Union Labor Life Insurance Co.

The plan's two parts, basic health and extended major medical, may be purchased separately or jointly. The coverage will be sold through any insurance agent or broker licensed to sell health insurance in the State, or sold directly by the association.

The basic health plan, for $10 a month, will provide up to 31 days of payments of up to $18 a day for hospital room and board. It will also provide up to $150 in expenses for hospital service, and payments for surgical operations and for visits by doctors for nonsurgical care in a hospital. It will also pay up to $7.50 a day for up to 31 days for convalescent nursing-home care.

ALTERNATE PLAN OFFERED

An alternate basic health plan with a somewhat lower maximum hospital payment of $12 a day will be available at $8 a month.

The major medical plan will cover more acute illnesses and protracted health expenses. It includes 80 percent of the costs over $150 for hospital services and will cover hospital room and board beyond the first 31 days.

A maximum total of hospital payments is set at $3,600 for any single period of hospitalization. The lifetime limit for medical expenses under the policy is $10,000.

In his statement announcing the plan, Mr. Miller said that there were at least 1,700,000 persons 65 or over in the State.

Many of these, he said, already have some form of health insurance, and about 125,000 of the total receive old age assistance or are in institutions.

He estimated that there were "at least a million elderly citizens in the State who can benefit from New York 65, especially from the extended major medical portion."

The nonprofit pool approach to meet the health problems of the elderly, a major national social and political issue in recent years, began in Connecticut, where the permissive law was enacted and the plan introduced last year. Mississippi and Massachusetts have also cleared the legislative path for this approach. The Connecticut plan attracted considerable interest but its experience has been too brief for insurance men to draw conclusions.

COMPANIES CAN JOIN

State Insurance Superintendent Thomas Thacher announced last night the approval of the proposal to form the nonprofit association to provide the new plans. He noted that any insurance company authorized to sell accident and health insurance in New York State was eligible to join the association.

The legislation, he said, presented "both a challenge and an opportunity to private enterprise in insurance."

He added that "only time and experience will demonstrate the extent to which commercial carriers may be successful in broadening the health insurance coverage of persons of advanced years through the new association and any others that may be formed."

Mr. KEATING. Mr. President, how much time have I remaining?

The PRESIDING OFFICER (Mr. METCALF in the chair). The Senator from New York has 5½ minutes remaining.

Mr. KEATING. I reserve the 5½ minutes.

THE FARM BILL

During the delivery of Mr. KEATING's address.

Mr. KEATING. Mr. President, may I inquire whether I correctly understand that I am not permitted to yield to another Senator in his own time?

The PRESIDING OFFICER. The Senator is correct.

Mr. MUNDT. Mr. President, a parliamentary inquiry.

Mr. KEATING. Mr. President, if I yield for the purpose of propounding a parliamentary inquiry, may I do so in my time?

The PRESIDING OFFICER. The Senator may yield for that purpose in his own time.

Mr. KEATING. I yield.

Mr. MUNDT. I should like to propound the parliamentary inquiry, since I have an hour allotted to me on the bill whether it is permissible for me to use 1 minute of that time to submit two amendments to the farm bill.

The PRESIDING OFFICER. The time is now being charged to the Senator from New York.

Mr. KEATING. Mr. President, I have previously yielded the floor, and that is the only way in which I can do what the Senator wishes. If the Senator is pressed in some way, I will yield the floor to him and resume the floor after he has completed his statement.

The PRESIDING OFFICER. Is there objection to the Senator from New York yielding to the Senator from South Dakota and having the time charged to the Senator from South Dakota?

Mr. RUSSELL. Mr. President, I did not understand the question of the Chair.

The PRESIDING OFFICER. Is there objection to the Senator from New York yielding to the Senator from South Dakota, the time to be charged to the Senator from South Dakota?

Mr. RUSSELL. Mr. President, must that be done by unanimous consent, or has the Chair ruled that it can be done as a matter of right under rule XXII?

The PRESIDING OFFICER. It cannot be done as a matter of right. It can only be done by unanimous consent. Is there objection? The Chair hears none.

Mr. MUNDT. I thank the Chair, and I thank the distinguished Members of the Senate, particularly the Senator from New York.

Mr. President, I send to the desk two amendments to the farm bill, which we will be working with and legislating on following the termination of the debate on the bill presently before the Senate.

I call special attention to the amendment which I have submitted which would restore the intent of the farm bill, so far as wheat is concerned to precisely the same position it occupied when the bill left the Senate Committee on Agriculture and Forestry in May of this year. The amendment proposes to give to the farmer an opportunity to vote as to whether or not he desires a continuation of the present program for 2 more years or whether he wants a mandatory wheat acreage control and certificate program placed in effect. In view of the fact that the morning press has reported that an agreement has been reached by "farm leaders in the Senate," of which, I may say, I have heard nothing except what I have read in the newspapers, an agreement may have been reached to drop the fight for mandatory feed grain acreage control. Certainly that is an eventuality devoutly to be desired, if it has been achieved, and thus permit the present program to be extended for 1 year on feed grains. I certainly think a similar extension should be given to the wheat farmers, and that the wheat farmers should be permitted to vote on whether or not they want a permanent program following the next crop year or a simple extension of the present program, as is being afforded the feed grain producer. I happen to believe that there is no reason why the U.S. Senate should seek to disenfranchise the U.S. wheat farmer alone in this country.

I shall discuss my amendment fully during the debate on the farm bill, but I desire to have it printed and lie on the table so that all my colleagues can be familiar with my intentions as to wheat.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

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

Mr. MUNDT. I yield.

Mr. KEATING. Mr. President, I believe I have the floor.

Mr. RUSSELL. The Senator from New York received unanimous consent to let the Senator from South Dakota have the floor. He cannot take the Senator from South Dakota off the floor now.

Mr. KEATING. My understanding was that I would yield to the Senator from South Dakota, and that I would yield to him in his time under the unanimous-consent agreement.

Mr. RUSSELL. That is correct. The Senator from South Dakota has the floor under all the rules of the Senate, and it will revert to the Senator from New York when the Senator from South Dakota yields to him.

Mr. KEATING. I did not understand that to be the situation.

The PRESIDING OFFICER. Did the Senator from South Dakota yield the floor?

Mr. MUNDT. I did not yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. KEATING. Does the Chair rule that the Senator from New York has been taken off the floor?

The PRESIDING OFFICER. The Senator from New York yielded to the Senator from South Dakota for the purpose of making a parliamentary inquiry, the time to be charged to the Senator from South Dakota. That is the only purpose for which he yielded.

Mr. KEATING. Does not the floor revert to the Senator from New York?

The PRESIDING OFFICER. When the Senator from South Dakota has completed his parliamentary inquiry, it reverts to the Senator from New York.

Mr. KEATING. I am happy to yield briefly to my friend from Georgia.

Mr. RUSSELL. I do not ask the Senator from New York to yield to me. This is in the time of the Senator from South Dakota. The Chair has stated the unanimous-consent request, and I ask the Chair to restate it.

The PRESIDING OFFICER. The Senator from New York yielded to the Senator from South Dakota for making a parliamentary inquiry. Then unanimous consent was secured to permit that time to run against the Senator from South Dakota.

Mr. RUSSELL. The Senator from South Dakota has the floor. I am very much interested in the proposal that the Senator from South Dakota is making. I have been considering undertaking to get a similar privilege granted to the cotton farmer. I will be glad to discuss it with the Senator from South Dakota when we come to the consideration of the farm bill. I am considering having a similar agreement made with respect to the producers of both commodities.

Mr. MUNDT. Of course it would require a separate amendment.

Mr. RUSSELL. Oh, yes. I am preparing some amendments to the farm bill.

Mr. MUNDT. I would support the Senator in his amendment. It seems to me that we should give the farmer some

discretion in the making of these decisions.

Mr. RUSSELL. I am completely in agreement with the Senator on that point. The farmer has had little discretion lately, except to vote himself under quotas. I would like to see him share in this program, for which the Senator has fought so valiantly for the wheat farmer. I commend him for making such a fight for the wheat farmer. I hope those who are supposed to represent the cotton farmer will be willing to make an equally strong fight for the producers of cotton.

Mr. MUNDT. The Senator from Georgia has made a valid point. I shall be happy to discuss it with him when the farm bill is before us. Now I am happy to yield the floor.

Mr. KEATING. Do I understand that the colloquy which has been taking place between the Senator from South Dakota and the Senator from Georgia is charged to the Senator from South Dakota?

The PRESIDING OFFICER. That is correct.

Mr. KEATING. May I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. KEATING. I ask unanimous consent that the remarks of the Senator from South Dakota and the colloquy which followed be printed at the conclusion of my remarks.

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

COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM

The Senate resumed the consideration of the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

Mr. HRUSKA. Mr. President, I support H.R. 11040, a bill already approved by the House, which provides the business arrangements whereby a commercial communications satellite system is to be established, owned, operated, and regulated.

THE SUCCESS OF TELSTAR

All of America was thrilled on July 10 of this year. The American Telephone & Telegraph Co., in collaboration with the Government through NASA—National Aeronautics and Space Administration—launched the Telstar satellite which was the breakthrough on transoceanic television and radio by means of satellite. All of us know, however, that this event was preceded by a great deal of research and pioneering in that field. NASA itself was established in 1958, and at that time it joined the research and pioneering efforts that were already being made in that field. However, the American Telephone & Telegraph Co. was the leader and pioneer. It is reported to have spent some $50 million in the design and manufacture of the equipment and instruments, in its tracking station and equipment at Andover, Maine, in the training of men for the job, and in a host of other ways, to reach the Telstar success which actually followed.

They did exceedingly well because the very first trial of the experiment was a signal and spectacular success. It will still be a long and painstaking process before a satellite communications system will be totally perfected for constant operation in daily commercial use, but the eventual success is definitely assured.

It should be noted at the outset that in all of its research and development of this project the A.T. & T. used its own money and not that of the Government. A contract was entered into with NASA to launch the Telstar projectile and it cost A.T. & T. $2.7 million to get that satellite into orbit.

PRE-TELSTAR STRUGGLE

For a long time before Telstar was launched, a great struggle was going on as to how and by whom such a satellite communications system would be organized, operated, owned, and controlled. The central question was whether it would be by the Government or by private enterprise. That is still the central issue in this debate. As early as July 1960 A.T. & T. reported to the Federal Communications Commission, calling for allocation of frequencies for space communications and outlining a proposal for worldwide telephone and television hookup using about 50 satellites in low polar orbits at an estimated basic cost of $170 million. There was a good deal of official encouragement of this approach by both NASA and FCC—Federal Communications Commission. President Kennedy referred the matter to the Space Council headed by Vice President LYNDON JOHNSON, asking for recommendations as to how a space communications system could best be brought into operation at the earliest practical time.

President Kennedy, on July 24 last year, upon receipt of the Space Council's report, issued a statement asserting and taking the position that "private ownership and operation of the U.S. portion of the system is favored." He stipulated a number of policy requirements to be met. In the main as the legislation developed, those requirements were incorporated into the legislative measure before us.

Hearings were held on this legislation in House committees last year.

A bill was reported to the House, debated there, and passed by a vote of 354 to 9 in the month of May.

On the Senate side H.R. 11040 and like measures were very thoroughly considered by several committees, including: Monopoly Subcommittee of the Small Business Committee; the Commerce Committee; the Aeronautical and Space Sciences Committee; the Antitrust and Monopoly Subcommittee of the Judiciary Committee, of which the Senator from Nebraska is a member; and the Foreign Relations Committee. Literally thousands of pages of testimony were printed and made available to Members of Congress.

In each instance in which a committee reported, its report was favorable to the bill we are debating. The Kennedy administration is in full support of the bill. This was shown by testimony of the Secretary of State, the Attorney General, the Federal Communications Commission, the space agency—NASA—National Space Council, and others.

It was a happy day when the conclusion was reached, as a matter of policy, that this newest phase of communication would be developed through private ownership. This assures a workable and efficient operation of a system which will mean so much in terms of our national leadership and the advancement of the cause of peace. As all of us know, there is hovering in the background the menace of Soviet progress in the same field. It is of tremendous importance that we retain, and even increase, the unquestioned lead which America possesses in this regard.

The charges of giveaway and of monopoly, raised by opponents of H.R. 11040, have a hollow ring. They possess no real or ultimate merit whatsoever. They consist of tired, outworn arguments which long ago have been discarded by all but a very small, although tenacious and willful, group.

The business arrangement provided for in the bill calls for 50 percent of the capital to be subscribed by companies in the communications business, and 50 percent to be sold to the public, through stock issues. Six directors will be named by the communications companies; six will be elected by the owners of publicly issued stock; and three directors will be appointed by the President, and confirmed by the Senate. Ample provisions are made for regulation by the Government agencies in the field. This is in keeping with the longtime national policy of having such monopolistic ventures subjected to Government regulation.

In a sense, all communications companies are monopolies. This applies to A.T. & T. and to all of the other companies which will subscribe to 50 percent of the stock. Years ago, America struggled with the vexatious problem of how to reconcile the need for such public utilities which are monopolies and the need for competition within industry generally. As a result, there are regulation and supervision in many, many ways in all communications companies. Yet they are free to conduct their business in many ways separate and apart from Government action. This combination has been highly successful. Proof of this is found in the fact that in America we have the best, the most efficient, and the most economical communications system in the world. Anyone who ventures beyond the borders of the 50 States experiences, among his very first impressions, the vast difference between communications in foreign countries and those he has taken for granted in his own home State. The quality of service provided by private enterprise, as we know it, is superior in every way.

The thinking and the philosophy behind the arrangement provided by H.R. 11040 are to retain the benefits of that system.

THE "GIVEAWAY" PHANTOM

The charge of "giveaway" has an old and familiar ring. However, it is generally discarded and disregarded.

That notion as applied to H.R. 11040 has been repudiated on a bipartisan and widely based foundation in many ways: The overwhelming action in the House of Representatives, by a vote of 354 to 9; and the reports of the congressional committees and of all of the Government agencies, as well as President Kennedy's position.

Joseph A. Beirne is president of the Communications Workers of America, AFL–CIO. When he testified before the Senate Communications Subcommittee, the idea of "a gigantic giveaway program" was discussed as follows:

Senator PASTORE. May I ask a question at this point, Mr. Beirne? What have you to say to this slogan that has developed or this position that has been taken by some that this is a gigantic giveaway program?

Mr. BEIRNE. Well, I do not share that view at all. I think there is specious reasoning being employed here. I think of the development of many things in the United States that could be called a giveaway.

As a matter of fact, the giveaway first became a popular expression in the early days of Franklin Delano Roosevelt. We gave away to our allies to save us from getting into a war earlier than we finally did. We developed the jet which we now use to travel in public. It was developed by the military, not as a commercial plane to help the citizens of the United States get from one side of the country to the other in 5 hours, but as a military development. And so now we have a rocket which was developed not for the satellite, but a rocket that was developed to defend the United States in case of aggression from a common enemy. And so as a byproduct we are lifting from the ground—because the curvature of the earth will not permit us to go over the sea with the stations—we are lifting from the ground the simple land stations that cover this country, the microwave stations, and we are putting them up in the sky.

Now to get up to the sky we are using a rocket developed by the military for military reasons, for the defense of the country, and we are lifting up something that will give us an easy, quick, efficient communications system to augment our cables and our radio waves that are now in use.

So it is not a giveaway. It is just a natural, ordinary, understandable development of a system in the United States where the Government does do for all of the people what they cannot do for themselves, defend themselves, and in a new war period we have rockets, and all these companies say is, "We will buy a rocket and push up our microwave station. Sell us one." I do not see any giveaway there.

I do not see any development by the U.S. Government, with taxpayers' money, of a satellite system. That was developed by the Bell Laboratories.

This seems to summarize the subject very well indeed.

FORMER PRESIDENT'S HIP SHOOTING

Recently a former Member of this body, who later graced the precincts of the White House, outdid himself again on his "hip-shooting" remarks on the communications satellite bill. He also followed the old pattern of accusing President Kennedy of sponsoring a "gigantic giveaway," but in a very kindly way stated: "I don't think the President understands the bill."

Of course, this was said in spite of President Kennedy's statement of about a week earlier:

This bill was carefully drafted and * * * we believe it is the most effective way of providing for the development of a communications satellite.

Furthermore, as we know, President Kennedy gave the subject very painstaking and consistent thought last year in formulating the pattern incorporated into H.R. 11040. But his predecessor undertakes to downgrade the nature and the degree of President Kennedy's sincerity.

Then former President Truman went on to say:

The damned Republicans and some Democrats are trying to give away public property. The Republicans will give away everything if you don't watch them.

However, months ago the House passed the bill by a vote of 354 to 9. Only 9 Democrats voted against it, although members of their party outnumbered the Republicans in the House, 261 to 176. So again it is a question of a "handful of Democrats," which was given such fame by President Kennedy following his defeat on the medicare bill, except this time there is matched against former President Truman not only the large majority of the members of the Democratic Party, but also the Democratic President, members of the Democratic Cabinet, members of the Democratic policyforming bodies, and all of the regulatory agencies. In the Senate, only some 15 or 20 Democratic Members are of the same mind as former President Truman on this bill, while the remaining 45 to 50 Democratic Senators favor it.

It is no wonder that the President and the public generally did not take our former colleague too seriously. In fact, Mr. Jack Jarrell, a reporter who has served in Washington for many years as head of the Washington bureau of the Omaha World-Herald, put this matter in charming and very proper perspective when he wrote in the Sunday, August 12 issue, an article under the headline, "Truman Still a Hip Shooter," with the subheadline " 'Giveaway' Remarks Follow Old Pattern."

Mr. President, I ask unanimous consent that the text of his article be printed at the conclusion of my remarks.

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

(See exhibit 1.)

CLOTURE WAS INVOKED

Mr. HRUSKA. Mr. President, during our consideration of this bill, we have been forced to do something the Senate has not done since 1927—invoke cloture.

That action was not taken lightly. It was made necessary, however, unless the Senate was to become a roadblock in the path of progress and to our national security. The invoking of cloture was absolutely required if we expect America to maintain the gains she had made in the field of satellite communications and to perfect and advance such gains. We must have this year, a law providing the vehicle by which such gains will be made possible. The filibuster by a relatively small number of Senators threatened the enactment of such legislation.

It was necessary that the Senate make the hard choice between the virtually unlimited debate which distinguishes this body from other parliamentary bodies in the world, and the interests of national security. The right decision was made. It was the only decision which could have been made under the circumstances.

It was rightly said that while Russia was orbiting with her two cosmonauts, the Senate was filibustering. Others beside this Senator reluctantly but wisely put an end to that by invoking limited debate.

MEANING AND IMPACT OF TELSTAR-TYPE COMMUNICATIONS SYSTEM

It is of utmost importance that the United States quickly establish a Telstar-type communications system on a commercial basis, for daily use. The Soviet is pressing us hard for propaganda purposes, as well as for real advantage. Should they gain precedence in this field, we would be at a very poor vantage point in our efforts to retain world leadership and to advance the cause of a free world.

Recently, this Senator had occasion to interview the senior Senator from New Hampshire [Mr. COTTON] on this very subject, for television and radio purposes. Senator COTTON is a member of the Communications Subcommittee of the Senate Commerce Committee. He attended the hearings on the subject bill. He helped in formulating the proposed legislation which is before us. His views and explanation were duly televised, broadcast, and reported in the press. They are relevant here concerning the real necessity, not only for action on this bill, but also for prompt action which will assure that it will become law as soon as practicable.

Mr. President, I ask unanimous consent that the text of that interview between this Senator and the Senator from New Hampshire be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. HRUSKA. In conclusion, Mr. President, it is my earnest hope that this bill will receive a very large favorable vote, that the slight differences between it and the House version will be reconciled quickly, and that it will soon be sent to the White House, for signature into the law of the land.

EXHIBIT 1

[From the Omaha World-Herald, Aug. 12, 1962]

TRUMAN STILL A HIP SHOOTER—GIVEAWAY REMARKS FOLLOW OLD PATTERN

The general view in Washington Saturday was that Harry Truman had outdone himself in his remarks on the communications satellite bill.

The former President's reputation for shooting from the hip is well known, and even political foes of the 78-year-old Mr. Truman get a sort of nostalgic, affectionate feeling when he lets go.

First thing he did when he hit Washington Thursday was to call the communications satellite bill, which President Kennedy is sponsoring, a gigantic giveaway.

But he made it known he found no fault with Mr. Kennedy and is, in fact, supporting him heartily. (Mr. Truman has changed his tune materially since June 3, 1960, when he posed a question to the then Senator Kennedy, seeking the Presidency: "Are you certain you are quite ready for the country or the country is ready for you?")

BILL NOT UNDERSTOOD

On Thursday, he dismissed Mr. Kennedy's connection with the giveaway satellite bill by saying, kindly:

"I don't think the President understands the bill."

Not even Mr. Kennedy's hardest-hitting political enemies charge him with lack of knowledge of what he is doing. That he does what politicans call his "homework" is one of Washington's facts of life.

Just a week ago, the President had said of the measure Mr. Truman condemned:

"This bill was carefully drafted and we believe it is the most effective way of providing for the development of a communications satellite."

Mr. Truman went on to say "the damned Republicans and some Democrats are trying to give away public property."

IN RARE FORM

And, he added:

"The Republicans will give away everything if you don't watch them."

But the House passed the bill overwhelmingly, months ago. Only 9 Democrats voted against it—and the Democrats outnumber the Republicans in the House 261 to 176. A Democrat sponsored the bill in the House—the chairman of the House Interstate Committee, Representative OREN HARRIS, of Arkansas.

Democratic Senator ROBERT S. KERR, of Oklahoma, was the Senate sponsor.

Among those testifying within the past 10 days in the Senate on behalf of the bill have been Attorney General Robert Kennedy, Newton Minow, Chairman of the Federal Communications Commission, Secretary of State Dean Rusk—all Democrats.

Secretary of Defense Robert McNamara and Deputy Space Administrator Hugh Dryden also said the bill should be passed.

The Democrats outnumber the Republicans in the Senate, 64 to 36.

Yes, sir, Mr. Truman was operating in rare form, as usual.

EXHIBIT 2

TRANSCRIPT OF SENATORS HRUSKA AND COTTON TV AND RADIO PROGRAM ON TELSTAR JULY 15, 1962

Mr. HRUSKA. Today we will discuss the launching and the great success of Telstar, the communications satellite. Our guest is Senator NORRIS COTTON, of New Hampshire, who is now rounding out very close to four decades of service in State and National affairs. He began his political career at the age of 22 in the New Hampshire Legislature. He has been county attorney, municipal judge, and majority leader, and speaker of the New Hampshire House of Representatives. He came to the Congress in the 80th session and served four terms in the House of Representatives. He and I came to the Senate on the same day, he to fill the unexpired term of the late Senator Tobey, and I, as you know, to fulfill the unexpired term of the late Senator Hugh Butler. Senator COTTON is the ranking Republican member of the important Commerce Committee. This is of special interest to us today because it was his committee that considered the bill pertaining to satellite communications and reported it to the Senate where it is now pending. Senator COTTON, with that introduction, I welcome you to this program.

Mr. COTTON. It's a pleasure to be with you, Senator HRUSKA. You know as much about this subject as I do, but if you want to use my membership on the committee as basis for discussion, I'm glad to cooperate with you. It's always an honor to be with our friends from Nebraska.

Mr. HRUSKA. First of all, we all were thrilled when the Telstar made its successful flight. The news was happily received by everyone. I should like to ask you, Senator COTTON, under whose auspices was this experiment conducted? How was the launching arranged for, and on what basis?

Mr. COTTON. The launching was arranged for by the Bell System—the American Telephone & Telegraph Co. The plant at Andover, Maine, was built by them, constructed by them. This Telstar satellite, of which this is a reproduction, is the product of their scientists and their laboratories. They paid $3 million to have the Thor Delta missile thrust the Telstar into space, under a contract with NASA.

Mr. HRUSKA. So it was the scientists of the American Telephone & Telegraph Co. who designed this Telstar, perfected the equipment in it, and all of the instrumentation that was necessary for it?

Mr. COTTON. Yes, Senator. Telstar is a monument to private enterprise and its science, to its endeavor, its thrust, its ambition, and its ability. The result is that we are first in the practical use of space, we are ahead of the Soviets and everybody else in this. Without for one moment discounting the splendid work done by all Government agencies, and especially the Space Agency, the actual achievement of being No. 1 in the peaceful field remains, and will remain as a monument to American free enterprise.

Mr. HRUSKA. The ground station installation at Andover, Maine, is property belonging to the A.T. & T., is it?

Mr. COTTON. That's right. They constructed it and every dollar in it was put in by them—not 1 cent of taxpayers' money.

Mr. HRUSKA. Senator COTTON, this has been a fine experiment; it's the start of a new era. Now the Nation must fashion a national policy to provide for the continued development of this satellite communication system. Pending in the Senate now is a bill which undertakes to spell out that national policy. May I ask you, Senator COTTON, to outline some of the principal features of that bill?

Mr. COTTON. Briefly, the bill, which came first from the Space Committee, and then was considered by the Committee on Commerce, and the Subcommittee on Communications on which I happen to be a member, is a bill which sets up a corporation which is a skillful combination of Government and private ownership. This will be the corporation to develop the permanent communications system. The space will have to be divided among the nations by agreement. If we keep our lead in this field, it may determine in the next 10 or 15 years the fate of underdeveloped countries and continents in this world. It could, in a sense, determine whether English or Russian will be the world language, or the leading language in the world in its literature and culture in years to come. It is that significant. That's why it is vitally important that we get this measure through the Congress and start now to protect our lead.

Mr. HRUSKA. We can understand the importance of leadership in this field, and I think generally we have been out in front for the past 10 years. Now, what makes you think that this particular measure is so important to retain that leadership?

Mr. COTTON. If we establish the system of space satellites, it will mean that today's systems will become antiquated. I am an older man than you are, but I can remember when I was a boy in prep school we talked about the marvelous thing we called wireless. It was something marvelous. We hadn't even heard the word, "radio." The satellite system could mean no more telephone lines, no more wires, no more cables. It means a system of worldwide communication. If we are in the lead, while we won't actually control those portions of it over other countries, we will influence them because of our lead. That's what is important. That's why the present contest in the Senate, a delaying contest, is extremely serious to the future of our world influence. People in the Senate, as you know, make speeches on behalf of foreign aid and our foreign policy and yet the semifilibuster that's going on on this bill right here could do more to undermine American influence in future years and in future decades than anything else that could possibly happen at the present time. That's why it is very, very serious.

Mr. HRUSKA. The report which your committee wrote, and the discussions which have already been held make it clear that in order to make this satellite communication at all practical and useful, it must be applied to a system of communication which will disseminate the messages that come from the satellite. In other words, it's not enough to be able to send a message to that satellite and bring it down to earth again. When it does come back to earth, there must be some means of delivering it to the people who can reach it, who can view it, who can listen to it, or see it. Isn't it in that connection that we find that the role of privately owned communication systems assumes great importance?

Mr. COTTON. It does, indeed. As a matter of fact, the privately owned communication utilities have progressed in this field through the years from the first telephone to the first Atlantic cable. They have the know-how, they have the practical knowledge, and they are already ahead of the parade, by the very fact that they have built these ground facilities, and are prepared to build additional ground stations to carry this thing to the people when the facilities are established in space. The corporation that is set up in this bill is a compromise. As you know, life is full of compromises and certain legislation always is. The bill provides that 50 percent of the stock shall be owned by private utilities, and 50 percent of the stock shall be owned by the public. Of the 15 directors—six will be elected by those who hold private stock and six by the utilities. The other three will be appointed by the President. This is probably as near as we can come to a combination of the public and the private force in this bill, and I think it is a good bill. I would rather have a little more emphasis on private enterprise—but it is a good bill and it means that we launch into this contest of the century from the free enterprise standpoint in our contest with our rivals and not under the banner of Government ownership.

Mr. HRUSKA. Now, the opponents of this measure are those who advocate outright and total Government ownership and operation of this satellite communication system. It is they who are opposing this compromise measure which has received the full support of the White House, of the administration generally, and of the leadership in both Houses. It is distressing to many of us here to find that approach of the Government to take over the entire ownership and operation. The theory is that, having spent billions in this business of satellite launchings, the Government should be the one that should own and operate the systems. On that basis, the Government should have continued to own and operate the millions of acres of land that were obtained from Napoleon Bonaparte in the Louisiana Purchase. But we didn't quite do that, did we? We resorted to private ownership. Have you any final comment?

Mr. COTTON. I wish we could impress on the good folks who are listening to us that this is one of the most highly significant steps in the history of mankind, and we can't afford to wait. We must push this through. We must use the skill and resources of American ingenuity, and you'll find that, usually, where men are striving in our free competitive system. I think we'll triumph.

Mr. HRUSKA. Thank you very much, Senator COTTON.

"ADVISE AND CONSENT"—SENATORS RAISE $200,000 FOR HOME CHARITIES

Mr. JAVITS. Mr. President, I yield myself 4 minutes.

I wish to announce to the Senate, as a matter of great interest, that this summer, during an 8-week period, my colleagues of the U.S. Senate sponsored premiere showings of the motion picture, "Advise and Consent," in 30 cities throughout the Nation for the benefit of various charities. It is very gratifying to me to have been able to make the arrangement for these showings between the producer, Otto Preminger, and our Senate leaders, Senators Mansfield and Dirksen.

I am pleased to announce that the benefit programs raised more than $200,000 for these worthy causes. Senators have every reason to be proud of this effort.

The project was undertaken as a result of the initiative of a citizen of New York, and a friend of mine, Peter Cusick, and was promptly taken up by the producer and carried through by him with the cooperation of his executive assistant, Nat Ruddick, and of Columbia Pictures, which distributes the film.

I ask unanimous consent to have printed in the RECORD at this point a list of the charitable institutions who were helped, the cities where the benefit showings were held, and the Senators who sponsored them.

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

"Advise and Consent" premiere program

City and State	Sponsoring Senators	Benefited charities	Preview dates
Phoenix, Ariz.	Carl Hayden; Barry Goldwater	United Fund	June 26
Little Rock, Ark.	John McClellan; J. W. Fulbright	Arkansas Children's Colony	July 17
Los Angeles, Calif.	Thomas H. Kuchel; Clair Engle	Nursery School for Visually Handicapped Children	June 8
Denver, Colo.	Gordon Allott; John A. Carroll	Mile High United Fund and Colorado Boys Ranch Fund	June 26
Hartford, Conn.	Prescott Bush; Thomas J. Dodd	Connecticut Association for Mental Health	July 10
Wilmington, Del.	Caleb Boggs; John J. Williams	Delaware Association for Mental Health	July 3
Miami Beach, Fla.	George A. Smathers; Spessard L. Holland	United Cerebral Palsy	July 17
Honolulu, Hawaii	Hiram L. Fong; Oren E. Long	Community Chest of Honolulu	June 20
Chicago, Ill.	Everett Dirksen; Paul H. Douglas	Chicago Settlement Appeal	June 7
Indianapolis, Ind.	Homer Capehart; Vance Hartke	Indiana Mental Health Association	July 19
Des Moines, Iowa	B. B. Hickenlooper; Jack Miller	American Cancer Society and Iowa Heart Association	June 27
Topeka, Kans.	Frank Carlson; James B. Pearson	Capper Foundation for Crippled Children	July 11
Louisville, Ky.	John S. Cooper; Thruston B. Morton	Kosair Crippled Children's Hospital	Aug. 2
New Orleans, La.	Russell B. Long; Allen J. Ellender	Association for Retarded Children	July 17
Baltimore, Md.	Glenn J. Beall; John M. Butler	Greater Baltimore Medical Center	June 26
Boston, Mass.	L. Saltonstall; B. A. Smith	Girls' Clubs of Boston	June 27
Detroit, Mich.	Pat McNamara; Philip Hart	United Foundation of Detroit	June 27
Minneapolis, Minn.	Hubert Humphrey; Eugene McCarthy	Minnesota Society for Crippled Children and Minnesota Association for Retarded Children.	June 20
St. Louis, Mo.	Edward V. Long; Stuart Symington	United Cerebral Palsy Association of Greater S. Louis	June 28
Omaha, Nebr.	Roman L. Hruska; Carl T. Curtis	Boys' Clubs of Omaha	June 27
Albuquerque, N. Mex.	Clinton P. Anderson; Dennis Chavez	Rehabilitation Center of Albuquerque and Mental Health Association	July 18
Great Falls, Mont.	Mike Mansfield; Lee Metcalf	Montana Society for Crippled Children in Great Falls	July 17
New York, N.Y.	Jacob K. Javits; Kenneth B. Keating	National Association for Mental Health and Multiple Sclerosis	June 5
Fargo, N. Dak.	Quentin Burdick	American Cancer Society	July 10
Portland, Oreg.	Wayne Morse; Maurine Neuberger	do	June 27
Philadelphia, Pa.	Hugh Scott; Joseph Clark	Women's Medical College	June 20
Providence, R.I.	Claiborne Pell; John O. Pastore	Rhode Island Association for Mental Health	July 11
Sioux Falls, S. Dak.	Karl E. Mundt; Francis Case	Share South Dakota	July 10
Charleston, W. Va.	Jennings W. Randolph; Robert C. Byrd	United Cerebral Palsy and Mental Health Association	July 19
Richmond, Va.	Harry Byrd; Willis Robertson	Sheltering Arms Hospital	July 10
Washington, D.C.		Washington School of Nursing and Patty Corte Fund	June 6

PRIVATE MEDICARE PLAN

Mr. JAVITS. Mr. President, I have also in mind calling attention to what my colleague from New York [Mr. KEATING] referred to as the seven-insurance-company pool plan for health care in New York State. It is well known that I joined with the Senator from New Mexico [Mr. ANDERSON] in the bill which was before the Senate for health care for the aging; and I have every expectation that it will be acted on in the next Congress. But the New York plan, under the guidance, and I think the inspired leadership, of Governor Rockefeller, demonstrates how critically important is the private sector in the matter of health care for the aging, a matter which I have insisted on, and finally won incorporation of in the so-called Anderson bill, and which has proved to be entirely valid.

There are alternatives from the private sector which intelligent leadership on the part of State governments, insurance companies, cooperatives, and health care plans generally can bring to the public attention and make active for the public good.

That is also true of the bill of Representative CURTIS in the other body, which opens up to pension and welfare plans greater opportunities for health care.

I think it is irrefutably true that the premiums which must be charged are too much for persons of modest income. Eighty percent of the aging have incomes of less than $1,000 a year. The premium for the seven-company pool plan announced is $228 a year. This amount cannot be paid by people with modest incomes. Many people can pay. Many New Yorkers would be able to pay. But the fundamental problem which was met by the so-called Anderson-Javits bill still remains the problem. That is true in our State and in Connecticut, where the plus-65 plan is in operation.

I ask unanimous consent to have printed in the RECORD with my remarks the article headlined "Seven-Company Pool Offers Insurance to Aged in State," in the New York Times of August 17; and the report prepared by the Social Security Administration entitled "Summary of the Connecticut 65-Extended Health Insurance Plan," dated June 29, 1962.

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

SEVEN-COMPANY POOL OFFERS INSURANCE TO AGED IN STATE—NONPROFIT HEALTH COVERAGE AUTHORIZED BY ALBANY WILL COST $10 A MONTH

(By Farnsworth Fowle)

A new health insurance plan for New York State residents aged 65 and over was announced yesterday by a pool of commercial insurance companies.

The insurance will cost 10 to 20 percent less than present policies, according to an independent estimate. A basic health plan will be offered at a monthly premium of $10 a person. The cost of a major medical plan, giving extended coverage, will be $9.

The last legislature, acting at the request of Governor Rockefeller, authorized such a pool to operate on a tax-exempt, nonprofit basis. Premiums paid by subscribers will be used to pay benefits and cover administrative costs, but not to pay dividends to the companies' stockholders.

In the initial enrollment period—October 15 to November 15—all residents of the State 65 or over who are not actually in hospitals will be admitted to the plan without physical examination. Those in a hospital may apply and receive coverage starting 31 days after their discharge, except that coverage for the condition that sent them to the hospital will commence 6 months after the effective date.

CROSS SECTION EXPECTED

The 1-month open-enrollment offer is not unusual. Experience shows that when many persons sign up in a short period they are likely to be a fair cross section of good and bad risks, whereas if enrollment without examination is open indefinitely, an excessive proportion of below-average risks is expected.

Representatives of the seven member companies in the pool met yesterday to form the New York 65 Health Insurance Association, which will shortly file the plan and premium rates with the State superintendent of insurance.

They chose Morton D. Miller, vice president of the Equitable Life Assurance Society, as president. The other companies in the

pool are the Fidelity and Casualty Co. of New York (American Fore Loyalty Group), the Guardian Life Insurance Co. of America, the Metropolitan Life Insurance Co., the New York Life Insurance Co., Security Mutual Life Insurance Co., and the Union Labor Life Insurance Co.

The plan's two parts, basic health and extended major medical, may be purchased separately or jointly. The coverage will be sold through any insurance agent or broker licensed to sell health insurance in the State, or sold directly by the association.

The basic health plan, for $10 a month, will provide up to 31 days of payments of up to $18 a day for hospital room and board. It will also provide up to $150 in expenses for hospital service, and payments for surgical operations and for visits by doctors for nonsurgical care in a hospital. It will also pay up to $7.50 a day for up to 31 days for convalescent nursing-home care.

ALTERNATE PLAN OFFERED

An alternate basic health plan with a somewhat lower maximum hospital payment of $12 a day will be available at $8 a month.

The major medical plan will cover more acute illnesses and protracted health expenses. It includes 80 percent of the costs over $150 for hospital services and will cover hospital room and board beyond the first 31 days.

A maximum total of hospital payments is set at $3,600 for any single period of hospitalization. The lifetime limit for medical expenses under the policy is $10,000.

In his statement announcing the plan, Mr. Miller said that there were at least 1,700,000 persons 65 or over in the State.

Many of these, he said, already have some form of health insurance, and about 125,000 of the total receive old-age assistance or are in institutions.

He estimated that there were "at least a million elderly citizens in the State who can benefit from New York 65, especially from the extended major medical portion."

The nonprofit pool approach to meet the health problems of the elderly, a major national social and political issue in recent years, began in Connecticut, where the permissive law was enacted and the plan introduced last year. Mississippi and Massachusetts have also cleared the legislative path for this approach. The Connecticut plan attracted considerable interest but its experience has been too brief for insurance men to draw conclusions.

COMPANIES CAN JOIN

State Insurance Superintendent Thomas Thacher announced last night the approval of the proposal to form the nonprofit association to provide the new plans. He noted that any insurance company authorized to sell accident and health insurance in New York State was eligible to join the association.

The legislation, he said, presented "both a challenge and an opportunity to private enterprise in insurance."

He added that "only time and experience will demonstrate the extent to which commercial carriers may be successful in broadening the health insurance coverage of persons of advanced years through the new association and any others that may be formed."

SUMMARY OF THE CONNECTICUT 65 EXTENDED HEALTH INSURANCE PLAN

(Prepared by Louis S. Reed and Robert E. Malia, medical economics studies unit, division of program research)

The Connecticut 65 extended health insurance plan is a joint undertaking of some 32 insurance companies licensed to sell health insurance in Connecticut. Its stated purpose is to make health insurance, primarily of the major medical type, available to aged residents of Connecticut at reasonable rates.[1]

While many insurance companies sell health insurance providing so-called basic hospital and surgical benefits to older persons on an individual policy basis, few companies have deemed it feasible to write individual major medical policies for older persons. The chief reason for this has been the fear of an adverse selection of risks. The main purpose of the Connecticut 65 plan was to pool the resources of the leading insurance companies in Connecticut so that major medical coverage could be made available to all aged persons at reasonable premiums and without a physical examination, and so that if the experiment did not turn out well the loss to any one company would not be large.

HOW IT STARTED

One of the interesting things about Connecticut 65 is the speed with which the idea of providing major medical protection for Connecticut's elderly people was translated into action. Early in October 1960, representatives of five Hartford insurance companies began frequent meetings to discuss what could be done about the problem. By December 1960, the plan was in draft form, enabling legislation was about to be proposed, and the framework of a voluntary association of insurance companies to market the new plan had been organized.

The enabling legislation for Connecticut 65 is Public Act No. 95, effective May 3, 1961. Existing regulatory legislation in Connecticut provided that where joint action by insurance companies in the State is regulated by law, the Federal antitrust laws do not apply. Public Act No. 95, 1961 permits any insurance company authorized to do the business of health insurance in the State to join with other such companies for the purpose of offering major medical protection to elderly residents of Connecticut. It also provides that an annual financial summary of any insurance written under the plan be furnished to the State insurance commissioner and that if he finds that the forms for such insurance are not in the public interest or that the rates are excessive, he may disapprove them.

The Associated Connecticut Health Insurance Companies, as the new organization called itself, had early decided that no company could join the association unless it had at least $100,000 annual premium volume. Initially 10 Connecticut companies associated themselves with the project. Later they were joined by 22 other companies domiciled outside Connecticut. Every risk written through the association was to be insured on a pro rata basis, with each member assuming its proportion of the amount of such insurance in accordance with the terms of the agreement. A bank was selected as trustee. The Associated Connecticut Health Insurance Companies are governed by an executive committee which consists of representatives selected by the members of the association. This committee in turn selects a chairman and vice chairman and other such officers as may be thought necessary.

[1] The basic sources of information on which this note is based are the "Connecticut 65 Extended Health Insurance Enrollment Booklet," which is an official description of the plan, and the "Story of Connecticut 65 Extended Health Insurance," a brochure furnished by the plan's marketing agency, Associated Connecticut Health Insurance Companies. The latter includes documents such as the agreement among the insurance companies, and the enabling legislation for the plan.

WHO IS ELIGIBLE

Any resident of Connecticut is eligible for enrollment under Connecticut 65 provided that he or she is (a) a resident of Connecticut, (b) 65 years of age or older, or (c) 55 years of age or older, working for less than 30 hours per week and the spouse of an enrolled person at least 65 years old.

Enrollment was first offered during the period September 1–30, 1961. Eligible persons who failed to enroll at that time could not enroll in the plan until a new enrollment period was announced. Persons who were not eligible during the initial enrollment could, however, enroll during the first calendar month in which they were eligible after October 1, 1961, and prior to January 1, 1963. Coverage for all enrolled persons begins the first day of the following calendar month with the following exceptions:

1. A hospitalized individual, or one who has been hospitalized on any day within the 31-day period preceding enrollment, cannot become covered until the first day of the calendar month following a continuous 31-day period in which he or she is not confined in any hospital or convalescent institution.

2. An individual who has had any medical or surgical care for an accident or sickness within 90 consecutive days prior to enrollment, cannot receive any coverage for this "preexisting condition" for the first 9 months of enrollment.

Connecticut 65 is available without physical examination. The exclusion of coverage during the 31-day and 9-month periods, respectively, is designed simply to prevent persons from enrolling for the sole purpose of gaining coverage for a known health condition.

SUMMARY OF BENEFITS UNDER CONNECTICUT 65

Connecticut 65 is primarily a major medical plan. There is a subplan for basic hospital and surgical benefits, but this is only for persons enrolling in Connecticut 65 who are not covered by any other basic plan. An enrollee who already has other basic coverage cannot elect Connecticut 65 basic.

An eligible individual has a choice of four optional plans, as follows:

Option No.	Type of coverage	Monthly premium
1	$10,000 lifetime maximum major medical expense benefits.	$10.00
2	$5,000 lifetime maximum major medical expense benefits.	7.50
3	$10,000 lifetime maximum major medical expense benefits plus basic hospital and surgical benefits.	17.00
4	$5,000 lifetime maximum major medical expense benefits plus hospital and surgical benefits.	14.50

The basic benefits under options three and four are:

(a) hospital charges for room and board up to $12 per day for 31 days in any one year; (b) hospital charges for special services up to $125 in any one year; and (c) doctor's charges for surgery up to amounts set forth in a schedule and up to a maximum of $360 in any one year for all operations.

MAJOR MEDICAL BENEFITS UNDER CONNECTICUT 65

Under the major medical benefits plan the policyholder is reimbursed at the rate of 100 percent for some, and 80 percent for other, covered charges for acute and convalescent hospital care, surgery, physician's services in the office, home, or hospital, and the services of registered graduate nurses—all over and above a deductible, and up to specified limits for any one year and for life.

The deductible is $100 plus the amounts payable under the Connecticut 65 basic hospital and surgical benefits plan, whether or not the policyholder has such coverage. If

the policyholder does have basic coverage under Connecticut 65, or some other plan, the payments under such insurance will cover the basic benefits part of the deductible. In no case, however, is the deductible less than $100 plus Connecticut 65's basic benefits for hospital and surgical care.

Under the major medical benefit plan, hospital room and board charges are covered under options one and three (the $10,000 lifetime maximum) only up to $18 per day in acute hospitals and $10 per day for 90 days in convalescent hospitals. Under options two and four (the $5,000 lifetime maximum) such charges are covered only up to $15 per day in acute hospitals and up to $8 per day for 90 days in convalescent hospitals. Under options one and three, surgical charges are covered up to 166⅔ percent of the maximum allowance for the various operations as set forth in the plan's schedule; under options two and four they are covered up to 100 percent of these allowances. Under all options doctors' charges for administering anesthesia are covered only up to 20 percent of the maximum allowable for surgical charges. Doctors' charges for other professional services are covered up to $6 per calendar day per doctor under options one and three and up to $5 per day under options two and four. Registered nurses' charges are covered up to $18 per day for all such nursing services under options one and three and up to $15 per day under options two and four.

Once the deductible has been satisfied the major medical plan pays 100 percent of the first $250 of hospital charges and 80 percent of the remainder, and 80 percent of covered charges for all other services. In no single year will the plan pay any more than one-half of the lifetime maximum ($10,000 or $5,000 depending on the option) under which the individual is enrolled. A schematic example of the benefits provided under Connecticut 65 is shown in the appended illustration.

OPERATIONAL EXPERIENCE OF THE PLAN

The first enrollment, as has been noted, was restricted to a single month—September 1961. During this enrollment period, intensive advertising was conducted through radio and television media, newspapers, and direct mailing techniques.[2]

As a result of this promotional campaign some 21,850 persons signed up. This is approximately 9 percent of the 243,000 persons 65 and over in Connecticut. Over 85 percent of those enrolling took options one and two, which offer major medical benefits only. It may be assumed that most of these already had basic coverage through other plans. (Available data indicates that well over 50 percent of the aged in Connecticut have health insurance protection through Blue Cross-Blue Shield, insurance companies and independent plans. Some of these, being employed or dependent wives or husbands of employed persons, may have major medical type protection through their place of employment.)

Another open enrollment period was held during the period April 16–30, 1962. During this time 6,142 aged persons enrolled. No decision has yet been made relative to future enrollment activities.

Thus far, it appears, Connecticut 65 has brought a form of major medical protection to about 11.5 percent of the aged population of Connecticut.[3] What the future market will be, in the light of the cost of this protection in relation to the incomes of Connecticut's aged, can only be conjectured.

No valid operational data are as yet available for Connecticut 65. Because of the deductible and the waiting period for benefits for preexisting conditions, the plan will not experience full claim costs for at least another year. The sponsors of the plan have stated that it was their hope that administrative expenses of the plan, including selling costs, and premiums taxes, could be held to 10–12½ percent of premiums. Preliminary data indicate that a claim estimate of 85 percent of premiums is in order. However, for the reasons indicated above, valid operational data will not be available for some time.

An illustration of benefits paid under option three of Connecticut 65 for medical and hospital expenses resulting from a heart attack follows:

	(1) Total expenses	(2) Expenses not covered by Connecticut 65	(3) Expenses of a type covered by Connecticut 65 basic[1]	(4) Expenses of a type covered by Connecticut 65 major medical
Item 1. Hospital expenses:				
A. General hospital, 26 days, at $18	$468.00		$312.00	$156.00
B. Other hospital charges	425.65		125.00	300.65
C. Convalescent hospital, 14 days, at $10	140.00			140.00
Total	1,033.65		437.00	596.65
Item 2: Doctor's fees, drugs, etc.:				
A. Doctors, 51 calls	445.00	$139.00		306.00
B. Prescription drugs	91.45			91.45
C. Prosthetic appliance	17.50			17.50
Total	553.95	139.00		414.95
Total	1,587.60	139.00	437.00	1,011.60

[1] Since the hypothetical policyholder has Connecticut 65 basic, the amounts in col. 3 are paid in full. Hence the deductible is satisfied except for the $100 cash outlay. The amounts in col. 4 would be paid as follows:

	Expenses eligible for coverage	Benefits paid
Item 1 expenses	$596.65	
Payable at 100 percent	250.00	$250.00
Balance	346.65	
Item 2 expenses	414.95	
Total expenses remaining	761.60	
Less cash deductible	100.00	
Payable at 80 percent	661.60	529.28
Total expenses paid by Connecticut 65 major medical		779.28
Total expenses paid by Connecticut 65 basic		437.00
Total payment by Connecticut 65		1,216.28

Summary

Total expenses	$1,587.60
Total paid by Connecticut 65	1,216.28
Remainder paid by policyholder	371.32

NOTE.—If policyholder had the major medical coverage only (option 1) Connecticut 65 would have paid $779.28 of the total expense. Under option 2, it would have paid $653.68, and under option 4, $1,090.68.

TAX PROPOSALS

Mr. JAVITS. Mr. President, finally, I wish to make a comment upon the appearance of Secretary of the Treasury Dillon before the Joint Economic Committee this morning. I urged the Secretary to submit to the Congress before adjournment the administration's plan for tax revision, on two grounds: First, that it would be very reassuring to know some of the ways of avoiding the danger of recession by showing people what they had a right to expect in their planning and estimates; second, it would enable the country and the Congress to really submit this tax plan to the electorate and come back here in January prepared to vote on it.

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

Mr. JAVITS. I yield myself 1 more minute.

The danger is that if it is not done that way, if the administration keeps the plan in its pocket—the Secretary said it was not ready, but it can be gotten ready in a month—and then comes back with it in January, we shall again have tax revision delayed, perhaps dismembered, as the present tax bill has been dismembered, and we shall not get to it until next August or September.

It seems to me that if we had a tax proposal before us before we went home, we would have saved a whole legislative year, and would reassure the American people in a way in which I do not think anything else would, as to the future of the economy, and also give opportunity for prompt action, because the people would have examined it and, in a sense, have voted on it, and given us an opportunity to vote it up or down in the next session of Congress.

[2] William N. Seery "Connecticut 65 * * * A New Dimension in Health Insurance," Health Insurance Review, April 1962, p. 18.

[3] Some 14,000 aged persons in the State are recipients of old age assistance, receive medical care from this source, and thus are not in the market for health insurance.

COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM

The Senate resumed the consideration of the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that further proceedings under the quorum call may be dispensed with.

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

Mr. MORSE. Mr. President, I call up next the amendment intended to be proposed by the Senator from Tennessee [Mr. KEFAUVER], and a number of other Senators, which refers to the guarantee that stock shall be sold at $10 per share, so that all members of the public will have an opportunity to get in on the program. It is identified as "6–15–62–M."

The PRESIDING OFFICER. Is the amendment identified as "M" or "N"?

Mr. MORSE. "M."

The PRESIDING OFFICER. "M."

The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 34, line 20, it is proposed to delete the period and to insert in lieu thereof the following: "which shall be sold at a price of $10 for each share and in a manner to insure the widest distribution to the American public and among the communications common carriers.".

Mr. PASTORE. Mr. President, if there is no further debate on the amendment, I merely wish to say that this question was discussed by our committee at some length. The bill provides, on page 33:

> The shares of such stock initially offered shall be sold at a price not in excess of $100 for each share.

We thought it advisable to stay with the figure of $100. That point could be argued one way or another, but we gave the question considerable consideration. We have stipulated not that the figure of $100 be a fixed price, but that the price be "not in excess of $100 for each share."

Therefore, I move to table the amendment.

Mr. KEFAUVER. Mr. President, will the Senator yield first?

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Tennessee?

Mr. PASTORE. I yield for a question, yes.

Mr. KEFAUVER. Is it not true that only 10 of the 1,100 common stocks on the New York Stock Exchange sell at prices in excess of $100 a share?

Mr. PASTORE. I would not know that. Our committee went into the question. I suppose at the time it would have made little difference one way or the other, but because of the situation we now face I move to table the amendment.

Mr. KEFAUVER. Mr. President, I ask for a division.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Rhode Island [Mr. PASTORE] to lay on the table the amendment offered by the Senator from Oregon [Mr. MORSE] to the committee amendment.

On a division, the motion was agreed to.

Mr. MORSE. Mr. President, I call up the amendments intended to be proposed by the Senator from Tennessee [Mr. KEFAUVER] for himself and other Senators, of which I am a cosponsor, identified as "F".

The PRESIDING OFFICER. Will the Senator please give the date of the amendments?

Mr. MORSE. 8–13–62—F.

The PRESIDING OFFICER. The amendments will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 25, it is proposed to delete line 11, and to insert in lieu thereof:

> (4) exercise such direct control and supervision over negotiations and relationships.

On page 25, line 13, it is proposed to delete "may be" and to insert in lieu thereof "the President or his delegate may deem".

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Oregon to the committee amendment.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

Mr. KEFAUVER. Mr. President, I ask for a division.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Rhode Island [Mr. PASTORE] to lay on the table the amendment offered by the Senator from Oregon [Mr. MORSE] to the committee amendment.

On a division, the motion was agreed to.

Mr. MORSE. Mr. President, I call up the amendment intended to be proposed by the Senator from Tennessee [Mr. KEFAUVER] for himself and other Senators, of which I am one of the cosponsors, identified as "8–13–62—G."

This amendment, and the remainder of the amendments I will call up this afternoon were researched and drafted by the staff of the Antitrust and Monopoly Subcommittee, which is most ably directed by the Senator from Tennessee [Mr. KEFAUVER], who is principal sponsor of this amendment.

This staff, which has been handpicked by Senator KEFAUVER and his talented and effective staff director, Mr. Fensterwald, contains some of the best young legal talent I have ever had the pleasure to encounter.

I commend Senator KEFAUVER for this staff and I commend the staff on the diligence and ability which they have shown throughout this debate and in particular for their contributions to the legislative process which these amendments would accomplish if accepted by the Senate.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 26, it is proposed to add after line 5:

> (8) so exercise his authority as to ensure that the corporation will adopt the most efficient and advanced technology, as soon as practicable.

Mr. PASTORE. Mr. President, if there is no further debate, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Rhode Island to lay on the table the amendment offered by the Senator from Oregon [Mr. MORSE] to the committee amendment.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up the amendments intended to be proposed by the Senator from Tennessee [Mr. KEFAUVER] for himself and other Senators, of which I am one of the cosponsors, identified as "8–13–62—J."

The PRESIDING OFFICER. The amendments will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 27, line 12, it is proposed to delete the words "where appropriate" and to insert in lieu thereof "unless not in the public interest."

On page 27, line 24, it is proposed to delete the period and to insert in lieu thereof "; in each case where the corporation procures apparatus, equipment and services other than by competitive bidding, the Commission shall within thirty days after any decision is made, file a full report thereof with the Antitrust Division of the Department of Justice setting out in full the reasons for dispensing with competitive bidding".

Mr. PASTORE. Mr. President, I move to lay the amendments on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Rhode Island to lay on the table the amendments offered by the Senator from Oregon [Mr. MORSE] to the committee amendment.

Mr. KEFAUVER. Mr. President, I ask for a division.

On a division, the motion was agreed to.

Mr. MORSE. Mr. President, I call up the amendment intended to be proposed by the Senator from Tennessee [Mr. KEFAUVER] for himself and other Senators, of which I am cosponsor, identified as "8–13–62—O."

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 32, line 3, it is proposed to insert after "succeeds." the following: "The three directors shall include a representative of the Department of State, of the Department of Justice, and of the National Aeronautics and Space Administration.".

Mr. PASTORE. Mr. President, if there is no further debate, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Rhode Island [Mr. PASTORE] to lay on the table

the amendment offered by the Senator from Oregon [Mr. MORSE] to the committee amendment.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up the amendment submitted by the Senator from Tennessee [Mr. KEFAUVER], of which I am one of the cosponsors, identified as "8–13–62—S."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 36, it is proposed to insert between lines 17 and 18, the following:

(4) and shall do all things deemed appropriate by the President of the United States under the powers given him by this Act to further the national interest of the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

Mr. PASTORE. Mr. President, if there is no further debate, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to lay the amendment on the table.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up an amendment submitted by the Senator from Tennessee [Mr. KEFAUVER], of which I am a cosponsor, identified as "8–13–62—W."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 21, line 22, it is proposed to delete the word "unique."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PASTORE. Mr. President, if there is no further debate, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up an amendment submitted by the Senator from Tennessee [Mr. KEFAUVER], of which I am a cosponsor identified as "8–13–62—AA."

The PRESIDING OFFICER. The amendment of the Senator from Oregon will be stated.

The LEGISLATIVE CLERK. On page 21, beginning on line 20, it is proposed to delete the words "where consistent with the provisions of this Act".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PASTORE. Mr. President, if there is no further debate, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up an amendment offered by the Senator from Tennessee [Mr. KEFAUVER], of which I am one of the cosponsors—a very important amendment—identified as "8–13–62—BB."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 22, line 13, it is proposed to after the semicolon add the words "and satellite terminal stations," and delete subsection (4) beginning on line 23 of page 22.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

Mr. PASTORE. Mr. President, if there is no further debate, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up another amendment submitted by the Senator from Tennessee [Mr. KEFAUVER], of which I am a cosponsor, identified as "8–13–62—CC."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 26, line 23, it is proposed to delete the words "on request" and substitute in lieu thereof "when appropriate".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up another amendment submitted by the Senator from Tennessee [Mr. KEFAUVER], of which I am a cosponsor, identified as "8–13–62—DD."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 31, line 2, it is proposed to delete the words "District of Columbia Business Corporation Act" and substitute in lieu thereof "California Business Corporation Act".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

Mr. MORSE. Mr. President, I call up an amendment offered by the Senator from Tennessee [Mr. KEFAUVER], of which I am a cosponsor, identified as "8–13–62—EE."

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 32, line 11, it is proposed to delete the word "three" and substitute in lieu thereof "two".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

Mr. MORSE. Mr. President, will the Senator from Rhode Island yield to me 30 seconds?

Mr. PASTORE. I yield 30 seconds.

The PRESIDING OFFICER. Without objection, the Senator from Oregon is recognized for 30 seconds.

Mr. MORSE. Mr. President, in view of the very efficient and effective but, as far as I am concerned, bloodless guillotine that is dropping, I wonder if the Senate desires the guillotine to drop on the whole series of perfecting amendments principally sponsored by Senator KEFAUVER and cosponsored by myself and others; identified as "8–13–62," with the following letters: FF, GG, HH, II, JJ, KK, LL, MM, NN, OO, PP, QQ, RR, SS, UU, VV, WW, XX, and YY, with the understanding that they will appear separately in the RECORD. They are all perfecting amendments to the bill, drafted, researched, and refined by the staff of the Antimonopoly Subcommittee in an effort to counter the monopoly aspects of this bill.

We all know what the outcome will be. I wish to keep faith with my sponsorship of the amendments and give the Senate an opportunity to vote on them.

Mr. DIRKSEN. Is the Senator aware that he omitted amendment TT?

Mr. PASTORE. Mr. President, with the understanding that all the amendments will be laid on the table——

The PRESIDING OFFICER. Is there objection?

Mr. RUSSELL. Mr. President——

The PRESIDING OFFICER. Objection is heard.

Mr. RUSSELL. Mr. President, any Senator has the right to request a division of the question. Have the amendments been read?

The PRESIDING OFFICER. The amendments were read when they were presented. The Chair was about to inquire if the Senator from Oregon wished to offer his amendments under a unanimous-consent agreement that they could be considered en bloc.

Mr. RUSSELL. That could only be done by unanimous consent.

The PRESIDING OFFICER. The Senator from Georgia is correct.

Mr. RUSSELL. Do I correctly understand that any Senator who so desires could demand a division on the question?

The PRESIDING OFFICER. Any Senator may demand a vote on any amendment.

Mr. MORSE. The amendments are short. Why may we not send them to the desk and have them considered en bloc?

Mr. PASTORE. I have no objection. The Senator from Georgia has not objected. Why does not the Senator make his unanimous-consent request and see if there is any objection?

Mr. MORSE. I offered them to the Senator in charge of the bill. I suggest that he ask unanimous consent.

Mr. PASTORE. Mr. President, I ask unanimous consent that all amendments now being offered be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments considered en bloc are as follows:

On page 32, line 11, delete the words "three candidates" and substitute in lieu thereof the words "one candidate".

On page 32, line 22, after the word "officer" add "or director".

On page 32, line 24, change the period to a comma and add "nor shall he be a controlling stockholder in any communications carrier corporation.".

On page 32, line 24, after the period add "No director of any communications common carrier shall be eligible to be a director of the corporation."

On page 32, line 24, after the period add "No director or officer of any communications common carrier shall be eligible to be a director of the corporation."

On page 33, line 4, delete the words "without par value" and substitute in lieu thereof "of par value of $100".

On page 33, line 7, delete the word "encourage" and insert in lieu thereof "insure".

On page 33, beginning on line 12, delete everything through the period on line 24.

On page 34, line 23, after the word "shall" add "not".

On page 35, delete subsection (d) and renumber the sections accordingly.

On page 35, delete the entire subsection (f).

On page 35, line 21, after the word "of" insert "voting".

On page 35, line 21, after the word "of" insert "nonvoting".

On page 37, line 7, after the word "and" add "the corporation shall receive such communications services of cost".

On page 38, line 3, delete the word "Business".

On page 38, line 5, delete the word "business".

On page 38, line 12, delete the word "may" and substitute in lieu thereof "shall".

On page 40, delete line 4, after the word "The" insert "Federal Trade".

On page 40, line 13, delete the words "assure the Congress that" substitute in lieu thereof "determine whether".

On page 24, line 21, before the word "aid" insert "supervise and".

Mr. PASTORE. Mr. President, I now move that all these amendments be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendments considered en bloc.

The motion was agreed to.

Mr. MOSS. Mr. President, I call up amendment 6–15–62—G, submitted by the Senator from Pennsylvania [Mr. CLARK], and ask that it be stated.

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

The LEGISLATIVE CLERK. On page 32, lines 3 through 6, it is proposed to strike out the sentence beginning with "Six" and insert in lieu thereof: "Six members of the board shall be elected annually by those stockholders who are not communications common carriers, and the remaining members of the board, not to exceed six, shall be elected annually by those stockholders who are communications common carriers in a number determined as follows: If such stockholders own in the aggregate not exceeding 15 per centum of the outstanding voting stock of the corporation, they shall elect one member; if they own in the aggregate in excess of 15 per centum but not exceeding 25 per centum, two members; if they own in the aggregate in excess of 25 per centum but not exceeding 35 per centum, three members; if they own in the aggregate in excess of 35 per centum but not exceeding 40 per centum, four members; if they own in the aggregate in excess of 40 per centum but not exceeding 45 per centum, five members; and if they own in the aggregate in excess of 45 per centum, six members."

Mr. MOSS. Mr. President, this perfecting amendment would amend the bill before the Senate to conform with the language of the House bill. The bill as presently written simply provides that the communications common carriers shall elect six members of the board of directors, without making any reference to the amount of stock to be owned by the carriers. They may purchase up to 50 percent, and they may not choose to do so. The amendment fixes the number of directors who may be elected to be in proportion to the stockownership. For that reason I believe the amendment should be adopted, in order to conform not only with the House bill, but also the equities involved, to prevent a monopoly situation from arising. It is obviously unfair to permit common carriers who may own as little as 1 percent of the stock to elect six members of the board of directors.

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

Mr. MOSS. I yield to the Senator from Tennessee for a question.

Mr. KEFAUVER. Does the Senator's amendment conform with the language of the House bill on page 12, as it passed the House of Representatives.

Mr. MOSS. It is my understanding that this is the precise language in the bill which passed the House.

Mr. KEFAUVER. In other words, under the bill passed by the House of Representatives, which a majority of the Senate does not want to adopt but wants the Senate bill to be passed without a change being made even so far as a comma or a period is concerned, the communications common carriers could elect directors depending upon how much stock they had purchased. If they had purchased 15 percent of the stock they could elect one director, with 25 percent stockownership, two members of the board, and with 45 percent, six members. Is that correct?

Mr. MOSS. That is correct. That is the purpose of my amendment. That is what it would provide.

Mr. KEFAUVER. This is one of the most important amendments that we have before us. Is this not what would happen? The communications carriers are entitled to elect six directors. There may be $100 million worth of stock allocated to them, but even if they bought $1,000 worth, they could still elect six directors, under the provisions of the bill; could they not?

Mr. MOSS. Under the language of the bill, as I interpret it, that would be true. They could elect six directors.

Mr. KEFAUVER. Out of the stock that has been allocated to them they could elect six directors, even if they bought only a thousand dollars' worth. Then they could wait until the stock either went up or down. If it went up, and it appeared that it would be profitable, then they could exercise their option and purchase the rest of the stock. Is that true?

Mr. MOSS. That would be possible.

Mr. KEFAUVER. Is not this also true, that the public has not been treated in the same favorable way with respect to the stock that would be allocated to it, with reference to the number of directors they could elect? The public must actually buy its stock before it can elect its six directors. Is that correct?

Mr. MOSS. That is true. To be eligible to vote, they would have to buy that stock.

Mr. KEFAUVER. I do not know whether the Senator agrees with me, but I believe that this is one of the sleepers which has been put into the bill for the further benefit of the communications carriers, to give them every possible advantage, the kind of advantage that is not available to the public, and under which they can put up almost no money but yet exercise control by the election of six directors.

Mr. MOSS. The Senator is correct. There is no question that this puts the power into the hands of the communications carriers, and they could abuse this power, as the Senator has indicated, by purchasing a minimum amount of stock, and yet get the power to elect 6 directors out of a total of 15.

Mr. KEFAUVER. No one can say that this was done by accident, because this little safeguard was in the House bill. Perhaps the Senator knows that it was also called to the attention of the Commerce Committee by the Senator from Tennessee, who urged that it be put back in the bill to prevent the communications carriers from putting up almost no money and enable them to wait until the stock goes way up in value before they risk any appreciable amount, and during all that time being able nevertheless to vote for and elect six directors if they wanted to. Is that correct?

Mr. MOSS. That is true. The Senator from Utah cannot understand why the language would be inserted in the bill presented to the Senate, when the House had already taken steps to safeguard this particular area which might be abused by the communications carriers.

Mr. KEFAUVER. The Senator from Utah has a great sense of fairness, and I wish to commend him upon bringing up the amendment. This is a clear case where the bill could have been improved. The House of Representatives ought to be on notice that its good provision in the bill has been taken out by the Senate for some strange reason. The House ought to follow with a great deal of interest the action upon the Senator's motion to put that language back into the bill.

Mr. MOSS. I thank the Senator from Tennessee. I urge that the amendment be adopted.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. KEFAUVER. Mr. President, I ask for a division.

On a division, the motion to table was agreed to.

Mr. McGEE. Mr. President, the Members of this body have heard considerable debate on the merits of the Communications Satellite Act of 1962. I do not propose to go over these arguments again for I am sure that any Member who needed facts by this time has them and probably quite a few more he really does not care about. Today I would like to talk about something a little bit more subjective—faith.

The argument on this bill is essentially a simple one—Is or is not a cooperative public and private corporation with strict Government supervision the best way to undertake what will be one of man's most difficult and rewarding undertakings in world communications? This is a venture which will take a giant stride where baby steps went before, one that will shrink even further this steadily contracting globe of ours so that the protective cushion of time and space is all but eliminated and our ability to meet the challenge to be understood will be one that will determine our success in maintaining a dynamic world leadership.

I believe that this bill represents the best approach to the problem—and that is where the faith comes in. This bill represents not the best of all possible communications acts but one that I believe will work. And I believe that it will work because I have faith that American private enterprise can cooperate with Government to do this job—that the private communications firms are uniquely qualified through experience and know-how to do this job—without making a selfish grab for monopoly powers to the detriment of the American public and the world at large.

Lest I should be accused of being a mystic, I should also state that I have faith that this act provides the American Government—specifically the Federal Communications Commission and the Attorney General—with the power to make sure that private enterprise does not succumb to the temptation to take illegal or unethical advantage of its position of trust.

I believe we should also have faith that the three members of the corporations' board of directors appointed by the President will have the ability and integrity to perform their duties in the public interest. I find it very difficult to believe that a board of directors with the diversity of interests that are established in this bill would be able to successfully ignore the public welfare. Nor can I believe that the Attorney General would not exercise his power under this bill should there be any hint of irregularity.

I could go on at length citing the safeguards in this bill—they are there and they are potent enough to do the job. But I think it is more important to ask that we demonstrate that we have faith in our ability to devise a Communications Satellite Act that can do the job—and faith that all segments of our society, public and private, have the initiative to do a good and an honest job; that cooperation between these segments is a natural and logical mode of operation.

Mr. President, to say that today we live in a world where science overnight is making the miraculous seem commonplace is to risk being trite. But I have no doubt that science moves at such a pace—and that is all science, not just American science—that to hesitate is to be lost. In the race we are in there is little glory in second place. Therefore, I suggest that we cannot afford to wait and delay while searching for new and different approaches that might work when we have one before us now that will work. Progress is the combination of thought and action. We have had many thoughts on this problem—the satellite communications system is an idea that exemplifies the best in American ingenuity—and we have talked at length at how best to bring these ideas into being. We have arrived at what to me is a logical approach that creates a combination of the best of government and private industry for the glory and improvement of both.

Mr. President, now is the time for action.

Mr. KEFAUVER. Mr. President, I call up my amendment identified as "8-13-62—RRR".

I shall not ask for a yea-and-nay vote on this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 37, line 13, add:

(d) Section 29-930 and the subsections thereof of the District of Columbia Business Corporation Act relating to voluntary dissolution shall not apply to the corporation.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The motion to lay on the table was agreed to.

Mr. KEFAUVER. Mr. President, I call up my amendment identified as "8-13-62—QQQ".

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 37, line 13, add:

(d) Section 29-927 and the subsections thereof of the District of Columbia Business Corporation Act relating to merger and consolidation shall not apply to the corporation.

Mr. PASTORE. Mr. President, I move to lay that amendment on the table.

Mr. LONG of Louisiana. Mr. President, will the Senator from Tennessee yield to me in my time?

Mr. PASTORE. Wait a minute.

Mr. LONG of Louisiana. I am asking the Senator from Tennesee to permit me to speak in my time on his amendment.

Mr. PASTORE. I withhold my motion to table.

The PRESIDING OFFICER. The Senator from Louisiana is recognized on the amendment.

Mr. LONG of Louisiana. I wish to ask the Senator from Tennessee about this matter. Perhaps he was not in the Chamber when the senior Senator from Oregon submitted a number of amendments en bloc. I personally felt that many of those amendments were good amendments, and I voted against the tabling motion. The record was made on those amendments. I wonder if my good friend from Tennessee, with whom I agree in general about this bill, would consider offering his amendments, which I believe are surely going to be tabled, en bloc, in order that we might get on with the business. I have an amendment that I believe might have a chance to be adopted. I should like to debate that amendment. I have some time left in which to debate it.

Much as I feel for my good friend from Tennessee, he has no time left to debate, except perhaps a minute. I wonder if he would permit the amendments he has in his hand to be voted upon en bloc.

Mr. KEFAUVER. With the exception of one amendment, I shall be glad to do so. I have one amendment which I think should be called especially to the attention of the Senate, and I might explain the purpose of that amendment. It is to the effect that:

No incorporator shall be an officer, director, or controlling stockholder of any communications common carrier.

The PRESIDING OFFICER. The Senator from Tennessee is speaking in the time of the Senator from Louisiana.

Mr. KEFAUVER. Does the Senator from Louisiana know that the amendment I desire to offer is so important that I do not wish to have it voted upon with those that I am willing to have voted upon en bloc? Does the Senator know that the amendment provides:

No incorporator shall be an officer, director, or controlling stockholder of any communications common carrier.

I believe that Mr. Kappel thinks that if the board of the corporation has a one-legged motor policeman and a drugstore clerk as members, it should not be incorporated.

Mr. LONG of Louisiana. Mr. President, is the Senator from Tennessee offering that amendment now?

Mr. KEFAUVER. I wish to offer this amendment separately; then I shall offer the rest en bloc.

However, a motion is about to be made to table an amendment which is now before the Senate.

Mr. PASTORE. Mr. President, I move to table the amendment designated "QQQQ."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to table the amendment designated "QQQQ."

The motion to table was agreed to.

Mr. KEFAUVER. Mr. President, I offer the amendment designated "8-13-62—BBB" and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 31, line 14, it is proposed to add "No incorporator shall be an officer, director, or controlling stockholder of any communications common carrier."

Mr. PASTORE. Mr. President, if there is no debate on the amendment, I move to lay the amendment on the table.

Mr. KEFAUVER. Mr. President, on that question, I ask for a division.

On a division, the motion to lay on the table was agreed to.

Mr. KEFAUVER. Mr. President, I offer the amendments, all dated 8-13-62,

and designated, respectively, "NNN," "MMM," "KKK," "III," "JJJ," "HHH," "GGG," "FFF," "EEE," "DDD," "CCC," "AAA," "PPP," and "OOO." They are all important amendments and are all really necessary. I ask that they be acted upon en bloc.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Tennessee, that the amendments he has designated be submitted and acted upon en bloc?

Mr. DIRKSEN. Mr. President, reserving the right to object, would this action be properly styled, under the rules, the mass-production theory?

Mr. MORSE. Mass execution.

Mr. DIRKSEN. I wanted to know what the proper term was.

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

The amendments offered and considered en bloc are as follows:

On page 32, line 14, after the period add, "The corporation shall not commence business until a minimum of $150,000,000 in cash has been paid into the corporation."

On page 31, line 14, after the period add "The bylaws of the corporation shall be made a matter of public record by filing with the Commissioners, in the same manner provided for the articles of incorporation. There shall be no fee for such filing.".

On page 36, line 3, after the period add "The corporation shall not declare dividends payable in its own stock."

On page 32, line 16, after the period add "Section 29-914 of the District of Columbia Business Corporation Act relating to voting trusts shall not apply to the corporation."

On page 32, line 16, after the period add "Section 29-916e of the District of Columbia Corporation Act relating to the creation of an Executive Committee shall not be applicable to the corporation. The corporation shall not have an executive committee."

On page 31, line 14, after the period add "The power to make, alter, amend, or repeal the bylaws of the corporation is reserved to the stockholders of the corporation."

On page 32, line 16, after the period add "The preemptive rights of noncarrier shareholders may not be limited or denied in any way.".

On page 32, line 20. After the period insert "Officers shall not have employment contracts with the corporation for terms in excess of two years. Such contracts may be renewed.".

On page 32, line 19, after the word "board" insert "not to exceed $22,500 per annum".

On page 31, lines 11 and 12, delete the words "whatever other actions" and substitute in lieu thereof "only such other actions as".

On page 31, delete line 11, after the word "offering", insert "of voting stock".

On page 29, line 21, delete the word "except" and insert in lieu thereof "including".

On page 36, after line 3 add "(g) The articles of incorporation shall not contain any provision allowing class voting."

On page 31, line 7, after the word "appoint" insert "seven".

Mr. PASTORE. Mr. President, I move to lay all these amendments on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to table the amendments.

The motion to table was agreed to.

Mr. DIRKSEN. Mr. President, in my time, may I ask the distinguished Senator from Tennessee——

Mr. GORE. Mr. President, a point of order. It is positively against the rules of the Senate for a Senator having the floor to direct questions to a Senator in his seat.

The PRESIDING OFFICER. The Senator from Tennessee is correct.

Mr. KEFAUVER. I will rise.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the distinguished senior Senator from Tennessee be respectfully requested by the Chair to stand in his place so that the Senator from Illinois may address him.

Mr. MORSE. Mr. President, I shall have to object to that request, although I know the Senator from Tennessee will comply with it anyhow.

The PRESIDING OFFICER. The Chair is not prepared to give any order.

Mr. DIRKSEN. Mr. President, may I ask the distinguished Senator——

The PRESIDING OFFICER. Is there objection?

Mr. GORE. Mr. President, a point of objection. The Senator having the floor cannot ask questions of another Senator, whether that Senator be standing or seated.

Mr. DIRKSEN. The Senator from Tennessee knows what I am seeking. He can answer. Everyone knows what the answer will be, but I would rather have it from the Senator from Tennessee.

Mr. LONG of Louisiana. Mr. President, will the Senator from Illinois yield the floor, so that I may claim it? I think better headway will be made.

Mr. DIRKSEN. Does the Senator from Louisiana think I should?

Mr. LONG of Louisiana. Yes.

Mr. DIRKSEN. I yield the floor.

Mr. LONG of Louisiana. Mr. President, I have about 50 or 60 amendments which I shall not offer. I shall offer one which, it seems to me, simply cannot be argued to the contrary. It seems to me it is so patently proper that there is no possible excuse for not agreeing to it. I hope that Senators who favor the bill, if they wish to oppose the amendment, will take some of the 80 hours available to them to try to explain why this amendment should not be agreed to.

The amendment provides that small, independent telephone companies can buy some of the 50 percent of the stock which is to be reserved for the seven big companies. The small companies would like to buy such stock. There is a little company in Cameron, La., which would like to do so. Senators will remember Hurricane Audrey, which struck Cameron, and wiped out half the population. The little telephone company in that town would like to have the privilege of buying some of the stock. As a practical matter, most of the 3,500 independent telephone companies do not have the money with which to buy the stock anyhow. But if they had the money, they would like to have the privilege of buying some of the stock, just as A.T. & T. or any of the other large carriers would buy the stock.

In my opinion, the bill, as it started out, was strictly a big business bill. Senators may differ in their opinions, but I think it started out as a bill under which only the big companies could buy stock. It was first recommended that the large companies could have all the stock.

Then the bill was amended so as to provide that half of the stock would be publicly owned, while the other half would be held by A.T. & T. and the other big companies. Many persons doubt that the public stock will be purchased at all. The reason is that there might be a conflict of interest between the existing carriers and the proposed new corporation. The big companies might not want the corporation to make money in the early years.

The bill provides that the FCC is to keep the monopoly to a minimum. The Attorney General and the FCC could require the private companies to divest themselves of their holdings in the corporation in the event there appeared to be monopoly control.

But to whom could divestment be made? The bill limits to whom the stock could be sold, upon divestment, to that type of company of which the "big 7" are the only ones. In other words, they might have to divest, but they are the only ones who would be eligible for the stock they must divest.

If it is desired to require divestiture in order to provide more competition, my amendment should be adopted, because it would make stock available to the little companies and would permit them to become incorporators.

As the bill now stands, the A.T. & T. could exert all sorts of power upon the other six carriers, and the smaller companies could not get in.

The committee amended the bill to provide that the FCC could cause these people to be declared communications common carriers, presumably subject to the regulation of the FCC. But why should a little company have to come to Washington and engage a lawyer in order to be declared to be operating in the public interest so as to own some of the stock? Why should it be placed under the jurisdiction of the FCC simply in order to buy some of the stock in the company? Why should the small companies not be permitted to buy some of the reserve stock, just as all the other common carriers do?

I have discussed this question with persons who understand it. They have not been able to give me one good reason why this amendment should not be agreed to.

I hope that by the time the Senate has reached the very end of the amendments, at least one of them might be considered and agreed to. The Senator from Alabama [Mr. SPARKMAN] has an amendment pertaining to small business. It provides that small business shall be given a chance to compete for the building of equipment. I hope the amendment will be agreed to. Then I hope my amendment will be agreed to.

So far as we who oppose the bill are concerned, this is one of the last amendments we have to offer. I think there is no excuse for not agreeing to it. I hope

that Senators who have been moving to table amendments without careful consideration will at least try to explain to us who oppose the bill why this amendment should not be agreed to, because they have moved in this direction themselves, and in doing so they have conceded that there is merit to the idea.

Thirty-five hundred independent telephone companies in the United States are asking that they be permitted to own some of the reserve stock. Why not? A.T. & T. makes much of the fact that it has more than 2 million stockholders. My guess is that the small companies combined have as many stockholders as the A.T. & T. itself has. Why should the small companies be required to come under regulation of the FCC rather than under the regulation of the public service commissions or public utility commissions of their own States, simply to buy the reserve stock in the satellite corporation?

Why should not these 3,500 smaller companies at least be permitted in some measure to invoke the element of competition in connection with this matter, rather than have only seven large companies, now very closely intertwined in all sorts of relationships, be in the position of being locked in control of 50 percent of the stock of the corporation, with the result that they could control it at all times? Why not let the fresh breath of competition in, by permitting some of these 3,500 smaller companies to own some of this stock? The bill would make it possible for the FCC to require these few large companies to divest themselves of some of the stock they own, with the result, theoretically, that some of the small companies could then buy some of that stock, as well as some of the publicly held stock.

But let us consider the "bug under the chip," which is, that A.T. & T. might find it desirable to keep this stock on deposit for many, many years, and thus freeze out the others. A.T. & T. would need only 50-percent control in order to do that. In that case there would be difficulty in making the other 50 percent of the stock available.

The representatives of these 3,500 smaller companies now say, "We do not now have enough money to buy more than a pittance of the stock, but someday we may have enough money to be able to participate actively in purchasing some of the stock." This system is not now conceived of as a method of domestic communications, but someday it may be used in connection with making a telephone call between Washington and New Orleans or between New Orleans and Cameron Parish. As a matter of fact, the day may come when it will not be necessary to have access to a telephone line in order to make a telephone call, but it will merely be necessary to carry a small device in one's pocket, and tune it in to the proper frequency. That is the sort of future development we are considering. So why should not these smaller companies be permitted to get in on the ground floor? In short, why should not they be given the same opportunity which the bill as it now stands would give A.T. & T., I.T. & T., and the other large companies?

Mr. President, I certainly hope this amendment will be agreed to.

On the question of agreeing to the amendment, I ask for the yeas and nays.

The VICE PRESIDENT. First, will the Senator from Louisiana submit the amendment and send it to the desk?

Mr. LONG of Louisiana. Yes, Mr. President. It is the amendment which is identified as "8–11–62—TTT."

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. On page 23, in lines 19 to 22, it is proposed to strike out the words "has the same meaning as the term 'common carrier' has when used in the Communications Act of 1934, as amended", and insert in lieu thereof the words "means any person engaged, as a common carrier for hire, in intrastate, interstate, or foreign communication by wire or radio, or in intrastate, interstate, or foreign radio transmission of energy (except that a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier)".

On page 24, line 7, immediately after the words "as amended,", insert the words "or pursuant to the provisions of this Act".

Mr. LONG of Louisiana. Mr. President, this amendment is requested by 3,500 independent companies.

Mr. MORSE. Mr. President, will the Senator from Louisiana yield for a question?

Mr. LONG of Louisiana. I yield for a question.

Mr. MORSE. Does the Senator from Louisiana, who has done such a brilliant job in opposition to the bill, agree with me that the constant reference by the proponents of the bill to the language of the bill referring so frequently to the FCC is but camouflage, in an attempt to hide from the American people the fact that the corporation created by the bill would be the most powerful monopoly ever created in the United States, and has been referred to by Cohen, for example, as the first American cartel; and the FCC should have the kind of check that the amendment of the Senator from Louisiana will really be writing into the bill, so as to protect the small companies in the United States and to guarantee that competition in this field will continue?

Mr. LONG of Louisiana. Mr. President, let us just consider the situation which will exist if the amendment is not incorporated in the bill. Fifty percent of the stock is to be set aside for the seven large companies. However, there is a retained power to require them to divest themselves of some of the stock. But how could that power be used, when it is provided that only these same large companies can own any of this 50 percent of the stock, anyway? Therefore, if an attempt were made to make them divest themselves of some of it, there would be no one else to purchase it.

But by means of this amendment, some of the large companies could be made to divest themselves of some of the stock, in order to permit some of the 3,500 small companies to purchase some of it. In the absence of this amendment, only the seven companies would be eligible to own any of the communications carrier 50 percent of the stock.

Mr. STENNIS. Mr. President, will the Senator from Louisiana yield for a question.

Mr. LONG of Louisiana. I yield.

Mr. STENNIS. As I understand the situation, this stock could be purchased by the public. Is the Senator from Louisiana certain that he is correct in stating that, under the bill as it is now written, public purchase of the stock would be limited in the way he has stated to these seven companies or to someone else who might be authorized by the FCC to purchase it?

I know the Senator from Louisiana would not want to misrepresent this situation. Has he analyzed this matter carefully?

Mr. LONG of Louisiana. Let us get it exactly straight: 50 percent of the stock is to be available for sale at a general offering to the public, and it is true that these seven large companies could apply to purchase some of it. But the other 50 percent is to be reserved for these companies, which are defined as communications common carriers, which means that they are regulated by the Federal Communications Commission. That would exclude the 3,500 independent companies, which are just intrastate telephone companies which use A.T. & T. lines only from time to time, in connection with long-distance calls. However, they are just small, local companies, regulated by the State public service commissions, not by the FCC. These 3,500 companies would like to have the right to purchase some of this reserved stock, rather than to have its purchase limited to a relatively small number of large companies.

The bill as it now stands provides that these small companies can be declared to be communications common carriers subject to regulation by the Federal Communications Commission; and if the Commission found it to be in the national interest, the small companies could be permitted to buy some of this 50 percent. But, as a practical matter, many would say, "Why should we bother with all that? We will just buy some of the other stock."

But in my opinion it will be in the public interest to have both classes of the stock broadly held. These small companies probably do not now have enough money, anyway, to be able to buy this stock; but if subsequently they are able to afford it, they should have an opportunity to purchase some of it.

Furthermore, the Senator from Mississippi should remember that if, in the future, he wished to make a telephone call from Washington to Oxford, Miss., to talk to Johnny Vaught or to someone else down there, the small companies might benefit by means of the divestiture provision, with the result that the big companies would be required to give up some of the stock they held, and then the small companies would be able to purchase some of it. These small companies are asking for that opportunity.

For example, I hold in my hand a telegram from 22 small companies in my State; and they have adopted a resolution asking that 3,500 of them have an opportunity to purchase some of this stock.

I am unable to understand why they should not be permitted to purchase the stock on the same basis as the big companies.

Mr. PASTORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. If I have time to yield.

Mr. President, how much time remains available to me?

The VICE PRESIDENT. The Senator from Louisiana has 25 minutes remaining.

Mr. LONG of Louisiana. I yield to the Senator from Rhode Island.

Mr. PASTORE. Will the Senator from Louisiana admit that any one of the 3,500 communications carriers can be authorized to purchase this stock?

Mr. LONG of Louisiana. They can be made eligible.

Mr. PASTORE. Very well. Will the Senator from Louisiana agree that the eight communications carriers now engaged in international communications can also be authorized to purchase it?

Mr. LONG of Louisiana. Yes.

Mr. PASTORE. Will the Senator from Louisiana point out in the bill where any distinction is made between the one group and the other? Is it not a fact that all of them are authorized to purchase the stock, and that all of them may apply, no matter whether they are now international common carriers or intrastate carriers? What our committee did was to broaden it from 8 to 3,500.

Mr. LONG of Louisiana. Oh, no.

Mr. PASTORE. Absolutely yes. The Senator from Louisiana should read the bill.

Mr. LONG of Louisiana. Well, in Cameron Parish, La., there is a small telephone company, and its head has been advised by his lawyer about this matter, and it was discussed at the association meeting.

I am sure the Senator from Rhode Island would agree to accept the amendment if he knew what it would do.

The head of that small telephone company in Cameron Parish has written to me a letter in which he has stated:

> Senator, it looks to me like they are freezing us out. We should be permitted to come in.

Section 103 of the bill now reads, in part—

> (7) the term "communications common carrier" has the same meaning as the term "common carrier" has when used in the Communications Act of 1934, as amended.

Mr. PASTORE. But that is the version of the bill concerning a communications common carrier. Why does not the Senator read from page 33 of the bill as reported by the committee?

Mr. LONG of Louisiana. That is in section 103 of the bill as reported by your committee. Let me continue with the Communications Act of 1934. The Senator has said "communications common carrier." Here is what it means for the purpose of the Federal Communications Act. The letter states that the Communications Act of 1934 defines communications common carrier as follows:

> "Common carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter.

There may be some doubt about it, but in my mind, and in the opinion of my attorney, we are clearly left out. The committee did take an amendment which says these people can come to Washington and can apply to the FCC, and if the FCC finds it in the national interest, it can declare that they are communications common carriers, and if so, they come under the jurisdiction of the Federal Communications Commission, whereas otherwise they are not subject to that regulation. Why should they have to do that to buy some of the stock? They do not want to be regulated by the FCC.

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

Mr. LONG of Louisiana. I yield.

Mr. PASTORE. There is no requirement that they must be licensed to do business under the regulations and formula and procedures of Federal law. All this provision requires is that, where it is agreeable to them, or where a small, independent company in Louisiana, let us say, states, "I would like to have some stock," they file application, and if they show a public interest, and the FCC so finds, they are granted that right. They do not have to be licensed to do business. All the bill requires is that they be authorized to buy the stock.

Mr. LONG of Louisiana. I am happy to find the Senator from Rhode Island debating the amendment for a change, but I hope it is not coming out of my time.

Mr. President, how much time do I have remaining?

The VICE PRESIDENT. 19 minutes.

Mr. LONG of Louisiana. I would like to close with regard to my own amendment, but I hope the Senator from Rhode Island will explain the language in the bill which he thinks makes those small companies eligible.

I reserve the remainder of my time.

Mr. STENNIS. Mr. President, will the Senator yield for a question, before that?

Mr. LONG of Louisiana. Yes.

Mr. STENNIS. The Senator has been talking about reserved stock which he calls the second 50 percent. I want to call attention to the first 50 percent. Would the small commercial operators be eligible to purchase the first 50 percent?

Mr. LONG of Louisiana. Anybody is eligible to purchase the 50 percent. That is a common offering.

Mr. STENNIS. What benefit is there in the second 50 percent so far as the small companies are concerned?

Mr. LONG of Louisiana. It has a number of advantages. For one thing, it gives them something to say about who their directors are going to be. Secondly, when we tie it down to seven companies—keep in mind that the seven companies are eligible to own the first 50 percent—they have all sorts of interworking relationships, so one company can influence the other. But if the others have a right to the 50 percent, it puts them in the position of not having those seven companies have control, or effective control, over the economic conditions of the corporation. This amendment would tend to dilute the power of the big carriers.

Mr. PASTORE. Mr. President, when this bill came before our subcommittee, nothing disturbed me more than the question of the dominance of one company, or a handful of companies, to run the corporation.

It is true that the availability of the stock is to be distributed 50 percent to the communications carriers and 50 percent to the public at large. When the witnesses appeared before the subcommittee, I was very explicit in seeking to learn from them what they meant by communications carriers. They all testified they meant the eight international communications carriers. I was disturbed by that. I said—and it is in the RECORD; I said it in the hearings; I think I said it when the Senator from Texas was there:

> This is unfair. This restricts the group too closely, too tightly, and is unfair to the public interest. It should be broadened so that a little independent company in any part of our country that originates a call that may terminate in Paris has just as much interest in the satellite as any other communications carrier.

I made it abundantly clear. I said it must be available to them.

I will admit that what we wrote may not be perfect, but the intent is in the language, and I think even the letter of the law is clear.

I call attention to page 33 of the bill, where we call upon the FCC, where we categorize these groups of carriers as to whether they are international carriers or interstate carriers or intrastate carriers; but the eligibility is there for all.

I am sure of that, because I knew I was going to have to meet this challenge on the floor. There is no one in the Senate who has fought A.T. & T., as Governor of a State, on rates, more than the senior Senator from Rhode Island. I want to tell the Senators that I revere God as much as anybody here, and I was concerned with the public interest. For that reason, I said this opportunity must apply to all, and we changed the bill as it came out of the Space Committee. Maybe they did not like it. We changed the bill as it came from the House. Maybe they do not like it. But I know, as I stand here, as God is my judge, there is not a little independent company that is denied the opportunity, if it can show public interest, as everyone else must show public interest, of coming within the 50 percent of the stock purchase provision.

The bill is clear in that regard. If it is not clear, I hope the record we are making here today will clarify it.

For these reasons, I move to lay the amendment on the table——

Mr. LONG of Louisiana. Mr. President——

Mr. PASTORE. I withhold my motion.

Mr. LONG of Louisiana. Mr. President, I want to start by saying that if any Senator finds any point in the RECORD where I have offended anyone, I give him a standing invitation to strike it from the RECORD. I ask unanimous consent to do so.

This has been an acrimonious debate. I think I have been as acid as anyone else. I do not want to offend any Senator, and particularly my good friend from Rhode Island.

Mr. PASTORE. Mr. President, will the Senator yield, even in my time? The Senator did use the expression that this is just as crooked as a barrel of worms.

Mr. LONG of Louisiana. I do not believe I said that, not on the floor.

Mr. PASTORE. Yes, the Senator did.

Mr. LONG of Louisiana. If the Senator can find that, he can take it out of the RECORD.

Mr. PASTORE. All I know is that the Senator said it.

Mr. LONG of Louisiana. If I say anything off the Senate floor, the Senator can sue me for it. That is his privilege. But on the Senate floor I will assume that the Senator is as sincere as I am. I am willing to do that. The rules provide I must do that.

Let us not allow personalities to get into this debate. Let us argue the merits of the bill. This is a situation where the bill clearly started out by providing that 3,500 little companies could not buy any of this 50 percent.

There is some language in the bill in this regard. I congratulate my good friend from Rhode Island, for I note there is a method by which these stocks could be made available, because the 50-percent provision is limited to authorized common carriers and the definition defines them as being interstate carriers, but there is a procedure whereby a local carrier can be declared, in the public interest, to be an interstate carrier, and thereby can become eligible.

These people think they are being left out. In my judgment, they are being left out and A.T. & T., using its best influence, will resist the FCC's making these people eligible.

If Senators think they ought to be made eligible, why not vote directly to say that the 3,500 independent companies will be just as eligible as A.T. & T., or General Telephone, or any other company.

It seems to me that by doing that we would serve a good purpose. First, we would broaden the base of ownership. Second, we would make possible the divesting of stock to someone besides the seven. There is a divestiture provision in the bill, but suppose that A.T. & T. were told to divest itself of some stock. There are only seven persons to whom they could sell it. Suppose the seven declined to buy it. How could they divest themselves of the stock?

If Senators want to make possible a broad base of ownership they should support this amendment. I hope it will be agreed to.

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

Mr. LONG of Louisiana. I yield.

Mr. MORSE. Would not the Senator agree that even the bringing of the FCC into this picture frightens many of the little companies, and, in addition, would put them to an expense, which very often they are not in a financial position to stand, with respect to coming to Washington, D.C., and pursuing even the procedure which the Senator from Rhode Island has said would be available, plus the fact that there is no assurance they can get protection from the FCC even if they come?

Mr. LONG of Louisiana. Yes; that is true.

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

Mr. LONG of Louisiana. I yield for a question.

Mr. KEFAUVER. It was said that the language of the bill which is now before the Senate is different from the language of the bill as it came from the Committee on Aeronautical and Space Sciences in connection with who can buy stock. I have examined the two provisions, and I can find no difference. There has been no improvement in the language in the bill on the issue of eligibility, as to who can buy the stock. It has to be a carrier, authorized to do so.

Mr. LONG of Louisiana. It has to be a carrier authorized by the Federal Communications Commission.

Mr. KEFAUVER. It has to be an interstate carrier.

Mr. LONG of Louisiana. Authorized by the Federal Communications Commission, in order to buy any of the 50 percent.

All I say is that these little fellows would like to be made eligible. They have asked for that. Twenty-two companies in my State alone have asked for it. There are 3,500 of them throughout the Nation.

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

Mr. LONG of Louisiana. This is a good amendment. Even those who are fighting the amendment have been advised by some of their staff members that they think this is a good amendment.

Senators are up against the situation that they are bound, in this fight, to accept no amendments, no matter how meritorious they may be or no matter how good a case is made for them. It is felt that all amendments ought to be tabled.

I ask my good friends to consider this amendment I am discussing on the merits, to see whether these little fellows should not be permitted to own some of this stock.

I yield to my good friend from Florida.

Mr. HOLLAND. No one could be eligible to buy under both halves of the division of common stock, could he? A person would have to be eligible to buy from the half dedicated for sale to the common carriers or from the half dedicated for sale to the public, would he not?

Mr. LONG of Louisiana. Of course; the terms of the bill would permit stockholders to do that. In addition, anyone who holds some of the 50 percent of stock could also purchase debentures of the corporation, and also the nonvoting securities. The Senator knows that.

Mr. HOLLAND. I asked the Senator the question as to whether any person or individual would be eligible to buy on both sides of the fence.

Mr. LONG of Louisiana. I do not believe a person could.

Mr. HOLLAND. Then what practical difference would there be as between the little organizations being able to buy out of the one half of the common stock or out of the other half of the common stock, both halves of which are voting stock with exactly the same power?

Mr. LONG of Louisiana. There are only seven companies involved. Those are the only seven companies which can buy 50 percent of the stock. That will give them complete control of the satellite corporation, sitting there by themselves. It would not necessarily make any difference to them what the other fellows might do. They would have the preponderance of the control, with their 50 percent.

These other folks would like to buy in on that deal. They have asked for the right to do so. They think they ought to be permitted to buy in. They have always considered, so far as the publicly held stock is concerned, that they would be eligible to buy the publicly held stock, but they would like to be permitted the same privilege that Senators are being asked to guarantee to A.T. & T., to I.T. & T., and the other big companies.

Mr. KEFAUVER. Would there not be another advantage, I ask the Senator from Louisiana, to the communications carriers?

The stock is being set aside for those companies. Even if they buy one-tenth of 1 percent of the amount which is set aside, they could vote for the directors, but if someone has to buy from the other side of the division, he could not vote for a director until he had bought the full amount under the provision of the bill. In other words, no minimum amount is to be required for the communications carriers.

Mr. LONG of Louisiana. I am not sure.

Mr. KEFAUVER. That is true.

Mr. LONG of Louisiana. Let me say to the Senator I am not sure that is true, but I ask Senators to consider what an outrage this could be so far as the public is concerned, if we do not adopt the amendment.

Those people could sit still and yet would have 50 percent of the stock blocked off for them. I assume that they would buy it. They could either buy it or not buy it. The public would have to buy 50 percent of the stock, but these carriers could hold off purchasing part of their 50 percent of the stock in order to wait to see whether they thought it would be a good deal before they bought it.

In view of the fact that these other people would like to buy some of the stock, I, for the life of me, cannot see why we should not give to the independent companies the same opportunity we are asked to block out and to guarantee for the seven big companies.

Mr. PASTORE. Mr. President, all I wish to say is that the small companies

are not to be prejudiced in any way. Our committee went out of its way to guarantee that, and to make it doubly sure. I hope that the history we have made today in the Senate will be further assurance. It will be made a permanent part of the background of the action of the Senate.

Mr. President, I move to table the amendments.

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

Mr. PASTORE. I move to lay the amendments on the table.

Mr. KEFAUVER. Mr. President, I ask for the yeas and nays on the motion.

Mr. PASTORE. I will withhold my motion if the Senator wants to make a statement, but I cannot yield in my time.

Mr. KEFAUVER. The statement I wanted to make was——

Mr. PASTORE. Is the Senator making the statement in his time?

Mr. KEFAUVER. In my time.

It was said there was a change in the eligibility language in the bill as it came from the Committee on Aeronautical and Space Sciences as compared with the bill which is before the Senate. I have examined both provisions. There is no change.

Mr. PASTORE. Mr. President, I move to lay the amendments on the table.

The VICE PRESIDENT. The question is on agreeing to the motion by the Senator from Rhode Island [Mr. PASTORE] to lay on the table the amendments offered by the Senator from Louisiana [Mr. LONG] to the committee amendment.

Mr. LONG of Louisiana. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion by the Senator from Rhode Island [Mr. PASTORE] to lay on the table the amendments offered by the Senator from Louisiana [Mr. LONG] to the committee amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. METCALF (when his name was called). On this vote I have a pair with the junior Senator from Oregon [Mrs. NEUBERGER]. If she were present and voting, she would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

On this vote, the Senator from New Mexico [Mr. ANDERSON] is paired with the Senator from Colorado [Mr. CARROLL].

If present and voting, the Senator from New Mexico would vote "yea" and the Senator from Colorado would vote "nay."

On this vote, the Senator from Nevada [Mr. BIBLE] is paired with the Senator from Idaho [Mr. CHURCH].

If present and voting, the Senator from Nevada would vote "yea" and the Senator from Idaho would vote "nay."

On this vote, the Senator from Pennsylvania [Mr. CLARK] is paired with the Senator from Arkansas [Mr. FULBRIGHT].

If present and voting, the Senator from Pennsylvania would vote "nay" and the Senator from Arkansas would vote "yea."

On this vote, the Senator from Mississippi [Mr. EASTLAND] is paired with the Senator from California [Mr. ENGLE].

If present and voting, the Senator from Mississippi would vote "nay" and the Senator from California would vote "yea."

On this vote, the Senator from Alaska [Mr. GRUENING] is paired with the Senator from Florida [Mr. SMATHERS].

If present and voting, the Senator from Alaska would vote "nay" and the Senator from Florida would vote "yea."

On this vote, the Senator from Wyoming [Mr. HICKEY] is paired with the Senator from South Carolina [Mr. JOHNSTON].

If present and voting, the Senator from Wyoming would vote "yea" and the Senator from South Carolina would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senators from Maryland [Mr. BUTLER and Mr. BEALL], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The result was announced—yeas 50, nays 29, as follows:

[No. 205 Leg.]

YEAS—50

Aiken	Goldwater	Monroney
Bennett	Hartke	Mundt
Boggs	Hayden	Muskie
Bottum	Hickenlooper	Pastore
Bush	Holland	Pearson
Byrd, Va.	Hruska	Pell
Byrd, W. Va.	Jordan, N.C.	Prouty
Cannon	Jordan, Idaho	Robertson
Carlson	Keating	Scott
Case	Kerr	Smith, Mass.
Chavez	Lausche	Smith, Maine
Cotton	Long, Mo.	Symington
Curtis	Magnuson	Tower
Dirksen	Mansfield	Wiley
Dodd	McCarthy	Williams, N.J.
Ervin	McGee	Williams, Del.
Fong	Miller	

NAYS—29

Bartlett	Javits	Randolph
Burdick	Kefauver	Russell
Cooper	Long, Hawaii	Sparkman
Douglas	Long, La.	Stennis
Ellender	McClellan	Talmadge
Gore	McNamara	Thurmond
Hart	Morse	Yarborough
Hill	Morton	Young, N. Dak.
Humphrey	Moss	Young, Ohio
Jackson	Proxmire	

NOT VOTING—21

Allott	Church	Johnston
Anderson	Clark	Kuchel
Beall	Eastland	Metcalf
Bible	Engle	Murphy
Butler	Fulbright	Neuberger
Capehart	Gruening	Saltonstall
Carroll	Hickey	Smathers

So Mr. PASTORE's motion to table the amendments of Mr. Long of Louisiana to the committee amendment was agreed to.

Mr. LONG of Louisiana. Mr. President, the yeas and nays were ordered on the committee amendment. I have discussed the subject with my colleagues.

Contrary to what may be the understanding of some, some of us opposing the bill are not desirous of engaging in dilatory tactics. We feel that the important vote will be the vote on final passage. We do not intend to insist upon the yeas and nays on the committee amendment. I therefore ask unanimous consent that the request for the yeas and nays on the committee amendment, as amended, be withdrawn and that that question may be decided by voice vote.

Mr. PASTORE. Mr. President, will the Senator withhold his request for the moment, until the amendments of the Senator from Oregon [Mr. MORSE] are disposed of? I have no desire for a yea and nay vote on the committee amendment, provided there is a yea and nay vote on the final passage of the bill.

Mr. MORSE. Mr. President, I call up my amendment identified as "8–13–61—I." I offer it on behalf of myself and Senators KEFAUVER, NEUBERGER, GRUENING, BARTLETT, LONG of Louisiana, and BURDICK. The amendment seeks to guarantee equality of competitive rights to all communication companies. It is a complete answer to the monopolistic features of the bill. I ask that the amendment be read; and I shall ask for a yea and nay vote on the motion to table.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 27 delete "and" on line 2, delete the period on line 6 and insert in lieu thereof "; and" and add the following:

(7) furnish the same services and assistance on the same basis to any other commercial satellite communications system which may be established.

Mr. PASTORE. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

Mr. MORSE. Mr. President, I ask for the yeas and nays on the motion to table.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question the yeas and nays are ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. METCALF (when his name was called). Mr. President, on this vote I have a pair with the Senator from Oregon [Mrs. NEUBERGER]. If she were present and voting, she would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. BIBLE], the Senator from New Mexico [Mr. ANDERSON], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], and the Senator from Wyoming [Mr. HICKEY] would each vote "yea."

On this vote, the Senator from Colorado [Mr. CARROLL] is paired with the Senator from South Carolina [Mr. JOHNSTON]. If present and voting, the Senator from Colorado would vote "nay," and the Senator from South Carolina would vote "yea."

On this vote, the Senator from Idaho [Mr. CHURCH] is paired with the Senator from California [Mr. ENGLE]. If present and voting, the Senator from Idaho would vote "nay," and the Senator from California would vote "yea."

On this vote, the Senator from Pennsylvania [Mr. CLARK] is paired with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from Pennsylvania would vote "nay," and the Senator from Mississippi would vote "yea."

On this vote, the Senator from Alaska [Mr. GRUENING] is paired with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from Alaska would vote "nay," and the Senator from Florida would vote "yea."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senators from Maryland [Mr. BUTLER and Mr. BEALL], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The result was announced—yeas 65, nays 13, as follows:

[No. 206 Leg.]

YEAS—65

Aiken	Dirksen	Jordan, N.C.
Bennett	Dodd	Jordan, Idaho
Boggs	Ellender	Keating
Bottum	Ervin	Kerr
Bush	Fong	Lausche
Byrd, Va.	Goldwater	Long, Mo.
Byrd, W. Va.	Hartke	Magnuson
Cannon	Hickenlooper	Mansfield
Carlson	Hill	McCarthy
Case	Holland	McClellan
Chavez	Hruska	McGee
Cooper	Humphrey	Miller
Cotton	Jackson	Monroney
Curtis	Javits	Morton
Mundt	Robertson	Talmadge
Muskie	Russell	Tower
Pastore	Scott	Wiley
Pearson	Smith, Mass.	Williams, N.J.
Pell	Smith, Maine	Williams, Del.
Prouty	Sparkman	Young, N. Dak.
Proxmire	Stennis	Young, Ohio
Randolph	Symington	

NAYS—13

Bartlett	Kefauver	Moss
Burdick	Long, Hawaii	Thurmond
Douglas	Long, La.	Yarborough
Gore	McNamara	
Hart	Morse	

NOT VOTING—22

Allott	Clark	Kuchel
Anderson	Eastland	Metcalf
Beall	Engle	Murphy
Bible	Fulbright	Neuberger
Butler	Gruening	Saltonstall
Capehart	Hayden	Smathers
Carroll	Hickey	
Church	Johnston	

So the motion to lay on the table Mr. MORSE's amendment was agreed to.

Mr. MILLER. Mr. President, as a matter of clarifying the legislative record on the bill, I should like to ask the distinguished Senator from Rhode Island, who is in charge of the bill, a question with respect to the appointment of the three members of the board by the President. I notice on page 20 of the committee report a statement with respect to the hopes and desires of the committee concerning these appointments.

My question is whether it is intended that the President not appoint Federal Government officials to the board, as a possible conflict of interest problem.

Mr. PASTORE. Not a conflict of interest problem. I hope the President would go out to the public in general and select very distinguished persons to become members of the board of directors, without going to the agencies of the Government.

Mr. MILLER. I thank the Senator.

Mr. PASTORE. After all, that is the prerogative of the President. I hope he would do that.

Mr. MORSE. Mr. President, will the Senator from Montana yield to me on his time to discuss a procedural question?

Mr. MANSFIELD. I am delighted to do so.

Mr. MORSE. I hold in my hand 26 amendments, of which I am either the author or a cosponsor. As I said last night, I have not placed my name on a single frivolous amendment. I have placed my name on amendments which, in my judgment, ought to be adopted in order to improve the very bad bill. In my judgment, in my 18 years in the Senate, there has never been a bill that has come before the Senate which has been so much in need of amendment as this bill. However, as to that, there are differences among us. But I felt so deeply about the unwisdom of this bill from the standpoint of the pure public interest that I have either offered in my own name or have been the cosponsor of a large number of amendments. All those amendments except 26 have been rejected, under the determination of the leadership of this body to lay on the table any attempt to amend the bill in order to assure that the bill will not go to conference.

The VICE PRESIDENT. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I am speaking in the time of the majority leader, not in my own time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may yield to the Senator from Oregon.

The VICE PRESIDENT. For what period of time?

Mr. MANSFIELD. Three minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MORSE. Mr. President, I may have been mistaken, but it was my understanding when I made the request that the majority leader was allowing me to speak in his time in order to present a procedural point.

The VICE PRESIDENT. The Chair is informed by the Parliamentarian that that requires unanimous consent.

Mr. MORSE. I thought I had it.

Mr. MANSFIELD. I consented.

Mr. MORSE. Is the time previously granted to me used up?

The VICE PRESIDENT. No. By unanimous consent, the Senator from Oregon has 3 minutes.

Mr. MORSE. When I started to speak, I thought I was speaking in the time of the majority leader. The reason I sought this arrangement was that I have only 4 minutes of my own time remaining. I desired to use those 4 minutes to speak on the bill.

Mr. KERR. Mr. President, I ask unanimous consent that the 4 minutes already used by the Senator from Oregon be charged to my time.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered. The Senator from Oregon is now recognized for 3 additional minutes, the time to be charged to the Senator from Montana.

Mr. MORSE. All I am seeking to do is to explain to the Senate my request. I made a similar request earlier this afternoon with respect to another group of amendments.

I have before me 25 amendments. I suggest that they be considered en bloc; that they all be considered as read under the rules; that the RECORD set forth each individual amendment, separately, so that we may insert, as has already been agreed to, any short memorandum we wish to place in the RECORD in connection with the amendments; and that one motion be made to lay all the amendments on the table in one fell swoop.

I send the amendments to the desk in order that their identification numbers may be read, and I ask that the amendments then be acted upon en bloc.

The VICE PRESIDENT. Is there objection to the presentation of the amendments for consideration en bloc?

Mr. MORSE. Mr. President, it should be understood that I shall not ask that the amendments be read.

There is one final amendment, on which my name does not appear, but which was offered by the Senator from Alaska [Mr. GRUENING]. It is the last of our four amendments in the nature of a substitute. I shall not ask to have it read. If it is to be debated, I shall have it stated for identification, but separately, because my name does not appear on the amendment.

The VICE PRESIDENT. Is there objection to the consideration of the amendments en bloc? The Chair hears none, and the amendments will be considered en bloc.

The amendments considered en bloc are as follows:

On page 33, line 6, strike out "initially offered".

On page 33, line 8, strike out the period and insert in lieu thereof "and among the communications common carriers.".

On page 35, line 3, strike out "20" and insert in lieu thereof "5".

On page 35, line 6, strike out "authorized".

On page 26, lines 10 and 11, strike out "cooperate with the corporation in research and development".

On page 26, strike out lines 10 through 12 and insert in lieu thereof the following:

"(2) to the extent deemed appropriate by the Administration in the public interest, cooperate with the corporation in research and development and require the corporation to engage in research and development on behalf of the United States in return for which the corporation shall receive reasonable reimbursement;".

On page 24, lines 21 and 22, strike out "aid in the planning and development and foster" and insert in lieu thereof "plan, develop, and supervise".

On page 28, line 24, following "facilities" insert ", but only when such compatibility and/or interconnection are in the public interest".

On page 32, lines 3 through 6, strike out the sentence beginning with "Six" and insert in lieu thereof: "Six members of the board shall be elected annually by those stockholders who are not communications common carriers, and the remaining members of the board, not to exceed six, shall be elected annually by those stockholders who are communications common carriers in a number determined as follows: If such stockholders own in the aggregate not exceeding 15 per centum of the outstanding voting stock of the corporation, they shall elect one member; if they own in the aggregate in excess of 15 per centum but not exceeding 25 per centum, two members; if they own in the aggregate in excess of 25 per centum but not exceeding 35 per centum, three members; if they own in the aggregate in excess of 35 per centum but not exceeding 40 per centum, four members; if they own in the aggregate in excess of 40 per centum but not exceeding 45 per centum, five members; and if they own in the aggregate in excess of 45 per centum, six members.".

On page 21, line 9, after the semicolon, insert: "that each communications common carrier shall have the right to fully interconnect its communications system with the communications system of any other communications common carrier;".

On page 28, following line 24, insert the following and renumber the succeeding sections accordingly:

"(5) insure that any international communications common carrier has the right to interconnect its communications system on reasonable and nondiscriminatory terms with the domestic communications systems of any other communications common carriers to provide any services authorized by the Commission:".

On page 34, line 20, strike out all of subsection (c) beginning with "Such" and insert in lieu thereof the following: "Each issue shall be made in a manner to encourage the widest distribution to the American public and the communications common carriers.".

Strike out the sentence beginning with "In" on page 35, line 24, and ending with "carriers." on line 3, page 36, and insert in lieu thereof "In its determination of the public interest with respect to ownership of shares of stock in the corporation, the Commission shall promote the widest possible distribution of stock among the authorized carriers.".

On page 25, line 21, strike out "and appropriate utilization".

Beginning with line 12 on page 33, strike out everything through line 16 on page 34 and insert in lieu thereof the following:

"(b) No communications common carrier shall own any shares of stock in the corporation either directly or indirectly through subsidiaries or affiliated companies, nominees, or any persons subject to its direction or control."

Beginning with "Such" on page 34, line 20, strike out everything through page 35, line 2.

On page 27, line 3, strike out "feasible" and insert in lieu thereof "deemed appropriate by the Administration".

On page 32, line 24, immediately following the period, add the following: "Each such officer shall devote his full time and best efforts to the work of the corporation. No officer or director of the corporation shall have any financial interest of any kind in any communication carrier corporation or other entity engaged in the business of 'wire communications' or 'radio communications' as defined in the Communications Act of 1934, as amended, or in any corporation, partnership, or other entity from which the corporation purchases equipment or services."

On page 33, line 6, strike out "offered" and insert in lieu thereof "issued".

On page 27, line 2, strike out "and".

On page 27, line 6, strike out the period and insert in lieu thereof "; and".

On page 27, following line 6, insert the following:

"(7) report annually to the Congress with respect to all contracts, licenses, negotiations, and other transactions between the corporation and the Administration.".

On page 35, line 10, strike out "section 45(b)" and insert in lieu thereof "sections 45(b) and 45(d)".

On page 35, lines 13 and 14, strike out "and copying set forth in that subsection" and insert in lieu thereof ", copying, and statement of affairs set forth in those subsections.".

On page 36, following line 3, insert the following:

"(g) No communications common carrier which owns more than 1 per centum of any class of stock of the corporation may sell apparatus, equipment, or services to the corporation in an amount exceeding $25,000 per annum, either directly or indirectly through any subsidiary, affiliated company, nominee, or any persons subject to its direction or control.".

On page 33, line 6, strike out "initially offered".

On page 33, line 8, strike out the period and insert in lieu thereof "and among the communications common carriers.".

On page 20, delete line 23, and insert in lieu thereof: "magnetic frequency spectrum, toward the speediest development and adoption of the most advanced and efficient technology, and toward the reflection".

On page 27, line 2, insert between "Commission" and the semicolon the following: "unless the Administration determines that the provision of such services is not in the public interest".

On page 28, line 24, delete the semicolon and insert in lieu thereof "except that in no instance shall the need for interconnection with existing facilities be used to retard the adoption of the most advanced and efficient technology;".

On page 29, line 19, delete the semicolon and insert in lieu thereof ": *Provided, however,* That no such authority shall be given to a communications common carrier where the Department of Justice advises the Commission that such construction or operation may substantially lessen competition in any line of commerce in any section of the country or tend to monopoly;".

On page 30, line 4, add the following: "In making such determination, the Commission shall, after consultation with the Department of Justice, take all steps necessary to ensure that the corporation is not dominated by any one or more interests;".

On page 33, line 18, add the following: "In any case where the Commission finds that such ownership is not consistent with the public interest, convenience and necessity, any aggrieved party may appeal to the United States District Court in the district in which such aggrieved party resides.".

On page 38, delete lines 12 through 14, and insert in lieu thereof: "tions. In any case where the Department of State deems it appropriate in the national interest, that Department shall assist in the negotiations.".

Mr. MANSFIELD. Mr. President, I move that the amendments be tabled en bloc.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Montana.

Mr. MORSE. Mr. President, on that motion, I ask for a division.

The VICE PRESIDENT. A division is requested.

On a division, the motion to lay on the table was agreed to.

Mr. MORSE. Mr. President, I call up the amendment designated "8–13–62—EEEE." It has already been read, under the rule. I do not ask that it be read, because once is enough. It is an amendment that would, I think, kill any chance for a monopoly under the bill.

The VICE PRESIDENT. Without objection, the amendment will not be read, but will be printed in the RECORD.

The amendment is as follows:

That this Act may be cited as the "Communications Satellite Authority Act".

DECLARATION OF POLICY AND PURPOSE

SEC. 2. The Congress hereby declares that in order to promote international cooperation and to foster international understanding and peace, it is the policy of the United States to expand and improve international communications by providing leadership in the establishment of a global communication system at the earliest practicable time and to insure that the benefits of such a system are secured for the betterment of all mankind and all states irrespective of their economic and scientific development. In order to achieve these goals, the Congress hereby provides for ownership of the United States portion of the communications satellite system and invites all nations to participate in the system.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the terms "private communications carrier", "common carrier", and "carrier" mean any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy, including persons engaged in radio and television broadcasting.

(2) The terms "communications satellite system", "satellite system", and "system" include satellites, ground stations, associated ground control and tracking facilities, and other related facilities comprising a system for global communication by satellite, except that any reference to foreign ownership of a "communications satellite system", "satellite system", or "system" refers only to the satellite portion of the system.

COMMUNICATIONS SATELLITE AUTHORITY ESTABLISHED

SEC. 4. (a) There is hereby created a corporation, to be known as the Communications Satellite Authority (hereinafter referred to the "corporation"), whose purpose and object shall be to develop, construct, launch, operate, manage, and promote the use of a communications satellite system, and to foster research and development in the field of space telecommunications.

(b) In order to assure a structure of control which will assure maximum possible competition and development of an economical system, the benefits of which will be reflected in overseas communications rates, the corporation shall be organized and operated as a communications common carriers' carrier. It shall acquire, own, and operate, as an agent of the United States Government, the United States portion of the communications satellites, and the ground stations and associated ground control and tracking facilities situated in the United States, territories, or dependencies thereof.

(c) The corporation shall lease communications channels on a nondiscriminatory and equitable basis to all United States carriers authorized by the Federal Communications Commission to provide communications services via satellites, and shall provide facilities for governmental needs, as a part of the commercial system or separately when required to meet unique Government needs which cannot in the national interest be met by the commercial system.

(d) The corporation, under the foreign policy guidance of the President, and pursuant to agreements made by the President with the advice and consent of the Senate, shall provide opportunities for foreign participation in the use of communications satellites, through ownership or otherwise upon an equitable and nondiscriminatory basis.

(e) The corporation, under the foreign policy guidance of the President, and pursuant to agreements made by the President with the advice and consent of the Senate, shall provide technical assistance to the less developed states in the development of their communication facilities so that they may make effective use of communications satellites and become an effective part of a global communication system.

BOARD OF DIRECTORS OF THE CORPORATION

SEC. 5. (a) The board of directors of the corporation (hereinafter referred to as the "board") shall be composed of nine members.

(b) Four directors shall be designated by the President, and shall include an Assistant Secretary of State, the Administrator of the National Aeronautics and Space Administration, a Commissioner of the Federal Communications Commission, and an additional member designated from officers of other departments and agencies of the United States. Directors so designated shall be known as "governmental directors".

(c) Five directors shall also be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of established records of distinguished achievement, from citizens of the United States in private life who are eminent in science, engineering, technology, education, administration, or public affairs. Directors so appointed shall be known as "private directors". The President shall appoint a chairman of the board from the private directors of the board. The chairman shall serve for a term of two years and may be reappointed for one or more additional terms as chairman.

(d) The private directors first designated or appointed under this Act shall be designated or appointed for terms expiring two, four, six, seven, and eight years after the effective date of this Act, respectively. Each private member of the board thereafter designated or appointed (other than a member designated or appointed for the unexpired portion of the term of an individual who is one of the initial members of the board) shall have a term of office expiring eight years from the date of the expiration of the term for which his predecessor was appointed.

(e) Any private member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) Each governmental director of the board may designate another officer of his department or agency to serve on the board as his alternate in his unavoidable absence. Each alternate member so designated shall be designated to serve as such by and with the advice and consent of the Senate unless at the time of his designation he holds an office under the United States Government to which he was appointed by and with the advice and consent of the Senate.

(g) Vacancies in the board shall not impair the powers of the board to execute its functions. Five members shall constitute a quorum for the transaction of the business of the board.

(h) Each private director shall receive compensation at the rate of $22,500 per annum, which compensation shall be paid by the corporation from funds of the corporation. Each governmental director while serving as such shall receive the compensation provided by law for the office held by him in the department or agency of the United States from which he was selected. If the compensation so received by any governmental director does not equal the compensation received by private directors, that governmental director shall be paid from funds of the corporation an additional amount which, when combined with the compensation so received, will equal the compensation received by private directors. Nothing contained in this section shall be construed to reduce the compensation provided by law for any governmental director in his capacity as an officer of a department or agency of the United States.

(i) Members of the board while engaged in the performance of duties of the board shall receive from funds of the corporation necessary travel expenses and a per diem allowance in lieu of subsistence computed in accordance with the provisions of section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2).

(j) Members of the board who are private directors shall during their continuance in office devote their full time to the work of the corporation.

(k) No director may have any financial interest in any communication carrier corporation engaged in the business of "wire communications" or "radio communications" as defined in the Communications Act of 1934, as amended.

(l) A director may be removed from the board by the President upon a determination by the President, after notice and an opportunity for hearing, that such director has been guilty of malfeasance or nonfeasance in the performance of his duties as a director.

(m) Each member of the board, before entering upon the duties of his office, shall subscribe to an oath or affirmation to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this Act.

DUTIES OF THE BOARD

SEC. 6. (a) The board shall—

(1) formulate all policies and programs for the development, construction, launching, operation, management, and promotion of the United States portion of the satellite communication system;

(2) foster research and development in the field of space telecommunications; and

(3) formulate policies and programs which will assist newly developing countries, and provide an effective global system as soon as practicable.

(b) The board shall—

(1) meet upon the call of the chairman, but not less than once in each month; and

(2) direct the exercise of all the powers of the corporation.

EXECUTIVE SECRETARY

SEC. 7. (a) The board, without regard to the civil service laws, shall appoint an executive secretary from civilian life, who shall receive compensation at the rate of $20,500 per annum. Under the supervision and direction of the board, the executive secretary shall be responsible for the execution of all programs and policies formulated by the board, and shall have administrative control over all personnel and activities of the corporation unless otherwise specified in this Act.

(b) The board, without regard to the civil service laws, shall appoint such other officers, employees, attorneys, and agents of the corporation as may be necessary for the performance of its duties; shall fix their compensation and define their duties; shall require bonds of such of them as the board may designate; and shall prescribe rules and regulations to fix responsibility and to promote efficiency in the operations of the corporation.

(c) The board, without regard to the civil service laws, shall appoint a treasurer and such assistant treasurers as it may deem necessary, each of whom shall give such bonds for the safekeeping of the securities and moneys of the corporation as the board may require.

(d) Any appointee of the board may be removed in the discretion of the board. No officer or employee of the corporation shall receive compensation at any rate in excess of that of members of the board.

(e) In the appointment of officials and the selection of employees for said corporation, and in the promotion of any such employee or official, no political test or qualification shall be permitted or given consideration. All such appointments and promotions shall be based exclusively upon merit and efficiency. Any member of the board who is determined by the President, after notice and opportunity for hearing, to be guilty of a violation of this subsection shall be removed from office. Any appointee of the board who is determined by the board, after notice and opportunity for hearing, to be guilty of a violation of this subsection shall be removed by the board from his office or employment in the corporation.

COOPERATION OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 8. (a) The corporation is hereby authorized—

(1) to cooperate with the National Aeronautics and Space Administration for the purpose of obtaining launch vehicles for the satellite system which will facilitate an economical and efficient development of an operational system, launching the satellites and associated services, and consulting with the National Aeronautics and Space Administration on the technical specifications for satellites and ground stations and the location of such stations; and

(2) to consult with the National Aeronautics and Space Administration for the purpose of coordinating all research and development programs carried out by the corporation with research and development programs carried out by private aerospace corporations, private communications carriers, other corporations, and governmental departments and agencies under the supervision of the National Aeronautics and Space Administration in order to guarantee rapid

and continuous scientific technological progress in a global communication system.

(b) The National Aeronautics and Space Administration is authorized and directed to furnish to the corporation such facilities, services, supplies, and information as the corporation may require for the performance of its duties. Any expenses so incurred by the National Aeronautics and Space Administration on behalf of the corporation shall be reimbursed by the corporation from its funds. Any sums so received by the Administration shall be credited to the current appropriations of the Administration, and shall be available to the Administration for obligation and expenditure within the fiscal year in which such sums are received.

COOPERATION OF FEDERAL COMMUNICATIONS COMMISSION

SEC. 9. (a) The Federal Communications Commission is authorized and directed to—

(1) render to the corporation such assistance as may be required to insure that the communications satellite system established by the corporation will be technically compatible with and operationally interconnected with existing terrestrial communication facilities; and

(2) establish such rules and regulations as may be required to regulate all overseas communication rates established by private communication carriers for the use of facilities of the communications satellite system, and to insure that all such rates are reasonable and related to the cost of leasing channels from the corporation.

(b) Under such rules and regulations as it shall prescribe, the Federal Communications Commission shall determine the eligibility of United States communications carriers to use the communications channels provided by the corporation, and shall insure equitable and nondiscriminatory access to the system by present and future authorized private communications carriers.

ASSISTANCE FROM OTHER GOVERNMENT AGENCIES

SEC. 10. (a) The board is hereby authorized to obtain from any department, agency, or instrumentality of the United States with the consent of the head thereof, such facilities, services, supplies, advice, and information as the corporation may determine to be required to enable it to carry out its duties. So far as practicable, the corporation shall utilize the facilities and services of such departments, agencies, and instrumentalities.

(b) Under the direction of the President, each such department, agency, and instrumentality shall furnish to the corporation, upon a reimbursable basis, such facilities, services, supplies, advice, and information as the corporation may require for the performance of its obligations.

(c) Any invention or discovery made by any officer or employee of the corporation in consequence of the performance of his duties, or by any officer or employee of the Government of the United States in the rendition of service for the corporation, and title to any patent which may be granted thereon, shall be the sole and exclusive property of the corporation. The corporation is authorized to grant under any such patent such licenses as may be authorized by the board. The board may authorize the payment to any such inventor such sums from the income received by the corporation from the sale of licenses under the patent granted for his invention as it deems proper.

GENERAL POWERS OF THE CORPORATION

SEC. 11. (a) Except as otherwise specifically provided in this Act, the corporation shall have succession in its corporate name, and shall have power to—

(1) sue and be sued in its corporate name;

(2) adopt and use a corporate seal, which shall be judicially noticed;

(3) adopt, amend, and repeal bylaws;

(4) make, perform, and enforce contracts as authorized by this Act;

(5) purchase or lease and hold such real and personal property as it deems necessary or convenient for the performance of its obligations, and to dispose of any personal property held by it;

(6) acquire real estate for the construction and operation of ground stations and tracking facilities;

(7) acquire real property by condemnation, in the name of the United States of America, the title to real property so acquired to be taken in the name of the United States of America for the use of the corporation as the agent of the United States to carry into effect the purposes of this Act;

(8) convey to any person or corporation, by deed, lease, or otherwise, any interest in real property possessed by the corporation when such property no longer is needed by the corporation for the purposes of this Act;

(9) transfer to any other department, agency, or instrumentality of the United States any part of any real property in the possession or under the control of the corporation when such property no longer is needed by the corporation for the purposes of this Act;

(10) enter into, perform, and enforce contracts and agreements of every kind and description with any person, firm, association, corporation, municipality, county, State, body politic, or government or colony or dependency thereof in order to develop, construct, launch, operate, manage, and promote the United States portion of the communications satellite system;

(11) make such expenditures, and enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary, including the compromise or final settlement of all claims and legal actions by or against the corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the General Accounting Office, in the settlement of the accounts of the Treasury or other accountable officer or employee of the corporation, shall not disallow credit for, nor withhold funds, because of any expenditure which the board shall determine to have been necessary to carry out the provisions of said Act; and

(12) determine upon and establish, except as otherwise provided by this Act, a system of administrative accounts, and the form and content of contracts and other business documents of the corporation.

(b) The corporation shall have such other powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation.

PROCUREMENT OF SUPPLIES AND SERVICES

SEC. 12. (a) Except as otherwise provided by this section, all purchases and contracts for supplies or services, except for personal services, made by the corporation, shall be made after advertising in such manner and at such times sufficiently in advance of opening bids, as the board shall determine to be adequate to insure public notice and opportunity for competition.

(b) Advertisement under subsection (a) shall not be required when it is determined under such regulations as the board shall prescribe that—

(1) an emergency requires immediate delivery of the supplies or performance of the services;

(2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or

(3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500, in which case such purchases may be made in the open market.

(c) In making purchases or contract awards, the board may consider such factors as relative quality and adaptability of supplies or services offered, the supplier's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services; the time of delivery or performance offered; and compliance of the supplier with specifications prescribed by the corporation.

FINANCIAL ACCOUNTABILITY OF THE CORPORATION

SEC. 13. (a) The corporation shall maintain its principal office within, or in the immediate vicinity of, the District of Columbia. The corporation shall be an inhabitant and resident of the District of Columbia within the meaning of the laws of the United States relating to the venue of civil suits.

(b) The board shall transmit to the President and to the Congress, in December of each year, a full and complete financial statement and report as to the activities and accomplishments of the corporation during the preceding fiscal year ending on June 30, including the total number of officers and employees of the corporation, and the names, salaries, and duties of those who receive compensation at the rate of $5,000 per annum or more.

(c) The Comptroller General of the United States shall conduct an audit of the financial transactions of the corporation at such times as he shall determine, but not less frequently than once during each fiscal year. For that purpose, the Comptroller General or any representative duly designated by him shall have access to all records necessary to conduct any such audit. Copies of the report of each such audit shall be transmitted to the President of the United States, the Congress, and the chairman of the board of the corporation, and a copy thereof shall be retained for public inspection at the principal office of the corporation. No such report of audit shall be published until the corporation has had reasonable opportunity to examine any exceptions and criticisms made by the Comptroller General, to point out errors therein, to explain or answer such exceptions and criticisms, and to file a statement which shall be published by the Comptroller General as a part of his report. The corporation shall reimburse the General Accounting Office for the cost of each such audit at such time and in such manner as the Comptroller General shall prescribe from time to time.

(d) The corporation, its property, franchises, and income, are hereby expressly exempted from taxation in any manner or form by any State, county, municipality, or any subdivision or district thereof.

CAPITAL AND REVENUE OF THE CORPORATION

SEC. 14. (a) It is hereby declared to be the policy of this Act to make the corporation self-supporting and self-liquidating, and communication channels shall be leased at rates which in the opinion of the board will produce gross revenues in excess of costs.

(b) The corporation is authorized to issue and sell bonds, in an amount not exceeding $500,000,000 outstanding at any one time, to finance the communications satellite program and to refund such bonds. The corporation may, in performing functions authorized by this Act, use the proceeds of such bonds for capital expenditures necessary for the development, construction, launching, management, operation, and promotion of the communications satellite system prescribed by this Act, and for research and development activities incident thereto.

(c) Principal and interest on bonds issued by the corporation shall be payable solely from the corporation's net communication proceeds. As used in this section, the term "net communication proceeds" means that portion of due annual gross leasing revenues

of the corporation which remains after deducting the aggregate annual cost of launching, operating, maintaining, and administering the satellite system (including the ground stations and the tracking facilities) but before deducting depreciation accruals or other charges representing the amortization of capital expenditures, plus the net proceeds of the sale or other disposition of any communications satellite facilities or any interest therein, and shall include reserve or other funds created from such sources.

(d) Notwithstanding any provision of this Act or any other provision of law, the corporation may pledge and use its annual net communication proceeds for the annual payment of the principal of and interest on said bonds, for purchases or redemption thereof, and other purposes incidental thereto, involving creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as the board deems necessary or desirable. The issuance and sale of bonds by the corporation and the expenditure of bond proceeds for the purposes specified herein, including additional construction of launching vehicles, satellites, and additional construction of ground stations and tracking facilities, shall not be subject to the requirements or limitations of any other law.

BONDS ISSUED BY THE CORPORATION

SEC. 15. (a) It is hereby declared to be the intent of this section to aid the corporation in discharging its responsibility for the advancement of a global communications system using space satellites, and the physical, social, and economic development of the United States by providing it with adequate authority and administrative flexibility to obtain the necessary funds with which to assure an ample number of oversea communication channels for such purposes by issuance of bonds or as otherwise provided herein, and this Act shall be so construed as to effectuate such intent.

(b) Except as otherwise specifically provided by this Act, bonds issued by the corporation under this Act shall be negotiable instruments unless otherwise specified therein, shall be issued in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than fifty years from their respective dates of issuance, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the corporation in such manner and at such times, and redemption premiums may be entitled to such relative priorities of claim on the corporation's net proceeds with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the board of directors may determine.

(c) At least fifteen days before the offer by the corporation of any issue of bonds for sale (exclusive of any commitment for any period less than one year) the corporation shall notify the Secretary of the Treasury as to the proposed amount, date of sale, maturities, terms and conditions, and the expected rates of interest of the proposed issue in the fullest detail. If the Secretary so requests, the corporation shall consult with him or with his designee with respect thereto, but the sale and issuance of such bonds shall not be subject to approval by the Secretary of the Treasury except as to the time of issuance, and the maximum rates of interest to be borne by the bonds. If the Secretary of the Treasury does not concur in a proposed issue of bonds hereunder within seven business days following the date on which he is advised of the proposed sale, the corporation may issue to the Secretary and the Secretary shall purchase interim obligations in the amount of the proposed issue which the Secretary is directed to purchase.

(d) In case the corporation determines that a proposed issue of bonds hereunder cannot be sold on reasonable terms, it may issue to the Secretary interim obligations which the Secretary is authorized to purchase.

(e) Obligations issued by the corporation to the Secretary may not exceed $150,000,000 outstanding at any one time. Any obligations so issued to the Secretary shall mature on or before one year from date of issue, and shall bear interest equal to the average rate (rounded to the nearest one-eighth of a percent) on outstanding marketable obligations of the United States with maturities from dates of issue of one year or less as of the close of the month preceding the issuance of the obligations of the corporation.

(f) If agreement is not reached within eight months concerning the issuances of any bonds which the Secretary has failed to approve, the corporation may nevertheless proceed to sell such bonds on any date thereafter without approval by the Secretary in amount sufficient to retire the interim obligations issued to the Treasury and such interim obligations shall be retired from the proceeds of such bonds.

(g) The corporation may sell its bonds by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids; may designate trustees, registrars, and paying agents in connection with said bonds and the issuance thereof; may arrange for audits of its accounts and for reports concerning its financial conditions and operations by certified public accounting firms; may, subject to any covenants contained in any bond contract, invest the proceeds of any bonds and other funds under its control which derive from or pertain to its communications satellite program in any securities approved for investment of national bank funds; may deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and may perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section. Bonds issued by the corporation hereunder shall contain a recital that they are issued pursuant to this subsection, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such bonds and of their validity. The annual report made by the board to the President and to the Congress shall contain a full and detailed statement of all action taken by the corporation under this section during the year.

(h) The corporation is authorized to enter into binding covenants with the holders of bonds issued under this Act (and with the trustees thereof, if any) under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, adequacy of charges for supplying communication channels, application and use of net communication proceeds, stipulations concerning the subsequent issuance of bonds or such other matters not inconsistent with the Act, as the corporation may deem necessary or desirable to enhance the marketability of said bonds.

(i) Bonds issued by the corporation hereunder shall be investments which may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any office or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the corporation acquired by them under this section. Bonds issued by the corporation hereunder shall be exempt both as to principal and interest from all taxation now or hereafter imposed by any State or local taxing authority except estate, inheritance, and gift taxes.

APPROPRIATED FUNDS

SEC. 16. (a) There are hereby authorized to be appropriated to the Secretary of the Treasury for disbursement to the corporation such sums as may be required for the performance of the functions of the corporation under this Act. Appropriated funds so disbursed to the corporation shall be repaid to the Treasury in conformity with the provisions of this section. Unrepaid disbursements of appropriated funds under this section may not at any time exceed $50,000,000 in the aggregate.

(b) From net communications proceeds in excess of those required to meet the corporation's obligations under the provisions of any bond or bond contract, the corporation shall, beginning after the effective date of this Act, make the following payments to the Secretary for deposit in the Treasury as miscellaneous receipts on or before December 31 and June 30 of each fiscal year—

(1) a sum, computed as provided in subsection (c), as a return on the appropriation investment, if any, in the corporation's communications satellite facilities, as determined by the Director of the Bureau of the Budget; and

(2) a sum in repayment of appropriation investment in the corporation in such amount as the Secretary of the Treasury shall determine to be available for that purpose without impairing the operations of the corporation.

Such payments shall continue to be made until the total appropriation investment in the corporation shall have been repaid.

(c) The appropriation investment referred to in subsection (b) shall consist, in any fiscal year, of that part of the corporation's total investment assigned to communications satellite facilities as of the beginning of the fiscal year (including both completed facilities and facilities under construction) which has been provided from appropriations, or by transfers of property from other Government agencies without reimbursement by the corporation, less repayments of such appropriation investment made under this Act, or other applicable legislation. The payment as a return on the appropriation investment in each fiscal year shall be equal to the computed average interest rate payable by the Treasury upon its total marketable public obligations as of the beginning of said fiscal year applied to said appropriation investment.

(d) Payments due to be made under this section may be deferred for not more than two years when in the judgment of the board of directors of the corporation such payment cannot feasibly be made because of inadequacy of funds, due to poor business conditions, emergencies, or other factors beyond the control of the corporation.

REVENUE AND APPLICATION THEREOF

SEC. 17. (a) The corporation shall charge rates for the use of communication channels which will produce gross revenues sufficient to provide funds for the operation, maintenance, and administration of its communications satellite system; provide for the servicing of outstanding bonds, including provision for and maintenance of reserve funds for and maintenance of reserve funds and other funds established in connection therewith; payments to the Treasury as a return on the investment of appropriated funds, if any; and for such additional margin as the board may consider desirable for purposes connected with the corporation's communications satellite system. Such overseas communication rates shall be fixed at levels which are as low as practicable.

(b) The corporation shall, during each five-year period beginning with the first fiscal year beginning after the effective date of

this Act, apply revenues in reduction (directly or through payments into reserve on sinking funds) of its capital obligations, including bonds and appropriation investments, or to reinvestments in the communications satellite system, at least to the extent of the combined amount of the aggregate of the depreciation accruals and other charges representing the amortization of capital expenditures applicable to its communications satellite system.

ACCESS TO PATENTS AND TECHNICAL INFORMATION

SEC. 18. (a) The corporation, as an instrumentality and agency of the Government of the United States for the purpose of executing its functions under this Act, shall have access at all times to information available in the Patent Office of the United States for the purpose of studying, ascertaining, and copying, all methods, formulae, and scientific information (not including access to pending applications for patents) necessary to enable the corporation to use and employ the most efficacious and economical process for the development of a communications satellite system, or any method for improving and cheapening oversea communication rates through the use of a communications satellite system, and any owner of a patent whose patent rights may have been thus in any way copied, used, infringed, or employed by the exercise of this authority by the corporation shall have as the exclusive remedy a cause of action against the corporation for the recovery of reasonable compensation for such infringement. The district courts of the United States shall have jurisdiction to hear and determine such actions. This subsection shall not apply to any art, machine, method of manufacture, or composition of matter, discovered or invented by any officer or employee of the Government of the United States or of the corporation if such invention or discovery was made in the performance of obligations to the Government of the United States or to the corporation.

(b) The Commissioner of Patents shall furnish to the corporation, at its request and without payment of fees, copies of documents on file in his office.

PROPERTY RIGHTS IN INVENTIONS

SEC. 19. (a) Whenever any invention is made in the performance of any work performed under any contract entered into by or on behalf of the corporation, such invention shall be the exclusive property of the United States, and if such invention is patentable, a patent therefor shall be issued to the corporation as agent of the United States notwithstanding any other provision of law upon application made by the Executive Secretary, unless the Executive Secretary, acting in conformity with policies and procedures adopted by the board, waives all or any part of the rights of the United States to such invention in compliance with the provisions of subsection (c) of this section. No patent may be issued to any applicant other than the corporation for any invention which appears to the Commissioner of Patents to have significant utility in the development or operation of a communications satellite system unless—

(1) the applicant files with the Commissioner, with the application or within thirty days after request therefor by the Commissioner, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was made and stating the relationship (if any) of such invention to the performance of any work under any contract of the corporation; and

(2) the Executive Secretary transmits to the Commissioner a written certification to the effect that such invention is not subject to the provisions of this section.

Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Commissioner to the Executive Secretary.

(b) Each contract entered into by the corporation with any party for the performance of any scientific, technological, or developmental activity shall contain effective provisions under which such party shall furnish promptly to the Executive Secretary a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the performance of such activity.

(c) Under such regulations as the board shall adopt in compliance with the provisions of this section the Executive Secretary may waive all or any part of the proprietary rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any activity required by any contract of the corporation if the Executive Secretary determines that the public interest will be served thereby. Any such waiver may be made upon such terms and under such conditions as the Executive Secretary shall determine to be required for the protection of the public interest. Each such waiver made with respect to any invention shall include provisions effective to reserve an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the corporation, the United States Government, or any department, agency, or instrumentality thereof, or any foreign government pursuant to any treaty or agreement with the United States. Each proposal for any waiver under this subsection shall be referred to an Inventions and Contributions Authority which the Executive Secretary shall establish within the corporation. Such Authority shall accord to each interested party an opportunity for hearing, and shall transmit to the Executive Secretary its findings of fact with respect to each such proposal and its recommendations for action to be taken with respect thereto.

(d) The board of the corporation shall determine, and promulgate regulations specifying, the terms and conditions upon which licenses will be granted by the corporation for the practice by any nongovernmental person of any invention for which the corporation holds a patent on behalf of the United States.

(e) The Executive Secretary is authorized to take all suitable and necessary action to protect any invention or discovery in which the corporation has any proprietary interest. The Executive Secretary shall take appropriate action to insure that any nongovernmental person who acquires any proprietary interest in any invention or discovery under this section will take appropriate action to protect that invention or discovery.

(f) The corporation shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35 of the United States Code.

As used in this section—

(1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;

(2) the term "contract" means any actual or proposed contract, agreement, understanding, or other arrangement, including any assignment, substitution of parties, or subcontract executed or entered into thereunder; and

(3) the term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

SECURITY PROVISIONS

SEC. 20. (a) The corporation shall establish such security requirements, restrictions, and safeguards as the President shall determine to be necessary in the interest of the national security.

(b) The Civil Service Commission is authorized to conduct such security or other personnel investigations of the corporation's officers, employees, and consultants, and its contractors and subcontractors and their officers and employees, actual or prospective, as the board deems appropriate; and if any such investigation develops any data reflecting that the individual who is the subject thereof is of questionable loyalty to the Government of the United States the matter shall be referred to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the board.

(c) Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the board of directors of the corporation, the protection or security of any laboratory, station, base, or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the corporation, or any real or personal property or equipment in the custody of any contractor under any contract with the corporation, or any subcontractor of any such contractor, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

PENAL PROVISIONS

SEC. 21. (a) For the purposes of chapters 1, 7, 11, 15, 19, 23, 31, 37, 47, 93, 103, 105, and 115 of title 18 of the United States Code, the corporation shall be deemed to be a department of the Government of the United States, and officers, employees, and property of the corporation shall be deemed to be officers, employees, and property, respectively, of the United States.

(b) Whoever, being an officer, employee, agent, or representative of the corporation, with intent to defraud the corporation or the United States Government or any department or agency thereof, (1) makes any false entry in any book or record of the corporation, or (2) makes any false report or statement with respect to the conduct of the business of the corporation, shall be fined not more than $10,000, or imprisoned not more than five years, or both.

(c) Whoever, being an officer, employee, agent, or representative of the corporation or any department or agency of the United States, with intent to defraud the corporation, shall in connection with the performance of any duty arising from his occupancy of any such status solicit or receive directly or indirectly any compensation, rebate, or other valuable consideration to which he is not lawfully entitled, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

LEGISLATIVE RECOMMENDATIONS

SEC. 22. The President and the corporation shall from time to time transmit to the Congress recommendations for such additional legislation as may be deemed necessary or proper to carry out the purposes of this Act.

SAVING PROVISIONS

SEC. 23. (a) The right to alter, amend, or repeal this Act is hereby expressly declared and reserved to the Congress, but no such amendment or repeal shall operate to impair the obligation of any contract lawfully made by the corporation under any power conferred by this Act.

(b) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Rhode Island to lay the amendment on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from the Senator from Illinois [Mr. DOUGLAS] dated July 31, 1962, and received in my office August 2, in which he enclosed some tearsheets from the CONGRESSIONAL RECORD. These tearsheets contain a series of questions he asked of the Senator from Tennessee [Mr. GORE] in relation to the space communications satellite bill. In his letter the Senator from Illinois stated:

Just as I have asked these questions of Senator GORE, one of the leading opponents of the bill, it is my intention to ask them of the sponsors of the bill so that we may find out what the agreed facts are and what the points of difference may be.

I regret very much Senator DOUGLAS and I have not had an opportunity to engage in colloquy on this subject as I would have been happy to respond to any of his questions. Therefore, I am inserting for the RECORD a statement concerning the various concepts and points raised by Senator DOUGLAS in his colloquy, on July 30.

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

U.S. SENATE, *July 31, 1962.*

The Honorable JOHN O. PASTORE,
U.S. Senate, Washington, D.C.

DEAR JOHN: I am taking the liberty of enclosing some tearsheets from the CONGRESSIONAL RECORD for yesterday in which I asked a series of technical questions of Senator GORE relative to the space communications bill. If you have leisure, I would appreciate it if you would be willing to read my questions and his answers.

I have not fully made up my mind on this matter but I believe there are fundamental issues which need to be cleared up, and it was with that purpose that I addressed these questions to Senator GORE. It is my belief that they are of sufficient importance that the proponents and opponents of the bill should seek to answer them either in speeches on the floor or in response to questions addressed to them.

I hope that the members of the committee and the leadership in charge of the bill, which I take it is bipartisan in nature, will be ready to discuss these matters, and it is my hope that this be done. Just as I have asked these questions of Senator GORE, one of the leading opponents of the bill, it is my intention to ask them of the sponsors of the bill so that we may find out what the agreed facts are and what the points of difference may be.

I think we can make the discussion of this bill a very helpful and educational one and I am quite confident that this is your purpose as well as mine.

With all best wishes.

Faithfully yours,

PAUL H. DOUGLAS.

[From the CONGRESSIONAL RECORD, July 30, 1962]

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

Mr. GORE. I yield.

Mr. DOUGLAS. The Senator from Tennessee is aware, is he not, that the Senator from Illinois is, in a sense, "on the fence" so far as this legislation is concerned?

Mr. GORE. That is an unusual posture for my distinguished friend. I was not thoroughly aware of it, but I am prepared to accept whatever posture the distinguished senior Senator from Illinois wishes to assume. I know that he will do so with grace and aplomb. I hope that, ere long, we shall succeed in persuading the distinguished senior Senator from Illinois, with all his brilliance, energy, intellect, vision, and good will, to help us prevent the passage of a bill unprecedented in many respects, and, I believe, harmful in many respects.

Mr. DOUGLAS. Will the Senator permit the Senator from Illinois to address a series of questions to him, which, in the first place, is primarily directed to certain technical problems?

Mr. GORE. I shall be happy to yield for whatever questions the Senator may wish to submit, and shall do the very best I can to respond.

Mr. DOUGLAS. Am I to understand that there are two potential, rival systems of satellite communications, one a low-orbit system, and the other a high-orbit system?

Mr. GORE. Yes. The distinguished junior Senator from Louisiana [Mr. LONG] gave a very able discussion of this subject. The high, or synchronous, orbital system would envision the launching of synchronous satellites in orbit at an altitude of about 22,000 miles; and the low-orbit satellite would be more on the order of Telstar.

Mr. DOUGLAS. Am I correct in inferring that the Telstar satellite is a portion of the low-orbit system?

Mr. GORE. I believe so—low or medium.

Mr. DOUGLAS. In order to obtain worldwide coverage under the low-orbit system, approximately how many low-orbit satellites would be needed?

Mr. GORE. According to the testimony before the committees, the experts have estimated that from 200 to 400 orbiting satellites in low or medium altitude orbit would be necessary to achieve 24-hour global communications.

Mr. DOUGLAS. In the case of Telstar, am I correct in understanding that the cost of the satellite itself was exclusively met by A.T. & T.?

Mr. GORE. I believe that has been testified to. Of course, that fact must be measured against all of the vast research and development in metallurgy, in the various types of technology, not only in the launching of satellites, but also in the mechanics and metallurgy of satellites. But I point out to the Senator that I am not one of those who are opposed to private citizens and private business taking advantage of technical knowledge developed by the U.S. Government. The Senator will recall that in a long fight, not dissimilar to the present one, in 1954, I advocated that the Government take the lead in developing atomic power, in order that the technology might be available to private industry, to bring to fruition nuclear power on a competitive basis, particularly for the high-cost power areas.

What I would object to, however, is the granting of a monopoly use of the technology which the Government may have developed at very great expense. This is an extension of the answers to the Senator's question.

Mr. DOUGLAS. Is the Senator from Illinois correct in his belief that the total expenditures by the National Aeronautics and Space Administration and the Defense Department in telecommunications thus far have amounted to not far from $500 million?

Mr. GORE. I have read that estimate, and I do not question its accuracy.

Mr. DOUGLAS. Is the Senator from Illinois correct that approximately half that amount was an expenditure by NASA and approximately half an expenditure by the Department of Defense?

Mr. GORE. I believe that is correct.

Mr. DOUGLAS. Is the Senator from Illinois correct in the belief that the direct cost and the research and developmental cost to A.T. & T. for its share of Telstar amounted to between $30 million and $50 million?

Mr. GORE. I believe that to be correct.

Mr. DOUGLAS. Therefore, is the Senator from Illinois correct in his assumption that the cost to the Federal Government thus far has been from 10 to 16 times as great as the expenditure by A.T. & T.?

Mr. GORE. I believe that to be a reasonable extrapolation.

Mr. KEFAUVER. Mr. President, at that point will the Senator yield for another question along the same line the Senator from Illinois was pursuing?

Mr. DOUGLAS. I shall be glad to yield, provided the junior Senator from Tennessee does not lose his right to the floor.

Mr. GORE. I yield for a question to the senior Senator from Tennessee.

Mr. KEFAUVER. Is it not true that of the $50 million A.T. & T. says it has spent on Telstar, the Government has paid 52 percent of that amount by virtue of the fact that A.T. & T. was relieved of the payment of that much in taxes, leaving in the neighborhood of $24 million, and that this amount is charged against the users of domestic telephones in the United States, so that every penny of the expenditure will be included in the rate to telephone users, and not one dime will come from the stockholders or from the company, A.T. & T.?

Mr. GORE. Before answering the principal question I should like to suggest that the $50 million estimate for the cost of Telstar is not a cost that has thus far been expended, but is an estimated cost for the time when the experiment shall have been completed.

In response to the question, obviously, since the corporate tax rate is 52 percent and since this would be a deductible expense, the answer must be "Yes" to the first part of the Senator's question. Next, I think it is unquestionably true that this cost would be written into the cost structure and thus into the ratemaking structure of the utility, and therefore would be passed on to the telephone users of this country.

Mr. KEFAUVER. If the Senator will yield for another question, does not the Senator know that the officials of the Federal Communications Commission, including Mr. Baker and other experts, have confirmed the fact that the remaining $24 million would be charged to the domestic users of telephones in the United States?

Mr. GORE. I did not know that fact had been confirmed. I am not surprised to hear it has been, because I think unquestionably it is true. If the Senator says it has been confirmed, I am sure it has been.

Mr. DOUGLAS. Mr. President, will the Senator yield for further technical questions?

Mr. GORE. I yield for further questions.

Mr. DOUGLAS. Can the Senator inform me what would be the approximate added direct cost for each additional satellite for the low-orbit system?

Mr. GORE. I can only give the Senator the estimates that were submitted to the committee. Even the estimates of experts can vary greatly. With increased experience in both fabrication and launching satellites, if the pattern of past industrial experience of America is followed, future costs would be greatly reduced. The estimates are that the cost would be from $1 to $3 million for each additional satellite.

Mr. DOUGLAS. Would that include the cost of the rocket as well as the cost of the satellite?

Mr. GORE. I do not believe it would.

Mr. DOUGLAS. Would not the cost of the rocket be a very great addition?

Mr. GORE. I should think it would.

Mr. DOUGLAS. Does the Senator from Tenneessee have any estimate as to what would be the cost of each rocket?

Mr. GORE. I must answer that only from memory. I hesitate to trust my memory. I suggest to the Senator that, to the best of my

memory, the cost would be $4 million. I should like to check that figure for the record.

Mr. DOUGLAS. Assuming that the statement by the Senator from Tennessee is correct, if from 200 to 400 low-orbit satellites were required, that would result in a total added cost, for both the satellites and the rockets, of between $1 and $2 billion; is not that correct?

Mr. GORE. If the cost should be halfway between $1 million and $4 million for each of the satellites—say $2 million—and if there were between 200 and 400 satellites, that would result in a total of approximately $600 million for the satellites. Then if each rocket cost $4 million, there would be a cost of approximately $1.2 billion for the launching of rockets. That would make the total cost close to $2 billion, if the estimates are correct.

Mr. DOUGLAS. Under the proposal in the present bill, who is to bear the cost of the satellites and of the launching of the rockets?

Mr. GORE. It is proposed that the corporation pay for the satellites, and that the corporation reimburse the Government for the launching of rockets.

Mr. DOUGLAS. If I am correct, then, the added cost of between $300 million and $600 million would be borne by the corporation, and the added cost of between $800 and $1.6 billion would be borne by the Government.

Mr. GORE. Under the terms of the bill, I believe the corporation would be expected to reimburse the Government for its direct costs in launchings. To what extent the direct cost of a given rocket could be related to the total cost of some $25 billion spent in the development of space technology I am unable to testify.

Mr. DOUGLAS. The Senator from Tennessee is aware, is he not, that I am merely asking questions about direct costs?

Mr. GORE. Yes.

Mr. DOUGLAS. The Senator from Tennessee is aware that I am not asking about indirect, overhead costs involved in research and development.

Mr. GORE. I am aware of that.

Mr. DOUGLAS. The Senator from Tennessee is aware of the fact that if all the costs for research and development were included, the share of the total expense to be borne by the Government and by the people of the United States would be much greater?

Mr. GORE. I am aware of that. Indeed, particularly with respect to an operating utility, either the taxpayers or the consumers will have to pay the entire bill.

Mr. DOUGLAS. Is the Senator from Illinois correct in his assumption that A.T. & T. is largely committed to the low-orbit system, of which Telstar is the prototype?

Mr. GORE. I have heard that asserted. To what extent their commitment would hold good, I do not know.

I listened attentively to the extremely able speech by the junior Senator from Louisiana [Mr. LONG] on this point. I was persuaded to the point of view that ultimately the low-orbit satellite system might not possess the feasibility and economy of the synchronous satellite system. This is a layman's reaction to a discussion by a layman who had a great deal of technical assistance, and it may not be a correct conclusion.

Mr. DOUGLAS. Would it be agreeable for the Senator from Illinois to pass now to a discussion of the techniques and cost of a high-orbit satellite system?

Mr. GORE. It would.

Mr. DOUGLAS. May I ask the Senator how many communications satellites, moving synchronously with the earth at a distance of approximately 20,000 to 24,000 miles, would be needed for a high-orbit system?

Mr. GORE. I believe it is estimated that three, properly orbited, if that is good language, would be sufficient to provide 24-hour communications worldwide.

Mr. DOUGLAS. Is the Senator from Illinois correct in his assumption that since the three satellites would be higher up, the angles would be such as to cover the entire earth?

Mr. GORE. I am advised by an assistant that the estimate of the experts is that from three to five satellites in orbit at that elevation, in orbits synchronized with the revolution of the earth, would, as the Senator has suggested, be sufficient to allow an angle which would permit reaction to signals from all parts of the earth.

Mr. DOUGLAS. I ask if the Senator from Illinois is correct in his assumption that the cost of each satellite, excluding orbitry or rocket costs, would be approximately the same for a satellite for the high-orbit system as for a satellite for the low-orbit system?

Mr. GORE. It is estimated the cost of the satellite would be about the same.

Mr. DOUGLAS. If only three are required for a high-orbit system and from 200 to 400 would be required for the low-orbit system, it would follow, would it not, that the cost of satellites for the high-orbit system would be very much less than the cost for satellites for the low-orbit system; is that correct?

Mr. GORE. According to the estimates, the cost of the high-orbit system would be only a fraction of the cost for the low-orbit system.

Mr. DOUGLAS. One one-hundredth to possibly one one-hundred-and-thirty-third?

Mr. GORE. Approximately on that order.

Mr. DOUGLAS. However, the Senator from Tennessee is aware that that cost would not include the cost of projecting the communication satellite to a distance of 22,000 miles from the earth?

Mr. GORE. I am aware of that. To send a satellite that distance would require more thrust, which would increase the cost of rocketry per satellite.

Mr. DOUGLAS. Is the Senator from Illinois correct in his assumption that the cost of the necessary thrust to project a satellite 22,000 miles from the earth has not yet been estimated?

Mr. GORE. I have seen no reliable estimate of such cost.

Mr. DOUGLAS. Is it true that in the past the National Space Administration has conducted investigations into the high-orbit system?

Mr. GORE. That is true.

Mr. DOUGLAS. Is the Senator from Illinois correct in his understanding that the technical name for researching the high-orbital system conducted by NASA, or which was conducted by NASA, is Syncom?

Mr. GORE. I believe so. Dr. Dryden of NASA has said that such a system is possibly 5 years away.

Mr. DOUGLAS. And the low-orbit system is called Relay.

Mr. GORE. I believe that is correct.

Mr. DOUGLAS. Did the Senator from Tennessee notice an article which appeared over the weekend in the New York Times, I believe, which stated that NASA had suspended investigation into the high-orbit system?

Mr. GORE. I read such an article. I think it is a matter of concern.

Mr. DOUGLAS. Is it not extraordinary that NASA has suspended investigation into the high-orbit system when the subject is before the scientific world—and really before the Senate and the country?

Mr. GORE. I think it is extraordinary and regrettable, particularly since there are so many indications that it is the more promising of the two systems, and that it may ultimately be far more economical.

Mr. DOUGLAS. The Senator from Tennessee knows that the Senator from Illinois is not normally a suspicious man, and that he tries to give everyone full credit for good motives. Is that not true?

Mr. GORE. The Senator from Illinois is always a man of good will. However, I must say that he is a man of great intellectual curiosity, and he has unusual capacity for smelling a mouse, particularly if a waste of taxpayers' money is involved.

Mr. DOUGLAS. Has it occurred to the Senator from Tennessee that possibly the sponsors of the bill were influential in causing NASA to suspend its investigations into the high-orbit system?

Mr. GORE. I have no information upon which to base such an opinion. I think the Air Force is still experimenting with the high-orbital satellite. I hope that NASA will at least cooperate to the fullest possible extent with the Air Force in such experimentation.

Mr. DOUGLAS. Am I correct in my assumption that NASA is supporting the bill about which we have been speaking?

Mr. GORE. The Senator is correct, unfortunately.

Mr. DOUGLAS. Am I correct in my understanding that the present bill is largely based upon the assumption that it will be the low-orbit system which will come into being?

Mr. GORE. I am not sure that the bill is necessarily based upon that assumption. I should like to express some views in that regard. I think it is inherent in the provisions of the bill, if enacted, that instead of a worldwide communications system, the satellite corporation being organized only for profit might aim at a much smaller objective, namely, communication in the North Atlantic community, in which the greatest chance of profit would appear to me to be realizable. Indeed, I see no immediate opportunity for profit in satellite communication with Africa, southeast Asia, Latin America, and Australia.

Mr. DOUGLAS. Am I correct in my assumption that Telstar is visible for only about 18 minutes during every 90-minute revolution around the earth?

Mr. GORE. I have not the correct answer to that question. I am prepared to accept the assumption contained in the Senator's question.

Mr. DOUGLAS. Does it not follow that even to cover the North Atlantic community, at least five of the low-orbital satellites would be required?

Mr. GORE. For continuous coverage I think far more than that number would be required.

Mr. DOUGLAS. I have also heard the estimate of 40 to 50.

Mr. GORE. I believe that was the estimate which was given to the committee.

Mr. DOUGLAS. Whereas if only North Atlantic community communication were desired, would not one high-orbital satellite be adequate?

Mr. GORE. It is estimated that one high satellite at an altitude of 22,000 miles, and in constant relative position with the rotation of the earth, could be used for transmissions to all countries of NATO.

Mr. DOUGLAS. Is it not true that thus far we have been merely talking about the satellite and the launching system for the satellite; but do we not need ground stations to communicate wavelengths to the satellite and to receive wavelengths from the satellite?

Mr. GORE. Without ground stations the satellite would merely be an orbited object.

Mr. DOUGLAS. Does the Senator from Tennessee have any information as to the cost of the necessary ground station?

Mr. GORE. I am advised by staff members that the cost estimate for each ground station is from $6½ to $9 million.

Mr. DOUGLAS. Do I understand that the estimate is based upon a satellite in the low-orbital system?

Mr. GORE. The Senator is correct.

Mr. DOUGLAS. How many ground stations would be required to cover the North Atlantic community?

Mr. GORE. At least one ground station would be required for each country. Unless a country should receive the message and transmit it to another under a series of multilateral agreements, which I think would have to be achieved in order to put even the North Atlantic system into operation, then one for each country would be required.

Mr. DOUGLAS. Therefore, with worldwide coverage, the number, of course, would be much greater.

Mr. GORE. Much greater.

Mr. DOUGLAS. Has the Senator from Tennessee any estimate as to the comparative costs of a ground station under the low-orbit system and a ground station under the high-orbit system?

Mr. GORE. I am advised that the cost of a ground station for the high-orbit synchronous satellite orbital system would be from $1 to $1½ million.

Mr. DOUGLAS. How much did the Senator say the cost would be for each ground station in a low-orbit satellite system?

Mr. GORE. From $6½ to $9 million.

Mr. DOUGLAS. So each ground station under the high-orbital system would cost from one-quarter to one-sixth the cost of a ground station under the low-orbital system?

Mr. GORE. According to the estimates.

Mr. DOUGLAS. So the high-orbit system would be much more economical so far as ground stations are concerned? Is that correct?

Mr. GORE. According to the technicians who have testified—and there have been many of them—that is the consensus.

Mr. DOUGLAS. So far as the satellite system itself is concerned, the high-orbit system would be very much less costly, from one-fortieth to one one-hundredth of the cost. Is that correct?

Mr. GORE. Assuming the accuracy of these estimates, the answer is, "Yes."

Mr. DOUGLAS. But the unknown is the cost of projecting the satellite into space, under a high-orbit system, to the radius of 22,000 miles.

Mr. GORE. As the Senator knows, our country has the boosters; and I believe we now have the thrust capacity to achieve this result.

Mr. DOUGLAS. If I correctly remember my astronomy, am I correct that the distance between the earth and the moon is approximately 240,000 miles?

Mr. GORE. As I remember my astronomy, that is correct.

Mr. DOUGLAS. Is the Senator from Illinois correct in the mental arithmetic which he is now performing that the distance from the earth to a high orbit would be only about one-tenth or one-twelfth of the distance to the moon?

Mr. GORE. I would factor it in that way.

Mr. DOUGLAS. Is the Senator from Illinois correct in what he has read, to the effect, that NASA is very optimistic about hitting the moon?

Mr. GORE. I have read some very optimistic predictions. I hope that they are correct.

Mr. DOUGLAS. Is the Senator from Illinois correct in the assumption that if the moon can be hit at a distance of 240,000 miles, it ought not to be too difficult to go out 22,000 or 24,000 miles?

Mr. GORE. I think the answer is obvious, particularly when it is proposed that the moonshot first go into orbit around the moon and then have the spaceship detach itself from the orbiting moon satellite and descend to the surface of the moon, while the mother ship continues in orbit around the moon; and then it is hoped, God granting, that those who land on the moon would be able to launch themselves from the moon and return to the mother ship, which would still be orbiting around the moon. The mother ship must then free itself from the gravitational pull of the moon and return to Illinois.

Mr. DOUGLAS. The Senator means return to Texas, does he not? Texas is now the center of the space industry.

Mr. GORE. I will compromise on Tuscaloosa.

Mr. DOUGLAS. Does not the moonshot sound rather fantastic to the Senator from Tennessee?

Mr. GORE. I must say that all of this sounds fantastic to me. I point out to the able Senator from Illinois that before Telstar, those of us who were opposing the bill had great difficulty arousing any interest in the discussion. Many people thought we were speaking about something abstract. It appeared to be so fantastic that many people doubted its realization. Now that they have seen the French actor singing on their television screens in their own homes, we are able to arouse a great deal of interest in this bill. We are now talking about something that is quite real and apparently quite achievable.

Mr. DOUGLAS. Certainly it would not be as fantastic, would it, to go out 22,000 miles, as to go through the process of circling the moon, getting the men off the spaceship, providing an atmosphere for them while they are on the moon, then get them back on the rocket, and finally get them out of the gravity attraction of the moon and into the gravity system of the earth? It would not be as fantastic, would it, to go one-twelfth of the way to the moon as to perform all the other operations?

Mr. GORE. I do not believe it would be nearly as complicated and difficult.

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

Mr. DOUGLAS. I would prefer not to yield.

Mr. GORE. If I may be allowed to continue to yield to the Senator from Illinois until he concludes his questioning, I shall be very happy to yield.

Mr. HOLLAND. I wanted to bring up an issue which the Senator had overlooked.

Mr. DOUGLAS. I am sure the Senator from Tennessee will be very willing to answer questions of the Senator from Florida at the conclusion of my questioning.

Mr. GORE. To the best of my ability.

Mr. DOUGLAS. Does not the Senator from Tennessee feel that it is extraordinary for NASA to stop further research and development in the high-orbit system, when it is carrying on these plans for a moon shot?

Mr. GORE. I thought it unusual. I do not know the reasons for it. Perhaps the Senator could advise us of the reasons.

Mr. DOUGLAS. Does not the Senator from Tennessee know that the Senator from Illinois is not a suspicious person and does not like to voice suggestions for which there is no documentary or sworn testimony?

Mr. GORE. Some people may have hoped that A.T. & T. would gain a great deal of publicity and obtain a great deal of reaction by having the first experiment, even though it be of low orbit and of less technical achievement. To answer the Senator's question specifically, I know that he is noted for being free of suspicion and the very embodiment of good will.

Mr. DOUGLAS. I thank the Senator. May I pass from some technical questions to the problems of timing? Would the creation of this communication satellite company during this session of Congress either necessarily speed up or retard the development of satellite systems of communications?

Mr. GORE. That is the biggest issue involved in this whole question. The proponents of the bill assert that the passage of the bill in some way would facilitate the achievement of a workable, operational satellite communications system. Indeed, some of them say passage of the bill is necessary for that purpose. In my view, the passage of the bill in its present form would retard such achievement and would become a handicap and an impediment to such achievement.

Mr. DOUGLAS. That is, it would be an impediment to developing a high-orbit system?

Mr. GORE. A high- or even low-orbit system, workable and in operation, because such a system would depend upon a series of agreements with many nations. I am not at all sure that a private monopoly created by the United States specifically for profit would be the best agency for negotiating these agreements, understandings, and treaties. If we rely solely upon the necessarily narrow strictures of a profit and loss statement of a private corporation for the achievement of a global system of satellite communications, we may never achieve such a system.

Mr. DOUGLAS. If the corporation proposed to be created under H.R. 11040 were created during this session, does the Senator from Tennessee believe it would be possible that A.T. & T. might gain control of that corporation?

Mr. GORE. The answer to that question is alomst axiomatic. In my opinion, the answer is "Yes."

Mr. DOUGLAS. Will the Senator from Tennessee develop that point? It is my understanding that some persons maintain that the corporation would not be A.T. & T. dominated, but would be a company in which there would be private interests which could purchase stock.

Mr. GORE. The A.T. & T. would be the major capital contributor and the major user, and would elect three directors to the board. I think it is entirely possible that A.T. & T. would itself have all the ground stations in the United States. This is something that is left completely open in the bill. I am glad the question of the Senator from Illinois brings it to my mind. Unless the proposed corporation owns ground stations in this country or in other countries, then it will but own the space components of such a system—that is, the U.S. share of whatever space components there might be.

Mr. DOUGLAS. Do I correctly understand the Senator from Tennessee to be saying that whoever controls the ground stations will control the system?

Mr. GORE. Yes, indeed. No matter how many cables were laid under the ocean, if A.T. & T. controlled the switchboards which received the messages, A.T. & T. would in fact control the entire operation.

Mr. DOUGLAS. Is there any provision in the bill for this peculiar corporation to own ground stations?

Mr. GORE. That question is left open. Presumably, the Federal Communications Commission would have the authority to determine whether A.T. & T. would have ground stations or whether the other carriers would have some share in such stations. That question is left open in the bill. There is no determination as to whether the private corporation to be created by the bill would have any ground stations.

Mr. DOUGLAS. Is the Senator from Illinois correct in his assumption that the initial ground station in Andover, Maine, is owned by A.T. & T.?

Mr. GORE. That is true; and A.T. & T. has strongly urged that it own the ground stations.

Mr. DOUGLAS. Can it be said, therefore, that A.T. & T. has its foot in the door, both so far as ground stations and the initial communications satellite are concerned?

Mr. GORE. Yes. I point out something else to the distinguished Senator from Illinois. There has been much talk about stock in the corporation. I heard one television

commentator say last night that the ownership would be about one-half private and one-half public. As the Senator from Illinois knows, there is no provision for public ownership. It would all be private ownership, so far as stock is concerned. But I think it is entirely possible under the bill that most of the financing would be done through the issuance of bonds. There is no prohibition in the bill upon the amount of bonds that A.T. & T. might buy.

Mr. DOUGLAS. Would it not be possible for A.T. & T. to have friendly individuals purchase amounts of stock—individuals who would be in alliance with A.T. & T. so far as the conduct of the company was concerned?

Mr. GORE. I assume that the largest corporation in the world would have such facilities. The bill limits the amount of voting stock which A.T. & T. could own, directly or indirectly.

Mr. DOUGLAS. To how much?

Mr. GORE. To 50 percent of the total.

Mr. DOUGLAS. Is the Senator from Illinois correct in assuming that if one owned 50 percent of the total, and if he could get an ally who would own one share, the owner of 50 percent of the total would then have, in effect, more than 50 percent and thus the control of the corporation?

Mr. GORE. Most big corporations in the United States are controlled by a far smaller percentage of voting capital stock than that. In the case of the Du Pont Co., the Department of Justice estimated that a 23-percent holding of General Motors stock by Du Pont constituted control of General Motors.

Mr. DOUGLAS. Would the Senator from Tennessee now close the point by saying that it is obvious that A.T. & T. would control the new corporation?

Mr. GORE. I think that is obvious; I do not know how anyone could conclude otherwise. I do not know of any other business entity besides A.T. & T. which is lobbying for the bill. There may be some, but I have not heard any Member of the Senate say so. I have not heard from any business organization or interest, except A.T. & T., which favored the bill.

Mr. DOUGLAS. Could the new corporation set up a low-orbit system and then use the cost in its rate base?

Mr. GORE. Yes. Research and development by the telephone utility is written into the ratemaking base of the corporation. Moreover, any bonds it might purchase could be written into the rate base.

Mr. DOUGLAS. What public authority would have the responsibility of regulating rates so that the corporation would receive only a reasonable return?

Mr. GORE. I think it would be the Federal Communications Commission. Whatever authority was possessed for such regulation would be possessed by the Federal Communications Commission.

Mr. DOUGLAS. Would the Senator from Tennessee express an opinion as to how successful the Federal Communications Commission has been in the past in regulating rates charged by A.T. & T.?

Mr. GORE. It has been woefully unsuccessful. So far as I know, there has been no effective regulation on the national level. It is a sad story. But A.T. & T. is very large.

Mr. DOUGLAS. Suppose NASA could be induced to renew its research into the high-orbit system, and that it should develop, as seems to be the case on the surface, that it were more economical; but that in the meantime the corporation had set up a low-orbit system. Would the Senator from Tennessee expect the corporation to scrap its low-orbit system and go into a high-orbit system?

Mr. GORE. No more than I would expect A.T. & T. to scrap its subterranean cables, even though the satellite orbiting system might prove superior.

Mr. DOUGLAS. Does not the Senator from Tennessee consider it important that these questions and answers have been made a matter of public record, so that the country and the Senate may know something about the issues involved?

Mr. GORE. I think it is very important, and I have been very much encouraged today that there has been a meaningful debate on this very important question. The distinguished senior Senator from Illinois has made a great contribution to the debate by the technical questions which he has propounded.

Mr. DOUGLAS. Does the Senator from Tennessee think it would be well for the proponents of the bill also to answer these questions, now that the Senator from Tennessee, who is an opponent of the bill, has given his answers?

Mr. GORE. I think so; and I think they would be prepared to do so. Although the proponents are wont to shout—in answer to all opposition—that the President wants this bill, I point out that if and when the bill reaches the amendment stage, my first amendment will be to restore to the bill the language requested by the President of the United States—language which I read some time ago. I refer to the provision that the State Department shall conduct the negotiations with other countries. I have assembled, and I shall cite later, more than 100 examples of international conferences in the telecommunications field in which the negotiations were conducted by the Department of State. So far as I am able to ascertain, this is the first time that a proposal has been made in Congress to make a private organization, organized and chartered under the laws of the District of Columbia for profit, the agent of the United States for the negotiation of international agreements of great importance, for the benefit of the private corporation, but to which the entire Nation would be committeed. To do so would, in my opinion, hamper, hinder, and harm the opportunity to develop an operable international system of satellite communications.

Mr. DOUGLAS. Will the Senator from Tennessee state whether in his judgment the FCC has been successful in helping to determine the content and quality of programs?

Mr. GORE. Does the Senator from Illinois mean television programs?

Mr. DOUGLAS. Yes.

Mr. GORE. The other night I turned on the television to listen to a 5-minute newscast; and during that length of time I found myself listening to seven commercials. If the FCC has been working on that situation, it has been signally ineffective.

The question of the Senator from Illinois reminds me that I am not sure that the people of other nations of the world would be very anxious to see American television if they had to do so at the price of seeing us brush our teeth and use deodorants, and a few other unmentionables.

Mr. DOUGLAS. Does the Senator from Tennessee recall the characterization which the Chairman of the FCC gave of American television—namely, that it is a vast wasteland?

Mr. GORE. I remember that, and I am sure the Chairman of the FCC has been apologizing for it ever since. But I should like to see him continue with the vigor of that first speech by him.

Mr. DOUGLAS. Has not the Senator from Tennessee heard the Senator from Oklahoma state that if the bill goes through, we shall have a vast wasteland in spaceland?

Mr. GORE. At least, that statement is euphemistic.

Mr. DOUGLAS. Does the Senator from Tennessee think it is quite dignified to appropriate the vast reaches of outer space for the advertisement of laxatives?

Mr. GORE. At least I think there is plenty of room, although I am not sure it is appropriate.

Mr. DOUGLAS. Does not the Senator from Tennessee know that the Senator from Illinois is not a squeamish person?

Mr. GORE. I never would have asserted that the Senator from Illinois was squeamish.

Mr. DOUGLAS. Is the Senator from Illinois correct in understanding that the Senator from Tennessee does not ascribe to the Senator from Illinois an attitude of being unduly prissy in his ideas about life?

Mr. GORE. That would be furthest from any attribute I ever heard ascribed to the Senator from Illinois.

Mr. DOUGLAS. But does the Senator from Tennessee think the Senator from Illinois is unduly fastidious when he says he has doubt that outer space should be conquered by laxatives and deodorants?

Mr. GORE. I share the sentiment of the Senator from Illinois. I hope it is not prissy.

Mr. DOUGLAS. Yet is it not true that in order to make this project a success, it would be necessary to sell commercial advertisements on the space communications system?

Mr. GORE. If the Senator from Illinois is referring to space communication by television, I think the answer must be "Yes." I am not sure that the same would apply, however, to satellite communication of telephonic messages. The latter may be very profitable, and may be profitable almost immediately after the installation of a workable system.

Mr. DOUGLAS. Will the Senator from Tennessee permit the Senator from Illinois to express the opinion that the Senator from Tennessee has drawn a very valuable distinction?

Mr. GORE. I will.

Mr. DOUGLAS. Does not the Senator from Tennessee realize that the Senator from Illinois is asking these questions so that no captious Senator could take the Senator from Tennessee from the floor?

Mr. GORE. I fully realize that the Senator from Illinois is enlightening the Senate by means of interrogations of the Senator from Tennessee.

Mr. DOUGLAS. Is the Senator from Illinois correct in the assumption that in order to make the television part of the satellite communications system a success, the private corporation would have to sell advertisements?

Mr. GORE. I do not know how else it would make the necessary revenue. Much has been said about the fact that Telstar carried to Europe, on television, President Kennedy's press conference. However, I wonder who would pay commercial rates to carry to Europe President Kennedy's press conferences in the future, after this monopoly is installed. I wonder what advertiser would pay such rates for that purpose. It may be that some in the European community, particularly with the prosperity of the Common Market, would want to advertise by means of paid, private advertisements. However, I am not sure that the European community would want to cooperate to the extent of agreeing to the assignment of wavelengths and frequencies for that purpose. But even if it should agree to cooperate to that extent, I am not sure that the result would be very complimentary to the United States.

Mr. DOUGLAS. I assume that the Senator from Tennessee has no objection to deodorants or shaving soap or laxatives, or to drug preparations which would relieve headaches "fast, fast, fast."

Mr. GORE. I am for them. However, I do not wish to hear about them every time I turn on the television.

Mr. DOUGLAS. But does the Senator from Tennessee think the glories of the outer world should be harnessed to advertise such commodities, and that America should present in that way its image to the world?

Mr. GORE. I do not think so; and I do not think the world would be very much

interested in receiving that kind of image of the United States, or that it would be particularly beneficial to the United States, if it did.

Mr. DOUGLAS. Is it not true that on the initial program or programs such items were not mentioned, but that, instead, the program included the baseball game in Chicago between the Cubs and the Phillies, photographs of Mount Rushmore, and photographs of various other beauties of the United States?

Mr. GORE. Yes, including the American flag.

Mr. DOUGLAS. Yes. Were not all of those displayed?

Mr. GORE. Yes, and I thought they were displayed appropriately.

Mr. DOUGLAS. Is it not possible that in that initial run A.T. & T. was on its good behavior, but that subsequent programs might be of a more commercial nature than was the initial program?

Mr. GORE. In answer to that question, I should like to read from page 30 of the bill:

"There is hereby authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.

Mr. DOUGLAS. Then, am I correct in concluding that, according to this bill, the primary purpose of the corporation is to be "for profit"?

Mr. GORE. That is the primary purpose. Does the Senator read any further purpose there? Will the Senator read the full sentence?

Mr. DOUGLAS. Mr. President, I ask unanimous consent that I may be——

Mr. GORE. Mr. President, I ask unanimous consent that I may yield to the senior Senator from Illinois to read a full sentence from the bill, without my losing the floor.

The PRESIDING OFFICER (Mr. SMITH of Massachusetts in the chair). Is there objection? Without objection, it is so ordered.

Mr. DOUGLAS. The sentence in question is in section 301:

"There is hereby authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government."

Mr. GORE. As the Senator will note from that language, there is no requirement that the corporation shall further the aspirations of the American people for peace. There is no requirement that the corporation shall operate in furtherance of the goals and objectives of American foreign policy. There is no requirement that it operate for anything except profit.

That is installing the dollar sign as the price of a satellite communications system; and I am not sure that other nations would be willing to grant us wavelengths for that sole purpose.

Mr. DOUGLAS. The Senator from Tennessee, like the Senator from Illinois, is not, I assume, opposed to profit as such, is he?

Mr. GORE. No, indeed. I rather like it. I have not been favored with too much of it in my lifetime, but enough to like it.

Mr. DOUGLAS. Is the Senator from Illinois correct in assuming that the Senator from Tennessee is not opposed because it is for profit, but because it is solely for profit?

Mr. GORE. That is a part of my objection. The other part of my objection is that the strictures of a profit operation simply do not meet the national needs and aspirations of the American people for the development and utilization of this vast new means of communication. The operation does not take into consideration our desire for peace, or our desire to project the image of American liberty to the uncommitted portions of the world. It does not take into consideration the necessary Voice of America operations, to tell the people of the world about the American way of life, our policies, our programs, and our desires for friendship with them.

Mr. DOUGLAS. Can the Senator from Tennessee tell me if there is anything in the bill which would impose an obligation upon the private corporation to carry such messages and such programs if they did not yield a profit to the corporation concerned?

Mr. GORE. No; moreover, if it is a private corporation, I doubt very much that the Government should place such a requirement in the language. The Government might very well reserve in any such legislation as is proposed the right to establish systems for its own use. But that door is closed by the bill, too, unless it is for a unique purpose. I think "unique" probably means security and military arrangements.

Mr. DOUGLAS. Does the Senator from Tennessee think the terms of the bill virtually forestall the Government from developing a complementary system of communications?

Mr. GORE. Let me read. This is from page 25 of the bill:

"The President shall take all necessary steps to insure the availability and appropriate utilization of the communications satellite system for such general governmental purposes as do not require a separate communications satellite system to meet unique governmental needs."

Instead of leaving to the Government the opportunity of orbiting a satellite for the communications, say, of State Department cablegrams, or Voice of America programs, the requirement is written into the law that the President must make arrangements to insure that the facilities of this monopoly, a corporate entity, will be used for such purposes.

Mr. DOUGLAS. Is the Senator from Illinois correct that, under this bill, the Government gives up any right to have a complementary system, or competing system?

Mr. GORE. That is correct. The bill proposes to create a corporation for profit, organized and chartered under the laws of the District of Columbia, and to vest in such corporation the right to use America's share in such a satellite communications system, and, moreover, to make this corporation the agent to negotiate, on behalf of the United States, to secure or fail to secure the very conditions and agreements necessary to bring about such a communications system.

Mr. DOUGLAS. Will the Senator from Tennessee tell us something about an alternative method which he might favor as compared to the present bill

Mr. GORE. The best answer is that legislation now on this subject is premature. I know many Members of the Senate disagree with me in that respect. That is my earnest and deeply held conviction.

The Senator from Illinois is aware, I am sure, that only a few days ago Mr. Salinger, press secretary to President Kennedy, announced that the White House staff was initiating a farflung study of the foreign policy implications of satellite communications, and that it would involve other executive agencies of the Government.

The Senator is aware, I am sure, that an international conference on telecommunications is already scheduled to be held in Geneva late next year, during which it is hoped that agreements may be reached for the allocation of wavelengths, frequencies, and channels necessary to make a satellite communications system possible.

Until the President's thoroughgoing study is completed, until the Senate Foreign Relations Committee has given consideration to the foreign policy aspects of this question, I feel that legislation is premature. I am not alone in saying that. Mr. Engstrom, of RCA, testified on this point before the committee.

I should like to read from page 122 of the hearings before the Committee on Aeronautical and Space Sciences of the Senate. The Senator from Nevada [Mr. CANNON] was interrogating Dr. Engstrom:

"Senator CANNON. Well, in your judgment, is it premature, in view of the fact that we are going ahead with the development program over the next period of time?

"Dr. ENGSTROM. I think in view of the answers that I have given to questions, you could draw the conclusion that I think it is somewhat premature and that we would be better off if we had more facts before we face the problems the bill presents. But this is a matter of judgment.

"Senator CANNON. If I correctly analyze your testimony, you feel that in a matter of 6 months or a period thereof that we would have more facts on which to base our judgment concerning the setting up of this organization?

"Dr. ENGSTROM. Yes, sir; and in a year from now we would be on very much more solid ground because the programs we heard about this morning will be accomplished in their first stages during the next 12 months.

"Senator CANNON. Do you see any specific disadvantages to not proceeding with this type of an organization at the present moment?

"Dr. ENGSTROM. No; I do not see any disadvantages, except the matter that has come up in the questioning here. When I indicate that we are not ready to make an investment, maybe there would not be enough to carry it forward."

He had previously said that RCA was not willing to make an investment except under certain conditions.

Mr. DOUGLAS. Is it not true that RCA controls NBC?

Mr. GORE. I believe that is correct.

The junior Senator from Tennessee is not the only one who thinks the proposed legislation is premature at this time. If, however, the Senate must enact legislation, by all means the public interest must be protected. I say in all deference to my colleagues who have recommended the proposed bill that the public interest would not be adequately protected, as I understand, by the proposed bill.

Mr. DOUGLAS. Does the Senator from Tennessee remember the colloquy which his colleague the senior Senator from Tennessee had before the Senate Subcommittee on Antitrust and Monopoly with Mr. Samuel M. Barr, of the Western Union Telegraph Co.?

Mr. GORE. I believe the Senator is referring to the excerpt from the hearings to be found on page 51 of the minority views. I read it:

"Senator KEFAUVER. Suppose you had a corporation of $200 million right now. What would it do with the money?

"Mr. BARR. Well, for an appreciable period of time it would sit on its hands. Deferral of this legislation until next year will not delay the development of a space satellite communications system in any degree."

Mr. DOUGLAS. Does the Senator from Illinois correctly remember that under the terms of the bill negotiations with foreign powers and other entities in this field are to be conducted, not by the U.S. Government, but by the private corporation with the U.S. Government acting only in an advisory capacity?

Mr. GORE. I should like to read the actual provision of the bill in that regard:

"Whenever the corporation shall enter into business negotiations with respect to facilities, operations, or services authorized by this act with any international or foreign entity, it shall notify the Department of State of the negotiations, and the Department of State shall advise the corporation of relevant foreign policy considerations"—

I interrupt my reading for the moment to say that I do not know how in this field business matters and political matters can be clearly separated. As the Senator will

note, the provision is that the State Department "shall advise the corporation of relevant foreign policy considerations."

Mr. DOUGLAS. Does not the Senator from Tennessee think it was very gracious for those who drafted the bill to seek to permit the State Department to advise the corporation?

Mr. GORE. Oh, yes. The following sentence provides still another amenity toward the Government:

"Throughout such negotiations the corporation shall keep the Department of State informed with respect to such considerations."

Mr. DOUGLAS. Is that not very generous of the corporation?

Mr. GORE. Yes. I think it would be generous. The corporation is not to be required to keep the Government informed of anything except the relevant foreign policy considerations. There is to be no requirement that the corporation keep the Government informed on so-called business negotiations. I do not understand exactly what would be a business negotiation. Would the negotiation of the allocation of a frequency or the negotiation of an agreement for the establishment of a ground facility in another country be entirely business, or would it be entirely a foreign policy question? It might be both. I am not sure how they could be separated.

I read also the following sentence:

"The corporation may request the Department of State to assist in the negotiations."

I think that would be nice. The Secretary of State may be asked to assist the corporation.

Mr. DOUGLAS. May the Senator from Illinois inquire if it would be obligatory upon the corporation to invite the Department of State to assist?

Mr. GORE. The word is "may."

Mr. DOUGLAS. "May"?

Mr. GORE. I read the sentence again:

"The corporation may request the Department of State to assist in the negotiations."

If the corporation should request the Department to assist in the negotiations, the bill provides further "and that Department shall render such assistance as may be appropriate."

I repeat, this language was not in the bill which President Kennedy requested. The provision recommended and requested by President Kennedy was stricken out and the language which I have read substituted therefor.

Mr. DOUGLAS. In other words, the present language would direct the U.S. Government to stand aside in international negotiations? The primary responsibility and, if the corporation so decided, the exclusive responsibility, would rest with the private corporation?

Mr. GORE. I should say, in order to give a full answer to the question, that my interpretation of the language in the bill would provide an affirmative answer to the question by the Senator, but I point out that the proponents of the bill are prone to cite another provision in the bill, which can be found on page 25. It provides that the President shall "exercise such supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States."

STATEMENT ON POINTS RAISED BY SENATOR DOUGLAS ON THE SENATE FLOOR, JULY 30, 1962

Senator DOUGLAS on July 30 propounded a series of questions to Senator GORE respecting H.R. 11040, the space communications bill, and invited the proponents of the bill to answer his questions. The questions covered a range of matters, and apparently were intended, with Senator GORE's answers, to demonstrate weaknesses in the approach taken by H.R 11040.

In general, the matters discussed were the respective costs of a synchronous system and a low-orbiting system; whether the American Telephone & Telegraph Co. would dominate the corporation proposed by the bill, whether the corporation would conduct itself in a manner conforming to the foreign policy determinations of the President; and whether the corporation would carry television advertisements which would hold our Nation up to ridicule.

A reading of the CONGRESSIONAL RECORD of the colloquy between Senator DOUGLAS and Senator GORE reveals some conflicts in their assumptions and conclusions.

First, Senators DOUGLAS and GORE assumed that the only choice before us as to systems lay between a low-orbiting system of 200–400 satellites and a synchronous system of 3 satellites, and hypothesized the costs for each system from which they conclude that the low-orbiting system will cost from $1 to almost $3 billion while the synchronous system will cost only a fraction of that figure.

As a matter of fact, according to FCC, consideration can be given to four basic orbital configurations: (a) A low-altitude passive system, such as Echo, Rebound, and Westford; (b) a low-altitude active random system, such as Telstar and Relay; (c) a medium altitude equatorial circular system; and (d) a synchronous circular equatorial system such as Project Syncom. It should be stressed that NASA has not abandoned Syncom, but that work is going ahead on it.

In the Senator DOUGLAS and Senator GORE exchange it was assumed that current experimentation involves a low-orbit system which would require some 200–400 satellites. This number would be required for a system orbiting at 1,000 miles. However, when the orbit is at about 6,000 miles, such as Relay and Telstar, only some 20 or 30 satellites are needed for 99 percent availability. If we take the cost figures given in the debate for satellites and assume a 50-satellite system for global coverage, the cost of placing the satellite portion in orbit is less than $300 million, with a launch cost per satellite of $2,700,000, the price paid by A.T. & T. to NASA for launching Telstar. And, if as we expect in the future, more than one satellite can be launched with a single rocket, the cost will come down even further. Nevertheless, the point is that a figure of less than $300 million is a more realistic one than the fantastically high billions of dollars figure suggested.

But, it is too early to try to attempt to choose a system at this time. We are now in a period of research and development which we hope will give us information both as to technical characteristics and costs of the various possible systems. As has been indicated, there are a number of experiments being carried on and planned with satellites in various orbits. We do not have enough information now to choose an ultimate system.

It must be borne in mind that we now have the means to launch a 50-satellite system with an operational capability, as is demonstrated by Telstar. According to Dr. Dryden, of NASA, effectuation of an operational synchronous system may be as much as 10 years distant. The critical issue at the present time is whether we shall proceed to develop an operational system as soon as we can with the means available, or whether we should wait and gamble on the development of a different system which responsible experts say may take 5 years to realize. Would the opponents of H.R. 11040 have us abandon all research and developmental work on nonsynchronous orbit systems? Are they willing to have this Nation lose its leadership in space communications to another country willing to establish a nonsynchronous system? Are the opponents aware that the British are proposing such a system?

The apparent concern of the opponents of H.R. 11040 is that should we establish an operational nonsynchronous system we shall be wed to such system for all time and not be able to move to a more efficient system when experimentation demonstrates its feasibility. The answer is that it is a mistake to assume we cannot move to such a system. Not only can a synchronous and nonsynchronous system be used contemporaneously, but synchronous satellites can be used to replace nonsynchronous satellites as the latter reach the end of their useful lives. Thus, we can evolve to a synchronous system fairly rapidly if it proves feasible and desirable. This is my understanding from experts in the field.

It also should be remembered that any decisions by the corporation with respect to the type of satellite system to adopt or the type of terminal stations to employ will be subject to review and approval of the FCC.

The FCC is empowered and required by H.R. 11040 to approve technical characteristics of the system and of the satellite terminal stations. No system can be established without that approval (sec. 201(c) (7) and (8)).

No additions of any substantial nature can be made to the system or terminal stations without FCC authorization (sec. 201(c)(9)). Also, the Commission will have authority to require that additions be made to the satellite system and terminal stations where necessary to serve the public interest (sec. 201 (c)(10)).

Thus, the corporation will not be able to act independently of Commission authority in the initial establishment of the system or the expansion and development of the system.

But most important, it should be kept in mind that the type of system that is to be established will be determined largely by the frequencies on which a system will operate; and the technical standards to govern the operation and performance of any system.

Second, Senator DOUGLAS and Senator GORE found that H.R. 11040 was deficient in the foreign policy area. The statement recently made by the Secretary of State before the Senate Foreign Relations Committee is authoritative on this point. Mr. Rusk said that the provisions of H.R. 11040 provide legal authority "fully adequate to protect the foreign policy interests of the United States." He stated that the Department of State was fully aware of the broad range of questions involving foreign policy interests that may arise in connection with the satellite communications system. He said that the Department would follow matters closely either through direct conduct of the negotiations or by close association with the corporation under the procedures provided in the bill, whichever was appropriate. He stated that H.R. 11040 contained ample implementing power for the President, the FCC, and the Federal courts, to insure that the policy and purposes of the bill are fully realized.

Third, Senator DOUGLAS and Senator GORE conclude that A.T. & T. would dominate the corporation proposed under H.R. 11040. This is not so. See Attorney General Robert Kennedy's testimony before Senate Foreign Relations Committee and Deputy Attorney General Katzenbach's testimony before the Senate Commerce Committee.

It does not follow, as Senator GORE suggested, that A.T. & T. would be the major capital contributor. It could not, directly or indirectly, own more than 50 percent of the stock in the corporation. But it must share this 50 percent with such other large companies as RCA, I.T. & T., G.T. & E., and Western Union, as well as such other companies that are in the communications field. Since, under the bill, the Government will have the authority to reapportion owner-

ship of voting stock among common carriers, there are ample safeguards against A.T. & T. owning an undue proportion of the stock. In no event will A.T. & T. ever be more than a minority stockholder, nor will it elect more than 3 directors of the total of 15.

It is said that, assuming A.T. & T. bought 50 percent of the stock, it could get control of the corporation by securing an ally owning one share. This could not give A.T. & T. control of the corporation. A.T. & T. could not vote for more than three, or one-fifth, of the directors, and its ally presumably could elect none with one share.

It cannot be assumed that A.T. & T. will own all U.S. ground stations, or that whoever controls the U.S. ground stations controls the system, as stated by Senator GORE in answer to Senator DOUGLAS. A distinction must be drawn between the corporation and the system. The satellites will be owned in common by the corporation and foreign nations, so that the United States will be only one voice among many in reaching decisions on questions relevant to the system. Insofar as U.S. use of the system is concerned, both ground stations and satellites, the Government will have the final word on all crucial questions through, among other things, its powers over rates and allocation of the facilities among the users.

With respect to ground stations, the language of H.R. 11040 was carefully revised by the Commerce Committee to make it entirely clear that no preference was intended to be given to either the corporation or any carrier in the licensing of ground stations by the FCC. It is true that A.T. & T. has erected a substantial ground station installation at Andover, Maine. However, it has done so at its own risk, knowing full well that the policy of this act is against giving it a preference. Moreover, so long as we delay in passing this bill, there will be no corporation in existence to erect ground stations for research and experimentation or to file competing applications with A.T. & T. for additional experimental ground stations that may be needed.

Fourth, the opponents of H.R. 11040 contend that a corporation organized for profit will defeat the objectives of achieving a truly global system.

Notwithstanding that the telecommunication companies furnishing oversea service today are organized for profit, they are presently furnishing telephone and telegraph service on a global basis. These circuits, directly or indirectly, reach every country of the world where there is need for communication with the United States. The real question is the utilization of satellite systems as a new means of communication to supplement and complement the existing media of cable and radio. There is no reason to believe that a satellite corporation organized for profit will not continue in the tradition that has made our international communication system as comprehensive as it is today.

Fifth, it was asserted that the corporation proposed by H.R. 11040, in order to make the television part of its operation a success, would have to sell advertisements of a nature which would be a disservice to our Nation's image abroad.

This assertion demonstrates a misapprehension of the nature and purpose of the corporation. It will no more have any say as to the content of TV programs it transmits than a communications common carrier has with respect to the TV programs it transmits from coast to coast. (The principle is also, of course, true of telephone, telegraph, and data transmission.) Its income will be from the transmission of intelligence, not the creation of intelligence. The TV station abroad will have the say as to what is broadcast until we reach the stage where we can broadcast directly from the satellite. Even then, the corporation and associated carriers will have no control over the content of the programs, but will merely take it over their lines to the satellite. The program content is the responsibility of the customer.

It should be noted that today U.S. TV programs can be filmed and flown abroad for showing there. The use of the satellite instead of airplane for sending these programs abroad in no way creates any new problems with respect to advertisements or program quality—whatever problems there are exist today. The communications satellite system will merely provide a substitute for the airplane until we reach the stage when we can broadcast direct from the satellite.

In conclusion it should be stressed most strongly that we cannot afford to delay enactment of H.R. 11040. The technology is moving forward at an explosive rate, as Telstar shows and as future experiments will also demonstrate. Public policy must not lag behind this technology. Legislation is essential now in order to provide a policy and organizational framework within which Government and industry may bring to operational fruition the research and development efforts.

This urgent need for legislation is pointed up by considering the many steps which must be taken before the entity which will own and operate the system is in a position to begin operations. Under H.R. 11040, the proposed corporation must be organized, funds must be raised, and a staff recruited before the corporation can plan operation of the system. These steps will necessarily consume time. It will also require a period of time for the President, NASA, and the Federal Communications Commission to study and adopt policies and procedures to carry out their respective responsibilities under H.R. 11040. Moreover, it will be difficult to advance arrangements with foreign interests with respect to such important matters as joint research and development, ownership, and use of a global system if such interests are not certain as to the instrumentality which will represent the United States in these areas.

H.R. 11040 also contemplates research and development effort by the corporation. It is essential that the corporation be organized as quickly as possible so that it may assume these responsibilities without delay. The corporation will not only provide a focus for the best technical brains in private industry, but it will, through contributing its own financial resources, reduce the need for further Federal funds.

SOME QUESTIONS AND ANSWERS WHICH MAY HELP CLARIFY THE RECORD

1. Question. Is Telstar a portion of the low- or medium-orbit system?

Answer. No. It is in a relatively low orbit, but it is not part of a low- or medium-orbit system. Basically it is an experiment—a preprototype. Lack of power limits its use to three half-hour periods per day. To the extent that the experiment is successful, the techniques developed may be carried over to an operational system.

2. Question. How many Telstars or similar satellites would be necessary to maintain a 24-hour global communications system?

Answer. Assuming 6,000-mile random polar orbits, about 20 satellites would give 99 percent availability; 30 would give 99.9 percent, and 40 would give 99.99 percent.

3. Question. How much has NASA spent on the communications satellite program and what is the total cost to the Government of that program?

Answer. Total NASA communications program (including launch vehicles, but exclusive of CoF) for fiscal years 1960, 1961, 1962, $86 million. Fiscal year 1960, 3.1; fiscal year 1961, 30.4; fiscal year 1962, 53.5.

4. Question. What is the direct cost to A.T. & T. of developing Telstar?

Answer. As of April 19, 1962, A.T. & T. advised our committee that the cost had been about $45 million. A.T. & T. Vice President Digman has estimated such costs through the calendar year 1962 to be between $55 and $60 million.

5. Question. If satellites are added to systems such as Telstar, what would the cost per satellite be and will that cost include the lift vehicle?

Answer. Any estimate is difficult; experimental flight models of the Relay satellite are costing NASA about $2,500,000 each. Production costs should be less. However, for an operational system, one would probably want to have the satellites at higher altitudes (possibly 6,000 miles) in order to provide longer mutual visibility times between ground station. This would require more radiated power from the satellite or more antenna gain. The latter would require some kind of altitude control, probably at increased cost. Booster costs are not included in these estimates.

6. Question. Is the A.T. & T. committed to the low-orbit system, of which Telstar is a prototype?

Answer. NASA has no indication from A.T. & T. that the latter is committed to a low-orbit system, in fact it can go into the medium-level orbit without difficulty.

7. Question. How many 24-hour communications satellites would be necessary to maintain a 24-hour global telecommunications system?

Answer. Nineteen randomly placed; three to six with stationkeeping.

8. Question. What is the relative cost of a 24-hour satellite such as Syncom to a low-orbit satellite such as Telstar?

Answer. Each experiment varies in number of channels, power, and similar features. Given an identical number of channels, the 24-hour satellite would be more expensive because it requires more supplementary equipment for positionkeeping; actually NASA has no figures on this.

9. Question. Has NASA conducted investigations in the high-orbit or Syncom system?

Answer. Yes; and it is continuing to do so.

10. Question. Has NASA abandoned its research into the high-orbit or Syncom system?

Answer. No.

11. Question. Which is the more promising—Syncom or Telstar?

Answer. It is too early to tell. Telstar works; Syncom hasn't flown yet, according to NASA.

12. Question. Have the sponsors of the communications satellite bill influenced NASA to suspend its investigations of the high-orbit communications satellite system?

Answer. No.

13. Question. Is the legislation based on the assumption that the worldwide communications system will be a low, as distinguished from a high, orbit system?

Answer. No.

14. Question. Is it true that such profit, as may arise from operation of a communications satellite program, will arise in connection with the North Atlantic community, and that the system cannot be operated profitably in service with Africa, southeast Asia, Latin America, and Australia?

Answer. Probably, yes; but there is no data to demonstrate this at this time.

15. Question. What are the estimated costs of ground stations for the high-orbit systems?

Answer. Very hard to estimate according to NASA. Savings in Syncom systems would have to come from fact that under a perfect parking situation it would not be necessary to have movable antennas but, in fact, movable antennas are now planned for Syncom ground stations. Other ground station costs would be comparable.

16. Question. What are the estimated costs of ground stations for the low-orbit systems?

Answer. A.T. & T. has stated that the Andover station has cost $15 million. The British Post Office estimates the cost of its Goonhilly station at $2,100,000. The capabilities of the stations are not similar. For instance, the British station is entirely dependent on NASA for prediction data. With this spread in function and cost, it is difficult to answer the question specifically.

17. Question. Would enactment of communications satellite legislation this year either speed up or necessarily retard development of a workable communications satellite program?

Answer. Failure to enact it would unquestionably retard it. It is essential that America's communications satellite management policies be fixed as soon as possible so we can claim our international rights. A more complete answer will appear in the debate.

18. Question. Does the bill make possible the ownership of ground stations by A.T. & T.?

Answer. Yes. Decision is left to FCC with public interest as criteria.

19. Question. Is the Andover, Maine, station owned by A.T. & T.?

Answer. Yes.

20. Question. Is there any public ownership involved in the communications satellite bill?

Answer. Government (FCC) control, not ownership.

21. Question. Is there a limitation on the amount of bonds that the A.T. & T. could buy?

Answer. All securities except initial offering must be approved in advance by FCC and must meet the public interest criteria. To this extent the Commission can exercise control over all securities to be issued after the initial offering.

22. Question. Will research and development expenses, such as those incident to the Telstar program, be included in rate base?

Answer. They can. This is for the FCC to determine, based on Commission's present rules and policies.

23. Question. What Government agency would be responsible for regulating this rate base so that corporation would only earn a reasonable return?

Answer. FCC.

24. Question. Has the Federal Communications Commission been successful in regulating rates charged in the past by A.T. & T.?

Answer. Fairly well—could be better. Is getting better.

25. Question. If the high-orbit system were found to be more economical, would it be possible to compel A.T. & T. or the corporation to abandon the low-orbit system?

Answer. Yes.

26. Question. Will the international television programs broadcast through the system owned by the corporation require the use of commercials to pay their way?

Answer. This legislation does not affect this question.

27. Question. Is the distinction properly made between telephone communications relayed overseas being chargeable to the particular users, and television broadcasts having to rely on commercials?

Answer. Yes; they will have to be treated separately; have different policies and regulations.

28. Question. Can the policies of the Federal Communications Commission, as developed heretofore in the television field, properly be applied to the international broadcasting of television programs under the authorizations in this bill?

Answer. This legislation does not affect this policy one bit.

29. Question. Is the basic purpose of the legislation a profit by the corporation as distinguished for other public purposes?

Answer. No; the basic purpose is to provide the most useful international communications system.

30. Question. Would an enactment of this bill make it impossible for the U.S. Government to develop, install, and operate a complementary communications system as an alternate to that set up by the corporation under this bill?

Answer. No. See section 102(a) of the bill.

Mr. PASTORE. Mr. President, on Saturday, August 11, 1962, the Senator from Tennessee [Mr. KEFAUVER] raised certain questions concerning H.R. 11040 as reported by the Senate Commerce Committee. In order to avoid any misunderstanding as to the intention and meaning of various provisions of the bill, I submit for the RECORD at this time an explanation to the various points raised by the Senator from Tennessee.

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

ITEM 1

Senator KEFAUVER asserted (CONGRESSIONAL RECORD, p. 16239) that H.R. 11040 is relying upon section 214(d) of the Communications Act to insure the extension of service to economically less developed nations. He contends that section 214(d) is not sufficient for this purpose because, even with that provision, the FCC has never been able to get A.T. & T. or the other telephone companies to expand their service into rural areas of the United States where the service may not be so profitable.

Comment: First, in general, the Bell system companies have provided service in the territories in the United States where they have been franchised to operate. This includes both urban and rural areas and profitable and unprofitable areas. There is no question that today the Bell system companies, as well as the independent companies are furnishing service in many high cost, uneconomic areas of their franchised territories, and that these operations are being subsidized in large measure by their profitable operations.

It is true that there have been a number of rural areas in the United States where there was no obligation of any carrier to provide service. The typical example is an agricultural, farming or cattle raising area where the costs of extending service would be prohibitive by any standard. In many of these areas, the residents of the area constructed their own lines which in turn were connected into the nearby switchboards of the telephone companies. Many of these operations have taken the form of rural corporations and have received substantial assistance through the lending programs of the Federal Government. It must be remembered that in the main the establishment of service in a particular area is a matter for the franchise authorities of the several States. It is not a matter in which the FCC is competent to act. The FCC responsibilities relate entirely to interstate and foreign service.

Second. In the field of international telephone and telegraph service, the coverage of the international telephone and telegraph carriers is comprehensive. Service is available, through direct or indirect circuits, to almost every point in the world where a country has the desire and means to communicate with the United States. This includes not only the well-developed areas, but many, many sparsely populated areas. U.S. carriers are alert and anxious to provide service to foreign points and there is no reason to expect that this attitude will not obtain in the era of satellite communications.

Third. Under H.R. 11040, as a practical matter there is little probability that section 201(c)(3), which contemplates the invocation of section 214(d) of the Communications Act, will have any applicability. The erection of ground stations on foreign soil will ordinarily be a matter for the foreign country involved. Of course, the latter may receive technical or financial assistance from the U.S. Government and perhaps from the corporation. But that would not come within the province of the Commission.

With respect to affording a foreign country access to the satellite system itself, there would be no need to employ the administrative remedies of section 214(d). This is because under section 201(a) (4) and (5) of the bill, the President could require the establishment of such service or at least could direct the corporation to take the lead in endeavoring to open such communication.

Where it may be necessary to launch an additional satellite to make service available to a foreign point, the Commission upon advice of the Secretary of State or upon its own motion, could, as contemplated by section 201(c)(3) institute proceedings under section 214(d) of the Communications Act to require such addition. But it is important to remember that the satellite corporation will not have sole control of the system. Other nations will participate in ownership. Accordingly, those nations will have a voice with respect to any discussions that may relate to ownership, use, or expansion of the system. These decisions will most likely be made at the international conference table rather than administratively by the FCC.

ITEM NO. 2: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16239, COLUMN 3

His point: The language on page 21, line 16 that activities "of the corporation shall be consistent with the Federal antitrust laws" is inadequate because it does not provide that the corporation shall be responsible under those laws, "so the apparent intent here is not to bring this corporation under the antitrust laws."

The answer: The point is not well taken, as both the corporation and the carriers who own stock in it will remain fully subject to the antitrust laws, including the penalties provided in those laws, aside from the fact that the creation of a single corporation is authorized in which communications carriers will be authorized to own stock to carry out the purposes of the legislation. This is confirmed by testimony of Deputy Attorney General Nicholas deB. Katzenbach at the April hearings of the Senate Commerce Committee on this legislation, at page 350, and further confirmed by Mr. Katzenbach's letter to Senator PASTORE of May 7, 1962, printed at page 30 of the Commerce Committee's report on this bill, Report No. 1584. In addition, section 403(b) of the bill explicitly states that "the sanctions which the bill provides do not relieve anyone of the punishments or liabilities under any other laws."

ITEM NO. 3: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16239, COLUMN 3

His point: On page 21, subsection (d) of section 102 which declares that it is not the intent of Congress to preclude the use of the satellite system for domestic services is unsatisfactory in that it will deny the public the benefits of cheaper rates which satellite services could bring in long-distance domestic service.

The answer: This interpretation of subsection (d) is simply not correct. As the report of the Senate Commerce Committee, Report No. 1584, shows on page 14, this language was put into the subsection as clarifying language to avoid any possible inference that the use of the system is to be limited to international communications and to preserve the public benefits that may eventually become possible through the extension of the

system from international to domestic services when technically and economically feasible.

ITEM NO. 4: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16240, COLUMN 1

(This item covers the same material as item No. 6.)

His point: The language on page 21, line 22 of the bill which provides, in effect, that the Government shall not have any other system unless it is "required to meet unique governmental needs" means that the Government cannot have another governmentally owned system except for classified military messages and that any excess capacity in such a military system could not be used for sending USIA programs to other countries.

The answer: The language on page 21, line 23, cited by Senator KEFAUVER was quoted incompletely, since the phrase "required to meet unique governmental needs" is immediately followed by the words "or if otherwise required in the national interest." Apparently Senator KEFAUVER was also referring to section 201(a)(6) of the bill on page 25, line 21, which contains some similar wording but with a quite different context and meaning. It is this language directing the President to insure "the availability and appropriate utilization" of the commercial system to be created under the bill which the Senator fears might prevent the use of surplus capacity in a Government-owned military communications satellite system for the transmission of USIA programs and other general Government traffic.

This is not the intention or effect of this provision or of any other part of the bill. The reason section 201(a)(6) only excludes classified traffic from its terms is that as to such traffic the President should have absolute discretion as to the method or mode of transmission. As to other governmental traffic, including USIA programs, this provision does not preclude the President from sending them over the surplus capacity of a military system but rather, by the use of the word "appropriate" gives the President broad discretion as to the extent to which the commercial satellite system should be utilized for handling such traffic, leaving the President free to send the bulk, or indeed all, of a particular kind of general government traffic over the surplus channels of a military system if this would result in savings to the taxpayer or would otherwise be in the public interest.

It should also be noted that under the present wording of section 201(a)(6) the President can establish priorities, including peacetime priorities, for general government traffic, including USIA programs, over the facilities of the commercial system. The Department of Defense has indicated by letter dated May 10, 1962, to Senator MAGNUSON, at page 38 of the Commerce Committee's Report No. 1584, that it favors section 201(a)(6) as presently worded. However, to avoid any misunderstanding, a clarifying amendment was adopted on August 13, to clear this point.

ITEM NO. 5: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16240, COLUMN 1

His point: Under the definition of communications satellite system on page 22, line 6, and of satellite terminal station on page 22, line 14, when read together with the provisions on page 29, line 9, under which the Federal Communications Commission may authorize carriers as well as the satellite corporation to own ground stations, ground stations which are necessary to send messages by satellite will be owned by A.T. & T. or other carriers so as to give them control over rates or charges and make it difficult for the corporation to earn money to pay back the public investment in it.

The answer: The argument that only the corporation should be permitted to own ground stations is one which it would be premature to agree with at this time since, for technical or economic reasons, it may prove in the public interest to have ground stations owned by carriers, by the corporation, or by carriers and the corporation jointly. Under the bill the FCC is forbidden to give any preference to any carrier or to the corporation in licensing ground stations and is required to license either or both for these stations "as will best serve the public interest, convenience, and necessity." The rates charged for using both the satellites and the ground stations, by whomever owned, will be regulated by the FCC, which assures just and reasonable rates, and equitable access by all authorized carriers.

ITEM NO. 6: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16240, COLUMN 2

(See item No. 4.)

His point: This is essentially the same point as previously described in item No. 4.

The answer: See discussion in item No. 4.

ITEM NO. 7

Senator KEFAUVER (CONGRESSIONAL RECORD, p. 16240) construed section 201(a)(7) and section 201(c)(4) of the bill to require the President and the FCC to insure perpetuation of a low-orbit system. Section 201(a)(7) provides that the President shall so exercise his authority as to attain technical compatibility of the satellite with existing communications facilities both in the United States and abroad. Section 201(c)(4) requires that the FCC shall insure that facilities of the satellite system and satellite terminal stations are technically compatible with each other and with existing communication facilities.

Senator KEFAUVER suggests that because existing facilities, as of now and in the future, include A.T. & T.'s ground station at Andover, Maine, and its low orbit Telstar satellite, any further system must be compatible with those facilities. This is an erroneous construction of these provisions.

A.T. & T.'s ground station at Andover, as well as its Telstar satellite, is authorized and operating under experimental authorizations only. As such they have but a 1-year life which must be renewed by the FCC for extended experimentation. In granting these authorizations, no commitment in law or fact was given to A.T. & T. beyond the license period. These facilities were constructed by A.T. & T. at its own expense and at its own risk.

The purpose of these sections cited by Senator KEFAUVER was to insure that in the establishment of an operational system, all components thereof, including the terrestrial systems with which the satellite system and ground stations must interconnect, would be technically in harmony with each other in order that efficient, effective, and economical service is assured.

As of now, it is too early to choose a system. We are still in a period of research and development. A number of experiments involving different orbits and altitudes are being carried on and are planned. While Telstar affords real promise of an operational system being established at an early date, this does not mean that we are wedded to a low-orbit system for all time. The Telstar-type system can be used contemporaneously with a high-altitude synchronous system. Thus, if experimentation should subsequently prove the synchronous system to be practical and superior, we can readily evolve to such a system on a gradual transitional basis.

But let me emphasize again that Senator KEFAUVER has misunderstood the intent and meaning of sections 201(a)(7) and 201(c)(4). Telstar is experimental. The Andover station is experimental. No decision has yet been made as to whether or where Telstar or the Andover station will, if at all, fit into the operational system contemplated by H.R. 11040. But in no event will the existence of these facilities control or determine the kind of operational system that will ultimately be authorized. This is a decision that will be made by the FCC after all the facts are submitted to it.

ITEM NO. 8: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16240, COLUMN 3

His point: This item includes two separate points concerning NASA: first, that the provision on page 26, line 10, directing NASA to cooperate with the corporation in research and development is a one-way street because there is no corresponding provision directing the corporation to cooperate with NASA and, second, that the provision on page 26, line 23, directing NASA to furnish launching services to the corporation on request would absolutely require NASA to act as the servant of the corporation regardless of the type of system the corporation might wish to have placed in orbit and regardless of any war, defense, or other space needs for NASA's launching services.

The answer: As to the first point, that NASA's obligation to cooperate with the corporation in research and development is a one-way street, the answer is simply that the very paragraph in question only requires NASA to cooperate to the extent "deemed appropriate" by NASA and therefore NASA could obviously require reciprocal cooperation from the corporation as a condition of its own cooperation.

As to the second point concerning the duty of NASA to provide launching services to the corporation for operational satellites, the bill in express terms does not obligate NASA to launch satellites for the corporation except as a part of the system which has been approved by the Federal Communications Commission. Thus the corporation would not have at its own instance the right to have NASA place in orbit a system of a type selected by it without governmental approval, and NASA itself would no doubt make its views known to the FCC on an application by the corporation for FCC approval of the operational system. In addition, the provision in question quite obviously could not reasonably be construed as obligating NASA to launch satellites at the corporation's request in disregard of its other legal functions and the powers and duties of the President. Specifically, launching operational satellites for the corporation would be subordinate to launchings which might be directed by the President as Commander in Chief for war or national defense purposes, and in addition, system launchings would have to be scheduled in relation to NASA's launchings under other space programs as authorized by Congress.

ITEM NO. 9

With respect to the provision (sec. 201(c)(1), p. 27, l. 11) which requires the FCC to insure effective competition, including the use of competitive bidding where appropriate, in the procurement practices of the corporation and common carriers, Senator KEFAUVER contends that A.T. & T. or RCA could write their own specifications so that only their own manufacturing interests could meet the specification.

The bill contains ample safeguards against any such abuse occurring. First, neither A.T. & T., RCA or any other carrier or company will be in a position to dominate or control the policies and practices of the corporation in this manner. Second, under the bill, the FCC is charged with overseeing the actions of the corporation to the extent required to assure effective competition. It will, in addition, promulgate specific rules and regulations to govern the procurement practices of the corporation and any carriers engaged in the operation of a ground station. Third, the presence of three Presidential appointees on the board of directors

of the corporation will prevent any interest or group of interests from exploiting its position in the corporation in matters of procurement.

Senator KEFAUVER asserts that the FCC for a long time has had the power to require carriers to use competitive bidding, but has not done so. The fact is that the FCC has no statutory authority or power to impose such a requirement. The legislative history of the Communications Act makes this entirely clear.

ITEM NO. 10

Senator KEFAUVER (CONGRESSIONAL RECORD, p. 16241) criticizes section 201(c)(1) on the ground that it does not provide adequate protection to the interests of small manufacturers who may wish to supply equipment and services to the satellite system. He contends that the large manufacturers will write specifications to favor their own affiliated suppliers. He also contends that the language of the section only requires the FCC to consult the Small Business Administration but does not require the FCC to follow the advice of SBA.

(See item 9 with respect to the charge that procurement specifications will be slanted to favor certain large manufacturers.)

There is no reason to assume that the FCC will not adequately protect the interests of small business in supplying goods and services for the satellite system. Nor is it to be assumed that the FCC would not work closely with the SBA in the formulation of policies and regulations designed to insure that small manufacturers will be afforded an "equitable opportunity to share in the procurement program" of the satellite system.

This provision was the recommendation of the SBA to the House and Senate Commerce Committees. It was placed in H.R. 11040 as reported to the Senate. It should be read in the context of section 404(c) of the bill which requires the FCC to transmit to the Congress annually a report of its activities and actions on anticompetitive practices as they apply to the communications satellite program together with an evaluation of such practices and recommendations for additional legislation as may be required in the public interest.

ITEM NO. 11

Senator KEFAUVER (CONGRESSIONAL RECORD, p. 16241) contends that section 201(c)(6) (p. 29, l. 5) which requires the FCC to "approve technical characteristics of the operational * * * system" does not give the Commission the power to require a change from, say, a low-orbit system to a high-orbit system.

The powers of the FCC to require a change from one type of system to another system are not limited to those cited by Senator KEFAUVER. He ignored the provision of section 201(c)(9) which empowers the FCC to insure that no additions are made by the corporation or the common carriers to facilities of the system or ground stations unless those additions are in the public interest. He also ignored section 201(c)(10) which gives the Commission the power to require the corporation and carriers to make such additions to the satellite system and ground stations as are required to serve the public interest. These latter provisions were added to H.R. 11040 by the Senate Commerce Committee at the recommendation of the FCC in order to meet the very point now raised by Senator KEFAUVER.

The Commission will be in a position to attach to any authorization it issues covering the satellite system or ground stations limitations as to the period of time for which such authorizations will be effective. Thus, the Commission can periodically reexamine the system, and can take action to effect any changes therein that the public interests may require.

Moreover, it is important to emphasize that the type of system to be initially established will be determined largely by agreement reached by our Government with other governments as to frequencies and technical standards governing the operation and performance of the satellite system.

Also, foreign governments will share in the ownership of the satellite system in partnership with the satellite corporation. Accordingly, these foreign ownership interests will have a voice in management decisions regarding the type of system to be established and any improvements or changes to be made therein. Decisions of this nature will be made through governmental channels and intergovernmental agreements.

ITEM NO. 12: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16241, COLUMN 1

His point: The three directors to be appointed by the President on page 31, line 19 would, under the District of Columbia Business Corporation Act, be fiduciaries of the corporation and would not have any responsibility, even a reporting responsibility, to the President. In addition, under the District of Columbia Business Corporation Act, the satellite corporation might be able to merge with A.T. & T. by a stockholders' vote. In addition, no explanation has been given why the District of Columbia Business Corporation Act was chosen rather than of one of the States. In addition it is not clear whether the directors of the satellite corporation could be prevented from dissolving the corporation.

The answer: The District of Columbia Business Corporation Act was selected because it is recognized as a good, modern general corporation law which follows the uniform corporation code and would give the corporation a situs at the seat of government. The three directors to be appointed by the President are fiduciaries of the corporation, but they are not merely that. It must be remembered that the corporation is subject to the District of Columbia's Corporation Law only to the extent consistent with this bill.

Even under ordinary corporate standards, a director is responsible not only to the corporation as an entity, but also to the stockholders who elected him to represent them. In this case the three Presidentially appointed directors were provided in lieu of officials to be designated by the President who would attend all corporate meetings and have access to all corporate records, but without voting power, as contemplated in an earlier version of the bill. These officials were intended to give the President a direct window into the affairs of the corporation. In strengthening the powers of the President by providing for three directors in lieu of nonvoting Presidential designees, there was no intention to diminish the powers of the President or deprive the President of the benefit of these officials both as a means of keeping the President informed and as a channel for communicating his views to the board of directors as a whole.

As to the other questions about whether this corporation could be merged or dissolved by action of its stockholders or directors under District of Columbia law, the answer quite obviously is that a merger or dissolution would be inconsistent with the provisions of this bill and would therefore be prohibited. In addition, any such merger would obviously present serious antitrust questions. In addition, Congress expressly retains the right to repeal, alter, or amend the bill so as to retain ultimate control of the corporation under section 301.

ITEM NO. 13: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16241, COLUMN 2

His point: There are four separate points under this item. First, that the provisions on page 31 for the President to appoint incorporators and later to appoint three members of the board of directors, do not contain any standard to guide the President in selecting his appointees. Second, that the requirement on page 31, line 11, that the incorporators shall arrange for an initial stock offering does not provide whether the stock will be voting stock or what its amount or value should be. Third, that the provision on page 31, line 13, for the President to approve the articles of incorporation does not contain a provision for him to approve any subsequent amendments to those articles. Fourth, that there is no provision giving the President authority over the bylaws of the corporation.

The answer: On the first point, about the standards to guide the President in appointing incorporators and directors, it must be assumed that the President, who issued a statement of policy a year ago on communications satellites and who recommended this legislation to the Congress, will not be at a loss in making selections for these appointments, particularly with the additional guides afforded during consideration of the legislation in Congress. There are many occasions where Presidents are called upon to fill positions without all the background and guidance that will be available here. As to the second point, the initial stock offering referred to in section 302 is obviously an offering of voting stock, and the incorporators must be allowed discretion as to the terms and size of the offering, subject to the provisions of the act. As to the third and fourth points, about the President's control over charter amendments and bylaws, it must be borne in mind that this is, after all, a private corporation which must have some of the normal rights with respect to its own affairs and internal management. Charter amendments and bylaws would of course have to be subordinate to the terms and policies of this bill and any departure therefrom would be enjoinable under section 403 of the bill.

ITEM NO. 14: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16241, COLUMN 3

His point: Under the provisions for the election of six directors by the carriers as set forth on page 32, line 6, the carriers might purchase far less than the 50 percent of the total stock of the corporation which is required to be reserved for them, but they would still be entitled to elect six directors of the corporation.

The answer: It is expected that the carriers will purchase substantially the full 50 percent of the voting stock of the corporation which is reserved for them by the bill, and that they would not expect to elect six directors like the public stockholders unless they match the public's investment in voting stock.

ITEM NO. 15: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16241, COLUMN 3

His point: Despite the provision on page 32, line 11, that no single carrier can elect more than three directors, A.T. & T. would still be able to control all six directors by being able to dominate the directors chosen by the other carriers.

The answer: There is no basis for the charge that A.T. & T. would control the directors elected by the other carriers. This would be a violation of the antitrust laws as well as of the present bill and would be enjoined at the insistence of the Attorney General. In addition, it cannot be assumed that such substantial organizations as Western Union, RCA, and I.T. & T. would be subservient to A.T. & T. These carriers have differed sharply from A.T. & T. during the hearings in Congress on this very legislation.

ITEM NO. 16: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16241, COLUMN 3

His point: The provision on page 32, line 22, that no officer of the corporation may

receive a salary from any other source during his employment is inadequate to prevent conflicts of interest and should be revised to provide that no person holding a financial interest in communication carriers can become an officer or director of the corporation.

The answer: The present provision represents the wisest line that can be drawn expressly by statute for a corporation intended to fulfill the unique mission of this program. If additional precautions against conflicts of interest should be needed, bearing in mind that this corporation in effect will operate in a goldfish bowl, they can be taken through bylaws or by resolution, preserving the flexibility of case-by-case adjustment. In addition, there are the usual remedies of stockholders against disloyalty to the corporation. The present provision is the most that it is necessary or practicable for Congress to provide at this time.

ITEM NO. 17: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16242, COLUMN 1

His point: The provisions for the issue of voting stock on page 33, line 5, are defective in that the requirements for a price of not over $100 a share and for wide distribution to the public only apply to the initial offering, which might be in a very small amount, and therefore the provision does not protect the rights of the public to participate in subsequent offerings.

The answer: The public is protected in participating in the purchase of subsequent issues as well as the initial issue, because subsection 302(b)(2) provides that no more than half of the voting stock may be owned by the carriers at any time, necessitating sales to the public. As to specifying the price of the voting stock in the terms of the bill, it is not practicable to do this for issues subsequent to the initial issue, because the offering must be related to the current market price of shares already outstanding.

Also see section 201(c)(8) requiring FCC to pass on the issuance of securities and borrowing by the corporation after the initial offering of stock.

ITEM NO. 18: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16242, COLUMN 1

His point: The public has no right to purchase the nonvoting securities provided for on page 34.

The answer: While it is true that the public does not have a "right" to buy into any particular issue of nonvoting securities under the bill, the bill does not preclude the sale of nonvoting securities by the corporation to the public. Under the bill, the directors of the corporation may sell nonvoting securities to the carriers, to the public, to financial institutions, or to any one else, as may seem at a given time most advantageous to the corporation.

ITEM NO. 19

Senator KEFAUVER questions the provisions of section 304(b) (p. 33, l. 12) which permit only those carriers "authorized" by the FCC to buy voting stock in the corporation. He urges in effect that there is no reason why authorization by a Government agency should be necessary in order for any carrier to participate in ownership of the stock reserved for carrier purchase.

The ownership structure of the corporation was designed to reflect a dichotomy between the carriers, on the one hand, who have extensive experience in communication operations to contribute to the corporation and will be the principal customers of the corporation; and, on the other hand, the general public whose interests will be principally investment for profit. Inasmuch as there are some 3,500 carriers in the United States with varying degrees of interest in the satellite system as a communication facility, the draftsmen of this legislative structure believed it desirable to establish a procedure with respect to the carriers that may participate in ownership in order to preserve this dichotomy. In other words, it is the objective of our bill to allow those carriers to participate in voting stock ownership, where such ownership will not defeat the structural balance between the carriers who have a special expertise to contribute and those investors whose principal motivation is corporate profits rather than service.

For this reason, section 304(b) merely requires a finding by the Commission that ownership of stock by a particular carrier "will be consistent with the public interest, convenience, and necessity." And all 3,500 carriers can apply. Accordingly, there is no reason to assume that only large carriers or only international carriers will qualify as authorized carriers.

ITEM NO. 20: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16242, COLUMN 1

His point: The provision on page 34, line 13, limits public stockholders to owning no more than 10 percent of the outstanding voting stock of the corporation, and this limit should also be applicable to carrier stockholders.

The answer: There is a need to assure the successful financing of this corporation by encouraging investments in it, and the carriers represent an important potential source of such investments. There is no need to fear that a carrier would dominate the corporation by an investment of more than 10 percent, in view of the limitation to 3 directors of any 1 carrier out of a total of 15, and because of other precautions. Should any carrier obtain an excessive part of that portion of the voting stock of the corporation which is reserved for carrier ownership, the FCC is empowered by section 304(f) to order divestiture. The bill directs the FCC, in so doing, to promote the widest distribution of the stock among the carriers.

ITEM NO. 21: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16242, COLUMN 2

His point: Under the provisions of the issuance of nonvoting securities on page 34, line 17, nonvoting securities might be issued and sold to a single carrier so as to give it control or dominance over the corporation. Also, the carrier purchasing such nonvoting securities might receive a double return, first in the form of interest or dividends, and second by the inclusion of the securities in a rate basis.

The answer: Issuance of nonvoting securities will depend upon the discretion and business judgment of the corporation's board of directors, which will not be dominated by a single carrier, and will depend on the financial market and on the policies of Congress reflected in the bill, with freedom to sell nonvoting securities to any investors, including institutions and the public. The question whether a carrier which purchases such nonvoting securities might receive a double return is a matter which would certainly be prevented by the FCC. The FCC, under section 201(c)(8), must approve all issues of nonvoting securities in the light of the public interest and the purposes and objectives of the bill, and would also regulate their inclusion in a carrier's rate base.

ITEM NO. 22: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16242, COLUMN 3

His point: On page 35, line 10, the relation of the percentage of the stock which a stockholder must otherwise hold under the District of Columbia business corporation law in order to have inspection and copying rights should have been written also to cover a stockholder's right to a statement of the affairs of the corporation.

The answer: The only respect in which the bill modifies the provisions of the District of Columbia law as to stockholders' rights of inspection of the books of the corporation is to eliminate the percentage requirement for inspection and copying the list of stockholders. This was done because the bill contains provisions affecting the distribution of the corporation's stock. Stockholders will be able to obtain ample information about the corporation, not only through the usual corporation reports, but also through reports to the FCC and the detailed reports to the President and Congress provided in section 404(b) of the bill.

ITEM NO. 23

Senator KEFAUVER contends that section 304(f) (p. 35, l. 18) could be administered by the FCC to require other carriers owning stock in the corporation to transfer their stock to A.T. & T. This is clearly not the intent or effect of this provision.

Its sole purpose is to avoid the situation wherein any one carrier will own an unduly large proportion of the stock and thereby freeze out other authorized carriers from stock ownership.

The explicit standard of this section which will guide the FCC is stated as follows:

"In its determination with respect to ownership of shares of stock in the corporation, the Commission, whenever consistent with the public interest, shall promote the widest possible distribution of stock among the authorized carriers."

The report of the Senate Commerce Committee also makes it clear that this provision is intended to prevent any carrier from gaining a dominant position in the corporation (S. Rept. 1584, p. 22).

Also a letter from executive vice president of the U.S. Independent Telephone Association regarding the position of the 3,100 companies who would be affected by the legislation:

UNITED STATES
INDEPENDENT TELEPHONE ASSOCIATION,
Washington, D.C., July 30, 1962.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: The enclosed resolution relating to communication satellite legislation was unanimously adopted by our 36 man board of directors on March 9. It calls for preservation of private enterprise in connection with this vital matter.

Although the resolution was adopted before the pending bill, H.R. 11040, was reported to the Senate, I am of the opinion that the sentiment of our managing body is favorable to the form which the legislation takes.

Our association, in its 65th year, is the national trade organization which represents the Independent telephone companies of the country. A total of 3,100 such companies provide telephone service in more than 10,000 cities and towns, including 5 State capitals. Although by far the smaller segment of the telephone industry, the companies comprising this segment have the responsibility for servicing more than 50 percent of the geographical area of the country. Thus, without the Independent companies the communications network of the Nation would not be a complete one.

While we have warm and cordial relations with our friends in the Bell System, the membership of our association is limited to Independent telephone companies together with their Independent manufacturers and suppliers.

Sincerely yours,

CLYDE S. BAILEY,
Executive Vice President.

"RESOLUTION ADOPTED BY USITA BOARD OF DIRECTORS ON MARCH 9, 1962, RELATING TO SPACE COMMUNICATIONS

"Whereas the free enterprise system in this country has nurtured individual ingenuity and initiative and thereby immeasurably aided the progress of mankind throughout the world; and

"Whereas the business community of the United States under the free enterprise system has been able to produce and distribute to the people of the U.S. services and goods of a quality and quantity unparalleled in other parts of the world; and

"Whereas the telephone industry of the United States, both its operating companies and manufacturers and suppliers, has long demonstrated the soundness of the free enterprise philosophy by making available to the general public a scientifically advanced, geographically extensive, and suitably diversified communications system of extraordinary capacity, with the largest subscriber saturation of any nation in the world; and

"Whereas it is the expressed policy of the Government of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind and that the early establishment of a space communication satellite system open to public use would be a significant means of implementing this policy; and

"Whereas the use of the private communications system of the Nation in times of emergency for the national defense and welfare through facilities developed and owned by private enterprise, but adapted for emergency national use through cooperation with interested Government agencies, has proven highly successful; and

"Whereas the President of the United States on July 24, 1961, announced a national policy favoring the private ownership of a space communications satellite system: Now, therefore, be it

"Resolved, That the United States Independent Telephone Association fully supports the policy of development of a commercial space communications satellite system by private business under the successful and inspiring philosophy of the free enterprise system; and be it further

"Resolved, That this association believes the past history, present operations and known future plans and developments of the Nation's communications common carrier industry demonstrate that the expressed policy of this Nation regarding peaceful uses of space can best be implemented through the establishment of a space communications satellite system to be owned and operated by the Nation's communications common carriers; and be it further

"Resolved, That the United States Independent Telephone Association hereby dedicates itself to efforts in the free enterprise system to bring the benefits of space communications to communication users at just and reasonable rates and with due regard for the interests of the general public, the national welfare and investors; and be it further

"Resolved, That the responsible officials of the Federal Government be apprised of these resolutions and that they be earnestly requested to consider them."

ITEM NO. 24

Preferential rates for the Government: There has been considerable discussion in these debates as well as in the various committee hearings held on H.R. 11040 with respect to reduced rates for Government traffic routed via the satellite system.

The provisions of H.R. 11040 do not express any specific formula or standard which would determine whether Government traffic of any character shall be entitled to a special reduced rate as compared with commercial traffic of the general public. This, however, does not mean that the Government may not be accorded special rates with respect to its use of the satellite system, including ground stations.

Under section 401 of H.R. 11040, the corporation is deemed to be a common carrier subject to the provisions of the Communications Act of 1934 to the same extent as are the conventional communications common carriers. The provisions of that act do not foreclose the establishment of a separate rate structure for Government traffic provided that justification exists to support such separate rate treatment. Section 201(b) of the Communications Act, which requires all charges for communication service to be just and reasonable, further provides that:

"Communications by wire or radio subject to this act may be classified into day, night, repeated, unrepeated, letter, press, Government and such other classes as the Commission may decide to be just and reasonable, and different charges may be made for the different classes of communication."

This provision recognizes the propriety of treating Government communications as a separate classification of service, for which separate charges may be fixed. It therefore constitutes ample authority in the Federal Communications Commission to establish a rate structure for Government communications which will be just and reasonable in the light of the many considerations that may be relevant.

It is only fair to point out in this connection that the considerations entering into the establishment of a special or preferential rate for Government traffic are many and complex. However, in the context of H.R. 11040 the Commission, clearly, could take into its ratemaking account, the national policies and purposes to be served. For example, it would be pertinent to consider that the satellite system is not only to serve the communication needs of the United States and other countries, but it is also to contribute to world peace and understanding. The Commission would be expected to consider also the objective of providing the new and expanded telecommunication services to economically less developed countries as well as those more highly developed. In addition, appropriate consideration would be warranted of the legislative desire that appropriate utilization of the communications satellite system be made for general governmental purposes as do not require a separate communication satellite system. These and other public policy factors will, of necessity, be weighed carefully by the Commission in determining the desirability and justification for according lower rates for communications of the Government as compared to rates applied to regular commercial users.

For many years, it has been traditional in FCC ratemaking practices to afford press traffic lower telegraph rates than those applicable to commercial traffic. This is because of the recognized importance of fostering the free flow of press information among the nations of the world.

But it is only fair to point out some of the other practical considerations that the Commission must take account of in fixing special rates for the Government. To the extent that the rates for any class of traffic do not compensate for the costs incurred in rendering service to that class, the deficit must, of necessity, be made up by other classes of user. This, of course, means higher rates to such other users, or, in other words, one class of user being subsidized by other users. It is important to remember that the purpose of rate regulation is to avoid unjust and unreasonable discrimination and preferences among the users of a carrier's services and to insure equitable distribution of a carrier's total costs among those users.

Another fundamental problem involved in establishing special reduced rates for the Government relates to the attitude of foreign governments or communication agencies which, under agreements with the U.S. carriers, divide the revenue from all international traffic.

The movement in the past 20 years has been toward the United States and foreign countries eliminating special rates for government traffic. This is reflected in principle by the International Telegraph Regulations which were agreed to in Paris in 1947—a principle which is generally based on the fact that government traffic is as costly to handle as similar traffic in the commercial class. While there still remains a fair number of foreign points to which our carriers handle government traffic at a preferential rate, the number of such points has been steadily declining.

I cite these considerations to emphasize that it is dangerous to oversimplify the problem of establishing and maintaining special rates for government traffic.

I believe that Secretary Rusk summed up the situation as well as anyone when he stated before the Foreign Relations Committee:

"Secretary RUSK. Senator, I would hope very much that it would be possible for government to negotiate a rate with the corporation which would be related to the quantity of usage, to something that would not be discriminatory as between ourselves and other users, something which would not itself require an increase in the rates to the general users of the system.

"I would think a free usage other than a voluntary effort on the part of the corporation itself or its member transmitting companies to carry public service programs, that for us to insist upon free usage is simply a question of making a decision as to who shall pay for the particular time and in what way. But I would hope that we could negotiate favorable rates if this can be done within the framework of an equitable international arrangement."

ITEM NO. 25

Mr. KEFAUVER's point of August 11, appearing on page 16242 of the CONGRESSIONAL RECORD: ' ais point involves section 402 of the bill and Senator GORE's amendment which was defeated yesterday. Full explanation concerning section 402 and meeting the questions raised by Senator KEFAUVER appear in the August 13 CONGRESSIONAL RECORD.

ITEM NO. 26: KEFAUVER'S POINTS OF AUGUST 11, CONGRESSIONAL RECORD, PAGE 16243, COLUMN 2

His point: The FCC, which is without experience in antitrust enforcement, must report to Congress on its activities against anticompetitive practices.

The answer: This provision will stimulate the FCC in its duties under the bill of assuring competition in the corporation's procurement and its sales. The bill does not depend on the FCC alone for enforcement of competition, and under section 404 the President as well as the FCC will report to Congress on these aspects of the program.

Mr. PASTORE. Mr. President, a question has been raised concerning the language of section 304(c) as it concerns the issuance at some future time of preferred stock or other nonvoting securities other than evidences of indebtedness. The Department of Justice has written a letter to me concerning this point which I ask to be made a part of the RECORD at this time.

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

U.S. DEPARTMENT OF JUSTICE,
Washington, July 12, 1962.

Hon. JOHN O. PASTORE,
U.S. Senate, Washington, D.C.

DEAR SENATOR PASTORE: The question has been raised whether, under the language of section 304(c) of the proposed Communications Satellite Act (H.R. 11040, as reported by the Senate Commerce Committee on June 11, 1962), the corporation might at

some future time issue preferred stock or other nonvoting securities other than evidences of indebtedness.

Section 304(c) declares in pertinent part that the corporation "is authorized to issue, in addition to the [voting] stock * * *, nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine." This language has been in H.R. 11040 and in a companion bill, S. 2814, without alteration ever since this proposed legislation was transmitted to the Congress by the President.

It was the intention of this language to give the corporation full flexibility, subject to appropriate regulation, in selecting the kind of nonvoting securities which it might see fit to issue at some future time. The term "nonvoting securities" clearly includes preferred stock and any other kind of stock that carries no voting rights, and is not confined to debt-type securities. If section 304(c) had been drafted merely to authorize the issuance of debt-type securities, the phrase "nonvoting securities" would have been omitted. The phrase "other certificates of indebtedness" was added after mentioning bonds and debentures to make it clear that the corporation could issue any types of short-term or long-term note or notes, secured or unsecured, serial, or otherwise, which would represent obligations of the corporation, even if not clearly embraced within the words immediately preceding this phrase.

A question has also been raised whether, in the unlikely event that authorized carriers are not willing to purchase as much as the 50 percent of any issue of voting stock which section 304(b)(2) of the bill requires to be reserved for them, such reserved shares as the carriers are not willing to purchase may then be sold to the public. Here, too, the bill seems quite clear. The authorized carriers in the aggregate are entitled to buy as many shares as the public buys, and they are entitled to have 50 percent of all issues reserved for them, but they are not entitled to prevent the public from buying shares (and the corporation from raising capital) through a refusal to accept any, or more than a portion, of the shares reserved for them by the corporation. This is confirmed by the last sentence of section 304(b)(2), which precludes the carriers, but not the public, from owning in the aggregate more than 50 percent of the voting stock. An opposite interpretation would oust the corporation's board of directors of all power to offer voting stock to the public except to the precise extent the carriers might choose to buy into any such offering, and could also greatly impair the marketability of voting stock held by any given carrier.

While the present language of the bill seems wholly adequate to authorize the corporation to issue any type of nonvoting securities, and to permit the public to own shares of voting stock which have been reserved for purchase by authorized carriers but have not been purchased by such carriers, it might at some time in the future prove of assistance to the corporation if the foregoing explanations were to be placed in the record of the present deliberations on the bill.

Sincerely,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

Mr. LONG of Louisiana. Mr. President, in view of the fact that there seems to be a prevailing sentiment that a motion to table might lie against a number of amendments which apparently will not be agreed to, I offer a number of amendments that I have here, and ask that they be considered en bloc.

Mr. PASTORE. I have no objection to the request.

The VICE PRESIDENT. Is there objection to the consideration of the amendments en bloc?

Mr. LONG of Louisiana. For the convenience of the Senate, I ask that the reading of the amendments be dispensed with, but that the clerk read the identification numbers of the amendments.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The legislative clerk identified the amendments, as follows: 8–11–62—JJJ, 8–11–62—NNN, 8–11–62—RRR, 8–11–62—OOO, 8–11–62—AAA, 8–11–62—HHH, 8–11–62—ZZ, 8–11–62—XXX, 8–11–62—KKK, 8–11–62—AAAA, 8–11–62—GGGG, 8–11–62—III, 8–11–62—LLL, 8–11–62—EEE, 8–11–62—ZZZ, 8–11–62—VVV.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that all these amendments be printed in the RECORD.

There being no objection, the amendments submitted by Mr. LONG of Louisiana to the committee amendment, were ordered to be printed in the RECORD, as follows:

On page 38, line 2, immediately after the period, insert the following: "The corporation shall conduct its activities (1) in compliance with the provisions of this Act and all rules and regulations promulgated thereunder by any department or agency of the United States, and (2) subject to all pertinent provisions of any treaty or agreement by the United States with any foreign government so long as those provisions remain in force."

On page 31, line 17, immediately after the words "consisting of", insert the word "nine".

Beginning with the words "Six members" on page 32, line 3, strike out all to and including the word "corporation" on page 32, line 6, and insert now in lieu thereof the following: "other members of the board shall be elected annually by the stockholders who hold voting stock. Not more than three members of the board may be elected by stockholders who are common carriers or individuals affiliated with any communications common carrier."

On page 32, line 11, strike out the word "three", and insert in lieu thereof the word "one".

On page 33, line 24, strike out the word "Fifty", and insert in lieu thereof the words "Thirty-three and one-third".

On page 34, line 11, strike out the figures "50", and insert in lieu thereof the figures "33⅓".

On page 38, line 20, immediately after the word "Act", insert the words "or any rule or regulation promulgated by the Commission under this Act".

On page 39, between lines 5 and 6, insert the following:

"(b) Whoever, being an officer, director, employee, agent, or representative of the corporation or any other communications common carriers, with intent to defraud the corporation or the United States Government or any department or agency thereof, (1) knowingly omits to make or makes any false or misleading entry in any book or record of the corporation or of such other carrier, or (2) knowingly makes any false or misleading report or statement with respect to the conduct of the business of the corporation or such other carrier, shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"(c) Whoever, being an officer, director, employee, agent, or representative of the corporation or any other communications common carrier, with intent to defraud the corporation or the United States Government or any department or agency thereof, in connection with the performance of any duty arising from his occupancy of any such status knowingly solicits or receives directly or indirectly from any source any compensation, rebate, or other valuable consideration to which he is not lawfully entitled, shall be fined not more than $10,000, or imprisoned not more than ten years, or both."

On page 39, line 6, strike out "(b)", and insert in lieu thereof "(c)".

On page 39, line 10, strike out "(c)", and insert in lieu thereof "(d)".

On page 35, line 3, strike out the words "20 per centum", and insert in lieu thereof the words "10 per centum".

On page 35, lines 5 and 6, strike out the words "which are held by holders other than authorized carriers".

On page 26, line 12, immediately after the words "public interest", insert a comma and the words "except that any such cooperative research conducted in whole or in part through the expenditure of any funds appropriated to the National Aeronautics and Space Administration shall be subject to the provisions of section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457)".

On page 37, between lines 13 and 14, insert the following new section:

"PROPERTY RIGHTS IN INVENTIONS

"SEC. 305. (a) Whenever any invention is made in the course or incident to the performance of any contract entered into by or on behalf of the corporation, such invention shall be the exclusive property of the corporation, and if such invention is patentable, a patent therefor shall be issued to the corporation notwithstanding any other provision of law upon application made by the corporation, unless the corporation, acting in conformity with policies and procedures adopted by the board of the corporation, waives all or any part of the rights of the corporation to such invention in compliance with the provisions of this section. No patent may be issued to any applicant other than the corporation for any invention which appears to the Commissioner of Patents to have significant utility in the development or operation of a communications satellite system, a satellite terminal station, or associated equipment and facilities unless—

"(1) the applicant files with the Commissioner, with the application or within thirty days after request therefor by the Commissioner, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was made and stating the relationship (if any) of such invention to the performance of any contract of the corporation; and

"(2) the corporation transmits to the Commissioner a written certification to the effect that such invention is not subject to the provisions of this section.

Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Commissioner to the corporation.

"(b) Each contract entered into by the corporation with any part for the performance of any scientific, technological, or developmental activity shall contain effective provisions under which such party shall furnish promptly to the corporation a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the performance of such activity.

"(c) Under such regulations as the board of the corporation shall adopt, in compliance with the provisions of this section and with the approval of the Commission, the corporation may waive all of or any part of its proprietary rights under this section with

respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any activity required by any contract of the corporation if the corporation determines that its financial interests will be advanced thereby. Any such waiver may be made upon such terms and under such conditions as the corporation shall determine to be required for the protection of its financial interests. Each such waiver made with respect to any invention shall include provisions effective to reserve an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the corporation, the United States Government or any department, agency, or instrumentality thereof, or any foreign government pursuant to any treaty or agreement with the United States. Each proposal for any waiver under this subsection shall be referred to an inventions authority which the corporation shall establish. Such authority shall accord to each interested party an opportunity for hearing, and shall transmit to the board of the corporation its findings of fact with respect to each such proposal and its recommendations for action to be taken with respect thereto.

"(d) Subject to approval by the Commission, the board of the corporation shall determine, and promulgate regulations specifying, the terms and conditions upon which licenses will be granted by the corporation for the practice by any nongovernmental person of any invention for which the corporation holds a patent.

"(e) The corporation shall take all suitable and necessary action to protect any invention or discovery in which it has any proprietary interest. The corporation shall take appropriate action to insure that any nongovernmental person who acquires any proprietary interest in any invention or discovery under this section will take appropriate action to protect that invention or discovery.

"(f) As used in this section—

"(1) the term 'person' means any individual, partnership, corporation, association, institution, or other entity;

"(2) the term 'contract' means any actual or proposed contract, agreement, understanding, or other arrangement, including any assignment, substitution of parties, or subcontract executed or entered into thereunder; and

"(3) the term 'made', when used in relation to any invention, means the conception or first actual reduction to practice of such invention."

On page 24, line 12, strike out the word "and".

On page 24, line 14, strike out the period, and insert in lieu thereof a semicolon and the word "and".

On page 24, between lines 14 and 15, insert the following paragraph:

"(11) the term 'reimbursable basis', when used in relation to any service rendered by any department or agency of the United States for or on behalf of the corporation or any other communications common carrier, means the reimbursement of that department or agency by the corporation or such other common carrier for all costs incurred directly or indirectly by that department or agency incident to the rendition of service, as such costs are determined pursuant to regulations promulgated by that department or agency with the approval of the Comptroller General."

On page 38, between lines 14 and 15, insert the following new section:

"SECURITY PROVISIONS

"SEC. 403. (a) The corporation shall establish such security requirements, restrictions, and safeguards as the President shall determine to be necessary in the interest of the national security.

"(b) The Civil Service Commission is authorized to conduct such security or other personnel investigations of officers, employees, agents, and consultants of the corporation, communications, common carriers, and contractors and subcontractors, actual or prospective, as the board of directors of the corporation may determine to be required for the protection of the national security. If information obtained through any such investigation indicates that the individual who is the subject of that investigation may be of questionable loyalty to the Government of the United States, the matter shall be referred to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the board.

"(c) Whoever willfully violates, attempts to violate, or conspires with any other person to violate any regulation or order promulgated by the board of directors of the corporation for the protection or security of any part of the communications satellite system, any satellite terminal station, any associated equipment, and facilities, or any laboratory or other facility related to or used in connection with the communications satellite system, of the corporation, any communications common carrier, or any contractor or subcontractor of the corporation or any such common carrier, shall be fined not more than $5,000, or imprisoned not more than one year, or both."

On page 38, line 16, strike out the section number "403", and insert in lieu thereof the section number "404".

On page 39, line 15, strike out the section number "404", and insert in lieu thereof the section number "405".

On page 38, strike out lines 3 through 14 and insert in lieu thereof the following:

"CONDUCT OF FOREIGN NEGOTIATIONS

"SEC. 402. The corporation shall not enter into negotiations with any international agency, foreign government, or entity, without a prior notification to the Department of State, which will conduct or supervise such negotiations. All agreements with any such agency, government, or entity shall be subject to the approval of the Department of State."

On page 38, line 2, immediately after the period, insert the following: "The corporation shall transmit to the President, the National Aeronautics and Space Council, and the National Aeronautics and Space Administration such information concerning the status and activities of the corporation as the President may determine from time to time to be required for the administration of the provisions for subsections (a) and (b) of section 201 of this Act."

On page 40, after line 14, insert the following new section:

"CREATION OF EDUCATIONAL RESERVE FUND

"SEC. 405. (a) There is hereby created on the books of the Treasury of the United States a fund to be known as the "educational reserve fund". The educational reserve fund shall consist of revenue received through payment as described by subsection (b).

"(b) In consideration of the privileges granted by this Act, any corporation engaged within the United States or any territory or possession thereof in furnishing for hire channels of communication through the use of communications satellites shall annually set aside for the educational reserve fund an amount equal to 10 per centum of the net proceeds of such corporation, as defined by the Federal Communications Commission. Such revenue shall be paid into the fund in conformity with such regulations as the Secretary of the Treasury shall prescribe.

"(c) Such fund shall be available for the support of any statutory program for Federal aid to public educational institutions and programs hereafter enacted by the Congress, including, but not limited to, primary, secondary, higher, and graduate levels and programs such as educational television, international education, and exchange scholarship."

On page 37, between lines 13 and 14, insert the following new subsection:

"(d) The corporation may not at any time directly or indirectly acquire, own, or control more than 50 per centum of the share capital or assets of any satellite terminal station situated in any foreign country or any associated equipment and facilities."

On page 30, line 25, immediately after the words "shall be", insert the following: "organized under the District of Columbia Business Corporation Act. It shall be".

On page 31, line 2, immediately after the period, insert the following: "The principal offices of the corporation shall be in the District of Columbia, but it may establish offices, agencies, and facilities at such other places as the board of directors may determine to be required to fulfill the objects of the corporation as prescribed by this Act."

On page 33, line 7, strike out "$100", and insert in lieu thereof "$50".

On page 34, line 12, immediately after the period, insert the following: "Voting stock of the corporation held by any communications common carrier shall not be eligible for inclusion in the rate base of that common carrier."

Beginning with word "Such" in line 20, page 34, strike out all to and including line 2, page 35, and insert in lieu thereof the following: "No communications common carrier shall be eligible to hold, directly or indirectly, legal title to or any beneficial interest in any such securities, bonds, debentures, or other certificates of indebtedness of the corporation. Under such terms and conditions as the President may prescribe, the Secretary of the Treasury is authorized from time to time to acquire and hold in the name of the United States securities, bonds, debentures, or certificates of indebtedness of the corporation issued under this subsection in such amount as the President may approve. For that purpose, the Secretary is authorized to use as a public-debt transaction the proceeds obtained from the sale of any securities issued under the Second Liberty Bond Act, as amended; and the purposes for which securities may be issued under that Act are extended to include the purchases of securities, bonds, debentures, or certificates of indebtedness authorized by this subsection. All purchases and redemptions of such securities, bonds, debentures, or certificates of indebtedness shall be treated as public-debt transactions of the United States. All income therefrom accruing to the United States shall be deposited in the Treasury as miscellaneous receipts."

Beginning with the words "Six members" in line 3, page 32, strike out all to and including the word "corporation" in line 6, page 32, and insert in lieu thereof the words "other members of the board shall be elected annually by the stockholders. Not more than an aggregate of six members of the board may be elected by those stockholders who are communications common carriers or persons affiliated with any communications common carrier".

On page 32, line 16, immediately following the period, insert the following:

"For the purposes of this subsection—

"(1) the term 'persons affiliated with any communications common carrier' includes (A) any corporation which is a parent or subsidiary corporation of any such common carrier, and (B) any individual who is an

officer or a director, or who holds legal title or any beneficial interest in more than two hundred shares of the stock of any class, of any corporation which is a parent or subsidiary corporation of any such common carrier;

"(2) the term 'parent corporation' means a corporation which has control over another corporation;

"(3) the term 'subsidiary corporation' means a corporation which is subject to control by another corporation; and

"(4) the term 'control', when used with respect to any corporation, means (A) the beneficial ownership of more than 25 per centum of the share capital of any class of that corporation, or (B) the exercise in fact of control over the policies or activities of that corporation by contract or otherwise."

On page 37, between lines 13 and 14, insert the following new subsection:

"(d) In consideration for the authority conferred upon the corporation by this Act, the corporation, under such regulations as the President shall prescribe, shall provide telecommunication services without charge for communications of a public service nature—not less than one hour of the daily transmittal time of the satellite communication system as such communications shall be defined by such regulations.

On page 25, line 20, insert the following before the semicolon: "and for the determination of the most constructive role for the United Nations;".

Mr. LONG of Louisiana. Mr. President, in defense of my amendments—and I point out that I have submitted them en bloc, so that the leadership can move that they be laid on the table en bloc—I wish to state that I have worked hard on these amendments—I have labored on this whole problem for more than 1 year, and I am adamant in urging the adoption of these amendments. I realize that I could insist on having the amendments taken up one at a time, and thus consume much time; but I know that Senators are very busy, and need to turn their attention to other things, and also need to have some time to return to their homes, to enjoy the company of their wives, and not be required to remain in the Senate Chamber for many more hours of consideration of this bill.

In submitting the amendments en bloc, Mr. President, I point out that one of the amendments is identified as KKK. In that connection, I may state that once the Ku Klux Klan was responsible for the defeat of my father, when he first ran for election as Governor of Louisiana; and although the Ku Klux Klan has considerable respect in some places, the KKK cost the Longs the office of Governor on one occasion.

Mr. President, under the existing circumstances, I now yield the floor.

Mr. HOLLAND. Mr. President, I am very much beholden to the distinguished Senator from Louisiana [Mr. LONG], who, I think, has conducted himself admirably in connection with this matter; and I freely forgive him for a comment he made the other night, which gave him much concern, although it did not concern me at all. I thank him for his conduct.

Mr. LONG of Louisiana. Mr. President, the Senator from Florida is much more generous to me than I deserve, but I thank him very much.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table the amendments of the Senator from Louisiana to the committee amendment, which have been submitted en bloc [putting the question].

Mr. MORSE. Mr. President, I call for a division.

On a division, the motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, if there are no further amendments to be submitted to the committee amendment, I ask unanimous consent that the order for the yeas and nays in connection with the third reading be rescinded.

Mr. GOLDWATER. I object.

The VICE PRESIDENT. Objection is heard.

Mr. LONG of Louisiana. Mr. President, I wish to claim the floor for 30 seconds, to explain to any Senator who may not understand the situation the motion made by the leadership. Senators who are opposing the bill desire to have a yea-and-nay vote taken on the question of passage of the bill. But we see no particular point in having a yea-and-nay vote on the question of agreeing to the committee amendment, as amended, or on the question of a third reading, and we believe that much time would be saved by avoiding such yea-and-nay votes. That is why we would have no objection to rescinding the order for the yeas and nays on the question of agreeing to the committee amendment, as amended.

Mr. PASTORE. Mr. President, I withdraw my request for unanimous consent.

Mr. SPARKMAN. Mr. President, how much time remains available to me?

The VICE PRESIDENT. Forty-three minutes.

Mr. SPARKMAN. I shall not use all that time, but I feel impelled to make a statement in regard to an amendment which I have had at the desk.

The amendment was first offered in June or July, I believe. On August 11, I modified the amendment, in order to meet certain objections which had been raised to it; and then I talked with the managers of the bill. I talked with the distinguished Senator from Oklahoma [Mr. KERR], the distinguished Senator from Washington [Mr. MAGNUSON], and the distinguished Senator from Rhode Island [Mr. PASTORE]. I talked with the leadership on both sides of the aisle. It was my understanding that the amendment had been cleared and would be accepted.

It is a conforming amendment. Let me say that in the course of the consideration, I understood that the Federal Communications Commission objected to only one sentence in the amendment; and I made known that I would further modify the amendment by striking out that sentence.

I thought I had complete clearance for the amendment, as modified, and I thought I had a complete agreement that the amendment, as modified, would be accepted; and I must say that it was not until 1 or 2 minutes ago that I understood that it would not be accepted.

Mr. President, to say that I am embarrassed and displeased is to put the matter lightly.

Mr. KERR. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. KERR. As the basis for my question, I wish to say that the Senator from Alabama has correctly quoted me; and in order that Senators may know the basis for the discussion between the Senator from Alabama and myself, I wish to ask him a question: Did not the bill as it came from the Commerce Committee contain a small-business amendment?

Mr. SPARKMAN. That is correct.

Mr. KERR. As I understand the amendment the Senator from Alabama has worked out, he first modified it two or three times, in order to meet what he understood to be all the objections which the FCC and others had; and I understand that the primary purpose of the amendment is clarification of the amendment which was added to the bill by the Commerce Committee.

Mr. SPARKMAN. That is correct.

Mr. KERR. Does the Senator from Alabama remember when the Senator from Idaho [Mr. CHURCH] and the Senator from Ohio [Mr. LAUSCHE] offered to the bill, the other day, an amendment which I described as one which in my judgment was a clarifying amendment? And does he remember that I recommended that the amendment be accepted, and it was accepted?

Mr. SPARKMAN. I do. As a matter of fact, since it had to do with the foreign-relations aspects of the bill, and since I had conducted the hearings in regard to that phase, I, myself, recommended that the amendment be accepted, because I said it was a conforming amendment.

Mr. KERR. And the Senator from Alabama now has an amendment in regard to the small-business aspects of the bill, and he feels that it has the same relationship to the bill that the amendment of the Senator from Ohio and the Senator from Idaho, which had to do with the foreign-relations aspects, has to the bill?

Mr. SPARKMAN. I think that is true. Let me say, in order to be absolutely accurate, that we have the same legislation with reference to procurement contracting, and so forth, in connection with the Department of Defense, the GSA, and the space agency. In other words, we have this arrangement for all the Government's procurement agencies; and I was trying to include the same requirement in this bill.

I offered to modify the amendment to the extent of deleting the provision that disagreements would be referred to the President, because the Federal Communications Commission did not believe that sentence should be in the amendment.

Mr. KERR. I thank the Senator from Alabama for answering these questions. Let me say to him that the answers he has given are consistent with what I

thought at the time and what I had in mind when I told the Senator from Alabama what he has said I told him.

Mr. SPARKMAN. That is correct.

Let me add that I have been in complete sympathy with the leadership in the management of the bill, in the attempt to get a bill which the House would accept.

A few days ago I informed the majority leader, the Senator from Oklahoma [Mr. KERR], and the Senator from Rhode Island [Mr. PASTORE] that Representative OREN HARRIS, chairman of the House committee, was over here, and I spoke to him about this measure, and asked him if it would be acceptable. He said it would be thoroughly acceptable. I transmitted that message to the Senator concerned——

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

Mr. SPARKMAN. I yield.

Mr. MANSFIELD. The distinguished Senator from Alabama stated that he was both embarrassed and displeased. The Senator from Montana wishes to state that he is very much embarrassed by what has occurred, because the Senator from Alabama has evidently believed that he had a commitment or a pledge or a promise of some sort from the chairmen in charge of the two committees reporting the bill, and, for some reason or other, a promise or pledge from the majority leader.

I cannot speak for the Senator from Oklahoma [Mr. KERR] or the Senator from Rhode Island [Mr. PASTORE], but I can speak for myself. The Senator from Montana did not make any commitment, because he was desirous of disposing of the satellite communications bill, after a number of months, a number of hearings, and a number of days of debate.

Reference has been made to the perfecting amendment offered by the Senator from Ohio [Mr. LAUSCHE] and the Senator from Idaho [Mr. CHURCH]. That was done before the motion for cloture had been made.

So what we are up against is an entirely different situation. What we want, if we can get it, is a bill which will not be filibustered again. What we faced yesterday was the possibility of a double-barreled filibuster based on an FEPC amendment.

I hope the distinguished Senator from Alabama, who has been a consistent friend of this program, and who has acted in good faith, as he always does, will take into consideration the situation which faces the Senate on this most difficult legislation and give us as much consideration as he possibly can.

Mr. SPARKMAN. I did not say the majority leader promised me this amendment would be accepted.

Mr. MANSFIELD. I did not mean to leave that implication.

Mr. SPARKMAN. He told me to speak to the minority leader. I did. The minority leader told me to see the Senator from New Hampshire [Mr. COTTON]. I spoke to him and told him the attitude of the Federal Communications Commission. I also spoke to the Senator from Rhode Island [Mr. PASTORE].

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

Mr. SPARKMAN. So far as the filibuster is concerned, it does not make any difference when the amendment was presented, whether then or now.

Mr. MANSFIELD. I merely stated the fact.

Mr. SPARKMAN. When the bill goes to the House, it is up to the House to accept or reject it. I have already referred to the assurance given me by the Representative from Arkansas, who is chairman of the committee in the House. There is one amendment in the bill. Why should it be reasoned that that amendment would be acceptable to the House and this amendment would not be?

I certainly do not want to cause any trouble, but this is an amendment that ought to be in the bill.

The committee put a very good amendment in the bill, but it does not go far enough. I am indebted to the committee for writing it in. It does not make the bill conform to what we have provided with respect to other agencies of the Government. It ought to be in the legislation.

Mr. President, I shall not try to force this amendment. I did not have that thought in mind when I announced that I would say a few words on it; but a great many Senators know about this amendment. We have been working on this amendment. The Small Business Committee held hearings with reference to this program many months ago, before any of the legislative committees did. While I did not go along with the Senator from Louisiana [Mr. LONG] in his insistence on the various things that he thought ought to be done, I did prepare this amendment, with the endorsement of the Small Business Committee. I submitted it in behalf of that committee, and I think it should have been made a part of the law.

I was ready to offer the amendment when the Church-Lausche amendment was offered. I am sure Senators can recall asking me to wait until the very end before I offered my amendment.

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

Mr. SPARKMAN. I yield.

Mr. COTTON. I understand the Senator mentioned showing this proposed amendment to me, which is perfectly true, but I did not agree to it at that time.

Mr. SPARKMAN. No. I said that I discussed it with the Senator from New Hampshire and told him the attitude of the Federal Communications Commission on it. There was only one sentence that I was willing to strike. As I recall, the Senator told me he would consult the Senator from Rhode Island.

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

Mr. SPARKMAN. I yield.

Mr. PASTORE. It is regrettable and unfortunate that the Senator from Alabama was misled. I am the one who told him, "Wait until the end, John," as I recall. He came to see me when things were quite busy around this desk. The end has come. We have laid every amendment on the table.

Mr. SPARKMAN. Except the Church-Lausche amendment. That was not laid on the table.

Mr. PASTORE. We did not accept any amendment during the cloture period. Whatever took place before happened last Saturday, when the Senator from Oklahoma [Mr. KERR] accepted the amendment that was proposed by the Senator from Idaho [Mr. CHURCH]. But during the cloture period not a single amendment has been accepted. We have followed the policy and plan of tabling every single amendment, and the Senator from Rhode Island would be placed in a position of bad faith if he made an exception at this time. The Senator from Rhode Island begs the Senator from Alabama to understand his position, because tomorrow our positions might be reversed.

I realize that this is a complicated bill. The corporation will not be formed overnight. Congress will be back in action in January. But we must be on the "go" right now. We must set the program in motion. We need the satellite bill—and we need it now.

The purpose of the strategy was to send the bill to the House in such form that it would not come back to the Senate, and we would have legislation during the present session of Congress.

If we accepted this amendment or made any deviation from the practice engaged in during the cloture period, I am afraid it would be embarrassing to many good Senators who had amendments which they considered to be worthwhile.

Mr. SPARKMAN. I did not intend to force this amendment through. As I said a few minutes ago, I shall not insist upon action on the amendment. I have not even asked that the clerk read the amendment. Yet, in fairness to those who counted on the offering of this amendment, I felt that I should make this amendment.

I hope I may have the Senator's assurance that in January, or whenever legislation on the subject is considered, this proposal may have a high priority.

Mr. PASTORE. I shall join the Senator from Alabama in sponsoring that amendment.

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

Mr. SPARKMAN. I yield.

Mr. MANSFIELD. First, I express my deepest thanks to the Senator from Alabama for his courtesy and consideration, both of which are the hallmark of the Senator himself. Many of us have found ourselves in an embarrassing position, but, as usual, the Senator from Alabama has risen to the occasion.

I assure him, if it will be of any assistance to him, that I shall be glad to join next January in sponsoring what he has requested at this time and what he has been requesting in the past several days.

Mr. SPARKMAN. I thank the Senator. I shall certainly invite him to join us at that time.

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

Mr. SPARKMAN. I yield.

Mr. KEFAUVER. I ask the Senator what difference it makes whether the amendment was offered before or after cloture?

Mr. SPARKMAN. None, except that the Senator from Rhode Island has a point. In other words, what has been termed a "guillotine process" was not invoked until after the cloture vote.

Mr. PASTORE. There does not seem to be any blood on the floor. Everybody looks healthy. I do not think anybody has been guillotined.

Mr. SPARKMAN. I hope the Senator from Rhode Island understands that I intended to put that expression in quotation marks.

Mr. PASTORE. I am sure of that.

Mr. KEFAUVER. Mr. President, will the Senator yield for another question?

Mr. SPARKMAN. I yield.

Mr. KEFAUVER. The proponents of the bill said that they fought the fair employment practices amendment because it might cause a counterfilibuster. I do not know of any Senator who would be inclined to filibuster against the passage of a fair amendment such as the Senator suggests, for the protection of small business. Does the Senator think that would occur?

Mr. SPARKMAN. I do not think any Senator would do it, but I understand the position the Senators take. I am in sympathy with the desire to have passed a bill which the House will accept, and which will not have to go to conference. Therefore, I am willing to forgo offering the amendment at this time. It will be my intention to do so in January, with the majority leader as a cosponsor, and with the assurance of the distinguished Senator from Rhode Island that full and early consideration will be given to it.

The VICE PRESIDENT. The question is on agreeing to the committee amendment, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I further announce that the Senator from New Mexico would vote "yea," and Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. BIBLE], the Senator from California [Mr. ENGLE], the Senator from Wyoming [Mr. HICKEY], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] would each vote "yea."

On this vote, the Senator from New Mexico [Mr. ANDERSON] is paired with the Senator from Alaska [Mr. GRUENING]. If present and voting, the Senator from New Mexico would vote "Yea," and the Senator from Alaska would vote "nay."

On this vote, the Senator from Colorado [Mr. CARROLL] is paired with the Senator from South Carolina [Mr. JOHNSTON]. If present and voting, the Senator from Colorado would vote "nay," and the Senator from South Carolina would vote "yea."

On this vote, the Senator from Idaho [Mr. CHURCH] is paired with the Senator from Arkansas [Mr. FULBRIGHT]. If present and voting, the Senator from Idaho would vote "nay," and the Senator from Arkansas would vote "yea."

On this vote, the Senator from Pennsylvania [Mr. CLARK] is paired with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from Pennsylvania would vote "nay," and the Senator from Mississippi would vote "yea."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senators from Maryland [Mr. BUTLER and Mr. BEALL], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The result was announced—yeas 69, nays 11, as follows:

[No. 207 Leg.]

YEAS—69

Aiken	Hickenlooper	Muskie
Bennett	Hill	Pastore
Boggs	Holland	Pearson
Bottum	Hruska	Pell
Bush	Humphrey	Prouty
Byrd, Va.	Jackson	Proxmire
Byrd, W. Va.	Javits	Randolph
Cannon	Jordan, N.C.	Robertson
Carlson	Jordan, Idaho	Scott
Case	Keating	Smith, Mass.
Chavez	Kerr	Smith, Maine
Cooper	Lausche	Sparkman
Cotton	Long, Mo.	Stennis
Curtis	Magnuson	Symington
Dirksen	Mansfield	Talmadge
Dodd	McCarthy	Thurmond
Ellender	McClellan	Tower
Ervin	McGee	Wiley
Fong	Metcalf	Williams, N.J.
Goldwater	Miller	Williams, Del.
Hart	Monroney	Yarborough
Hartke	Morton	Young, N. Dak.
Hayden	Mundt	Young, Ohio

NAYS—11

Bartlett	Kefauver	Morse
Burdick	Long, Hawaii	Moss
Douglas	Long, La.	Neuberger
Gore	McNamara	

NOT VOTING—20

Allott	Church	Johnston
Anderson	Clark	Kuchel
Beall	Eastland	Murphy
Bible	Engle	Russell
Butler	Fulbright	Saltonstall
Capehart	Gruening	Smathers
Carroll	Hickey	

So the committee amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall it pass?

Mr. MORSE. Mr. President, may we have the yeas and nays on the passage of the bill?

The yeas and nays were ordered.

LEGISLATIVE PROGRAM AND ORDER FOR ADJOURNMENT UNTIL 11 A.M. MONDAY

Mr. MANSFIELD. Mr. President——

The VICE PRESIDENT. The Chair recognizes the Senator from Montana.

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

Mr. MANSFIELD. I yield.

Mr. DIRKSEN. I should like to ask the distinguished majority leader about the schedule for the remainder of the day and also for tomorrow.

Mr. MANSFIELD. Mr. President, if consideration of the bill is concluded today, it is intended to proceed with the farm bill. Due to circumstances beyond the control of the Senator from Montana and the Senator from Illinois, there will be no session tomorrow. When the Senate concludes its business today, it will adjourn until 11 o'clock on Monday next. I am extremely sorry that circumstances are such that there will not be a session tomorrow, but having had my fill of Saturday sessions which very few Senators attend, I do not intend, if at all possible, to undergo a similar situation again.

Mr. President, I ask unanimous consent that when the Senate completes its business today, that it stand in adjournment until 11 a.m. Monday next.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

AUTHORIZATION FOR THE COMMITTEE ON THE JUDICIARY TO MEET DURING SESSION OF SENATE ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary may be authorized to meet during the session of the Senate on Monday next to complete hearings on the nomination of Judge Thurgood Marshall and, if possible, to complete the hearings on the drug bill as well.

The VICE PRESIDENT. Is there objection?

Mr. HOLLAND. Mr. President, reserving the right to object, I observe that the Senator from South Carolina [Mr. JOHNSTON] is not present.

Mr. MANSFIELD. It is with the concurrence of the Senator from South Carolina that I have made the request.

Mr. HOLLAND. I am very glad to hear that.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM

The Senate resumed the consideration of the bill (H.R. 11040) to provide

for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

Mr. MANSFIELD. Mr. President, who has the floor?

The VICE PRESIDENT. The Senator from Montana has the floor. The Chair has recognized him. When he is finished, the Senator from New Hampshire [Mr. COTTON] has requested the floor to speak for 1 minute.

Mr. MANSFIELD. Mr. President, first, I should like to commend all Senators for the diligence with which they have attended the sessions of the Senate in the past few days during debate on the satellite bill. That diligence has enabled us to secure quorums within a reasonable amount of time so that the business of the Senate might be done expeditiously.

Feelings have run high on this bill; a number of Senators believe it to be in the national interest to pass this legislation as soon as possible, and others have expressed their concern that the bill would create an unjustifiable monopoly that would be detrimental to our free enterprise institutions and to our efforts in the space communications field. I share the view of the former group, but I honor those Senators who have opposed the bill for their tenacity, their deep convictions, and their extensive preparations for debate. It is in the nature of democratic government that every view shall have its champion, and that a minority should have the right to press its opinion in the effort to convert the majority.

I have no doubt but that the Senate will be able to proceed to other business, following the conclusion of debate on this bill, with the same sense of fairness which has ordinarily characterized its proceedings. We have learned to disagree in this body without creating irreconcilable divisions between ourselves. The public expects us to get its business done, without the bitter rancors that have characterized certain less fortunate governments in other parts of the world.

Mr. President, I do not pretend to be an expert in the communications satellite field, but I have, because of the duties I have assumed in this body, paid great attention to the extensive debate surrounding this bill. I believe it is a good bill, one that protects the public interest and contributes to our efforts in a new area of communication between peoples. I should like to incorporate at the end of my remarks a brief memorandum on the safeguards contained in the bill for the protection of the public interest. This memorandum concerns both the antitrust law, the President's authority to examine the operations of the corporation, and the FCC's authority to insure the nondiscriminatory use of the system. In addition, I should like to insert a letter from the Deputy Attorney General, Mr. Katzenbach, concerning the issue of control of the corporation by the A.T. & T. Co.

I point out, Mr. President, that the bill contains a section—section 404–A—requiring the President to transmit to Congress an annual report of the operations of the system, together with his recommendations for additional legislation or other action he considers necessary. Should it appear that substantial amendments should be made in this law to protect the public interest, I can assure the Senate that the Senator from Montana will bend every effort to see that those amendments are enacted.

In summary, Mr. President, I share the view of the vast majority of the Senate that this is a good bill. Three of our committees have had jurisdiction over the bill. Two of them have made substantial changes in it. In all those committees, a total of six Senators opposed the bill in its present form. I know of no bill in recent memory that has had such exhaustive committee consideration. No bill in this Congress has been debated at greater length. If, after this long legislative history the bill still has the support of four out of five Members of this body, and if, after examination of its scientific and organizational aspects the bill still has the unqualified support of the President, I believe the chances are very great that it is good legislation that will serve the people of this country for many years to come. I urge its adoption by the Senate.

Mr. President, I wish to pay my deep respects to the outstanding leadership shown by the distinguished Senator from Rhode Island [Mr. PASTORE]. He has remained in his position and defended the bill, and was able to answer every argument as it was presented. He has indeed acted in the highest and best traditions of the Senate.

Mr. President, I ask unanimous consent to have printed at this point in my remarks a brief memorandum on the safeguards contained in the bill for the protection of the public interest, and also a letter from Mr. Nicholas deB. Katzenbach, the Deputy Attorney General.

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

SAFEGUARDS

H.R. 11040 provides various safeguards for the protection of the public interest. In summary the bill protects the public interest by preventing any company from acquiring a dominant interest in the corporation, making facilities of the corporation available to all common carriers authorized to provide services by the FCC, providing for competitive purchase of equipment, insuring that any economies realized in the operation of the system will inure to the benefit of the public, insuring that the most efficient and economical system will be developed and that full advantage will be taken of all technical development in the field of satellite communication and by reserving to Congress the right to alter or amend by subsequent legislation.

A brief summary of some of the provisions of the bill indicates the manner in which the public interest is protected.

ANTITRUST LAWS

1. The activities of the corporation and all persons or companies participating in its ownership "shall be consistent with the Federal antitrust laws" (sec. 102(c)).

PRESIDENTIAL AUTHORITY

2. Section 201(a) gives the President authority to—

(a) Provide for continuous review of all phases of the development and operation of the system (subpar. (2));

(b) Exercise supervision over relationships of the corporation with foreign entities to insure that such relationships are consistent with the national interest and foreign policies of the United States (subpar. (4));

(c) Assure that the facilities of the system shall be available for governmental purposes (subpar. (6)).

FEDERAL COMMUNICATIONS AUTHORITY

3. Section 201(c) gives the Federal Communications authority to—

(a) Insure effective competition in the procurement by the corporation of equipment and services (subpar. 1);

(b) Insure that all authorized carriers shall at all times have nondiscriminatory use of, and equitable access to, the system (subpar. (2));

(c) Institute proceedings to require establishment of such communication service by the corporation and the appropriate communication carriers when advised by the Secretary of State that commercial communications to a particular foreign point by means of the system is in the national interest (subpar. (3));

(d) Establish regulations to insure that the economies made possible by the system in the furnishing of communication services shall be made available to the users of such services (subpar. (5));

(e) Approve all technical characteristics of the satellite system and of the satellite terminal stations (subpar. (6));

(f) Insure that no additions shall be made by the corporation or the carriers to facilities except where required by the public interest (subpar. (9));

(g) Require that the corporation or carriers using this system make such additions to the facilities as will serve the public interest, convenience and necessity (subpar. (10)).

STRUCTURE OF THE SATELLITE COMMUNICATIONS CORPORATION

4. (a) Three members of the 15-man board of directors of the corporation shall be appointed by the President (sec. 303(a)).

(b) No communication carrier who is a stockholder in the corporation shall vote, directly or indirectly, for more than three directors of the corporation (sec. 303(a)).

(c) Communication common carriers shall at no time own more than 50 percent of the voting stock of the corporation (sec. 304(b)).

(d) The Federal Communications Commission can require divestiture of common stock owned by any common carrier when such divestiture will result in more widespread ownership of the system (sec. 304(f)).

(e) All financing by the corporation except for initial issue of capital stock shall be subject to the approval of the Federal Communications Commission (sec. 201(c)(8) and sec. 304(c)).

(f) The corporation is authorized to contract with authorized users, including the U.S. Government, for services of the communication satellite system (sec. 305(b)(4)).

SANCTIONS

5. The Attorney General may petition any Federal district court for equitable relief against any act or refusal to act on the part of the corporation or of any person when such is a violation of any provision of the bill (sec. 403(a)).

POWER RESERVED TO CONGRESS

6. (a) Congress reserves the right to repeal, alter or amend the bill at any time (sec. 301).

(b) Congress shall be kept fully informed of the activities of the corporation. The President shall transmit to Congress an annual report of the operations of the satellite communications system with recom-

mendations for additional legislation or other action considered necessary by the President (sec. 404(a)). The corporation shall submit to the President and to Congress annual reports on its operations under this bill (sec. 404(b)).

The Federal Communications Commission shall submit annually to Congress a report (i) of its activities and actions on anticompetitive practices as they apply to the communication satellite programs; (ii) and evaluation of the actions of the FCC and its recommendation for additional legislation considered necessary in the public interest (sec. 404(c)).

Mr. MANSFIELD. Also I will incorporate in the RECORD at this point a letter from the Department of Justice denying the assertion that the A.T. & T. could dominate the proposed satellite corporation:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., June 21, 1962.

Hon. JOHN O. PASTORE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PASTORE: My attention has been called to the statement by Senator KEFAUVER during the debate on communications satellite legislation (CONGRESSIONAL RECORD, June 19, 1962, p. 11055) to the effect that I had testified before congressional committees that in my opinion A.T. & T. could dominate the proposed satellite corporation, whether it controlled the election of any director or not, through control of the corporation's financing.

I assume Senator KEFAUVER is referring to my answers to Senator SYMINGTON while I was testifying before the Senate Space Committee on March 7, 1962. I then expressed an opinion to the effect that if ownership of the corporation were limited to the carriers, the corporation would be largely dependent on A.T. & T. for financing, so that A.T. & T. could exercise control without electing directors. It is clear that my March 7 opinion was given in the context of one of the main issues then before the Space Committee, namely, whether ownership of the proposed satellite corporation should be confined by law to communications common carriers or would be open to the public. At that time A.T. & T. and other carriers had been advocating the restriction of ownership of the proposed satellite corporation to the carriers. It was with respect to a corporation so owned that I expressed the opinion in question, because such a corporation would be dependent upon investment by the carriers, investment for which A.T. & T. would be a more significant source than all of the other carriers combined.

I do not believe that there is anything in my subsequent testimony at the hearings before the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee or before the Senate Commerce Committee which expresses the opinion cited by Senator KEFAUVER in the June 19 debate with respect to a satellite corporation that would be open to public ownership participation as envisaged by the kind of legislation reported by the Senate Commerce Committee on June 11 and now before the Senate. However, if there is anything in any of my testimony which could possibly be subject to such an interpretation, I should like to make it clear that this is not and was not my opinion with respect to the kind of corporation proposed in the bill now before the Senate.

Sincerely,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

Mr. COTTON. Mr. President——

The VICE PRESIDENT. The Chair recognizes the Senator from New Hampshire.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. COTTON. I yield.

Mr. MAGNUSON. I join with the Senator from Montana in commending the Senator from Rhode Island [Mr. PASTORE] for the outstanding, long, and laborious task he has completed in connection with the complex bill before the Senate.

I think it would be fitting to commend also Mr. Nicholas Zapple of the committee staff, who has worked long and hard on the subject.

The majority leader omitted one point in reference to the debate. Nearly all Senators have from time to time engaged in extended discussions—so-called filibusters—on bills. I say to Senators who opposed the bill that the debate on the bill was one of the very few discussions in which every speech that was made against the bill was germane to the bill and the problem itself. I think the opponents deserve high praise for that fact.

Mr. MANSFIELD. Mr. President, I join the distinguished Senator from Washington in extending my thanks and the thanks of the Senate formally, to Nicholas Zapple for the fine work he did in supporting the leadership of the Senator handling the bill.

Mr. LONG of Louisiana. Mr. President, I, too, congratulate the majority leader and the Senator handling the bill [Mr. PASTORE] for the very fine way in which they have conducted themselves throughout this trying debate. Differing as much as we do, I must say that in my opinion they have done the best they could to accommodate Senators.

Mr. COTTON. Mr. President, I have had to yield the floor without my permission being requested. Everything has been said, and it is probably unnecessary to say more. But I did ask the Vice President to recognize me for one moment while Senators were still present before the vote on passage of the bill.

As a Republican Senator who served on the Subcommittee on Communications of the Committee on Commerce throughout the deliberations and consideration of the bill, I felt that it would be fitting and proper to say a word of sincere commendation to the distinguished Senator from Rhode Island [Mr. PASTORE]. I wanted the opportunity to do so.

The bill before the Senate will blaze a trail in a new field. The distinguished Senator from Rhode Island would be the last, I am sure, to suggest that the bill is perfect. Men could differ upon many points in the bill. Some of us perhaps might be accused—though I believe no Senator could be accused justly—of having a subconscious bias in favor of the bill, by reason of our devotion to free enterprise and the free competitive system. But not the Senator from Rhode Island [Mr. PASTORE]. His name on the report as a Senator associated with the bill to me, at least—and I believe to the Senate and to the American people—guarantees that the bill is drawn in good faith for the protection of the public. It is a bill for the good of our Nation in pushing toward the stars in this new field.

I served with the distinguished Senator from Rhode Island on the committee. He labored for a long period of time with his characteristic conscientious attention. He has had the unpleasant, and at times painful task, of guiding the bill through the Senate. As one who served with him on the committee and who sits on the other side of the aisle, I wanted the opportunity to say that the Senate and the country should be proud and appreciative of the work which the Senator from Rhode Island [Mr. PASTORE] has done on the bill today and on preceding days.

Mr. ROBERTSON. Mr. President, I yield myself 2 minutes on the bill. I have not taken any time yet. I should like to ask the Senator in charge of the bill a question. The bill has been with us off and on during all of the present session. It was before one committee for nearly 2 weeks. It was before another committee for 5 days. There were hearings in the Judiciary Committee on the antitrust phases of the bill. It was officially brought before the Senate on June 15 and has been here before the Senate off and on ever since.

Yet today we hear that the opponents cannot explain why the bill is the biggest giveaway in all history because the Senate is operating under a gag rule.

Mr. President, the leader of this bill and I have been voting for hundreds of millions of dollars in the Committee on Appropriations for every type of research. We all know that all that NASA has learned has been made available to all the scientists of this Nation. Is there any giveaway in this bill other than the opportunity to put our Government into a new type of spending which many of us feel comes close to socialism?

Mr. PASTORE. Let me say to the Senator from Virginia, with all due respect to other points of view, insofar as I am concerned, I stake my name, my reputation, and everything I have worked for in 55 years that in my opinion it is not a giveaway.

Mr. CASE. Mr. President, I shall not delay the Senate. However, I could not let this opportunity go by, since I was until only a few days ago the ranking Republican member of the Subcommittee on Communications, and have sat with the chairman of that subcommittee all through the hearings, and a member of the Space Committee, and sat with the chairman of that committee all through the hearings of that committee, without affirming everything that has been said about the Senator from Rhode Island [Mr. PASTORE]—about his diligence and his almost uncanny knowledge not only of what was right but also what, after a long period of debate on the floor, would stand up impregnably.

He took a good bill that came out of the Space Committee. The chairman of the Space Committee did a fine job in that regard. I supported that bill. However, I believe that JOHN PASTORE improved it, particularly from the standpoint of its impregnability in my opinion to any sound, logical criticism on any ground upon which it has been criticized.

I commend him on his patience and his skill in handling a most difficult situation. I therefore wish to express my appreciation to him as a member, until recently, of his subcommittee.

Mr. SCOTT. Mr. President, as the present ranking minority member of the Communications Space Committee, I should like to add my comment in concurrence with what has been said about the patience and the logic and the clarity of the presentation, and the reasonableness and the accuracy of the statements made by the leader of the bill, the distinguished Senator from Rhode Island [Mr. PASTORE].

He has earned the continuing and increasing respect of the Senate. I am very proud to serve with him on his subcommittee. I congratulate him on the manner in which he has conducted the long and tedious and trying processes of the bill from committee to the floor to this point.

Mr. KEATING. Mr. President, I wish emphatically to reiterate the statements made by my colleagues in the Senate who serve on the subcommittee. We admire without qualification the excellent work done by our chairman, the distinguished Senator from Rhode Island [Mr. PASTORE], and on his intricate knowledge of this very involved subject. That knowledge was amazing and a real example which he set for the other members of the subcommittee.

Mr. THURMOND. Mr. President, as a member of the Senate Communications Subcommittee of the Commerce Committee which approved this bill, I am strongly in favor of it. I very strongly favored it in committee, and I am strongly in favor of its passage by the Senate.

I feel that it is necessary for us, as a Nation, to do everything possible to move ahead in all phases of our space program. The pending bill represents a step in the right direction. It makes full use of all the scientific knowledge available in the best tradition of the free enterprise system.

I regret the delay which has taken place, but I am pleased that we are nearing final passage.

I could not support the cloture petition, since I have been a stanch defender of free and unlimited debate throughout my tenure in the Senate. While I regret that cloture was resorted to, I feel that the best interests of our country will be served by the prompt passage of H.R. 11040.

In closing, I should like to pay tribute to the distinguished chairman of the Communications Subcommittee, the Senator from Rhode Island [Mr. PASTORE], who did an excellent job in committee and as Senator in charge of the bill on the floor. I should also like to pay tribute to the distinguished Senator from Oklahoma [Mr. KERR], who took such a leading part as chairman of the Space Committee and who has done magnificent work in support of this important piece of legislation.

Mr. LONG of Louisiana. Mr. President, I hope we will not overdo this good will. [Laughter.] So far as my feelings about the bill are concerned, they have not changed one bit. The Senate, in passing the bill, will do so after hearing only about half of what I had intended to say on the bill during the 15 hours that I spoke on it. Perhaps I could have convinced some Senators to change their minds, if they had been able to hear me for the other 15 hours or more that I had intended to speak on it. However, the cloture rule was imposed, and I could not make the speech I wanted to make. I therefore ask unanimous consent to have printed in the RECORD remarks that I would have made had I been able to make them, if the cloture petition had not been submitted on Saturday and adopted on Tuesday.

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

III. REGULATION TO PROTECT THE PUBLIC INTEREST—THE FEDERAL COMMUNICATIONS COMMISSION

Mr. President, the bill we are discussing today, H.R. 11040, depends very heavily on the Federal Communications Commission to protect the public interest.

I regret to say that in this respect this bill is based on phantasy and illusion, and this is confirmed by the record of the Federal Communications Commission.

It is incumbent on us, therefore, that we examine this record very carefully.

First, I would like to analyze the role of the FCC in regard to communications satellites, and then the effectiveness of the FCC's common carrier and especially telephone regulatory function.

My analysis leads to the conclusion (1) that the Federal Communications Commission has been and is using its public role to foster the interests of the communications common carrier companies, especially their efforts to obtain a private monopoly of communications satellites. This is, in my judgment, to the detriment of the interest of the general public.

It leads to the conclusion (2) that a shell game is being played on the rest of the administration, the Congress and the American public in which the alleged "regulation" which the FCC is said to practice on the companies is the shell beneath which lies an uncontrollable private monopoly.

It leads to the conclusion (3) that neither this FCC nor any other so-called regulatory machinery is capable of coping with the fantastic grant of privilege which would be given away by a decision to turn the communications satellites over to the private corporation which this bill seeks to establish.

1. Role of FCC in communications satellites

What has been the role of the FCC in regard to communications satellites?

The FCC has the responsibility for allocating to nongovernmental uses the radio spectrum in the United States. This is a technical matter clearly within its range of expertise in this special field.

Is the FCC possessed of expertise on communications satellite technology? Only to the extent that it is told about it by the military and civilian procurement and research and development agencies of the Government and by private industry. It conducts no substantial original research or development work in this area itself. Mr. Minow testified that the FCC has no scientists or engineers.

2. Authority of FCC

The only other basis for concern with communications satellites which the FCC has rests on the statement of legislative purpose for the creation of the Commission which says, "For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges * * *." (Communications Act of 1934, as amended, sec. 1), a section of the act which directs the Commission to keep itself informed as to technical developments and improvements in wire and radio communication so that the benefits of new inventions and developments may be made available to the people of the United States (sec. 218), and another section which authorizes the Commission to study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest (sec. 303g). Certain regulatory responsibilities as to the reasonableness of rates and the provision of service by common carriers are also included.

The Communications Act of 1934 as amended, however, gives the FCC no authority to prescribe the organizational form for the conduct of a communications activity. It gives it no authority to determine when and how business organizations engaged in common carrier communications may conduct foreign relations for the United States. It gives it no authority to determine when and how communications common carriers may merge; indeed mergers of cable and radio companies are forbidden (sec. 314). The act does not even give the Commission explicit authority to recommend to Congress amendments to the act or new legislation (except with respect to safety of life and property—sec. 4(k)).

3. H.R. 11040 creates merger of communications carriers

In effect the bills now proposed create a merger of the international carriers. It is therefore relevant to consider the kinds of public policy considerations which have been taken into account in earlier attempts at merger. We are here dealing with (1) the American Telephone & Telegraph Co., which enjoys a monopoly of oversea telephone service, (2) two companies which share the undersea telegraph cable business which divide the great bulk of the oversea radiotelegraph traffic (RCA Communications, Inc., and International Telephone & Telegraph Co.).

Over the past 30 years a number of efforts have been made by telegraph companies and by assorted Government agencies to get agreement among themselves and from Congress on legislation which would permit some kind of permissive or mandatory merger of these cable and radio carriers. As the report of the President's Communications Policy Board said in 1951:

"Proposals for merger of American companies providing cable and radio-telegraph services have provoked vigorous debate ever since radio emerged as a practical means of international communications. The traditional American policy against monopoly has affected this debate throughout. * * * Fundamental to this problem is the possibility offered by radio of providing, with relatively small capital outlay, circuit capacity exceeding the normal requirements of international communications. This raised difficult economic questions of cost of service, and the future profitability of cables in the face of radio competition. * * *

"Several of the companies have asked permission to merge in the hope of avoiding deficits. From time to time, some Government departments have favored consolidations for reasons of national defense, conservation of radio frequencies, or for other reasons, while other Government departments have opposed consolidation. Some of

these agencies have shifted their positions from time to time on the desirability of one or another form of merger. At no time have all the interested executive agencies been in agreement on this issue. As of May 1950, this was still the case.

"The move for merger in the field of international record communications (telegraph) has never been able to win complete congressional support because of traditional resistance to monopoly. Numerous hearings have been held by committees of the Congress, but no legislation has resulted" (pp. 151–152).

Here we see that there is a genuine tradition of congressional opposition to a merger where essentially the same factors are involved as in communications satellites; the desire of a vested interest in a potentially obsolete technique to obtain freedom from competition from a new and more economical technique. Also, we must remember that in all these decades proposals which would merge telephone (voice) with record communications were not even given serious consideration.

4. Destruction of Government-owned Communications System after World War II

Two attempts to get congressional approval for merger of these international telegraph common carriers are directly relevant to the present communications satellite issue. The first of these was in 1945 when hearings were held before the Senate Committee on Interstate Commerce on Senate Resolution 187. We were then at the end of World War II, and the testimony from the Army, the Navy and the Federal Communications Commission was that the Army radio communications system alone consisted of some $162 million worth of the latest type of equipment which would be dismantled. Of this equipment, $116 million worth was overseas, and General Ingles testified that about half of it would not need to be moved in order to serve commercial purposes. At that time the combined net investment for international service of all of the international common carriers was not quite $52 million, and they had a total of 6,000 employees. Considerable interest was expressed in the utilization of this latest type radio plant scattered around the world. But the equipment was dismantled and disposed of. This was the most recent giveaway of a publicly owned communication system prior to H.R. 11040, the present proposal of communications satellites.

Let me quote from the testimony of those hearings: Mr. Porter, then Chairman of the Federal Communications, was testifying:

"Mr. PORTER. I believe that the gentlemen of this committee have had the privilege of witnessing the tremendous modern and efficient Army and Navy communications systems which have been built up during the war. In his testimony before your committee, Admiral Redman gave you some indication of the Government's investment in the Navy system alone, which, as you know, is smaller than that of the Army. * * *

"The CHAIRMAN [Senator Burton Wheeler]. Frankly, when you take into consideration the investment that the Government already has * * * and if you further take into consideration that there are only 3,000 employees in this industry in this country, I am rather inclined to agree with what Owen D. Young said some years ago, that perhaps international communications ought to be owned completely by the Government.

"I am not in favor of Government ownership, generally, largely because of the fact that we have built up a tremendous bureaucracy and increased centralization of power. But here is quite a different situation, it seems to me, where we are dealing with an instrumentality of such national importance to the Army and the Navy in time of war, and to our Government generally. When we have this tremendous Government investment, if you are proposing to turn it over to a private monopoly, I will confess I am extremely doubtful about it.

"One thing is important. It seems to me, and I do not want to lose sight of that fact—that to transfer all of this equipment to some private monopoly might have a very bad effect.

"Mr. PORTER. That is the point I was going to undertake to discuss.

"Senator CAPEHART. Mr. Chairman, I think that is a most important factor.

"The CHAIRMAN. Yes; I would not like at the moment to see turned over to a monopoly this tremendous establishment which has been created by our military in time of war; at any rate, not without proper safeguards. I do not want to be understood as favoring a monopoly; I do not want to see a monopoly established and be owned privately with this tremendous amount of equipment which has been purchased and paid for by the Government. It is a very perplexing problem.

"One suggestion that occurs to me, from what I have heard so far, is that perhaps it would be better—looking at it from the standpoint of the betterment of the country as a whole and the peace and security of the Nation in the future, and also from the standpoint of the businessmen of this country—to have this system in Government hands. Then we would be able to direct the carrier to go into various areas and territories whenever it is beneficial to the general public, and not simply on the basis of giving service to derive a profit for a private company."

5. Conflict of national interests

In the same 1945 hearings the Chairman of the FCC, Paul A. Porter, advised Congress about a number of points where the public interest was not identified with that of the common carriers. He pointed out the "deadly parallel" between the possibility of a merged company favoring its investment in an obsolete technology and the experience of British Cables and Wireless. He warned that "* * * managements of communications companies may at times be in a position of serving interests other than our own national interests. At the International Communications Conference held in Warsaw in 1936, at which the United States was represented by its Government officials, a number of persons connected with our U.S. carriers were present and actively participated in the Conference as members of delegations of certain Latin American countries. Such situations and the circumstances whereby our carriers may, because of the necessity of protecting their local interests at foreign points, engage in political activity within the foreign country, raise serious considerations which I think this committee should take into account. A glance at a chart which I have submitted * * * will show the extensiveness of the interests of the I.T. & T. in foreign countries. Its large financial stake in business ventures in foreign countries is indicative of the potential conflict of its interest as an operator of U.S. communications with its interest in the protection of foreign holdings."

At this point, Senator Burton Wheeler, chairman, said, "They were able to play politics sometimes to aid in the development of their own commerce or business and to the detriment of their own country, but always to protect their own interests in foreign countries." Mr. Porter agreed, stating that 73 percent of the total I.T. & T. investment represented investment in subsidiaries and was in companies whose principal assets were in subsidiaries located in foreign countries. The FCC in 1945 took the position that "the interests of any company that has as much as 73 percent in foreign countries cannot be as strongly allied with the interests of this country as one which is owned solely and entirely by interests in this country." And it summarized its position on this and related conflicts of interest in a way which contrasts very sharply with the policy of the present FCC. The position of the Federal Communications Commission was that "there should be no place in the unified company for any such conflicts of interest. Controls must therefore be provided to assure that it contains no elements which are affiliated with foreign interests or connected with foreign operations. By the same token, the company should be divorced of affiliations with domestic communications operations, if we are to preserve separate domestic and international operations. Similarly, it should have no interlocking interests with communications manufacturing operations. The unified company will have dealings with these two fields for the exchange of traffic and the purchase of equipment, and the existence of the influence of these two fields within the unified company would jeopardize the effectuation of arrangements on these matters on an arm's-length basis.

"The unified company should, therefore, be entirely free of any connection with alien interests, either in its ownership or its management. There should be no affiliation or connection of any kind, direct or indirect, between the unified company and persons having business interests within foreign countries or interests in domestic communications or communications-manufacturing activities."

6. FCC espouses merger of telegraph carriers to meet competition of telephone company.

The other proposed merger legislation for international telegraph common carriers was that of 1959. In the hearings before the Senate Interstate Commerce Committee in that year, the FCC, contrary to 1945 when it did not approve the proposed merger, espoused the merger proposal which the major telegraph carriers desired. In doing so it ignored the elements affecting the national interest to which, as I have shown, the 1945 Commission gave serious consideration. The rationale for the FCC's position in 1959 was in essence this: The telephone company had in the midfifties opened its transatlantic voice cable which permitted broadband service. The military required integrated voice-record service which could be accommodated by either the Bell cables or by similar cables which might be laid by a telegraph carrier. It was outside the financial capacity of each of the major telegraph carriers to build competitive broadband cables. While the telegraph carriers were then in sound financial conditions, their future was jeopardized by their inability to provide competitive facilities. Therefore, permissive merger of the telegraph carriers was recommended. It is relevant to the present situation in regard to communications satellites to note that the FCC told the Senate committee:

"Authorization to the carriers to provide such a facility [broadband cable] jointly would, in essence, create the very merger which is the subject of the legislation under consideration without any of the safeguards for the public interest which are not embodied in the bill and the Commission's suggested amendments."

At that time the military endorsed the FCC's recommendations, but the Department of Justice opposed them. I want to emphasize, however, that the FCC in those hearings was pursuing the genuine historical tradition of maintaining competition between the voice (telephone) services and the record (telegraph) services, and that there was no suggestion from any quarter

that a merger of telephone and record communications was desirable. Indeed, the Commission emphasized the relative weakness of the combined telegraph carriers in relation to the telephone giant as an argument for the merger:

"It would appear to us that the only opportunity for the international telegraph industry to maintain its competitive position as against telephony would be to permit it to merge, and to encourage it to secure as quickly as possible the broadband facilities essential to modern service. The maintenance of internal competition in the international telegraph industry today would adversely affect competition between telegraphy and telephone in the 1960's. In this connection we note that at present the seven competing telegraph carriers in the United States have a combined rate base of less than $82 million, whereas the plant of A.T. & T.'s Long Lines Division alone approximates $1¼ billion.

The fate of this merger proposal was the same as of its predecessors. Congress refused to approve it.

7. Satellites permit integration of communication technology

Into this setting came communications satellites. And they brought with them a technology which invites operational integration, not just of cable and wireless telegraphy, but of voice and record communications. Whereas historically there had been a clear distinction between the capacities of equipment for handling telegraph communications and telephone communications, communications satellites obliterate these distinctions. They provide a high-capacity accommodation for all previous electronic communications services and they open up the possibility of new types of service.

But an important distinction must be made. Integration and unification of communications equipment, as a matter of actual operation, does not necessarily require integration and unification of the business or other organizations which administer the actual operations. (Otherwise we could not have what we have long had, integrated operation of transatlantic telephone cables where the organization at one end is a Government agency and the organization at the other end is a commercial company.) Integration of communications technology and operations is now possible through the satellites, not only for part of an industry, but for the communications equipment of a whole nation, and even perhaps within the foreseeable future for the whole world. We are not yet prepared to create the kind of world operating organization, today, which would exercise managerial control over the communications satellites for all nations. But both technological pressures and the need to avoid nuclear destruction may push us invariably in this direction.

At the national level we have not faced the problem of organization and control of the satellites on its merits. If we did, we would have to consider this problem as composed of two parts: (1) What kind of physical plant, with how much integration and unification of the facilities, both on the ground and in orbit, do we want to have? And, (2), recognizing that many different kinds of organizations might share in the use of that plant, what kind of organizations do we want to have? Some of the questions we have to ask—(a) Do we want to see the old telegraph and cable organizations merged into one entity? (b) Do we want to see them merged with the telephone organization into a much bigger entity? (c) Do we want to have a communications satellite organized under separate ownership? A decision in favor of separate ownership for the satellites would permit and encourage competition either between the existing common carriers, or between a merged telegraph-cable company on the one hand and the telephone company on the other. In this event, the undesirable effects of private monopoly would be checked if not eliminated.

8. Role of A.T. & T. and FCC in determination of satellite communications policy

Before these questions could be even discussed, the American Telephone & Telegraph Co., the biggest private monopoly in the world, was prepared to make its move to fit the satellites to its organizational and policy pattern. And the FCC, judged by its words and actions, was ready to do its prompting. I have already mentioned that in the preceding several decades, the furthest the FCC went in advocating international common carrier merger was to espouse one limited to the telegraph carriers. And it did that with appropriate respect for the legislative prerogative of Congress. But beginning in early 1961, in the course of sponsoring private ownership of communications satellites, the role of the FCC became one of creating an organization and policy which would accomplish operational unification—de facto merger—of the major international common carriers of both telephone and telegraph traffic, and of placing this merged entity firmly in the hands of private monopoly. In this connection, General Sarnoff in his testimony before the Harris committee says that the "inevitable result" of the privately owned satellite corporation would be merger of the carriers in a "legalized monopoly." The intended effect of the FCC's plans was to create the desired private organization and policy and then to present it as an accomplished fact for congressional rubberstamping. The telegraph carriers willy-nilly are carried along. RCA was not too happy about the A.T. & T.-dominated monopoly. Western Union opposed certain important features of the plan. Of the major telegraph carriers, only I.T. & T. seems happy with the plan.

Bedazzled by the wrapping in the glamor of rocketry and outer space, and considerate of the new administration's need for rapid progress in demonstrating capability in the development of outer space, the Congress seems to be at a loss to know how to cope with this concentrated and relentless drive by A.T. & T.

Mr. President, every Senator and Congressman has been visited by A. T. & T. task forces from their home areas. The lobbying has been such as was never seen before in Congress. To give you an idea of the extent of these lobbying activities, let me quote Senator McGee, who made this statement before his colleagues on the Commerce Committee:

"The pressures that have already been mounted on this question are considerable. I think the activities of one group that have beseeched me and beseeched every Member of Congress with our homegrown citizenry on this very complex question is typical of how important the issue has become; but it also has suggested how little most of us know about it. It's the case of the blind talking to the blind about something that's going to require the greatest degree of farsightedness; and I would hope that these pressures will relent so that we may proceed with whatever God-given intelligence any man has, instead of being crowded and warped and pinched by pressures from one group or another to be preferred over their competitors for this system."

It is obvious that the National Aeronautics and Space Administration has worked closely with the FCC in promoting this giveaway, but that the Department of Justice and other agencies have tried to put on the brakes. The issues are not fully stated and openly faced. Slogans obscure the issues, but, Mr. President, what is really at stake is the greatest giveaway in American history.

As far as public evidence is concerned, the industry's campaign through Government agencies began before the FCC's open involvement. In October 1960, the Administrator of NASA in a speech said, "Traditionally, communications services in this country have been provided by privately financed carriers competing with one another to serve the public interest under Federal controls and regulations. There seems to be no reason to change that policy with the advent of communications." On December 30, 1960, a White House statement released by Mr. Haggerty used virtually the same words. The FCC's first public statement on the campaign was released on February 28, 1961, and it consisted of a most curious document, headed "Memorandum of Understanding Between FCC and NASA on Respective Civil Space Communications Activities," the relevant operative provisions of which were that both agencies "* * * affirm the following propositions as guidelines for the coordinated conduct of their respective activities:

"(1) The earliest practicable realization of a commercially operable communication satellite system is a national objective.

"(2) The attainment of this urgent national objective in the field of communications may be accomplished through concerted action by existing agencies of Government and private enterprise.

"(3) The statutory authority of NASA and the FCC appears adequate to enable each agency to proceed expeditiously with the research and development activities necessary to achieve a commercially operable communication satellite system. Special problems which may arise in connection with the regulation of a commercially operable system are being explored by both agencies, and may result in legislative recommendations at a later date.

"(4) In accordance with the traditional policy of conducting international communications services through private enterprise subject to Government regulation, private enterprise should be encouraged to undertake development and utilization of satellite systems for public communication services.

* * * * *

"(7) The FCC, in appropriate cooperation with other Government agencies, will continue to direct its activities in this field toward the development of communications policy and the implementation and utilization of space telecommunications technology through the licensing and regulation of U.S. common carriers."

9. Usurpation of policymaking power by FCC

Now, let us review the activities of the FCC in the past year:

1. Its acts of commission.

The FCC's most important act of commission in regard to communications satellites was, in my opinion, the usurpation of policymaking power which this "Memorandum of Understanding" revealed. It is clear that the FCC has no statutory basis for making national policy concerning the style of organization and operation of a radical technical innovation such as communications satellites. And the many provisions of the Communications Act which apply the antitrust laws to various features of the commercial activities within the FCC's regulatory powers, together with the legislative history of proposals for merger of international communications carriers would seem to leave the FCC no legal footing for this usurpation. And indeed the Commission sometimes speaks to Congress in terms which suggest that a legal basis for its activities is obvious or unnecessary. Thus, Commissioner Craven, speaking for the FCC before your Small Business Committee's Monopoly Subcommittee last August, said:

"The Commission's efforts are based upon the conviction that satellite communications will and should take its place within the framework of our private enterprise system, under which public communications

facilities are owned and operated by private companies subject to Government regulation. This conviction is consistent with congressional policy expressed in the Communications Act of 1934, as amended."

The FCC's treatment of the question of its policymaking authority is utterly absurd. For while the act permits private operation of communications carriers, it does not prescribe it. It would be equally valid to argue the opposite: by remaining silent on the ownership of the then known means of communications, Congress reserved a free hand for itself with respect to such new techniques as the satellites. You will not find in the hearings or debates on this act any prophetic vision of communications satellites, nor of the problems of policy and organization which they present. Indeed, where the service was inherently, that is technically, monopolistic, as in the case of the licensing of the radio spectrum, Congress determined that the monopoly should be public property. And it is obvious that in their international character, communications satellites have more characteristics in common with the radio spectrum than with a telephone or telegraph line. On this basis one could argue that the legislative history of the Communications Act would support a publicly owned operation and no other.

In enunciating its policy on the ownership and regulation of communications satellites, the FCC asserts that as the guardian of the public interest in these matters it knows that the public interest coincides with the policy it is pursuing. There is no question but what the policy the FCC is pursuing is essentially the same as that of the American Telephone & Telegraph in particular and of the common carriers in general. It follows inevitably and logically, that the FCC conceives the public interest to be identical with that of these industries. In short: What is good for A.T. & T. is good for the country.

In order to make this policy credible, the FCC and others who pursue the industry's policy have had to rewrite our history. Thus whoever wrote President Kennedy's letter of February 7 to accompany the submission of the administration bill to Congress was constrained to say:

"Throughout our history this country's national communication systems have been privately owned and operated, subject to governmental regulation of rates and service. In the case of the communications satellite operation, our studies have convinced us that the national objectives outlined above can best be achieved in the framework of a privately owned corporation, properly chartered by the Congress."

The first of these sentences is simply untrue. Throughout our history this country's national communication system—the Post Office—still remains under public ownership. It was the Post Office Department which nurtured Morse's telegraph invention into existence in 1844. In the first of our historic giveaways, telegraph was given into private hands where it was exploited for private privilege and failed of development here such as occurred in other countries. By the end of the century, more than 70 bills had been introduced in Congress to authorize public ownership of the telegraph. Nineteen times committees of the House and Senate reported on such bills, 17 times favorably. Yet because of the political power of private monopoly, never were the bills passed.

Radio repeated the process. Both radiotelegraphy and radiotelephony were principally innovated by the Government. By 1914 the policy of the Wilson administration called for Government ownership and operation of radio as well as telephone and telegraph. In 1917, by Executive order the Navy took over the operation of radiotelegraph and radiotelephone stations and operated such commercial service as did not interfere with the war program, including the communication of news and a daily shipping bulletin of maritime news. When the President assumed control of the telegraph, telephone, and cable systems in July 1918, the Secretary of the Navy Josephus Daniels testified that the Government "should control and own telegraph, telephone, and all means of communication permanently," as also did Postmaster General A. S. Burleson. The Government in its own right had by then acquired a sufficient patent position to dominate the radio field. The second great giveaway in our communications history was the process by which this public ownership structure was dismantled and all telephone and telegraph common carriage by wire and radio was turned over to private exploitation after World War I.

Nor is it true, Mr. President, that our privately owned communications carriers have always been subject to governmental regulation of rates and service. There was no national regulation of communications carriers, even in name alone, prior to 1910. The ICC, to which some regulatory authority was then given, did virtually nothing to use that power. And the FCC which succeeded the ICC in regulating common carriers in 1934 has done precious little since then to protect the users of telephone service. The FCC, which now seems to roar like a lion about how rigorously it regulates the industry—when the industry's interests are served by such roaring—resembles more a mouse when it confronts the industry representing the general public interest.

If, as I contend, the FCC's first act of commission in this matter was to enter into the policy formulated in the NASA–FCC alliance, its second large act of commission was in the way it has pursued this policy. With a vigor which it does not display when it comes to regulating the common carrier industry in the interest of the general public, it turned to the matter of creating a "consortium" (as it called it) of the private companies which operate the common carrier services internationally. The Commission's bias toward serving the carriers rather than the public interest was openly displayed in its "first report" in docket 14024. It referred to "interested carriers" as "acting under the aegis of the Commission"—a term also used commonly by A.T. & T. spokesmen. According to Webster's New International Dictionary (2d ed., 1952), aegis, means "figuratively, a shield, protection or defense"—which may be regarded as a revealing and accurate slip. This report announced a meeting to plan this consortium after reciting among the reasons for this action the belief that "* * * the international carriers themselves are logically the ones best qualified to determine the nature and extent of the facilities best suited to their needs * * *" and that a proposal for space hardware industries to be included in the consortium might "* * * result in disrupting operational patterns that have been established in the international common carrier industry * * *." The Commission was also solicitous to arrange it that its "ad hoc committee" not run afoul of the antitrust laws.

A striking example of FCC's propensity to promote and defend the common carrier industry's plans for communications satellites is its opposition to core features of the administration bill in testimony before the Senate Space Committee and the House Committee on Interstate and Foreign Commerce. The FCC is, after all, part of the administration; and if it opposes the administration policy, what other interest other than that of the industry it "regulates," does it represent? A particularly revealing portion of this opposition was the FCC's criticism of the administration bill which "* * * can be construed to permit entities such as the Government, who otherwise would be customers of the carriers, to directly lease channel facilities from the satellite corporation.

"In our opinion, such a construction would raise a most serious question of policy that should be carefully considered. For, this could result in the satellite corporation competing directly with the common carriers, and possibly deprive those carriers of essential revenues, thereby leading to financial difficulties for the carriers." (Quoted in Telecommunications Reports, Mar. 5, 1962, p. 26.)

The FCC, confronted with the claims of the taxpayers and the industry to returns on their investment, seems unhesitatingly to prefer the interests of the industry.

10. FCC's lack of understanding of issues

2. Now let us take a look at the FCC's acts of omission.

The most important omission in FCC work on communications satellites in the past year seems to be its failure to recognize and to cope with the conflict of interest between the private sector and the public sector and the ambiguities concerning the locus of authority or power in the proposed privately owned and publicly regulated satellite corporation. There are two sides to this coin: one side is, what operational policy problems would be presented, and the other, who would have responsibility, or power, to determine them?

While no one can now foresee the full scope of the operational policy problems which H.R. 11040 would present, it is clear that one kind of problem would be the extent to which the satellite corporation would perform commercially unattractive (i.e., unprofitable) service because of, broadly, the political implications of satellites. The whole argument of the proponents of private ownership is that the communications satellites are merely an extension of ground-bound technology and are to be treated as a commercial extension of it. If this were true, then service for commercial purposes would be the concomitant policy. Yet, the A.T. & T. witness before the Kerr and Harris committees displayed a very unprivate-enterprise-like attitude toward this problem. Thus:

"Asked if A.T. & T. would be willing, if directed, to undertake service to unprofitable areas of the world, Mr. Dingman said it is not necessary to 'direct, but just suggest.' He said where the 'other party is willing, we will put in service, even if it is not profitable. We will be willing to put in service where the national interest is served'." (Telecommunications Reports, Mar. 19, 1962, p. 6.)

The I.T. & T. spokesman, however, stated the issue in more conventional and candid terms.

"'We recognize the presence of a conflict that can be resolved,' the I.T. & T. official stated. 'The normal business interests of the common carriers call for the development of satellite communication along competitive and economical lines which may require several years to develop with progressive application as markets for services develop.

"'On the other hand, the needs of the U.S. Government for the very early application of satellites to communications for prestige, cold war situation, propaganda, etc., will require nonprofitable communication with many nations for a long time. The Government likewise requires television services in vast areas where such a service would also be in deficit for undetermined periods. The Government wants both goals to be achieved very early with techniques and equipment which necessarily would be too costly and inefficient for private operation at a profit; probably requiring a number of systems which will have to be replaced many times than good business judgment would support.

* * * * *

" 'However, we suggest that because of U.S. Government requirements, well recognized, which will result in much greater expense and relative inefficiency in business operations, the Government be made a partner through part ownership or properly evaluated and controlled subsidy'." (Telecommunications Reports, Mar. 12, 1962, p. 7.)

Whatever this admission may do to the contention that the satellites are just like cables and microwave stations only they are more elevated, it does display the conflict over commercial versus political policies.

Similar ambiguity and conflict inheres on the other side of the coin: The decision-making authority. A.T. & T. has testified to its opposition that "* * * the proliferation of governmental supervision provided by (the administration bill) could result in conflict and confusion which might smother the initiative and leadership which are essential to the accomplishment of the national purpose involved." (Telecommunications reports, Mar. 19, 1962, p. 26.)

If this assumption that industry would bear the "essential, initiative, and leadership" is compared with the realistic forecast of necessary, politically determined service by I.T. & T., one wonders whether the private sector will be making political policy or the public sector making commercial policy. The spokesman of Hawaiian Telephone Co., Mr. Ralph O. Beck, in his statement to the Harris committee put the matter candidly, when he stated his opposition to the regulatory provisions of the administration bill on the grounds that "regulation of any common carrier must necessarily infringe to some extent on the 'rights' of private management and surely the national interest is and has been an influence on the management of international carriers, but it is not carrying out the national or private ownership and operation, merely to organize a 'private' corporation and employ 'private' capital while reserving to the Government the right to make major management decisions. The above provisions of the bill taken together deprive the management of the satellite corporation of rights which are needed to manage the enterprise effectively."

To add to the confusion, the FCC, in its testimony before the Kerr committee discarded the slogan that the traditional regulatory authority should be applied to the communications satellites (which has been the central theme of its campaign). Its chairman "* * * expressed the view that 'certain sections of the Communications Act relating to common carriers may not be germane to the corporation, while at the same time the unique status of the corporation requires singular measures not now present in the act. We recommend therefore that the corporation be made subject to a new self-contained statutory scheme of regulation empowering the Commission to deal flexibly with the many unusual and new problems which may be created.

" 'The Commission should be expressly empowered, among other things, to approve the ownership and capital structure of the corporation and its charter and bylaws; to allocate the use of its facilities among the authorized common carriers; to prescribe or approve fair and reasonable terms under which such facilities are made available; to approve all contractual arrangements and modifications thereof, between the corporation and any common carrier and to prescribe modifications therein required by the public interest; and to prescribe the form of accounts to be kept by the corporation and the financial reports to be filed with the Commission.

" 'The Commission should also be empowered to specify, after consultation with other interested agencies, technical characteristics of the operational system to be employed by the corporation, and to prescribe procedures for insuring effective competition in the procurement by the corporation of equipment and services.'

"The FCC also recommended that 'in order to insure full implementation of the purposes and policies of the legislation and compliance therewith by the corporation, we would recommend that provision be made for the appointment of visitatorial powers. These officials would have access to all books and records of the corporation, be able to attend meetings of its board, and make reports and recommendations to the FCC and other agencies of Government having jurisdiction over the particular matters involved'." (Telecommunication reports, Mar. 5, 1961, pp. 25–26.)

11. FCC ignores the public interest

Mr. President, H.R. 11040 establishes an organizational monstrosity. This bill cannot disentangle the hodgepodge of responsibilities and operating functions, and the reason is that incongruent elements cannot be made to work side by side in the same organization. Private monopoly and public regulation in an enterprise, with the amount of power at stake which is here present, are incompatible, as I will show in a few minutes. The point I want to make now is simpler: that the FCC and the congressional committees which approved this bill have not demonstrated awareness of the administrative policy considerations which are involved in the bill. In 1945, the Commission performed the role of adviser on communications policy—a role perhaps better suited to its capacities than that of promoter of a national communications policy on something as thorny as the attempt to blend private monopoly and public regulation of communications satellites. It does not appear from the public record that the present FCC has progressed beyond the point when in testifying before the House Judiciary Antitrust Subcommittee on June 14, 1961, Chairman Minow seemed to be saying at page 132 of the record that the FCC would be making the decisions, and at page 137 that the companies would be making the decisions. Probably the most important act of omission both of the FCC and the Kerr and Pastore committees is to fail to grapple with the problem of the assignment of responsibility in a realistic manner.

A second, and lesser example of FCC omissions, is its failure to warn the public and the Congress (and perhaps the administration, too) of the dangers of international conflicts of interest being built into the privately owned satellite corporation. I recollect that in 1945 the FCC recommended categorical prohibitions against including in a merged carrier any carrier which held substantial assets in foreign countries, to which I referred earlier. Today, if I read the I.T. & T. annual report correctly, at least 66 percent of the I.T. & T. consolidated net investment represented, at the end of 1960, investments in subsidiaries located in foreign countries, and 34 percent represented investments in subsidiaries located in the United States. You will recall that Senator Wheeler, referring to this company, said, "They were able to play politics sometimes to aid in the development of their own commerce or business and to the detriment of their own country, but always to protect their own interests in foreign countries." Mr. President, if American national policy in 1945 found that this condition warranted exclusion of such a company from a merged company, why is not the same conclusion reached now? Neither the FCC nor the committees which considered this bill has concerned themselves with this problem.

A third act of omission by the FCC has been its apparent unconcern with the effect of its proposed consortium on the people who pay the rates. This problem has many facets, and very few of them have been explored by the FCC as far as its public statements go. The most obvious facet is the potential effect on ratepayers of permitting the present common carriers to control a potentially competitive technique. The FCC's proposals in regard to communications satellites are analogous to an action which might have been taken, say, in 1921, of giving the American railroads the exclusive right to own and operate commercial airlines. The effect of this control alone could be detrimental to the future policy on the competitive technology. But the FCC has compounded the problem by consistently agreeing with the carriers it "regulates"—and this word is in quotes—that their investment in the communications satellites must be included in their old rate bases for ratemaking purposes. Would not the effect of this proposed policy be to delay indefinitely the time when the rate reductions which satellites communication promises will be realized? As far as I am aware, the FCC has not approached this problem from the standpoint of the ratepayers.

The conclusion seems inescapable that the FCC has followed a policy in regard to communications satellites of collaborating vigorously with other Government agencies and industry it "regulates" in the pursuit of private privilege rather than public benefit.

12. Inability of FCC to regulate

Now, Mr. President, how much protection can the public expect from FCC regulation?

The answer is, "None."

What is my evidence? Let us look at the record of what it has done and is now doing.

(1) The Federal Communications Commission, in its entire history, has never made a formal determination of what is a fair rate of return for interstate or international telephone service.

(2) The Federal Communications Commission has never even determined the basis upon which such return should be computed.

(3) The FCC has never had a formal rate case on interstate or international telephone rates.

(4) The FCC has never been able to secure information necessary to set rates.

(5) The FCC has never known the costs to A.T. & T. of equipment sold to it by its subsidiary, the Western Electric Co., which produces almost all equipment used by A.T. & T.

(6) The FCC has never determined the reasonableness of the service rates charged by A.T. & T. for carrying television programs both black and white, and color.

(7) The FCC has never determined the reasonableness of the entire telephone rate structure; that is, the internal relationship of rates.

(8) The FCC, even though its staff made definitive recommendations that action be taken toward a possible rate reduction, has not been willing to institute a formal rate investigation to determine whether the system's rates are unreasonably high.

(9) The FCC, for over 25 years, was not willing even to authorize the staff to negotiate on an informal basis with the Bell System in order to obtain a voluntary rate reduction. It was only after the most severe prodding in 1959 by the Celler Antitrust Subcommittee that the Commission negotiated a reduction in long-distance telephone rates.

(10) The FCC has never required A.T. & T. and its operating subsidiaries to buy telephone equipment or any equipment under competitive bidding. Eighty-five percent of the market has thus been closed to competition.

In the 52 years since Federal regulatory power was asserted over the telephone industry there has never been a completed general formal rate proceeding. This includes the past 28 years of FCC regulatory supervision. The fact that the FCC does conduct

formal proceedings involving telephone rates and service in such matters as private lines, Telpak and WADS does not repair the omission. These proceedings do not go to rates affecting the ultimate consumer and they come about because of conflicts between the common carriers. The Chairman of the FCC nevertheless defended its record on rate regulation in testimony before the House Interstate and Foreign Commerce Committee. As reported by the trade press:

"As a result of continuing studies, he declared the FCC 'is constantly in a position to assess the reasonableness of the Bell System's overall earnings from its services subject to our jurisdiction. Whenever, in the judgment of the Commission, it has appeared that overall earnings were at a level to warrant rate reductions, the Commission has in general been successful in obtaining rate reductions that appear warranted without conducting protracted and costly hearings.'

"On 'several occasions' when the use of informal procedures 'was initially unsuccessful,' Mr. Minow continued, 'the Commission instituted formal rate reduction proceedings through the issuance of show cause orders. In each instance, this action led to a satisfactory resolution without the need to proceed with the hearings'." (Telecommunications Reports, Mar. 19, 1962, p. 11.)

The FCC's record shows that as a result of its negotiated rate reductions, the public's bill for telephone service has been reduced by many hundreds of millions of dollars annually. And the FCC, the industry, and its apologists contend that this demonstrates the efficiency of the FCC as a regulatory institution. This line of argument, however, fails to take account of several undeniable facts:

1. A.T. & T. has innovated cost-reducing automated processes wherever possible and as its service has expanded, revenues have generally increased faster than costs, even on its own uncontested version of costs. It has been possible, therefore, for negotiated rate decreases to reduce consumer expenditures below what they would otherwise have been, without reducing the rates to a reasonable level.

Under the law of public utility ratemaking, the function of the regulatory agency has traditionally been to determine the reasonableness of rates in a judicial procedure which tests (a) the prudence of the investment in the rate base, (b) the reasonableness of the costs entering the rate base, (c) the reasonableness of depreciation in the rate base, (d) the reasonableness of the operating expenses, and (e) the reasonableness of the rate of return. Taken together in an adversary proceeding, this was in effect the due process by which consumers were supposed to be protected by the regulatory commission. We may take it as axiomatic that the Bell System would demand that it have this due process (appealed to and reviewed by the courts) before it would accept a rate order from the FCC which, in A.T. & T.'s opinion, would reduce rates and earnings below a reasonable level. A.T. & T., in being willing to accept a negotiated rate decrease, knows that the negotiated rates will not be below what it considers a reasonable level. A.T. & T., like other public utilities, in determining what it would contend for as reasonable level of rates and earnings will set levels higher than those it might have to accept after an adversary proceeding. The conclusion is inescapable, therefore, that the level of rates which A.T. & T. will accept through negotiation in all probability is higher than what a commission and court would determine as the result of a contested formal rate proceeding. The result of the FCC's negotiated rate decreases will therefore always be an unreasonably high rate level. A regular practice of negotiating rate reductions in the total absence of formal proceedings is a mockery of the traditional rate regulatory process. It denies the public the protection it is supposed to receive and which it is told it does receive.

2. Western Electric is the manufacturing and supply arm of the American Telephone & Telegraph Co. As the FCC told the House Independent Offices Appropriation Committee in 1960:

"The 1958 sales of Western Electric to Bell operating companies totaled $1.5 billion. The prices and profits of Western have never been the subject of a definitive investigation by the Commission. However, jointly with the National Association of Railroad and Utility Commissioners, the Commission has conducted certain limited studies of Western's operations. Also, in the current private line rate proceedings, limited inquiry has been made with respect to Western's prices and profits. More intensive surveillance of Western's accounting practices, prices, and profits is essential to effective regulation and to the carrying out of the intent of the A.T. & T.-Western Electric consent decree."

It said substantially the same concerning General Telephone & Electronics Corp.

These telephone company purchases from affiliated manufacturing companies enter partly into current operating expenses and partly into plant investment (or rate base). When the reasonableness of the prices of these purchases is not subject to even a unilateral check by the FCC, much less the greater rigor of a contested rate proceeding, it is obvious that the public's interest in reasonable rates is unprotected.

3. As I have already mentioned, oversea telephone rates have never been regulated by the FCC, according to its testimony before your Small Business Committee's Subcommittee on Monopoly in August 1961. After the FCC had undertaken its promotional role for the industry in regard to communications satellites, and after 27 years of inaction, the Commission wrote to A.T. & T. on July 6, 1961, requesting it to conduct a cost study of its oversea communication services to develop the investment, revenues, and expenses associated with them. In the letter it said: "As you are aware, the Commission has never had before it data on which to properly evaluate the level of earnings on your oversea communications services. Such an evaluation can no longer be delayed."

Not only had the FCC never given formal consideration to the reasonableness of these rates; it had never before even troubled the company to prepare the company's version of what the basis of the rates might be.

13. Some reasons for FCC's inability to regulate

If the FCC's record of regulating the telephone industry is a sad travesty on what "regulation" is supposed to mean, why has it been this way? It is the result of lack of means, and lack of will to do otherwise.

First, as to means. Just how many staff members or money would be required to conduct a formal rate hearing for the telephone company is not known. The likelihood is that this task alone would require a staff equal to FCC's present staff for all purposes. By comparison, the total average employment on domestic telephone rate and service regulation in fiscal 1960 was 65 persons, costing a total of $546,000. On this basis the average individual telephone regulatory employee, with a salary of $8,400, was responsible for regulating $392 million worth of telephone plant and $120 million of telephone operating revenues. This ridiculous result is apparent when one divides the total book cost of plant and operating revenues of telephone carriers subject to FCC jurisdiction for 1959 by the number of FCC telephone regulatory employees. An additional 24 employees were then engaged in regulation of international common carriers, but in view of the absence of attention to oversea telephone regulation, presumably these were otherwise occupied.

While year-to-year changes in the size of this staff were insignificant, it is interesting to find from the budget hearings that as compared with fiscal 1952 when there were 80 telephone regulatory employees, the number had declined to 68 in fiscal 1962. Meanwhile the total book cost and operating revenues of the regulated telephone industry had considerably more than doubled. The alternatives we are presented with are (a) either a formidable bureaucracy consisting of a large army of regulators or (b) the deceptive impression that a handful can do this impossible task.

In light of the FCC's aggressive posture in regard to communications satellites, it is significant that the Commission told the Senate Appropriations Committee last June that "it had a mighty thin staff for the magnitude of the job" [of planning for satellites]. There was even then no staff section set up for space alone. And the FCC asked the Senate for the addition of 18 positions and $235,000 for this purpose. (Hearings on Independent Offices Appropriations, 1962, Committee on Appropriations, U.S. Senate, pp. 238–240.)

The inadequate means which the FCC has had to regulate the telephone industry stems basically from the lack of will or desire to do the job which the statute prescribed. An independent study was made of the FCC for the Hoover Commission by a William W. Golub. His report in 1948 said:

"In the telephone field, the Commission just skims the surface. It tries to keep abreast of new developments, a not completely successful effort, but has been unable to devote any time to constructive regulation. The smooth functioning of the Bell System, its continued development of new techniques and improvement of services, its reasonable cooperation in reducing charges on toll services, all add to the regulatory inertia.

"Virtually all the resources of the Commission devoted to this work, and they are mainly at the staff level, are concerned with trying to find the problems and not with their solution. The Commission is aware of the probable existence of rate and service problems, but activities stop with the awareness. Even pressures from State commissions for a further FCC inquiry into Western Electric charges, for example, have not succeeded in moving the Commission to act." (Committee on Independent Regulatory Commissions. Golub, William W., Staff Report on the FCC, Sept. 15, 1948, p. II–33.)

* * * * *

"The effective regulation of common carriers is not, of course, wholly a matter of finding more time and interest at the Commission level. It requires, as well, the coordinated efforts of a large staff of engineers, accountants, rate experts, economists, and attorneys. The present common carrier staff of the Commission clearly is inadequate for a comprehensive regulatory program.

"The Commission, however, has made no real attempt either to marshal its staff for a less comprehensive regulatory effort or to obtain the additional funds needed for the larger job. Its requests for appropriations have reflected its relative lack of interest in common carrier problems."

If one reviews the budget requests by the FCC in more recent years, it is clear that the FCC has continued to make no real attempt to get the funds necessary to regulate the telephone industry. Analysis of the budget hearings in the House indicates that from 1948 to 1951 the FCC asked for a decrease of one employee in common-carrier activities in 1 year, an increase of one employee in another, and no change in the other two.

Between 1956 and 1961 for telephone regulatory work the FCC asked for 3 or 4 extra employees in 3 years, 6 extra in 1, 10 extra in 1 year, and no change in 1 year.

Mr. President, the lack of will to regulate the telephone industry is partly a result of conflicting pressures on the FCC. And, indirectly, this lack of will transcends the immediate FCC situation and involves the administration and the Congress. As the Hoover Commission staff report said, the Commission had an immense regulatory task and a staff substantially larger than it had would be required to cope with even a few of the most important problems. Lacking the effective national will to get the regulatory job done, the Commission's policy is to respond to the business pressures upon it. As Golub said in 1948:

"From the outset of the Commission's operations, therefore, it has faced the necessity for the selection of some of the many regulatory activities in which it would engage. In making these choices the Commission has been the target of persistent pressures to engage in certain activities with no comparable demands for other types of action. Yielding to these pressures has largely molded the scope of its work.

"Thus the history of its regulation is almost exclusively a succession of regulatory projects which have been thrust upon it. The Commission, in effect, has not sought its objectives, but has undertaken those tasks which the industry has wanted to be done. Where the industry has not sought Commission action or has opposed its activities, the Commission has been inclined mainly to be dormant.

"The consequence of this attitude has been to make the Commission primarily an agency which acts on application for broadcast station licenses. Any real regulation of the mammoth telephone industry continues to remain a matter of statutory hope."

As a consequence of these push-pull pressures, the FCC's staff devoted to domestic telephone regulation was 6 percent of its total staff in fiscal 1952 and 5 percent in fiscal 1962, while its staff devoted to broadcast activities was 16 percent of its total staff in fiscal 1952 and 24 percent in fiscal 1962. Speaking of how the Commissioners spend their time, Commissioner Craven told the House Independent Offices Appropriation Subcommittee in 1961, "I think we spend about two-thirds of our time on broadcasting and one-third on other matters." The "other matters," of course, include all frequency allocation problems, the licensing and regulation of the safety and special services with their score or more of industrial subdivisions and their hundreds of thousands of licensees, all common-carrier problems, as well as internal administrative problems.

14. FCC serves A.T. & T.'s purposes

Mr. President, the lack of will to regulate the telephone industry is largely the result of the activities of the A.T. & T. The record on this is extensive, and I can only touch on the high spots. The FCC's special telephone investigation report summarizes extensive and eloquent evidence on this point as of 1939. For example, it said:

"The files of the American Telephone & Telegraph Co. disclose that the objective of the legislative activities of the Bell System is to foster and retain every possible protection for its private ownership, service, rates, financing, labor relations, and every other element of its business which it regards as desirable and conducive to its own well-being. Through the persistent and coordinated efforts of its nationwide organization and friendly contacts, under the guidance and suggestions of the parent company, it has sought to prevent the introduction and passage of legislation adversely affecting its interests or activities. It has secured the modification and amendments of legislation in such a way as to defeat or to emasculate the main purpose, or has been able to exempt the Bell System or the telephone industry from the provisions of such bills." (Federal Communications Commission. Report on the Investigation of the Telephone Industry in the United States, 1939, pp. 487–488.)

Telephone industry pressures directly on the FCC have been effective in preventing effective rate regulation. Thus, after a careful study, the Antitrust Subcommittee (No. 5) of the House Committee on the Judiciary, in a report, dated January 30, 1959, evaluated the effectiveness of FCC regulation of interstate telephone rates in these terms:

"In this area, too, it would appear that the Commission has allowed its predilection for the A.T. & T. viewpoint to outweigh its obligations to protect the interests of the telephone-using public."

And this same committee related that in 1953 the FCC had permitted to go into effect without hearing an increase of about $65 million a year in long distance telephone rates. Commissioner Hennock had dissented on the reasonable grounds that the practice of negotiating rate reductions ought not to be turned against the public through negotiating rate increases. In her dissent, she said:

"In passing upon the reasonableness of such a sizable rate increase without sworn testimony and evidence subject to cross-examination, I believe that the Commission is abdicating its responsibilities under the Communications Act of 1934, as amended. Moreover, a hearing in this case is particularly necessary because the Commission has never established, on the basis of a public record, the fundamental principles and policies by which to judge the reasonableness of Bell System interstate rates."

After detailing the evidence concerning the staff memorandums to the commission, the Celler committee report concluded on this point:

"In sum, between June 1955 and October 1957, the Chief of the Common Carrier Bureau no less than six times called the attention of the Commission to the fact that the Bell System, by virtue of the 1953 rate increase, was deriving a return from interstate telephone service in excess of 6½ percent. On at least two occasions in this period the staff made the 'very definitive recommendation' that action should be taken by the Commission looking toward a possible rate reduction. Nevertheless, the Commission has not been willing up to now to institute a formal rate investigation to determine whether the system's rates are unreasonably high; it has been unwilling even to authorize the staff to negotiate on an informal basis with the Bell System in order to obtain a voluntary rate reduction.

"It is significant that the Commission has neglected in the 24 years of its existence to establish fundamental principles or standards by which to judge the reasonableness of Bell System's interstate telephone rates. In the absence of such standards, telephone subscribers have no assurance against arbitrary Commission action or against long-distance charges in excess of those required by the statutory mandate. The committee believes that it is necessary in the public interest that there be instituted promptly a comprehensive, formal rate investigation to determine on a public record a fair rate of return for interstate telephone service; the basis upon which such return should be computed; and various other questions which are involved in evaluating interstate revenue requirements for rate-making purposes."

Even more ominous is the evidence of the power and the willingness of A.T. & T. to influence not one but a group of Government agencies and departments to take extraordinary measures to advance A.T. & T. interests. Here, of course, I am referring to the well planned campaign involving the heads of the Department of Defense, the FCC, and the Department of Justice in connection with the A.T. & T. consent decree. This was a campaign to defeat the antitrust suit filed by the Department of Justice which would have eliminated the worst monopoly elements from the A.T. & T. setup, and would have divorced the operating end of the Bell System from its unregulated manufacturing and supply arm, Western Electric. The account of this exercise in influence is given in the same Celler committee report from which I last quoted.

15. Misrepresentation by the FCC

The FCC played a key role in this exercise, and it was on the Commissioners themselves that A.T. & T. influence was exerted. The FCC's role was to respond to the inquiry of the Department of Justice concerning the effect which nondivorcement of Western Electric would have on the public interest and the key question was the adequacy of existing regulatory machinery to supervise Western Electric's prices to the operating companies. The Celler committee report first refers to the FCC's failure to discharge its telephone regulatory responsibility, and then says:

"Second and more important in its impact on the A.T. & T. settlement was the Commission's action, when it replied to the Department of Justice concerning the adequacy of existing regulatory machinery to supervise Western's prices to the operating companies, in deleting two vital matters from the considered representations of its own technical staff. Thus, in advising the Department of its belief that existing regulatory powers could 'provide substantial safeguards against possible abuses in fixing the prices of Western for equipment and services supplied to the telephone companies in the Bell System,' the Commission suppressed the caveat of its staff that effective regulation depended upon the adequacy of the resources at the command of the agencies, although only a few regulatory agencies receive appropriations sufficient for such a job. Also, the Commission eliminated from its reply to the Attorney General any mention that its staff was unable to make a clear-cut comparison between the rates being charged by Western and rates that would be charged in the competitive market envisaged by the complaint. The Commission thus converted its contribution to the antitrust settlement into a distorted and inadequate set of half-truths."

16. Influence of A.T. & T. in high places of Government

In this exercise in influence, A.T. & T. used other agencies as well. Thus the committee report says:

"Although primary responsibility for the settlement lies at the door of the Attorney General, the activities of the Defense Department and of the Federal Communications Commission in connection with the case also leave much to be desired. From the time when the defendants first demurred at standing trial, the Department of Defense swallowed whole and vigorously espoused the A.T. & T. thesis that six of the officials were indispensable to the defense effort. In so doing the Department officials made no independent investigation, but uncritically accepted and adopted this thesis as the Department's position. Further, Defense Secretary Wilson went so far as to send the Attorney General a letter urging settlement of the A.T. & T. suit on a basis favorable to the defendants, without revealing that the letter was actually 'ghost written' by A.T. & T. The committee regards these as instances

where Defense Department officials abdicated to the Bell System their official responsibility."

This display of private power took place only a few years ago. And it leads obviously to the question whether the unanimity with which various Government agencies espouse the same position as that taken by A.T. & T. in connection with communications satellites, and often employ even the same language in advancing this cause is not traceable to the same kind of widespread network of influence in high places. As far as the FCC is concerned the parallel is suggestive. The FCC was used by A.T. & T. to give the Department of Justice the misleading impression that the FCC in fact did regulate the company effectively, when it did not, in order to shield the company from the impact of the antitrust laws. Similarly, today the FCC represents to the Congress, the administration and the public that, if a private monopoly dominated by A.T. & T. is created to own and operate the communications satellites, the public interest will be protected by the FCC's "regulation." Only an investigation would confirm or refute this suspicion beyond a doubt. But the suspicion is nourished by the fact of the NASA–FCC agreement, and by the words of the Celler committee that (referring to the consent decree of 1956):

"It appears that, with one sole exception, every significant idea that was adopted by the Government and ultimately approved by the Court in this case originated with the defendants. The committee is amazed at the alacrity with which not one, but three responsible agencies of Government absorbed, adopted, and promptly republished these ideas as their own, as bases for the ultimate settlement" (Ibid., p. 291).

Referring to this kind of joint activity by the regulatory agency and the industries it regulates, Marver Bernstein, a leading expert on regulatory commissions, says:

"Acceptance by Government officials of an alliance, with regulated groups, is an abdication of responsibility and must be considered a blow to democratic government and responsible political institutions." (Bernstein, Marver H., "Regulating Business by Independent Commission." Princeton, Princeton University Press, 1955, pp. 88–89.)

17. FCC's alleged regulation of telephone industry a fraud on the public

On the basis of the record, what other conclusion can be drawn than that the FCC's alleged regulation of the telephone industry is a sham and a disgrace. Not only has the FCC failed to regulate the industry vigorously, but it has also on occasion gone out of its way to frustrate the Department of Justice in its attempt to apply the antitrust laws to the industry. In the present discussions of communications satellite organization and policy, it would appear to be a fraud upon the public and upon Congress to use as a selling point FCC "regulation" of the proposed private monopoly. This is why I characterized it as a shell game which is being played on (a) the Congress, (b) the administration, and (c) the public, in which the shell is labeled "FCC regulation" and the elusive bean—if you could expose the game—would be a private monopoly.

What is the alternative, you may ask? Is it a matter of venal men in public office? Is it a matter of putting into the FCC men with more integrity than are now there? Is it a matter of giving the FCC more money and direction?

18. Basic causes of failure to regulate

What is the solution?

Venality—in the crude sense of buying men for money—is probably not an issue in regard to the FCC. Lack of money and congressional support are important. But the basic reason why the FCC protects and serves the industry it regulates lie deeper by far than these secondary-level causes.

The fundamental causes of the failure of regulation to protect the public's interest in relation to telephone (as in other regulated industries too) lie in the inadequacies of the theory on which the so-called regulation is founded. And here I must paraphrase and quote Prof. Horace M. Gray, who has studied this problem very carefully:

"The theoretical rationalization of public utility regulation proceeds somewhat as follows. Competition, while preferable in the abstract, is neither viable nor practicable in certain industries, for technological and social reasons (public convenience and necessity). Some form of monopoly, therefore, is essential. Since, however, private monopoly is unthinkable because of its exploitative propensity and public monopoly is objectionable on ideological grounds, a compromise form—legalized private monopoly subject to public regulation—appears to offer the best solution. Under this dispensation private monopoly is legalized and designated as the chosen instrument of society for the performance of some specified function; * * * an independent commission is charged with regulating this legalized private monopoly with a view toward making it behave in a manner consistent with the traditional ideal of competition. Thus, public regulation, it is assumed, will operate as a substitute for competition * * *. It is an ingenious, though somewhat naive, synthesis whereby society can enjoy the benefits of competition by abolishing it; and avoid the evils of private monopoly by creating and legalizing it. In short, one can have monopoly and not have it at the same time. This seeming contradiction, it is assumed, can be resolved by public regulation, which will function as a catalytic agent to reconcile private monopoly with the public interest." (Gray, Horace M., hearings before the Antitrust Subcommittee of the Committee on the Judiciary, House of Representatives, 84th Cong., 2d sess., "Monopoly Problems in Regulated Industries," pt. 1, vol. 1, 1956, pp. 76–88.)

The causes of the failure of regulation lie in the nature of these two contradictory elements in the institution. Private monopoly, as a "system of organized economic aggression," is perhaps tolerable, so long as it is illegal or in a state of outlawry. Being vulnerable to attacks both by the law and by competition, it is curbed by its own weakness and its enemies—the democratic state and competition. Once the private monopoly becomes a publicly protected monopoly, its insecurity vanishes. It puts on the cloak of "public service" and has legitimacy. But once the monopolist gets these advantages, the servant now becomes the master. Reluctance to give him his way may be met with two potent weapons: the corruption of public opinion and of government, and the threat or act of withholding vital economic services.

This describes the position of the telephone industry. A.T. & T. is now a formidable economic and political power. It would take the public revenues (including Federal subsidies and grants-in-aid) of 32 of our poorest States or those of the 5 richest States to equal the Bell System's $7.4 billion revenues in 1959 (in 1961 Bell revenues were $8.4 billion). At current rates of exchange, Bell System revenues in 1959 were greater than the national public revenues of Canada and Sweden combined. They were $2 billion larger than the combined national public revenues of Denmark, Norway, Sweden, and Finland. They were $2 billion larger than the national public revenues of Italy. They were little short of half the national public revenue of the United Kingdom. Putting the matter differently, to equal the assets of A.T. & T. at the end of 1961 one would have to combine the total assets of Standard Oil of New Jersey, General Motors, and United States Steel, the Ford Motor Co., and the General Electric Co.

The other element in the incompatible combination—public regulation—is essentially negative, acting intermittently by restraint and veto (under ideal conditions) against particular private actions which are considered detrimental to the public interest. But, and this is crucially important, where the regulatory authority's policy comes into conflict with that of the public utility in any test of strength where positive action is required, the will of the private monopoly will usually if not always prevail. For the regulated monopoly has the perfectly valid objection that the private management has a legal responsibility to its stockholders to use its best judgment, and no regulatory law relieves it of this responsibility.

"The positive functions of management, such as planning, organizing, financing, procurement, technological innovation, marketing, and price policy, are beyond the Commission's purview or control, except as in their execution some peripheral violation may occur. Thus, power, initiative, and decisions—all motivated by private interest—rest in the hands of legalized private monopoly, while public regulation, excluded from the decisionmaking process and relegated to the sidelines, can only intervene on behalf of the public interest when some vetoable transgression is apparent" (ibid.).

The end result of this ill-matched marriage of private monopoly with the police power and the sovereign power to grant privilege from the State is a situation where—

"There exists a fusion of private economic power and public political power in which private power preempts the sovereign powers of Government and uses them for its own selfish purposes. Such a system conforms to the fascist, not the democratic model. It is not regulation at all, in the traditional sense contemplated by the founders of commission regulation, but rather a system of State-created, State-supported private monopoly in which government compels consumers and taxpayers, against their will and contrary to their interests, to sustain the excessive costs, inefficiencies, and exactions of private monopolies" (ibid.).

19. Possible solutions in the public interest

What is to be done? Clearly we face in the proposed grant to a private merged carriers' carrier of ownership of the communications satellites under FCC "regulation" a problem of statesmanship which cannot be solved by doctrinaire applications of slogans which cut either for or against private or public ownership. It surely is no derogation of the values of private enterprise to suggest that private enterprise should not become involved in Government administration in a crucial way, or that Government should not become intermixed with private enterprise. It seems obvious that tinkering with the mechanics of regulation will not solve the problem. Already the regulated private monopoly plan has seriously eroded the integrity of both private enterprise and Government in the communications field. In my opinion, at least for the present the Government should retain ownership and control until we know what we have, and until a system is established. We can always give it away. If we find later that it would be in the public interest for an independent, private company to operate it, we can reexamine the matter on its merits.

1. Government operation of the communications satellites as a carriers' carrier can preserve competition between the commercial common carriers. Our genuine traditional policy of competition in international communications could thus be maintained, if the FCC would administer a policy which conforms to this preference for competition

as against monopoly. If the technical monopoly which the communications satellites makes possible be owned or controlled by a public benefit corporation, the organization and business aspects of the daily handling of traffic can be kept competitive between the major carriers. If private monopoly of the satellites is created, private monopoly of all our communications common carriage is inevitable. That private monopoly would be dominated in one way or another by A.T. & T.

2. Government is inevitably involved in communications satellites through research and development, operationally and fiscally, in ways which are without precedent in any other venture. Some $25 billion of taxpayers' money have been committed to the development of the space technology without which the communications satellites could not orbit. From 1959 to 1963, NASA and DOD will have spent more than $470 million on the development of space communications alone. The Federal Government is the backbone of the communications satellites and the taxpayers have supplied the flesh for this creation. Let us not forget that the first successful communications satellite was the Courier satellite, which was developed, financed, and operated by the U.S. Army. In one way or another the taxpayer deserves to have his interest in this development protected—not handed out in the greatest giveaway ever.

3. Government can do the job faster and no less efficiently than private industry. The propaganda slogan of private monopoly that Government is inevitably slower and less efficient than private enterprise is simply untrue in this situation.

First, as to speed: RCA's Dr. Engstrom has testified that no delays would result if research and development moves ahead with the Government carrying out its programs through contracts with the private communications companies where necessary.

Second, as to efficiency: The innovations of wire telegraphy in 1844 and of radiotelephony and radio-telegraphy from 1900 to 1919 were the result of Government rather than private enterprise. The same is true of most foreign countries.

As to speed and efficiency, the propaganda slogan's untruth is evident from one other consideration. If we really believed the slogan, we should turn over the communications end of the Department of Defense to be operated by the communications industry, and the remainder of our military organization to other segments of private industry. We place high priority on the importance of military security. Our military places a high priority on fast innovation of communications satellites. Evidently we act on the assumption—which is correct—that Government can do the job faster and no less efficiently than private industry.

This has been attested to by Mr. James Webb, the Administrator of the National Aeronautics and Space Administration. In asking for funds, he stated before the Senate Aeronautics and Space Committee that—

"He [the President] has established a policy of proceeding as rapidly and as expeditiously through the experimental phase to an interim transmissional operating phase, and has backed up his policy for a request for $50 million to expedite what industry might take longer to do."

Before the House Interstate & Foreign Commerce Committee Mr. Webb stated on March 21, 1962, that:

"It is contemplated that the National Aeronautics and Space Administration will continue to do active research and development on the technology involved in using communications satellite systems * * * the industry is not capable of doing the research that we do" (hearings, pp. 623–624).

At the November hearings of your Small Business Committee's Monopoly Subcommittee the following statement made by representatives of the General Electric Co. was quoted to Mr. Samuel Barr, vice president of Western Union, a communication carrier; I quote:

"If there were no economic considerations involved we feel 1965 is a reasonable objective to get there. On the other hand, we do feel that this time period could be accelerated by a year or more if the Government felt this were desirable, in which case we assume the Government would pay the additional cost of approaching it in that manner."

Mr. Benjamin Gordon, our staff economist, then asked the question: "Is this not an admission, Mr. Barr, that speed in establishing a system depends on efforts by the Government, and is outside the capabilities of the private sector alone?"

Mr. Barr then answers, and this is an important statement made by one of the common carriers and I quote in full:

"I will take it a step further. Not only speed but the mere fact of establishing such a system depends upon the amount and the speed at which the research and development under NASA is taking place."

"This ad hoc committee, and the carriers themselves, are not doing anything. They are not doing anything insofar as launching the satellites. It is wholly in the hands of the Government. So we depend upon the Government for that complete effort and therefore, whether it is speed or whether it is just in being at all, will depend upon the Government." (Hearings, before Subcommittee on Monopoly, Senate Small Business Committee, p. 585.)

4. Ownership and control of the communications satellites by a public benefit corporation, at least until we know the potentialities and value of such a system, avoids a premature freezing of a fluid situation. Unless private interests are gratuitously created, the political Government of our country can make the predominantly political decisions which communications satellite policy will involve, freely and on their merits. Just why should A.T. & T. be involved in a question of whether communications technical assistance should be given to a Latin American country in connection with communications satellites? Just why should A.T. & T. be our representative to conduct relations in the name of the United States between a Western European nation and several in Africa when the problem is one of adjusting their uses of communications satellite channel space? Just why should the choice of low or high level satellite systems be subjected to the patent and manufacturing interest pressures of A.T. & T. as against those of I.T. & T. and other companies?

Ownership and operation of a satellite system must insure a clean distinction between the private sector and the public sector. Why should we yield to the present industry pressures to take an action which violates a traditional policy of our country which says: Let's keep the Government out of business and business out of Government. H.R. 11040 blends the functions of Government and industry in day-to-day operations of our communications system in a way which is without precedent in this country. It has precedents but they come from outside our country. Private monopoly intermixed with Government authority and responsibility in control of our communications system would mark a large and irreversible step toward the corporate state in the United States.

IV. THE POWER OF A.T. & T.

Mr. President, what is essentially proposed by H.R. 11040 is congressional authority to give to A.T. & T. a revolutionary technology, the development of which has been paid for by the American taxpayer, and which can provide a competitive force in the communication industry. Instead, this competing technology is now being aborted at its birth, and if this bill is enacted, will soon become an instrument of the A.T. & T. monopoly. Of course, the bill is not presented in this light; it is being offered to the Congress wrapped in the mantle of free private enterprise, seeking to make dupes of the American people.

Despite pious denials to the contrary, there is no question that the American Telephone & Telegraph monopoly will control the satellite corporation. The predominant and major shareholder will be A.T. & T. The largest user by far will be A.T. & T. All this insures that A.T. & T. will also be the dominant supplier of equipment to the corporation.

1. A.T. & T. controls all types of communications

Potential ownership of 50 percent of the stock of the satellite corporation by corporations other than communications carriers and possibly some individuals cannot eliminate this control. In fact, the greater the diffusion of ownership among the other owners, the smaller the share needed by A.T. & T. to give it a stranglehold on the new organization. In this respect, I must confess that I do not understand the reasoning which would place a maximum ownership of 10-percent limitation on stock ownership by corporations other than communication carriers but practically no limit on those within the communication industry other than the 50 percent of the stock issued, and a vague regulatory power entrusted to the FCC, an agency which has been notoriously lax in regulating the telephone industry.

Here is an opportunity to create a competing entity with which the communication industry could deal and which could escape control by A.T. & T. But rather than freeing the American communication industry from A.T. & T. dependence, H.R. 11040 seeks to perpetuate and strengthen a dangerous monopoly under the label of "free private enterprise." The bill will insure and legalize complete A.T. & T. dominance not only over voice, wire, and television transmission but also weather forecasting and airway safety channels of communication.

If there is any doubt of the consequences, Mr. President, let me point out that today A.T. & T. owns, controls, and directly operates through its long lines department more than 98 percent of long-distance telephone communication service in the United States. Through corporate subsidiaries, corporate stock ownership and contracts, it owns and controls the dominant companies which have about 85 percent of all the facilities used in the provision of local telephone communication service in the United States.

The Bell System owns and operates the coaxial cable and microwave relay facilities used in the transmission of programs for radio and television broadcasting and all transoceanic two-way radio-telephone service in the United States. It also supplies facilities for a large part of press news and telephotograph service, and operates a nationwide teletypewriter exchange service.

A.T. & T. owns a predominant number of patents relating to telephone, telephone equipment, and communication operations.

A.T. & T. also owns 99 percent of the stock of Western Electric, the manufacturing, purchasing, and supply branch of the Bell System. Western Electric is engaged directly in the manufacture, sale, and distribution of over 90 percent of all telephones, telephone apparatus and equipment manufactured and sold in the United States. Of

the remaining 10 percent manufactured by others, a substantial part is produced under contract with Western in accordance with Western's prices and specifications, for Bell System use. Virtually all of the Bell System requirements for telephones, telephone apparatus, equipment, materials and supplies are purchased by the operating companies from Western Electric.

In fields other than telephony, A.T. & T. has dominated and controlled (1) the furnishing of microwave transmission, wire circuits and other facilities on which network radio and television broadcasting is dependent; (2) the manufacture and licensing of submarine telephone and telegraph cables and terminal apparatus, and (3) the development of multiple frequency broadband cable, including the coaxial type. This serves to give the Bell System a dominant position in news, photo, and television transmission involving the use of wire facilities.

As I have already stated, one would have to combine the total assets of Standard Oil of New Jersey, General Motors, United States Steel, Ford Motor Co., and General Electric in order to approximate A.T. & T.'s assets of over $30 billion at the end of 1961. And it would take the public revenues (including Federal subsidies and grants-in-aid) of 32 of our poorest States or those of the 5 richest States to equal the Bell System's $8.3 billion in revenues for 1961.

Under the veil of a public utility we have permitted a giant to grow. We have allowed ourselves to be duped by the concept of regulation as an adequate substitute for competition. The structure of the communications industry has no parallel in any other sector of the economy. The everwatchful eyes of the FCC., the Justice Department, and the FTC, when it comes to the common carrier industry, are similar to Rip Van Winkle's during his 20-year sleep.

Why does this situation exist? It exists because the FCC, the Department of Justice, and Congress have not been vigilant in exercising their responsibilities.

I have already discussed the lack of FCC regulation of A.T. & T. Now I would like to review the Justice Department's recent relations with this same monopoly. This is an important matter, Mr. President. Before the American Congress determines to give the communications satellite program to A.T. & T., which this bill H.R. 11040, does for all practical purposes, this body and the American people are entitled to know what their Government regulatory agencies and the Justice Department have done to protect their interest in the light of A.T. & T.'s position as a legal monopoly. To characterize this bill as a step toward free competitive enterprise is a particularly cynical misrepresentation to the American people.

2. Justice Department charges A.T. & T. with conspiring to monopolize

In the Government's relations with A. T. & T., the public interest has often been sacrificed. In 1935, under a congressional mandate, the FCC initiated an investigation of A.T. & T. and the Bell System companies which culminated in 1939 in an FCC report (H. Doc. No. 340, 76th Cong.) to Congress. This investigation found extensive antitrust violations and the resulting report recommended urgent action.

World War II intervened before action could be taken. Although the Departments of War and Navy, as well as A.T. & T., argued that to bring such an action during World War II would impede the war effort, the Department of Justice in 1949, in an act of courage despite opposing A.T. & T. influence and pressure, filed an antitrust complaint against A.T. & T., Bell Laboratories, and Western Electric, basing its action on the facts brought out in the original FCC report.

The complaint, filed on January 14, 1949, by the then Attorney General Tom C. Clark, charged that A.T. & T. and its wholly owned subsidiary, the Western Electric Co., were conspiring to monopolize the manufacture, distribution, and sale of telephones, telephone apparatus, equipment, materials and supplies.

The complaint charged that A.T. & T. (1) owned and operated more than 98 percent of the facilities used in long-distance telephone service in the United States; (2) owned and controlled operating companies furnishing approximately 85 percent of all local telephone service in the United States; and (3) required these operating companies and all of their long lines departments to buy substantially all of their telephone equipment from Western Electric. In addition, Western Electric manufactured and sold more than 90 percent of all telephones, telephone apparatus and equipment sold in the United States.

The complaint charged that A.T. & T. and Western Electric, its subsidiary, had been engaged in a continuing conspiracy to restrain and monopolize and were in fact monopolizing the manufacture, distribution and sale of telephones, telephone apparatus and equipment in violation of Sections 1 and 2 of the Sherman Act.

The complaint also alleged that A.T. & T.'s and Western Electric's control of the market for telephones and equipment permitted them to control both plant investments and operating expenses on the basis of which regulatory agencies fix investments and operating expenses on the basis of which regulatory agencies fix rates, and that the absence of effective competition in the manufacture of telephones and telephone equipment had resulted in higher prices paid for such equipment by the Bell System and tended to defeat effective public regulation by Federal and State regulatory bodies of rates charged subscribers for telephone service.

The complaint accused A.T. & T. and the Bell operating companies of refusing to purchase from manufacturers other than Western Electric, even though equipment manufactured by such other companies might be superior in operating economy, service, and initial cost. It alleged further that the situation created by the closed market in which the Bell System operating companies bought, as well as the closed market in which Western Electric sold telephone equipment, had been used by A.T. & T. to delay the introduction into the Bell System as standard equipment of improvements in the art of telephony in order that maximum returns might be secured from existing equipment even though less expensive and more efficient equipment was available.

According to the complaint, the alleged conspiracy between A.T. & T. and its subsidiary, Western Electric, consisted of a continuing agreement and concert of action of which these were the principal terms:

First, that A.T. & T. and Western agreed to acquire control of the market in the United States for substantially all telephones, telephone apparatus, and equipment through allegedly predatory patent policies; acquisition of independent telephone companies; and agreements with telegraph companies that they would not engage in telephone service.

Second, that A.T. & T. and Western agreed to eliminate all substantial competition in the manufacture and sale of telephone equipment required by the Bell operating companies and the long-lines department of A.T. & T.—(1) by giving Western Electric the exclusive right to manufacture and sell telephone equipment to the Bell operating companies and to A.T. & T.'s long-lines department; (2) by requiring the Bell operating companies and American Telephone & Telegraph long-lines department to purchase and acquire equipment exclusively from Western Electric; (3) by standardizing equipment used in the Bell System in such manner as to prevent its purchase from any company except Western; (4) by vesting in A.T. & T. power to control operations of all branches of the Bell System so that they are unable to make independent decisions on procurement.

Third, that A.T. & T. and Western agreed to acquire independent, competing telephone manufacturers.

Fourth, that A.T. & T. and Western agreed to eliminate competition of foreign telephone manufacturers by arranging with them that Western Electric would be their exclusive agent in the United States.

Fifth, that A.T. & T. and Western agreed to suppress competition in alternative methods of communications by patent control in media not related to wire telephony by restrictive cross-licensing patent arrangements, and by dividing fields of manufacture and sale with concerns in the telecommunications and nontelecommunications fields.

Sixth, that A.T. & T. and Western agreed to exercise the power resulting from their unified control of research and development and the manufacture and operations of telephone equipment so as to produce monopoly profits for A.T. & T. (1) by securing from Western Electric noncompetitive prices for telephone equipment sold by Western to the Bell operating companies and to the long-lines department of A.T. & T., and by using such noncompetitive prices as the basis for determining investment in telephone plant upon which subscribers' rates are based: (2) by continuing the manufacture by Western and the sale by Western to the Bell operating companies and to the long-lines department of A.T. & T. of various types of telephone equipment, knowing that the cost of such equipment was higher than that of available, alternative types manufactured by Western Electric's competitors; (3) by suppressing improvements and developments in the art of telephony and improved types of telephones, telephone apparatus, and equipment; (4) by refusing to purchase from manufacturers other than Western and by refusing to introduce into the Bell plant equipment produced by competing manufacturers even though the defendants knew that such equipment was superior in service, operating economy, and initial cost.

Seventh, that A.T. & T. and Western agreed to discriminate in price between different purchasers and substantially to lessen competition in the manufacture and sale of telephone equipment (1) by selling to companies not within the Bell System at prices higher than those charged the Bell operating companies; (2) by allowing Western to manufacture for sale outside the Bell System without charge for A.T. & T. controlled patents, while refusing such terms to independent manufacturers and distributors of telephone equipment.

3. Attempt by U.S. Government to sever Western Electric from Bell System

In a statement accompanying the filing of the suit, the Department of Justice declared that "although the Bell operating companies occupy the status of public utilities and hence are subject to regulation by State and Federal commissions on rates charged subscribers, Western Electric Co. is not subject directly to such regulation." The Department added that "telephone rates are fixed upon the basis of a fair return on the investment in the telephone plant, and where such telephone plant is purchased from a single concern, it is obvious that the prices for such equipment are not determined by competition in a free market."

Attorney General Clark pointed out that "the chief purpose of this action is to restore competition in the manufacture and sale of telephone equipment now produced and sold almost exclusively by Western Electric at noncompetitive prices." Defense counsel made it plain that "the heart of the case is the Government's attempt to sever Western from the Bell System" observing that "the basic relief sought is that the manufacture of telephone equipment for the system be completely and perpetually separated from the furnishing of telephone service by the system."

More specifically, to restore competition in the manufacture and sale of telephone equipment, the following relief was requested in the complaint:

1. Separation of Western Electric from A.T. & T. and dissolution of Western into three competing manufacturing concerns;

2. Requirement that A.T. & T. and its operating companies buy telephone equipment only under competitive bidding;

3. Requirement that Western Electric sell to A.T. & T. its 50-percent stock interest in the Bell Telephone Laboratories.

4. Prohibition of all agreements between Western Electric and Bell operating companies under which Western was made the exclusive purchaser, supplier, developer, storekeeper, installer, repairer, and junker for the Bell System;

5. Requirment that A.T. & T., Western, and Bell Telephone Laboratories license their patents to all applicants on a nondiscriminatory and reasonable royalty basis, and furnish technical information, know-how, and technical assistance necessary for the use of such patents;

6. Prohibition of various arrangements between A.T. & T. and the Bell operating companies whereby A.T. & T. specifies the equipment to be purchased by them, requires submission by Bell operating companies of financial budgets, and directs the operations of Bell companies;

7. Prohibition of all contacts, arrangements, and understanding with others which eliminate or restrain competition.

In summary, the core of the complaint was that A.T. & T. and Western Electric had destroyed competition in the manufacture and production of telephones, telephone equipment, and apparatus; that Western Electric is an illegal monopoly; and that the operations of A.T. & T.'s manufacturing subsidiary, Western Electric, are not subject to public utility regulations and hence should be in the sphere of our free competitive enterprise system. On the other hand, the operations of A.T. & T. and its operating companies are subject to public utility regulation. The purpose of this complaint was to eliminate Western Electric as an illegal monopoly operating under the protection of the natural monopoly enjoyed by A.T. & T. and its operating companies as a public utility.

The difficulty of regulating A.T. & T. in this respect was attested to by the Chairman of the Federal Communications Commission before my Monopoly Subcommittee in August of last year. Let me quote from the testimony:

"Senator LONG. Well, is it not true that lack of control in one area of an overall operation tends to defeat the regulatory efforts in another area?

"Mr. MINOW. Well, yes, except in some of the problems we run into, they cut across many different bounds. In the space field, for example, when many agencies like NASA and ourselves are involved, it is hard to put all of it in one package.

"Senator LONG. But if you can't control one facet of that which you are supposed to regulate, it oftentimes means that you can't control the thing at all, doesn't it?

"Mr. MINOW. That is correct, sir.

"Senator LONG. Isn't that the reason the Government found it necessary to regulate the price that a coal mine could charge the railroad if the railroad owned a coal mine in order to keep them from robbing the public blind with the price they are paying for coal?

"Mr. MINOW. That is right. And it is exactly the same situation in connection with our pending matter between Western Electric and A.T. & T."

On January 24, 1956, the Department of Justice, without going to trial, entered into a consent decree judgment with the American Telephone & Telegraph Co.

4. Role of Department of Justice in consent decree

Before discussing the practical efforts of this consent decree, Mr. President, I would like to discuss some of the lesser known activities which took place prior to the culmination of the decree. The background information is a matter of public record and is available in the report of the House Antitrust Subcommittee on the consent decree program of the Department of Justice, and the hearings held by that subcommittee on the A.T. & T. consent decree. These records reveal that the actions of certain agencies and officials at the time of this consent decree manifested an utter disregard of the public interest and reflected a subservience to A.T. & T. which fell far below the standard required of Government officials and agencies in carrying out their responsibilities.

When the Celler subcommittee began its investigations on the decree, immediate opposition was manifested by the Department of Justice. The subcommittee requested the Department's files relating to the negotiations for, and signing of, the consent decree. But the Department of Justice refused to supply the subcommittee with any information. This refusal was predicated, according to the Celler subcommittee, "on an asserted need to withhold information concerning A.T. & T. and Western Electric operations obtained from those corporations in the course of consent-decree negotiations, and on a claim of Presidential privilege to deny to Congress communications passing between employees of the Department of Justice."

In 1958, it should be noted, Attorney General Rogers advised Congress that it was the Department's practice at the conclusion or settlement of a case to make all pertinent facts available to duly constituted congressional committees. If this had been the Department's policy, why was it necessary to make an exception in this case?

Perhaps the refusal of the Department to supply information was understandable when one considers the actions and suggestions of Attorney General Brownell under whose authority the consent decree was effectuated.

In 1953 Mr. T. Brooke Price, A.T. & T.'s vice president and general counsel, visited Attorney General Brownell at White Sulphur Springs, W. Va. A detailed memorandum of this meeting was prepared by Mr. Price and is incorporated in the Celler committee report.

According to this memorandum, Mr. Brownell had a number of specific suggestions on the course the defendants should follow. In substance, the Attorney General stated "that a way ought to be found to get rid of the case." He expressed the thought that A.T. & T. "could readily find practices that (it) might agree to have enjoined with no real injury to (its) business" and said that if A.T. & T. "tried," it "certainly could find things of that sort that could be used as a basis for a consent decree." When Mr. Price pointed out that the management of A.T. & T. had not been willing to admit that any injunction ought to be entered against the company, but that the case ought to be dropped, Mr. Brownell said, "I don't think that's a very sensible attitude for them to take."

In effect, the Attorney General of the United States proposed a face-saving device in order to conclude the litigation without the basic relief requested by the Government's complaint; that is, divorcement of Western Electric from the Bell System.

The Attorney General's willingness to have a token settlement was not consistent either with the public interest or with the law, and manifested a partiality toward the defendants which was incompatible with the duties of public office. It was also hardly in keeping with the ethics of the legal profession for an Attorney General, who is entrusted with responsibility for all litigation brought by the United States, to suggest to his adversary to approach the Justice Department with a proposal, the acceptance of which would be harmless to his clients.

Needless to say, A.T. & T. lost no time in responding to Mr. Brownell's suggestion with respect to a consent decree as a substitute for dismissal. Subsequently, A.T. & T. made several proposals as a basis for a settlement decree. None of the proposals included severance of Western Electric as a supplier to the Bell System or required the operating companies of the Bell System to purchase under competitive bidding. The consent judgment ignored every essential position on which the Government had initiated the suit.

When the Department of Justice was asked, in appearing before a House Small Business Committee, what justification there was for settlement of the case, former Assistant Attorney General Barnes, in charge of the Antitrust Division at the time of the consent decree, stated that the original purpose to separate Western Electric from A.T. & T. had to be abandoned because it was felt that the courts would probably not go along, a belief not necessarily his own.

There were members on the staff of the Antitrust Division who were not pessimistic at all about the Government's chances of obtaining divorcement by court action. Mr. Victor Kramer, who at one time had general supervision of the case, and Mr. Murphy, who was the chief of the Government's trial staff, and who according to one of the Department witnesses had the best detailed knowledge of the case, testified that the probabilities were that the Government would have ultimately succeeded in obtaining divestiture of Western Electric through court action.

Another reason advanced by the Attorney General to justify the decision was that any divestiture would be certain to result in a substantial increase in the cost of telephone service to the consumer. Mr. President, this conclusion was not reached from any independent investigation, but solely on the basis of information and representations from advocates for the defendants. Comparisons were made between Western's and independent manufacturer's prices that had been advanced by the associated Bell companies in rate proceedings to justify the reasonableness of Western's prices. However, as the Celler subcommittee pointed out, these comparisons were not valid because of differences in the manufacturing and marketing conditions between Western Electric and the independents. First 90 percent of the market was foreclosed to independents and supplied by Western; second, Western had advance information as to anticipated purchases by its customers, as compared with lack of such information to the independent manufacturers; third, Western incurred no sales cost as compared to the independent manufacturers' cost of selling products; fourth, there was a difference between the

relative credit risks of the independent manufacturers and Western.

Despite these considerations, the Department of Justice rejected a recommendation by Mr. Kramer to determine empirically whether or not the independent manufacturers were in a position to compete with Western, and also to obtain their reactions to the claims made to the Department by A.T. & T. and Western Electric.

Finally, there were the so-called defense considerations. In this connection Judge Barnes stated that, if contributions to the military effort was to be a defense to the violation of antitrust laws, a directive was necessary from the President or the National Security Council. No such directive was ever issued. In fact, the military effort had no bearing on the decision to settle without divorcement. In testimony before Mr. James Roosevelt's House Small Business Subcommittee, Judge Barnes stated:

"You know, this is a very complicated situation. It is complicated by many, many factors, not the least of which is the vast amount of business which is done by Western Electric for the U.S. Government. * * * In other words, you have got a situation where you have got research halfway between manufacture and operations, and so tied up, according to certain allegations, that, from a practical standpoint, they have to be together.

"Now, I am not buying that. I am just saying that is an argument which has been expressed, and very violently expressed, by people in high places in the Government. The responsibility for this consent judgment rests solely in the Department of Justice, and solely in the Antitrust Division, of which I am head. * * * As I stated, the only reason why we did not attempt to get a complete divorcement of Western Electric and the A.T. & T. is that we became convinced we could not obtain it by a court action."

5. Staff of Department of Justice refuses to sign consent decree

In analyzing the Justice Department's handling of this case, the reactions of certain high level staff members must be considered. No member of the staff assigned to work on the case, or getting the case ready for trial, was in favor of a settlement without divestiture of Western Electric.

Mr. Victor Kramer, an eminent antitrust lawyer, who, as I have already mentioned, had general supervision of the case, prepared a memorandum as to why he was unsympathetic with the Department's decision, stating why, in his judgment, the consent decree was contrary to the public interest.

According to Mr. Kramer:

1. The Sherman Act condemns every scheme for interstate monopolization and does not distinguish between good and bad monopolies.

2. Congress had made no exception from the Sherman Act for manufacturers of telephone equipment.

3. A decree failing to divorce Western Electric from A.T. & T. and otherwise limit its role as exclusive supplier of equipment to the Bell System would not accomplish the objectives of the Sherman Act.

4. No field examination had been made to test the contention that divestiture would result in increased cost of telephone service.

5. The major premise of the Sherman Act is that monopoly is contrary to the public interest and that competition ultimately produces more goods at lower prices. If this premise is erroneous for the manufacture of telephone equipment, Congress alone has power to enact an exception.

6. In the absence of a directive from the President that considerations of the national defense make trial of the case impossible, the Department of Justice was in no position to fail to press the case.

7. And should all these arguments fail to convince, a dismissal of the complaint without prejudice was preferable to a consent decree that would recognize Western Electric as a chosen instrument of monopoly and might, operating as a kind of umbrella over Western's monopoly, tie the hands of a future Attorney General.

Subsequently, Mr. Kramer, as did every other responsible member of the staff, declined to sign the decree, "because after a great deal of soul searching I did not see how I could sign it and remain consistent with the oath which every attorney takes when he joins the Department of Justice to support and defend and protect the Constitution and the laws of the United States adopted thereunder. * * * I did not think that this decree could possibly be consistent with the Sherman Act."

In addition to Mr. Kramer, Mr. Murphy, the chief of the Government's trial staff, testified that he also believed the proposed settlement was contrary to the public interest, and had submitted a memorandum objecting to the decree. Mr. Murphy noted that while the FCC had stated that it had power to regulate the prices charged by Western Electric to Bell operating companies, it did not say that there was any actual regulation, and that if divestiture was not in the public interest, "dismissal would be preferable to a settlement on any basis which did not include divestiture, because I could not see, personally, how a decree which perpetuated the basis of the suit would be appropriate, because it might have an effect of estoppel or res judicata at some time in the future when conditions might change, say in 10 or 15 years."

Mr. Murphy, in his testimony before the Celler subcommittee, stated that after the decree was negotiated he indicated that "he would prefer not to sign it."

Also opposed to the settlement negotiated by Attorney General Brownell was the Chief of the Antitrust Division's Judgment and Judgment Enforcement Section, Mr. Kilgore, whose office had the responsibility to review and formulate and to make recommendations to the Assistant Attorney General on consent judgments.

Mr. Kilgore testified before the Celler subcommittee that he orally advised certain staff members in the Department of his opposition to the settlement without divestiture, and that he subsequently submitted a written memorandum in order that the record would show he had previously orally indicated his views on the relief. He testified that:

"I stated that, upon the basis of the Government's allegations, if there was a case showing a violation of the Sherman Act, that divestiture relief was appropriate. I do not believe, did not believe, that Congress has made any exemption under the Sherman Act for the manufacturer of telephone equipment and therefore, I felt that it should be treated solely as an antitrust problem."

The question still remains why the Attorney General did not follow the advice of his staff instead of deciding, in effect, to recognize Western Electric as a chosen instrument of monopoly and preventing a future Attorney General, whose opinion might differ, from bringing antitrust actions against Western Electric.

6. The role of the Department of Defense in consent decree

The Department of Justice was not alone in neglecting its responsibilities as a public agency. The Department of Defense and FCC also played an important role in the eventual settlement with A.T. & T.

In 1952 the Bell System decided to seek a postponement of all activity in the antitrust suit on the ground that during the national emergency (the Korean war) the preparation for trial would seriously affect several key executives of Bell Laboratories and Western Electric. This was an argument successfully used to obtain a postponement during World War II. It was claimed again in 1952 that the diversion of certain executives to trial preparation would impair the ability of the Bell Telephone Laboratories and Western Electric to fulfill its obligations under defense contracts with the Government.

Dr. Kelly, president of the Bell Telephone Laboratories, discussed the matter of postponement first with Secretary of Defense Robert A. Lovett, and later with Assistant Secretary of Defense for Legal and Legislative Affairs, Charles A. Coolidge. It should also be noted that Dr. Kelly was at that time a consultant of the Defense Department as well as the Commerce Department.

Dr. Kelly apparently convinced Assistant Secretary Coolidge that the antitrust suit should be postponed, and Mr. Coolidge made such a written recommendation to the Secretary of Defense.

Mr. President, I do not criticize the Department of Defense for taking this position if the facts in the case merited such a decision. What is particularly disturbing to me, however, is the manner in which the decision was reached and the subsequent conduct of certain officials in the Department of Defense.

After the Defense Department's decision, A.T. & T.'s counsel submitted to the Department of Defense a memorandum prepared by Dr. Kelly and a vice president of Western Electric stating A.T. & T.'s position that the suit should be postponed because of the defense effort. Thereafter Secretary Lovett addressed a letter to the Attorney General echoing the representations made by A.T. & T. and requesting a postponement.

This recommendation was made even though the Defense Department had not made an independent investigation to determine whether a trial would impede the defense effort or whether personnel working on defense would actually be needed for preparation of the trial.

The Secretary of Defense in a later memorandum, the first draft of which was prepared by A.T. & T., stated the following:

"There is no question in my mind as to the importance to the defense effort of the work the Bell Laboratories and Western Electric are doing. While I cannot similarly vouch personally for the degree of interference with that work which a resumption of activity in the antitrust suit would entail, the data on this point which Dr. Kelly has submitted are impressive and I have no question as to Dr. Kelly's integrity. (Celler report, p. 47.)

Thus, complete reliance was placed on the oral and written representations made by Dr. Kelly, the president of the Bell Laboratories, who could hardly be characterized as a disinterested objective party. In fact, during the course of the Cellar hearings, Dr. Kelly acknowledged that in his representations to the Department of Defense he was acting as an advocate for the Bell System. Knowing that Dr. Kelly was a consultant to the Defense Department, can it be denied, Mr. President, that this was clearly a conflict of interest?

Rebuffed by the Department of Justice in its initial request, A.T. & T. again wrote to the Department of Defense requesting a temporary postponement for at least 2 years, giving the same reasons as before. The Department of Defense again responded by sending a letter to the Attorney General conveying the requests of A.T. & T. Subsequently, a meeting was held between Deputy Secretary of Defense William C. Foster and the Attorney General for the purpose of setting up a conference to discuss the case.

Mr. Coolidge, Assistant Secretary of Defense, after being appraised by Mr. Foster of what took place at this meeting, lost no time in conveying what he had learned to a Bell Laboratories vice president, who wrote the following memorandum:

"On July 16, 1952, Mr. C. A. Coolidge, Assistant Secretary of Defense, called me to report on the status of the Defense Department's efforts to have the Justice Department defer the antitrust suit. He told me of a discussion (not firsthand) with the Attorney General at which the Attorney General made the following statements:

" '1. That he would make no decision until the new head of the Antitrust Division had been appointed.

" '2. That he would not make this appointment until after the Democratic Convention.

" '3. That the delay put into the negotiations by the Justice Department would not be counted against any delay which might be granted later.

" '4. That he approved of the position we have taken (as stated in Dr. M. J. Kelly's letter of May 9 to Mr. W. C. Foster) in not working on the case until he had made a decision.'

"I told Mr. Coolidge that we were concerned about the delay in view of the fact that we were under court order to be responsive. He sympathized and suggested that work in response to the order probably did not involve the efforts of key people in the laboratories and that perhaps this work should go forward.

"Mr. Coolidge told me that, in his opinion, it was quite possible that no decision would be made until after the election. He guessed that the Attorney General might not want to decide such an important matter for a possible successor.

"I asked Mr. Coolidge whether, in his opinion, it would be profitable for us to discuss these matters with the Justice Department at this time. He saw no reason why not but, on the other hand, did not recommend that we do so." (Celler report, p. 49.)

After the election in 1952, Dr. Kelly again met with Assistant Secretary of Defense Coolidge, at which time it was concluded that for the benefit of the new administration the Department of Defense should prepare, first, a complete file on the matter; and, second, an accompanying memorandum from Secretary Lovett setting forth the consideration and action of the Department of Defense in this case. Dr. Kelly, president of Bell Laboratories, was asked to go through the files of the Department of Defense (including documents prepared and submitted by the Bell System) and to assemble a complete file. In addition, Dr. Kelly prepared and delivered to the Department of Defense a suggested draft of a memorandum from the Secretary of Defense to accompany the file. Subsequently the Secretary signed a memorandum which was, in substance, along the same line as the draft prepared by Dr. Kelly of Bell Laboratories. This action, Mr. President, makes me wonder who is working for whom and who is serving the public.

7. Defense Department assists A.T. & T.

The Defense Department's activities for A.T. & T. did not end simply with its proposals to the Justice Department. Even after the consent decree came into effect, the Defense Department continued to aid the case of A.T. & T. by other means, and these "other means" should remove all doubts as to whether or not A.T. & T. received preferential treatment from the Defense Department.

What I am referring to is, that, unknown to the Celler subcommittee, the Defense Department turned over to A.T. & T. copies of all documents which had been previously furnished to the Celler subcommittee. These included interoffice memorandums and correspondence between the Secretary of Defense and the Attorney General.

At this point, certain questions occur to me:

1. Is the Department of Defense a secret arm of the American Telephone & Telegraph Co.?

2. Is the Department of Defense in the employ of A.T. & T., the Bell System Cos.; and the Bell Laboratories, Dr. Kelly's home base?

3. Or is the Department of Defense an agent of the American people, empowered to carry out and protect the statutes enacted by the Congress?

When the Deputy General Counsel of the Defense Department was questioned about the release of these confidential and privileged memorandums and letters by Mr. Maletz, chief counsel of the Celler subcommittee, he stated that the Defense Department did not know whether or not turning over interoffice memorandums to A.T. & T. would hamper the Celler subcommittee in connection with its investigation. Furthermore, no effort was made to check with the chairman of the subcommittee to determine this fact, and perhaps in retrospect the Defense Department should have done so.

When questioned further as to whether the action of the Department of Defense was contrary to its policy against making available to a private company copies of documents supplied to a Federal investigative agency without first obtaining approval of that agency, the Department's witness answered that it was contrary to established policy and that this was the only instance of its kind that occurred during the past 10 years. Yet why was it done? Was it because A.T. & T. and Western Electric were involved? Would the Defense Department have done it for other corporations?

It is obvious that the pattern manifested throughout this case by the Department of Defense was an abdication of departmental and public responsibility to the Bell System. The Department's action was that of an advocate for the Bell System, and this reflects a lack of moral and ethical sensitivity. The manner in which the Department of Defense determined the A.T. & T. case and the delegation of administrative responsibilities to a Bell employee is, in my judgment, conduct falling far short of that which is expected of a department of the Government and of individuals whose job it is to protect the public interest.

8. The FCC misrepresents and omits important information

Up to this point, I have been discussing the unusually friendly and solicitous activities of both the Department of Justice and the Department of Defense on behalf of the American Telephone & Telegraph monopoly. Not to be outdone by these two agencies of Government, the Federal Communications Commission joined the contest to see which would ingratiate itself most with this industrial colossus.

In trying to get a favorable settlement, the defendants continued to press two points in the course of the negotiations: (1) That in fixing rates for the Bell System operating companies, the regulatory commissions had authority to inquire into and evaluate the reasonableness of the prices and profits of Western Electric in its business with the operating companies and to disallow for ratemaking purposes such amounts as were determined to be unreasonable or excessive; and (2) that divestiture would deprive the Commissions of power to scrutinize the reasonableness of Western's price to the Bell operating companies.

To evaluate these contentions, the Attorney General sought the opinion of the Federal Communications Commission. However, Mr. Kramer of the Department of Justice stated before the Celler subcommittee that he had reservations about the advisability of seeking the Commission's views on this question, because in his opinion, the answer would be a foregone conclusion. The reason for Mr. Kramer's reservations are revealed by his testimony before the Celler subcommittee:

"Mr. KRAMER. I had had, with the permission of Judge Barnes, some months prior to the letter, a very brief meeting with one or two members of the Commission's staff, and I believe one of them—but I am not sure—was Mr. Strassberg or Strausberger. I cannot remember our conversation; it was at least 3 years ago.

"He exhibited, it seems to me, some apprehension regarding discussing anything on the merits of the A.T. & T. decree with a staff member of the Antitrust Division, even though I believe I made it clear that Judge Barnes had approved the visit.

"In addition to that, I was aware that the Chairman of the Commission, then Mr. McConnaughey, had been associated as counsel for the Ohio Bell Telephone Co., and I was afraid that his experience with that company, coupled with this vague apprehension that the staff showed to me when I visited them, would result in an answer which would perhaps not fully reflect the views that the staff had, and might reflect the views of the telephone company.

"By the telephone company, I mean the defendant, American Telephone & Telegraph Co.

"Stating it most briefly, I thought that the answer was a foregone conclusion, and that not too much weight should be given to it. However, I said little, because it seemed to me almost absurd for a member of the staff of the Department of Justice to object to getting the views of a correlative agency of the Government."

Mr. Kramer was an accurate prophet.

Mr. Edward B. Crosland, assistant to the president of A.T. & T., and a legislative representative for the monopoly, when he discovered that the Attorney General planned to write to the FCC Chairman seeking the Commission's views about divestiture, informed each Commissioner separately of the Bell System's position on divestiture of Western Electric from A.T. & T.

The Attorney General's inquiry was referred to the Chief of the Common Carrier Bureau, who with other staff members concluded that the issue was one peculiarly within the province of the Antitrust Division and that "the principal matter; namely, the effect of divestment on prices for telephone * * * equipment was just something that we had no information on, not sufficient information, to enable us to address ourselves to the question at all." (P. 74, Celler hearings.) For these reasons, a draft letter was prepared stating in substance "that if the representations made by A.T. & T. as set forth in the Attorney General's letter were correct, 'divestiture would have significant effect upon the regulatory agencies in the exercise of their ratemaking functions.' The draft added that the Commission 'under its statutory power to obtain information and require comprehensive reports, has been able to maintain a helpful degree of surveillance over the prices and profits of Western' and that, in cooperation with State regulatory commissions, 'it has been instrumental in bringing about substantial reductions in prices of equipment purchased by the Bell System companies from Western.' "

The Commission rejected this letter because it felt that the reply was not sufficiently responsive to the Attorney General's request, and the Common Carrier Bureau was instructed to prepare a fuller response.

A second draft letter was prepared by the staff and approved by the Chief of the Common Carrier Bureau. The letter stated the following:

"It would appear that adequate powers reside in the regulatory authorities to deal with the matter of Western's prices and profits, insofar as they may affect the investment and expenses of affiliated operating telephone companies. It must be recognized, however, that the degree of effective application of these powers is largely dependent upon the resources of the respective regulatory agencies to examine and evaluate all of the matters necessary to an informed determination of the reasonableness of Western's prices and profits. In this connection the Commission, in cooperation with the National Association of Railroad and Utilities Commissioners, jointly undertook, in 1947, a preliminary study of Western's profits and accounting procedures in order to provide helpful information to State and Federal regulatory agencies in judging the reasonableness of Western's prices and to determine the need for a more comprehensive investigation of Western's costs, accounting procedures, and prices. This study, which was the subject of an extensive report in 1948, reviewed selected phases of Western's operations. Supplemental summary reports on Western's operating results have been prepared annually since that time. We believe that these studies have been instrumental, at least in part, in bringing about substantial reductions by Western in its prices charged to the telephone companies of the Bell System.

"On the other hand, we desire to emphasize that we are not in a position to express an informed judgment on the question of whether equipment and services used by the Bell System could be obtained in a competitive market, such as contemplated by the pending antitrust complaint, at prices which are as low or lower than they are now provided under the existing arrangements. Nor are we prepared to state, on the basis of the information available to us, that Western's prices and profits have been unreasonably high or that its operations within the Bell System have not been conducted on an efficient and economical basis. If it should appear from the facts in your possession that the current relationship between Western and the Bell System is not otherwise in conflict with the public interest, we are of the opinion that, properly and vigilantly administered, the powers encompassed within the existing regulatory framework can provide substantial safeguards against possible abuses in fixing the prices of Western for equipment and services supplied to the telephone companies in the Bell System."

The Commission at its meeting reviewed the draft, and because of objections raised by Commissioners Doerfer, Mack, and McConnaughy deleted the following essential material, and I quote:

"(1) It must be recognized, however, that the degree of effective application of these powers [regulatory authority to deal with Western's prices and profits] is largely dependent upon the resources of the respective regulatory agencies to examine and evaluate all of the matters necessary to an informed determination of the reasonableness of Western's prices and profits in this connection.

"(2) On the other hand, we desire to emphasize that we are not in a position to express an informed judgment on the question of whether equipment and services used by the Bell System could be obtained in a competitive market, such as contemplated by the pending antitrust complaint, at prices which are as low or lower than they are now provided under the existing arrangements. Nor are we prepared to state, on the basis of the information available to us, that Western's prices and profits have been unreasonably high or that its operations within the Bell System have not been conducted on an efficient and economical basis, if it should appear from the facts in your possession that the current relationship between Western and the Bell System is not otherwise in conflict with the public interest."

The basis for the objection to these statements by the three commissioners was that they were inappropriate in a letter of this kind since it concerned budgetary matters.

Mr. President, the omission of these two statements, however, had a very important bearing on the pending matter before the Antitrust Division.

The deletion of the first statement deprived the Justice Department of the knowledge of whether the FCC and other regulatory bodies actually had the resources to enable them adequately to examine the reasonableness of Western Electric's prices to the Bell operating companies. Completely omitted and ignored was the fact that because of lack of resources, the Federal Communications Commission and the great majority of State regulatory bodies could not make any kind of indepenednt appraisal of Western's prices.

Mr. Strassburg, Chief of the Rates and Revenues Branch in the Common Carrier Bureau's Telephone Division, in testimony before the Celler subcommittee commenting on this point, stated that "the FCC is unable to make an audit of Western's costs and prices to determine whether charges to the Bell company are reasonable or unreasonable, owing to the fact that only 5 employees of the Commission are assigned to these regulatory matters."

In addition, a study by the Antitrust Division indicated "'that only four, five, or six' of the State commissions were sufficiently well staffed and well financed to conduct a reasonable inquiry into the problems of Western Electric's charge to the Bell operating companies and that most, if not all, of the balance were hopelessly unable to conduct the kind of thorough investigation that was thought to be necessary in order to effectively regulate Western's charges to A.T. & T."

No less important was the effect of the deletion of the second statement. It was highly material to the proceedings, and its inclusion would have placed the Commission on record as being completely unable to support one of A.T. & T.'s chief arguments against divorcement, namely, that Western's prices were reasonable and lower than any possible competitors.

In summary, then, the Federal Communications Commission presented a one-sided and distorted view, and revealed an indifference to the public interest. The FCC's telephone rate expert stated before the Celler subcommittee, "The reply constituted a 'misrepresentation' of the existing situation and failed to 'portray material considerations that the Attorney General ought to be advised of or have before him.'"

Mr. President, in addition to distorting facts, the Federal Communications Commission failed to apprise the Justice Department that 5 months before, the Common Carrier Bureau staff had reported that Western's returns in the 1950–54 period raised "a regulatory question as to whether Western's prices to its sister companies of the Bell System may be unreasonable and, to the extent that they are or have been, whether the claimed investment and operating expenses of the operating companies for the ratemaking purposes should be adjusted to elliminate any excessive Western profits."

Moreover, the Commission should have advised the Justice Department that an adequate yardstick to evaluate the reasonableness of Western's prices had not been developed as indicated in a memorandum from the Chief of the Common Carrier Bureau to the Commission. The pertinent portion of the memorandum stated:

"Since World War II, the Western Electric Co. has made substantial profits on its sales of equipment, supplies, and services to the Bell System companies. Western's reported level of return on investment in Bell business during this period has been considerably above the level of earnings of the Bell System companies from their telephone operations. Inasmuch as the payments made by the associated companies to Western are either capitalized and subject to depreciation accounting or treated as operating expenses directly, they have a direct effect upon any determination of the Bell System's revenue requirements applicable to telephone service and to the reasonableness of its rates. * * * In an interstate ratemaking proceeding, a determination would be required as to the reasonableness of the amounts contained in the plant accounts of the operating companies representing the profits derived by Western on sales of equipment to those companies. This, in turn, would involve questions as to the basis on which Western's prices are fixed as well as the development of appropriate yardsticks by which to evaluate the reasonableness of Western's prices and earnings related in those sales.

The failure of the Commission to advise the Justice Department of these facts, coupled with its one-sided view of the divestiture issue, the suggestions of Attorney General Brownell to A.T. & T., and the Defense Department's unhesitating support of A.T. & T.'s position even without an independent inquiry, reflected a willingness to prostitute the public interest and an amazing receptivity to the A.T. & T. point of view. This is a shocking indifference to the public interest by three public agencies, and raises a very important question: If this is what occurs when Government agencies and a private utility are allegedly conducting themselves at an arm's length distance, what will happen when Government directors and private directors sit at the same table as proposed in the bill before us, H.R. 11040? This question which has not been considered in any of the hearings on this bill, demands the most careful and serious study.

9. Results of consent decree

Now, Mr. President, what are the practical results of a consent judgment which was hailed as a major victory for the Government?

As a result of the provisions of the consent decree: (1) Western Electric is still a wholly owned subsidiary of A.T. & T. Its manufacturing monopoly is unbroken. It still has a 50-percent stock ownership in Bell Telephone Laboratories. The other 50 percent is owned by A.T. & T.

(2) Nothing in the decree requires A.T. & T. and its operating subsidiaries to buy telephone equipment under competitive bidding. It can refuse and has refused to purchase from manufacturers other than Western Electric, even though equipment manufactured by such manufacturers may be superior in operating economy, service, and initial cost.

(3) Nor has the economic position of A.T. & T. been altered. It still owns and operates more than 98 percent of the facilities used in the rendition of long-distance telephone service in the United States. It owns and controls operating companies furnishing about 85 percent of all local telephone service in the United States. A.T. & T. may and does require the operating companies and their long lines department to buy substantially all of their telephones from Western Electric, which still manufactures

and sells 90 percent of all telephones, telephone apparatus, and equipment sold in the United States.

What then has the consent decree done to restore competition in the manufacture, distribution, and sale of telephones, telephone apparatus, equipment, materials, and supplies?

(1) A.T. & T. and the operating companies are enjoined from engaging in any business other than the furnishing of common carrier communications services. Western Electric is required to limit its manufacturing to A.T. & T. and the operating companies. It was compelled to sell Westrex, a minor subsidiary, which makes sound recording equipment for the movie industry. However, it may engage in any business or function when acting for the U.S. Government or any agency thereof.

The net effect of these provisions of the consent decree is to remove Western Electric, and Bell Telephone Laboratories with their research and manufacturing capacity from that area of the commercial marketplace where they did not have a monopoly and where they were either a potential competitor or an actual competitor. This decree removed Western Electric from those areas of competition in which the other electrical manufacturing companies were found guilty of fixing prices, production and markets. In fact, this decree, by removing Western Electric from competitive markets, may have made it easier for the other electrical equipment manufacturers to divide up the market illegally for which they were subsequently found guilty.

Although Western Electric is confined to manufacturing for A.T. & T. and the operating companies, which are restricted to common carrier communications services, there is left both remarkable variety and scope to its operations. Digital computers, teletypewriters, recording devices, telephone answering devices, radio transmission and receiving, dataphone-inventory, data-photowire service, wiring cable, electronic components, transistors, tubes, batteries, telephones, and electrical equipment are all within the Bell System's sphere of activities. Digital computers and recording devices, since they may be attached to the telephone system through which the service is rendered, fall within the term "common carrier communications services," although Western Electric may engage in any business as a prime contractor, subcontractor, or consultant for a Government instrumentality.

One of the major points made by the Department of Justice in attempting to justify this consent decree is that A.T. & T. is now confined to regulated areas, thus enabling more effective regulation. However, as I have mentioned during the course of this debate, effective regulation of the telephone industry has been virtually nonexistent.

Another major supposition by the Department of Justice was the claim that the language in section IX of the consent decree would develop an effective basic cost accounting method for determing the reasonableness of the costs and prices of telephone apparatus, equipment and supplies, where the manufacturer or supplier and the operating company are under common ownership.

The language of section IX of the consent decree reads as follows:

"Western is ordered and directed to maintain cost accounting methods that conform with such accounting principles as may be generally accepted and that afford a valid basis, taking into account the magnitude and complexity of the manufacturing operations involved, for determining the cost to Western of equipment sold to A.T. & T. and Bell operating companies for use in common carrier communications services."

No basic cost accounting method was proposed that could be effective in determining the cost of the equipment manufactured by Western Electric. In fact, the standard to be used was left to Western. Furthermore, how is it possible for Western Electric's cost accounting methods to provide an authentic basis for determining the reasonableness of charged prices when it is still impossible to secure a competitive price on Western Electric's manufactured equipment? Western Electric still controls 90 percent of the market while all other telephone equipment manufacturers divide up the remaining 10 percent.

The insignificance of this provision is even more evident when we consider the reply of Judge Barnes to a query by the Roosevelt subcommittee of the House Small Business Committee as to what changes this language would make in Western Electric's accounting methods. He stated: "We do not necessarily know that it will make any." The accuracy of this remark as demonstrated by Western's position has been "that its accounting system meets the criteria described and that the decree therefore requires no change."

When the Justice Department presented the consent decree for court approval, it claimed that the accounting provision would enable the FCC and other regulatory agencies to determine the cost of equipment. Mr. Strassburg of the FCC testified, however, (before the Celler subcommittee) that "it hasn't changed (the FCC's) operations in any respect and doesn't contribute a great deal in enabling the Commission to exercise more effective regulations of the Bell System." Thus it is apparent that the statement of the Justice Department was additional window dressing and empty oratory.

Finally, the Justice Department claimed that the patent relief under the decree would promote competition in the nonregulated area, as well as in the production of telephone components in the regulated sector. Yet, to me, it is inconceivable how all the patent relief in the world can restore competition as long as Western Electric is secure with 90 percent of the market and as long as A.T. & T. and the Bell System companies will purchase their equipment only from Western Electric. The patent relief, in my judgment, obtained by this decree is largely illusory and imaginary.

Prior to the filing of the complaint in 1949, A.T. & T. adopted a patent licensing policy under which it would license anyone for any purpose at a reasonable royalty. This patent license included the furnishing of know-how and technical information relevant to the patent.

The consent decree requires royalty-free licensing to all applicants on the then 8,600 existing patents of A.T. & T. and Western Electric. This license, however, does not provide the licensee with technical information and know-how. If a royalty-free patent licensee desires know-how and technical information, the decree requires him to pay Western Electric a reasonable amount for the know-how and technical information. Under the decree, the reasonable amount permitted shall reimburse A.T. & T. for the cost of gathering and reproducing the technical information, a reasonable allocable proportion of the development expense of the equipment for which information is being furnished, and related development and engineering expense accounts of Western Electric.

The Department of Justice has admitted that the charge for know-how and technical information allowed under the consent decree could be as much as the former royalty. It is conceivable that the reasonable amount charged for know-how and technical information under the decree even exceeds the former reasonable patent royalty charge which included this assistance. Furthermore, a substantial number of the 8,600 royalty-free patents involved in the consent decree have expired. Patents issued subsequent to the consent decree judgment are to be licensed at reasonable royalty rates.

The decree, in requiring the licensing of the patents involved, only makes the previous Western Electric-Bell System patent-licensing policies mandatory. For this negligible concession what does A.T. & T. and Western Electric receive in return?

(1) A.T. & T. and Western Electric are required under the terms of this consent decree to grant a patent license to all applicants, but only if the applicants or their associated companies shall grant a license subject to reasonable royalty to A.T. & T. and Western Electric under any or all of the applicants' existing or future patents. Therefore, if one takes a license under the provisions of this consent decree, he has to open up his own research and development on new and improved patented products and processes to A.T. & T. and Western Electric. This grant-back allows the giant colossus—A.T. & T.—if it so desires, to rape any patent licensee of his research and development efforts, for A.T. & T. and Western Electric certainly have the facilities and the necessary legal monopolies to market any new or improved product or process in the marketplace, even to the exclusion of the inventor. This is especially true in the common carrier communications equipment market and the markets secured by the award of enormous Government contracts.

Because of the provision in the consent decree providing for one license for all the Government departments and agencies, the Civil Division of the Department of Justice, acting for all the various governmental agencies, negotiated a patent licensing agreement with Western Electric outside the provisions of the consent decree to avoid the pitfalls of the grant-back provision.

Although the consent decree did not abolish the American patent system, it does attempt to destroy the intent and purpose of the antitrust laws and undermines the patent system and patent laws by the patent licensing provisions of this consent decree. For when an inventor or a corporation takes a patent license from Western Electric with the resultant grant-back license, the effect as between the licensee and Western Electric is to destroy the protection the patent law provides in the marketplace.

The grant-back provision raises the important question whether the management of the companies having taken a patent license under the provisions of this consent decree, can afford to authorize expenditures of millions of dollars in the development of new products and processes that will be appropriated the moment they are placed on the market. The American patent law, by its grant to the inventor to exclude others from using the invention, attempts to provide an incentive to invent by assurance of possible economic return through the marketing of the invention. The only measure of an invention's financial worth is what can be obtained from marketing the invention. With A.T. & T.'s and Western Electric's power to control the market and their access to the inventions of patent licensees under this decree, the financial worth to the patent licensee of his own inventions becomes highly speculative. The resultant effect of the patent licensing provisions under this consent decree could create loss of economic incentive to invent, produce, and market improved products or processes through research and development, for a captive technology offers little or no chance to invent except to those already in control, or to others on such terms as are indicated by those in control. This bill, H.R. 11040,

in this respect, will have the same effect in retarding technology in satellite communications equipment as the consent decree did in other communications fields.

An inventor and a corporation competing with Western Electric, needs every possible advantage, for no one can rival A.T. & T. and Western Electric in securing capital, credit, manufacturing facilities, research, and development laboratories, monopoly protected operations, ability of being favored as a Government contractor, guaranteed income returns without a determination of the reasonableness of the rates, and the added market protection granted to A.T. & T. by the Federal Communications Commission and public utility commissions by tariff regulation.

10. A.T. & T. and the consumer

The power of the A.T. & T. monopoly is most glaringly manifested in its relationship to the consumer.

In a free enterprise system "consumption," if I may quote Adam Smith, "is the sole end and purpose of all production, and the interest of the producer ought to be attended to, only so far as it is necessary for promoting that of the consumer." (Adam Smith, "Wealth of Nations," Cannon's edition, vol. II, p. 159.)

Let us see how the consumers' interest has been attended to. Let us compare the electric and gas companies with A.T. & T.—all so-called Government-regulated utilities.

The electric and gas monopolies end with the delivery of the respective services to the consumer's premise. The consumer (1) has extensive choice of electrical and gas appliances; (2) has the right to purchase such appliances; (3) has warranty protection; (4) can compare published price lists on such appliances; (5) receives an itemized statement of costs.

On the other hand, the Bell telephone monopoly extends to and includes telephone appliances. The consumer (1) has limited choice of appliances; (2) has no right of purchase—appliances must be leased at excessive cost, and asset rights remain with the Bell System; (4) does not know how much he is paying for the rental of equipment and how much he is paying for "service," local or otherwise, because of the lump sum billing.

Mr. President, I have here a telephone extension cord used by the telephone company for its telephones. Extension cord, exactly like this, can be purchased at retail for 2½ cents a foot.

Now, suppose a consumer wants the cord on his telephone to be 13 feet longer. You might think that in a free economy you would be able to purchase such a cord for 33 cents and attach it to the phone. But no. You cannot do it. You have to lease the cord from A.T. & T.

And do you know how much you have to pay for leasing the cord?

The cost of leasing such extension cord for a telephone appliance from A.T. & T. is $4.20 per year, plus 42 cents tax. Over a 10-year period, the consumer would be paying $42 for the use of this extension cord. This is almost 130 times what the consumer would have had to pay if he were permitted to buy rather than lease a piece of wire.

Not only does this show the power of a powerful monopoly like A.T. & T., but this also shows how utterly unmindful of the consumer is the FCC. This is part of the disgraceful 28-year history of regulation of the communications industry. The chief regulatory agency is the FCC, which the bill before us, H.R. 11040, would entrust with the task of protecting the public interest connected with the ownership and operation of a satellite communications system, the first major fruit of our great common efforts in space research and development. To expect the FCC to protect our interests in this field constitutes either extreme naivete or self-delusion.

But that is not all.

In locations where the telephone company's facilities are not available or where the telephone company refuses to provide facilities or service, telephone customers or potential telephone customers may be required to own, maintain, and install some of the facilities, at locations where the telephone company's facilities are not available or where the telephone company refuses to provide facilities or service. If, however, the telephone company finally decides to provide facilities, the customer is required to use the facilities of the telephone company and not his own. This has occurred in both the telephone and television fields. In such instances there is an obvious hardship on the customer in the loss of his investment, and it results in a much costlier rate. This is certainly not free competitive enterprise, but monopoly running wild—monopoly unchecked, unregulated, and irresponsible.

11. Why do we need a bill now?

Even though I have concerned myself with many aspects of the subject, there is one question which keeps recurring again and again, and that is: Why the hurry? Why this mad scramble to give a space communication system away now when we know so little about it? At present we don't know more than a very small percentage of its future great potentialities. Can't we wait until we see what we really have?

This impatience to act can be compared to jumping on a train without even caring where it goes. Other people whom you know are taking it. Everybody's taking it. If anyone approaches at such a moment to suggest that you look before you leap, the chance of his being listened to is very small.

Such a scene is described by Mr. G. K. Chesterton in one of his early books:

"Suppose that a great commotion arises in the street about something, let us say a lamppost, which many influential persons desire to pull down. A grey-clad monk, who is the spirit of the Middle Ages, is approached upon the matter, and begins to say, in the arid manner of the schoolmen, 'Let us first of all consider, my brethren, the value of light. If light be in itself good * * *.' At this point he is somewhat excusably knocked down. All the people make a rush for the lamppost, the lamppost is down in 10 minutes, and they go about congratulating each other on their unmedieval practicality. But as things go on they do not work out so easily. Some people have pulled the lamppost down because they wanted the electric light; some because they wanted old iron; some because they wanted darkness, because their deeds were evil. Some thought it not enough of a lamppost, some too much; some acted because they wanted to smash municipal machinery; some because they wanted to smash something. And there is war in the night, no man knowing whom he strikes. So, gradually and inevitably, today, tomorrow, or the next day, there comes back the conviction that the monk was right after all, and that all depends on what is the philosophy of light. Only what we might have discussed under the gaslamp, we now must discuss in the dark."

This passage that I have just read is an eloquent description of our almost frantic haste to give away to a private corporation such an immense asset as a satellite communication system.

Some want to give it away on doctrinaire grounds.

Some want to give it away because of possible political reprisals.

Some want to give it away because the President wants it that way.

Some want to give it away because of a desire not to offend some of their colleagues.

Some want to give it away because of a fear of big government.

Some want to give it away in order to secure the present telephone monopoly from possible future competition.

Some want to give it away because they think that in this way we may be able to "beat the Soviets."

And, Mr. President, when we wake up to discover the immensity of the asset we literally gave away as a gift, and when we begin to understand the great domestic and international economic and political problems involved, what can we do about it? It will be too late then.

To quote Mr. Chesterton again:

"Only what we might have discussed under the gaslamp, we now must discuss in the dark."

Mr. LONG of Louisiana. I wish briefly to say that the speech I would have made, if I had had the time to make it—and students of the RECORD will be able to find it in my speech—points out that in its 28-year history, the Federal Communications Commission has never been able to regulate A.T. & T., and on oversea rates the FCC has not even tried. It is only now beginning to try to do so.

Senators who are relying on the Federal Communications Commission to do its best in the interest of the public have this dismal 28-year record at which to look. My speech discusses the enormous power of A.T. & T. It points out, so far as I was able to point out, the hundreds of things that I believe should have been considered from the standpoint of the monopoly problems of the pending bill.

I see on the floor the Senator from Tennessee [Mr. KEFAUVER]. His condition right now is like mine will be in a few minutes. All I can say to him is, "You are down, but you are not out." We are doing what we can, as long as we have the right, to defend our position against the bill.

Let me give the Senate an illustration of what I have in mind. Here is a piece of wire which can be bought anywhere locally for 33 cents. The telephone company will not let anyone put this wire on his telephone, if he wants to extend his telephone across the room. He must call the company to put their piece of wire on the phone, and for that they will charge him $4.20 a year. That is for the use of this 35-cent piece of wire. That is merely only one little thing that I wanted to point out in the course of my speech.

I cannot see why we should pass this bill now. Passing it in such a hurry now is in my judgment like jumping on a train without knowing where the train is going.

If I had been able to make my speech I would have called the attention of the Senate to what G. K. Chesterton said in one of his early books:

Suppose that a great commotion arises in the street about something, let us say a lamppost, which many influential persons desire to pull down. A gray-clad monk, who is the spirit of the Middle Ages, is approached upon the matter, and begins to say, in the arid manner of the schoolmen, "Let us first of all consider, my brethren, the value of light. If light be in itself

good * * *." At this point he is somewhat excusably knocked down. All the people make a rush for the lamppost, the lamppost is down in 10 minutes, and they go about congratulating each other on their unmedieval practicality. But as things go on they do not work out so easily. Some people have pulled the lamppost down because they wanted the electric light; some because they wanted old iron; some because they wanted darkness, because their deeds were evil. Some thought it not enough of a lamppost, some too much; some acted because they wanted to smash municipal machinery; some because they wanted to smash something. And there is war in the night, no man knowing whom he strikes. So, gradually and inevitably, today, tomorrow, or the next day, there comes back the conviction that the monk was right after all, and that all depends on what is the philosophy of light. Only what we might have discussed under the gaslamp, we now must discuss in the dark.

Mr. President, this is an eloquent description of our almost frantic haste to give away to a private corporation such an immense asset as a satellite communications system.

Some want to give it away on doctrinaire grounds; some to beat the Soviets.

Someday we will wake up to discover the immensity of the asset we literally give away as a gift, and when we begin to understand the great domestic and international economic and political problems involved, we will not be able to do anything about it. It will be too late. To quote Mr. Chesterton again:

Only what we might have discussed under the gaslamp, we now must discuss in the dark.

Mr. KEFAUVER. Mr. President, how much time have I remaining?

The VICE PRESIDENT. The Senator from Tennessee has 6 minutes remaining.

Mr. KEFAUVER. Mr. President, as an inexperienced Senator, who is proud to have been, during the last 10 days or 2 weeks, the leader of the little group which has fought against the bill, I am proud of the spirit and the willingness to take abuse on the part of those Senators who have fought to protect the public interest of the United States and have sought to prevent the giving away of our national heritage.

I could speak at length about other Senators in the group. The senior Senator from Oregon [Mr. MORSE] has fought ably for his convictions. He is a great tower of strength and integrity. He has been the chief victim of the vilification thrown at us; but, in my opinion, the vilification will turn into commendation in the years to come. We can thank God we have a fighter like WAYNE MORSE, who will stand by his convictions no matter how caustic the criticism.

It has been wonderful to be associated with the distinguished Senator from Louisiana [Mr. LONG], who intelligently and with great ability conducted the hearings on the bill before the Select Committee on Small Business. He has been an effective battler for the little fellow as he has fought to include small business in the bill. His fight for small business and to prevent a giveaway is in the good tradition of his late, distinguished father.

I pay tribute to my colleague from Tennessee [Mr. GORE] for his effective, persuasive voice for the protection of the sovereignty of this country and for upholding the constitutional rights of the President.

The Senator from North Dakota [Mr. BURDICK], the Senator from Alaska [Mr. BARTLETT], and the Senator from Utah [Mr. Moss] have courageously stood against pressure. That is typical of them and of the spirit of the great States which they, in part, represent.

The Senator from Michigan [Mr. MCNAMARA] has been fearless in this debate, as he always is.

The junior Senator from Oregon [Mrs. NEUBERGER] has fought intelligently and courageously. She typifies the spunk and idealism of American women.

The Senator from Pennsylvania [Mr. CLARK] and the junior Senator from Alaska [Mr. GRUENING], as was true of the senior Senator from Oregon [Mr. MORSE], were willing to stand by their beliefs, even though they have opposition in the coming campaign.

The senior Senator from Texas [Mr. YARBOROUGH] always defends the public interest. In this case, as always, he has fought with valor to prevent what he believes to be a giveaway of the assets and the rights of the Nation. He has fought with the same perserverance as those who fought at the Alamo.

It was gratifying to us that in the last 10 days the Senator from Illinois [Mr. DOUGLAS] joined our cause. We were encouraged by his confidence after he had weighed the issues carefully. He is one of the outstanding statesmen of the 20th century.

The Senators who comprise this group have fought long and hard in the effort to do what they believe, and what I believe, is best for our country. We have been subjected to vilification and abuse for the stand which we have taken. These Senators have courageously fought for their convictions. They have fought for what they believe. In their opinion, history will prove that we were right.

This is not a question of Government enterprise or free enterprise. The question relates to the creation, for the first time by statute, of a monopoly. I have asked what the taxpayers will get back. No one has pointed to one thing, outside of the usual taxes of 52 percent. This is the first time that technology developed by the taxpayers will be given to a private corporation.

Mr. President, I compliment the majority leader. He has been kind to us throughout the debate. We all love our majority leader. I think the majority leader will agree that we have been cooperative with him. He has not asked us to stand aside a single time for the consideration of important legislation when we have not willingly agreed to do so.

The VICE PRESIDENT. The time of the Senator from Tennessee has expired.

Mr. KEFAUVER. Mr. President, I ask unanimous consent that the rest of my remarks may be printed in the RECORD. As was the case with the Senator from Louisiana [Mr. LONG], I had a speech I wished to deliver before my time had expired. I should like to have it printed in the RECORD.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The address is as follows:

STATEMENT BY SENATOR KEFAUVER

Probably one reason we lost the fight against cloture was that we were too agreeable and conciliatory in allowing debate on the bill to be interrupted. We gave up one strong position after another so that important legislation could be brought up. Another reason that cloture was successful was the purposeful absenteeism of seven Members of the Senate who would have voted against cloture. They were available, most of them, in the Senate building, but they did not come in and vote. This is mighty hard to justify.

During this entire debate the opponents of this bill had a hard time getting their story passed to the American people. Only in the last few days has the real story been carried in the press, over the radio, and TV. When the people have been told what this bill means, they have risen up in opposition to it. The people have recognized the evil in it. It is too bad that the American people have no lobby.

About the gag rule that has been imposed on this debate. Cloture was not voted because of dilatory tactics by the opponents of this bill. The gag rule was put on because the proponents of this bill were afraid of free and public debate. They were afraid for the people to find out what is in this bill and what is being given away.

I feel that if we could have debated the matter 30 days more the majority of the people, and of the Congress, would have nothing to do with this bill.

Just this week one of the greatest Presidents this country has ever had, Harry Truman, and one of the greatest organizations in the Nation today, the AFL–CIO, took unequivocal stands that this bill represents a giveaway of the public resources. Both expressed absolute opposition to this bill.

Those of us who have been fighting to protect the public interest have tried to offer amendments to this bill. In their helter-skelter rush to railroad the bill through, its proponents have refused to consider any amendment on its merits. No matter how important the substance of the amendments, each has been tabled and debate choked off.

This treatment of amendments shows again the obsession to shut off any effort to educate the public on the real issues.

We are ahead of the Russians in space communications at the moment. However, they have great technical capability, especially in rocket power. They have announced their intention to put up what will undoubtedly be a synchronous satellite system soon. If this bill is enacted into law and the United States becomes committed to a low-orbit system, we may once again find ourselves running second in space.

We cannot afford to have the U.S. Government abdicate its responsibility to the people in this important field.

The bill now goes to the House of Representatives. The Members of that proud, bipartisan party should know that the majority of the Senate has been trying to legislate for it. The Senate has stricken important provisions from the House bill. The Senate has refused to adopt amendments on which practically everybody has expressed agreement such as one to protect small business. In other words, this Senate expects the House Members to accept

the Senate bill without changing a word or period. I do not believe that the proud Members of the House will do that.

I give those who will vote for the bill full credit for their sincerity. I am sure that every Senator will follow as his conscience dictates. But I sincerely believe that in the months and years to come they will all regret the action they are about to take. We will just have to wait to see.

The bill will soon go to the House and then where I hope it will be looked over and debated carefully. I have no doubt but that history is on our side.

Because of the gag rule, I did not get a chance to finish my speech. I spoke about taking away the power of the President and the State Department and previously spoke about foreign policy angles.

I have secured unanimous consent to print the remaining part of my speech which was cut off by the vote on the cloture petition. It is as follows:

LOW ORBIT SYSTEM

Under the name of Project RELAY for which RCA is the contractor, NASA is also conducting research, development and experimentation with a low-orbit system. The low-orbit system utilizes satellites in random polar orbit at altitudes ranging from 6,000 to 8,000 miles above the earth. Such a system would require 40 to 50 satellites to provide communications coverage for the area of the world containing approximately 85 percent of the world's telephones. This would be primarily the United States and the Northern European area. A considerably larger number of satellites would be necessary to provide worldwide communications coverage on a 24-hour basis, using the low-orbit system.

NO DELAY IF NO BILL

Each of these projects is being carried forward with all possible haste, and NASA spokesmen have indicated that NASA's research in the field of satellite communications will continue irrespective of any decisions which may be made with regard to the establishment of a private corporation to operate a commercial satellite system.

Mr. James E. Webb, NASA Administrator, has indicated that the NASA research program will continue and that one of the principal reasons is that industry is not capable of doing a great deal of the research which NASA undertakes. Mr. Webb also indicated that a considerable amount of knowledge valuable for communications purposes would be derived from NASA's projects which did not directly involve satellite communications. For example, at hearings before the House Commerce Committee the moon shot was discussed, and Mr. Webb responded in this manner: "And in order to get to the moon you must know a great deal more about the ionosphere which affects all communications. You must know a great deal about the space environment and how communications equipment can survive in that environment, because we must be able to communicate outward to the moon."

This illustrates dramatically the interrelationship of developments which will be the responsibility of the Government and developments which would fall within the sphere of operations of a private satellite corporation if and when such a corporation were ever created. There would, of course, have to be a free exchange of technical information between the private corporation and NASA. As a result of this exchange of technical information, the private corporation would in effect be receiving a continuing research subsidy for it would not be expected to pay for the knowledge which it received from NASA. There is similarly no question that such an exchange would also benefit the Government, but undoubtedly the principal benefit would flow from the Government to the private corporation.

ONE-WAY STREET

The bill we have before us provides that NASA shall advise the Federal Communications Commission on technical characteristics of the communications satellite system. One provision which is not present in the bill, however, which should be included is a requirement which would enable NASA to enlist the aid of the corporation to do needed research on technical problems with the provision that NASA would reimburse the corporation for any services performed, at a reasonable rate.

The bill does provide that NASA will assist the corporation in the conduct of its research and development, and when requested, on a reimbursable basis, that NASA will provide launching and other facilities. It seems only fair that if NASA has the responsibility and the obligation of providing services to the corporation which the corporation feels it needs that NASA should similarly be able to look to the corporation to provide services which NASA feels are a necessary supplement to governmental projects.

It hardly seems that this would be demanding too much of a private corporation whose existence had been made possible as a result of Government expenditures initially. Such a provision, by assuring that reasonable compensation would be paid to the private corporation, would offer financial protection to that organization but would have the further advantage of protecting the public interest by making it possible to avoid any duplication in research efforts or to avoid any delays which might otherwise be experienced as a result of having to wait until NASA could put itself in a position to conduct research or experimentation that the private corporation might already be capable of handling.

I know of no reason to anticipate that such a provision would be used extensively, but in the interest of national security and as a method of protecting the public interest, a provision of this sort seems fair, equitable, and in fact necessary.

Subsection 5 of section 201(b) provides that NASA shall furnish to the corporation on request and on a reimbursable basis satellite launching and associated services required for the establishment, operation, and maintenance of the communications satellite system approved by the Commission. It would seem desirable to require NASA's approval, as well as the approval of FCC, of a satellite system under this section. The FCC has little technical expertise in the field of determining available booster facilities or determining other problems related to our space program. It would seem that the argument for bringing NASA into the consideration of what an appropriate satellite communications system would be, or which system might be most appropriate for approval, would far outweigh any arguments which might be based on the difficulty of adding another governmental agency to the process.

NASA itself is in the process of conducting, and will continue to conduct, considerable research with all possible satellite communications systems. For this reason alone, it would seem that NASA should necessarily be a party to any determination of the appropriate satellite system to be used for operational purposes by the satellite corporation.

DIFFICULTY OF REIMBURSEMENT

I should also like to say a few words about the problem of having a private corporation reimburse NASA for services furnished by NASA to the corporation. At this point there is little, if any, accurate knowledge as to what the financial success of a private satellite corporation will be. It is possible to find estimates running from almost immediate profitability to long periods of financial difficulty. As a matter of fact, it is probably safe to say that no one can determine accurately what the future of the private corporation will be in terms of operating revenues. On the other hand, there are strong factors which indicate that in all probability the venture will be a great financial success, even if such success takes a few years in arriving. For one thing, the demand for communications services has been expanding tremendously for a great many years. We have every reason to believe that this demand will continue to expand. In addition, the satellite corporation will have a monopoly over communications using earth satellites. Add to this the factor that technical improvements will undoubtedly bring costs down as the system continues to operate and it is difficult to see how there can be anything but financial success over the long period. So shouldn't we explore how the Government [taxpayers] will get something back?

Apparently it has been generally assumed that the private corporation will be required to reimburse the Government only in an amount equal to the determination of the cost of a particular service. Stated in other terms, if the corporation buys a booster shot from NASA, the price will include nothing more than the cost to NASA of the rocket which is actually used to put the satellite in orbit. There are no provisions in the bill as it is now written which would require the private corporation to reimburse the Government for any of the expenditures on research and development in the space field or in the field of satellite communications, or to require reimbursement to help defray the operating expenses for launch facilities. Anyone who has been to Cape Canaveral knows they are great.

In view of the fact that the satellite corporation may turn out to be a highly profitable venture, and indeed we hope that it will, if this is the method chosen for the operation of our satellite communications system, it seems unwise to limit the financial obligations of the corporation to simply reimbursing the Federal Government for the immediate services themselves. In view of the fact that the corporation which is proposed will be the beneficiary of millions, even billions, of dollars in expenditures by the Federal Government, it would seem prudent to provide that at some point, in terms of profitability, the obligation of the private corporation would include reimbursing the Federal Government for some of the research and development expenditures which have made its operations possible.

The creation of this private corporation, in and of itself, would constitute a tremendous giveaway of the benefits of taxpayer investment. The provisions of the bill which I mentioned earlier, if enacted, would insure that the corporation would have the benefits of all the Government's communications business. That alone should be able to insure profitable financial operations.

It does seem that it is unnecessary to compound these gifts to a private corporation indefinitely by allowing them unlimited profitability on the basis of the taxpayers' investment without any limit as to what they can make out of the venture and without any responsibility to repay the Government and the taxpayers. Such a limitation could be set in terms of a percentage return on investment or in terms of an absolute dollar figure. There are many ways in which a reasonable rate of return for the corporation could be determined with the added provision that any additional amount would be shared with the Government.

Certainly there are precedents for making determinations of this type. It might be appropriate to use provisions like those used

for participating common stock. Such stock is issued by private corporations where a particular class of security is allowed to earn a certain return, with any profits accruing to the corporation in excess of that return, which are to be distributed to shareholders, then divided proportionately among the various claimants to the funds.

It does seem that at this time we know too little about what the future of the corporation will be to give it an unlimited right to profits without protecting the public interest more than this bill does.

SMALL BUSINESS EXCLUDED

Small business is a most important aspect of the U.S. economy. Through the years important inventions, discoveries, and techniques have been developed in all fields by small business concerns. Their contributions have been invaluable in raising the standard of living of the American people in peacetime and have proved vital to our successful military efforts in time of war.

It has long been the policy of Congress to take every possible step to preserve and strengthen small businesses of the country. Probably the most comprehensive statement of this congressional policy can be found in the Small Business Act.

"The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts for property and services for the Government (including but not limited to contracts for maintenance, repair and construction) be placed with small business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation."

Language similar to this which further evidences the concern of Congress and its determination to maintain a competitive framework within which small business has a fair chance to operate can be found in such statutes as the Armed Services Procurement Act, the Federal Property and Administrative Services Act, the Universal Military Training and Services Act and the Defense Production Act.

It is hard to imagine a situation in which there could be greater cause for concern over the prospects of small business than in the one we have before us today. The very creation of the proposed private satellite corporation requires that an exemption from the antitrust laws be granted to the communications common carriers and to the nonpublic utility corporations that may choose to buy stock in the corporation. To a considerable extent the proposed private corporation would be made up of communications carriers which are normally expected to compete with one another. Without an exemption their ownership in the proposed satellite corporation would be in violation of the existing antitrust laws.

Similarly, the noncarrier corporations who can be expected to have the greatest interest in owning stock in a private satellite corporation are companies which in their normal business activities are competitors.

Virtually all of the communications carriers have subsidiaries or divisions that engage in the manufacture and supply of equipment that will be used by the satellite corporation in large quantities.

Furthermore, large corporations that are not communications common carriers but are engaged in the manufacturing business will also be allowed to own stock in the satellite corporation. The carriers will have reserved for themselves 50 percent of the voting stock of the corporation. Any noncommunications corporation will be allowed to buy up to 10 percent of the shares of voting stock of the corporation issued and outstanding. There is no limit placed on the percent of shares of stock reserved for the carriers which any single carrier may own.

In addition, there is no limit set in the act as it has been reported out of committee on the ownership of any class of nonvoting securities, bonds, debentures or other certificates of indebtedness that may be issued by the corporation.

Under such an organization it will undoubtedly be difficult for small equipment manufacturers to get any reasonable share of the business of supplying the private corporation. The carriers will be represented on the board of directors. In fact, 6 of the 15 directors will be elected by the communications carriers under present provisions of the bill, regardless of the amount of money put into the corporation by the carriers. As the bill now stands, the communications common carriers could buy as little as 1 percent of the voting stock and still be entitled to elect their six directors. What a corporation.

The six directors who are to be elected by the public will inevitably be elected by the large financial interests represented in the private satellite corporation. The 50 percent of the voting stock that is to be sold to the public will be distributed among banks, mutual funds, pension trusts, and other financial institutions. Large corporations like General Electric, Hughes Aircraft, General Motors, or General Dynamics, as well as private individuals, would participate in this 50 percent of the voting stock.

There are, of course, provisions in the bill for cumulative voting. These provisions are intended to make it possible to achieve some measure of representation on the board of directors for minority interests, but even under cumulative voting, a fairly substantial minority is necessary before it can gain representation and elect even one director to the board.

CENTRALIZED CONTROL

It follows then that the six directors elected by the public will, by and large, be representatives of big business. In fact, widespread distribution of the portion of the 50 percent of the voting stock to be held by the public will only facilitate concentration of voting power in the hands of the large interests and make centralized control easier.

In deciding questions of procurement and procurement policy, it will be only natural for such a board of directors to favor the interests that it represents.

CONFLICT OF INTEREST

During the hearings on this bill before the Senate Space Committee, Senator SYMINGTON questioned Dr. Allen E. Puckett, vice president of Hughes Aircraft, regarding the possibility of a conflict of interests when the organization is such that a single company might be an investor in the satellite corporation, be represented on its board of directors, and also be a supplier of equipment to the corporation. Dr. Puckett hedged somewhat in response to Senator SYMINGTON'S first question, and Senator SYMINGTON came more sharply to the point.

"Senator SYMINGTON. Let's discuss it corporately. If you have a director as a result of your interest, you wouldn't be adverse to his working to get your equipment used, would you?

"Dr. PUCKETT. No, I wouldn't."

This exchange foreshadows all too clearly what can be expected in the way of a procurement policy of the private satellite corporation under the bill as it now stands. Section 201(c)(1) attempts in weak language to deal with the realities of the situation but it is far from sufficient.

The Federal Communications Commission has been given the responsibility under this section for insuring that there is effective competition, including the use of competitive bidding, where appropriate, in the procurement by the corporation and the communications common carriers of apparatus, equipment, and services required for the establishment and operation of the communications satellite system and satellite terminal stations.

The FCC admittedly has no expertise in this area and during all the years of its existence has been notably unsuccessful in any attempts it has made to preserve or encourage competition in the supply of communications equipment to communications carriers. As a result of procurement policies which the communications common carriers have been allowed to follow, the small business firms in the communications equipment industry, have experienced a steadily declining market, and many of them have been forced out of business altogether.

There has been a tendency on the part of carriers to buy almost exclusively from their own manufacturing arms.

It is important to remember when considering these developments in the communications industry that this situation has been allowed to develop and continue despite the fact that the communications industry is a so-called regulated industry.

The language of section 201(c)(1) requires only that the Federal Communications Commission consult with the Small Business Administration and solicit its recommendations on measures and procedures which will insure that small business concerns are given an equitable opportunity to share in the procurement program of the corporation for property and services. This is said to include, but not be limited to, research, development, construction, maintenance, and repair.

Included in the record of the Senate Commerce Committee hearings on this bill is a letter from the Honorable John E. Horne, Administrator of the Small Business Administration. I should like to quote from that letter.

"I wish to thank you for the invitation to comment on the legislation to establish a space satellite communications system. The importance of such communications to the future of our economy, including the small business segment thereof, can hardly be exaggerated.

"The legislation is of concern to the small business community in two principal respects. First, it is essential that all present and future common carriers which qualify as small business concerns, within the meaning of section 2 of the Small Business Act, have nondiscriminatory use of, and equal access to, the communications satellite system on just and reasonable terms and conditions. Second, it is essential that small business concerns be afforded a fair and reasonable opportunity to compete for and share in the contracts and subcontracts awarded for the construction, operation, maintenance, and repair of the system.

"It has been our experience that, in the absence of language clearly spelling out the small business policy of Congress, small business concerns have difficulty in obtaining

equitable treatment under a statute. Accordingly, although the proposed legislation contains general language prohibiting discrimination in these two respects, I suggest that the proposed legislation be amended to include a general statement of the congressional policy along the following lines:

"It is the intent of the Congress that small business concerns, as defined by the Small Business Act, shall be afforded fair and reasonable opportunity to participate in the achievement of the purposes of this act, to share in its direct and indirect benefits, and to receive a fair opportunity to compete for contracts made by the corporation and for subcontracts thereof"—and a requirement along the following lines:

"In carrying out its responsibilities to insure effective competition by the corporation in its procurement, the Federal Communications Commission should consult with the Small Business Administration and solicit its recommendations on measures and procedures which will insure that small business concerns are given an equitable opportunity to share in the procurement program of the corporation for property and services including but not limited to research, development, construction, maintenance, and repair."

As Mr. Horne points out, small business has traditionally had difficulty in gaining equitable treatment, not only from the corporate giants with whom small businesses must so frequently try to compete, but unfortunately in some instances even from certain Government agencies when there was no language which clearly spelled out the policy of Congress.

Mr. President, I feel that it is essential that any bill establishing a private satellite corporation include strong and unequivocal language which will insure that adequate protection is given to the rights of small business concerns which may be able to supply equipment and services to any such private corporation. The language in this bill as it relates to insuring competition in procurement and protecting small business is clearly inadequate.

WHAT KIND OF SYSTEM?

Mr. President, I should like to consider now subsection 6 of section 201(c). This section provides that the FCC shall approve technical characteristics of the operational communications satellite system to be employed by the corporation and of the satellite terminal stations.

Both the wording of the section and its legislative history leave uncertain some very important questions with respect to the development of an operational satellite system. From the comments which have already been made it is obvious that a very important issue to be decided is whether the satellite corporation will adopt the low-orbit system or the high-orbit system.

The choice between these two systems as the bill now stands will, in all probability be left to the board of directors of the private corporation.

The choice between the high and low system will be important, not only to the United States and the users of the communications systems in this country, but to all the peoples of the world.

The choice will be a significant matter in terms of our relationship with other countries who will be involved in the establishment of the worldwide system which we hope will be developed at the earliest possible date.

At this point, Mr. President, let me review briefly some of the characteristics of the two different types of systems. I think that this will be helpful in providing us with a basis of understanding the importance of the decision between the two systems and will also show why the language relating to the ability to make this decision should be entirely clear in this bill as it may finally be enacted.

The staff report of the Aeronautical and Space Sciences Committee states, "there appears to be general agreement on the ultimate desirability of a synchronous system; that is, one situated over the equator and having an orbit corresponding to period of rotation of the earth, thus making a satellite stationary." The only notable exception to this general belief in the desirability of the high-orbit system is A.T. & T.

A.T. & T. has indicated in public statements that it has not made any final commitment to either a high or a low system but the facts tend to show that they are already firmly committed to the establishment to a low-altitude system. The results of this commitment of A.T. & T. to the low system would be that a private satellite corporation influenced significantly or dominated by A.T. & T. would almost inevitably be committed to the establishment of a low system, even before all of the technical data necessary to make a decision had been collected.

LEADERSHIP OF UNITED STATES IN DANGER

If the issue were to be prejudged in this way it might have serious effects on the position of leadership of the United States in space technology and in space communication. If the United States were to embark on a program of establishing an operational low-orbit system and at some point during that development awake to find that the Soviets had launched and put into operation a synchronous satellite we would once again be in the position of having been outdistanced in the race for space.

We might find ourselves having a communications gap to close just as we have had the so-called missile gap which has caused us so much difficulty.

Dr. Allen E. Puckett, vice president of Hughes Aircraft Co., made the following statement when questioned about the comparative advantages of the high- and low-altitude systems, "We think that there is no question that the high-altitude system is ultimately the only truly economic commercial system for global coverage."

Gen. David Sarnoff, chairman of the board of RAC has also commented on the relative merits of the high- and low-altitude systems. His statement was as follows: "We should also bear in mind that if we go ahead with 40 or 50 low-altitude satellites and the ground stations working with them that by the time that it is completed it will be obsolete because I have no doubt that the synchronous system will obsolete the low-altitude system." Continuing his discussion, General Sarnoff stated that he favored the high-orbit system for both economic and technical reasons. In his opinion the high-orbit system will prove more flexible. He went even further and stated, "it is our view that if measured from the standpoint of an ultimate, global-operated satellite communications system, it will be found that the synchronous system at that point will be just as available as the low-altitude system."

The opinion of these experts seems to indicate without doubt that an operational high-altitude system will be possible within as short a period of time as a low-altitude system. The two men whose opinions I have cited are experts in the field. Lest there be any comment, these men have reason to be prejudiced in their opinion and evaluation of the two types of satellite systems, let me point out that RCA is currently the contractor for NASA's project Relay which is itself, an experimental project being conducted with low-altitude satellites.

Because there is some question as to the availability of booster power when one considers the time element involved in achieving an operational high-orbit system, it is possible that some part of a low-altitude system may be nearer at hand than a high-altitude system. This, in itself, is subject to considerable debate, but, even if this were granted, the evidence submitted by General Sarnoff and Dr. Puckett is sufficient to show that in terms of a global system covering the whole world a low system would not be available to us at any earlier date than a high system.

ADVANTAGES OF HIGH-ORBIT SYSTEM

Now let me comment on the specific advantages which are attributable to the high-orbit system. In so doing I would like to quote from testimony before the Senate Antitrust and Monopoly Subcommittee given by Dr. Puckett at page 425:

"The first and perhaps the most basic advantage of the high altitude system is the fact that a very small number of satellites are required. For example, as we have just indicated here, one satellite in a stationary orbit will produce an initial useful operational capability, a continuous commercially valuable communication capability. Three satellites will produce a worldwide coverage, and how many satellites are required beyond this would be essentially an engineering problem having to do with how many spares one wishes to have in orbit or how much additional channel capacity is desired.

"Of course, as you know, the low-altitude systems would require a number of satellites varying anywhere from 20 to 50 or perhaps even as much as 100, depending on who makes the calculations and how optimistic one is.

"The smaller number, which is the essential substantive feature here, of course, is a major factor in what we believe to be the very low cost of a synchronous system.

"The second essential advantage that I like to remember is the capability of this type of system to providing multiple access, the feature described a few minutes ago, in which the satellite can be used simultaneously by a large number of different ground stations, each of which may be talking quite independently to some other ground station, without going through a trunking center.

"This multiple-access feature is particularly important in that it permits any particular ground station to adjust its antenna size and its power requirements according to the traffic capacity which it expects to have. In other words, a small nation abroad, for example, which might not have a very large communication requirement, could construct a relatively inexpensive ground station which would provide only a few channels, but which could operate in parallel with and on precisely the same basis as any other nation's large ground stations.

It is also true that the ground stations for use with the synchronous satellite will be quite a bit cheaper than the ground stations required by the low-altitude satellites.

This is primarily because the antennas used with the ground station with the high system need to look essentially at one spot in the sky at all times. It is unnecessary for them to maneuver the angle of the antenna in order to track a satellite which appears to move rapidly across the sky as would be the case with a low-altitude satellite. The absence of this tracking equipment reduces the cost considerably.

One problem which is involved with high altitudes systems results from the fact that there is some delay in voice carriage in using the high system. This delay is caused by the finite speed of the radio waves which must travel from an initiating ground station to the satellite and return from the satellite to the receiving ground station. This creates a potential problem because of the possibility of an echo being returned to the transmitter which is sending from, a receiver at the other end. The transmitter might hear an echo coming back from the receiver. The total time involved amounts to approximately six-tenths of 1 second. Apparently there has been a considerable amount of research done on this problem and a device called an echo

surpressor has been developed. This device prevents the return of the echo and avoids the confusion that might result. This device has been built and used and spokesmen for Hughes Aircraft who have worked with the device have stated that they consider the problem as solved.

COSTS OF SYSTEMS

The overall question of cost of a low system as compared to the cost of a high system presents many difficulties. At this point a great deal of conjecture is necessary in order to reach even an estimate of the cost. Opinions of the various experts vary rather widely. There seems to be little disagreement as to the cost of the ground stations for the two systems however. Mr. James Dingham, executive vice president of A.T. & T. estimated before the Senate Space Committee that the ground stations would cost $6.5 to $9 million each for heavy traffic areas in a low-altitude system and that ground stations would cost from $2.5 to $3 million each, for high-altitude systems. Hughes Aircraft has estimated that it could put into operation a high-altitude system consisting of 3 satellites and 10 ground stations at a cost of from $70 to $100 million. Estimates on the cost of a low system with approximately 40 to 50 satellites run as high as $500 million. Some estimates on the cost of a low system have been $100 to $200 million below that figure but there seems to be virtually no question that an operational high-orbit system would cost substantially less than an operational low-orbit system.

It is important to consider what might happen, in fact what is very likely to happen, if a private corporation is established now and A.T. & T. exercises a dominant influence on the policy of that corporation. Inevitably we would find ourselves moving forward in the development of a low-altitude system with every reason to expect that it would be the operational system upon which the satellite corporation would rely.

A.T. & T. at present has a large investment in the low-orbit system. It is highly improbable that it would allow anything to happen, in terms of policy of a satellite corporation, which would jeopardize that investment.

Not only that, the fact that the low-orbit system would require more satellites and more expensive ground stations would hardly be expected to serve as a deterrent from the standpoint of A.T. & T. in its efforts to have the low system adopted by the satellite corporation. A.T. & T. has fought very hard for the principle that the carriers should be allowed to own their own ground stations.

If A.T. & T. were allowed to own its own ground stations to be used in connection with the satellites owned by the corporation, we would certainly expect to find A.T. & T. purchasing all the necessary equipment for those ground stations from its own wholly owned subsidiary, Western Electric. This would undoubtedly mean a profit for Western Electric which would flow to A.T. & T. The ground stations themselves would become a part of A.T. & T.'s equipment to be included in the rate base. This means that A.T. & T. would be allowed to earn a return on the amount of money which it has spent in building ground stations using equipment furnished by its own subsidiary. Obviously, a situation which can result in the numerous advantages outlined here would hardly be a deterrent to A.T. & T.

Looking even farther ahead into the problem we can see that a low-altitude system if, once adopted by the private corporations dominated by A.T. & T., would tend to become the established system for the long run. Having made its investment in facilities connected with the low system, A.T. & T. would have the normal inhibitions characteristic of any private monopolists when it comes to undertaking new developments which would render obsolete existing equipment still capable of earning a profit. The history of A.T. & T. demonstrates dramatically that this is indeed a characteristic of private monopolies.

A.T. & T.'S RECORD

Judge Lee Loevinger, Assistant Attorney General in charge of the Antitrust Division of the Justice Department has testified to the fact that A.T. & T. has been responsible for withholding new developments in the communications industry from the market when it served its own financial interest to do so.

Examples of such suppression of new developments are found in the field of dial telephone equipment, automatic switching equipment, and even the one-piece telephone which is so common today. Evidence which the Justice Department presented in its antitrust case against A.T. & T. in the 1950's indicated that restrictive practices of this sort had resulted in delays ranging as high as 20 years in the introduction of new types of equipment into the American market. In certain instances similar equipment was made available to users of other communications systems in other countries long before it was made available to the American public. The only reason for these delays was the existence of usable equipment most of which had already been written off the books through depreciation.

The public interest in the question of whether we have a high-altitude system or a low-altitude system is very great. The interest of the whole world in this particular question is very great. Even if there is existing investment in a low system which has not earned the last possible dollar for the corporation's stockholders we cannot afford the risk of any delay in moving to a high system as soon as it becomes technically feasible. This is a decision which must be made on the basis of the interest of the people and the betterment of all mankind who will be affected by an improved communications system. Most of all we cannot afford to leave this important decision in the hands of a private monopoly dominated by a single company who has the largest individual stake in the decision.

WHO OWNS GROUND STATIONS

I should like to turn my attention now, Mr. President, to section 201(c)(7) of the bill. This section provides that the Federal Communications Commission shall grant appropriate authorizations for the construction and operation of each satellite terminal station either to the corporation or to one or more authorized carriers, or to the corporation and one or more such carriers jointly, as will best serve the public interest, convenience, and necessity. The section then goes on to state that in determining the public interest, convenience and necessity the Commission shall authorize the construction and operation of such stations by communications common carriers or the corporation without preference to either.

The section of the bill relating to the ownership of ground stations to be used in connection with the communications satellites has had a very interesting legislative history.

In the original bill submitted by the President, S. 2814, the term "communications satellite system" was defined to include the ground stations. That was in section 103(1) of that bill. There was no language in S. 2814 which specifically precluded the carriers owning their own ground stations, but spokesmen for the administration indicated that carrier ownership was not contemplated.

S. 2650, the so-called Kerr bill, proposed that the ownership of the satellite corporation be limited to communications carriers but included the ground stations as a part of the system which the corporation itself would own. The Kerr bill, like the administration bill, was silent as to the possibility of ground station ownership by the individual carriers, but again, like the administration bill, it apparently did not contemplate such carrier ownership.

The bill which the Senate Space Committee reported out changed the provisions of S. 2814 with regard to the ownership of ground stations significantly.

The first change came in the definitions section of the bill reported out by the Space Committee. The term "communications satellite system" no longer referred to "the satellites and the ground stations necessary to make a complete system" but instead had a narrower definition which included only the satellites themselves. A separate subsection had been used to define "satellite terminal station," since under the bill this was not considered to be a part of the communications satellite system.

The second significant change which was directly related to the change in definitions was the addition of section 403(c)(7). That section, as reported out by the Space Committee, read as follows:

"Where the public interest, convenience, and necessity would be served thereby (the FCC shall) license the corporation, as well as communications common carriers, authorized by the Commission to provide service via communication satellites to establish and maintain, either jointly or separately, satellite terminal stations. In determining the public interest, convenience, and necessity, the Commission shall encourage the establishment and maintenance of such stations by communications common carriers wherever in the judgment of the Commission such establishment and maintenance are not inconsistent with the policies of this title. The Commission shall insure that each authorized carrier shall have equitable access to, and nondiscriminatory use of, such station on just and reasonable terms."

This, of course, represented a tremendous victory for the carriers. The ad hoc carrier committee, a committee formed at the request of the FCC, had issued a public report in October of 1961. This committee, made up of a group of nine international communications carriers, had recommended that ground stations be owned by the individual carriers. The only dissenting voice from that recommendation was the Western Union Telegraph Co.

When the Kerr and administration bills were introduced, the carriers generally and A.T. & T. in particular opposed very strenously the idea of allowing the corporation to own satellite ground stations.

The FCC itself agreed with the carriers and favored carrier ownership of the ground stations. In this respect the FCC was virtually alone among governmental agencies in favoring carrier ownership of the ground stations. Given the fact that the FCC did favor carrier ownership, there could, of course, have been little doubt as to the outcome had section 7, as I just quoted it, ever become law. The result would clearly have been carrier ownership in virtually every instance.

The administration bill as finally passed by the House contained a section relating to ground stations which was essentially the same as that reported out by the Senate Space Committee. The House version stated that the FCC would encourage ownership of the ground stations by the carriers. This particular provision was debated at some length on the floor of the House and at that time statements were made by the individuals advocating passage of the administration bill that what was actually intended was an impartial determination of

whether the public interest would be better served by having the corporation own the ground stations or by having the carriers themselves own the ground stations. It was proposed that the language of this bill be amended to indicate that this was the intention of the bill. This certainly would seem to have been a reasonable request. If it was intended that the bill produce a particular result, namely, that of an impartial determination of what would best serve the public interest in the case of each individual ground station to be licensed by the FCC, then the bill should specifically state that purpose.

The unquestioned reasonableness of this request, however, was not sufficient to produce any change in the wording of the bill. The reasoning which was used for retaining the original language, that of encouraging carrier ownership, is interesting. The argument went this way: the bill as originally drafted contained the provision to encourage carrier ownership. If that language were now taken out, there might be the possibility of interpreting any new section as encouraging ownership by the corporation. This was not anyone's intention, apparently, since both sides contended that an impartial evaluation of the subject would be the best method of protecting the public interest if carrier ownership was to be allowed at all. At the close of the debate, it was finally voted upon, and the language was kept as originally stated.

A somewhat more logical approach to the matter apparently prevailed in the meetings of the Senate Commerce Committee, for the language used by that committee clearly stated that in determining the public interest, convenience and necessity the Commission was to act without preference to either the carriers or the corporation.

It is now a good question to ask "Just what are we left with?" The answer to that is that we have language indicating that the Federal Communications Commission shall determine in each case whether a satellite terminal station shall be owned by the corporation or by an individual carrier or group of carriers. The language states that the public interest shall be determined without giving preference to either side.

The fact still remains, however, that the Federal Communications Commission has taken the position that the public interest would best be served by having ground station ownership in the communications carriers. It would be putting it mildly to say that the communications carriers have generally had their way with the Federal Communications Commission over the past 26 years. If the carriers want to own the ground stations, and the Federal Communications Commission feels that carrier ownership is in the public interest, then a decision as to whether the public interest requires carrier ownership or corporation ownership of the ground stations seems predetermined. Under the language of this bill there can be no doubt that the final result will be carrier ownership of virtually all ground stations—certainly of all ground stations which can be operated profitably.

SATELLITE CORPORATION SHOULD OWN GROUND STATIONS

This is what we can expect. This is what we can be certain we'll have. There are, however, many reasons why this result is bad. This result would not be in the public interest and the case against carrier ownership of the ground stations has been made very effectively by administration spokesmen and by spokesmen from the communications industry.

At this point I should like to quote from two sources. First, from Mr. Samuel M. Barr, vice president of Western Union. This is an excerpt from this testimony before the Senate Antitrust and Monopoly Subcommittee:

"As to the ground stations in the United States, the recommendation of the Senate committee is that the Federal Communications Commission be authorized to license either the communications satellite corporation or the common carriers to own the ground stations separately or jointly.

"Western Union respectfully disagrees with this recommendation. Western Union's minority statement to the report of the ad hoc committee urged that the ground station be placed under the same ownership as the satellites, to secure minimum per channel cost and improved operations. Western Union is still of this view. Without ground stations, the communications satellite corporation would not own an operating communications system. Satellites are but repeaters in space, available for such use as associated ground stations make of them. The corporation, without ground stations of its own, would be in no position to offer communications services to anyone via the satellites. Under such circumstances Western Union does not believe that satisfactory system operations could be achieved.

"It is pertinent to note that the ad hoc committee (on p. 13 of its report), in evaluating the potential costs of the satellites and the ground stations, indicated a need for a single ground station on the east coast, one on the west coast, and one in Hawaii in arriving at the total costs involved. These ground stations, associated with the required tracking stations, would provide an integrated unit with maximum capacity from which separate communication channels could be extended to the respective carriers. In so doing each carrier would have the benefit of the fallback capability inherent in a pool of channels and with it equitable distribution under all conditions.

"Western Union fails to see how the public interest in keeping costs at the minimum amount consistent with efficient operations could possibly be served by the sanctioning of separate ground stations owned by each carrier. The cost per voice frequency channel reflected at each of separate ground stations indicates a lower cost for the ground station providing the larger number of channels and a higher cost for the ground station providing an appreciably lower number of channels. With one ground station serving all carriers the cost per channel would be the same for all. This would provide a competitive basis for all carriers engaged in like service, without regard to their relative financial standings. If separate ground stations are owned by each carrier, the total cost, to be borne ultimately by the public users, would be much greater than with satellite corporation ownership. Furthermore, Western Union firmly believes efficiency in operation would be far more effectively provided through the coordination of the satellites and the ground stations under single management.

"Another important consideration in Western Union's thinking is the potential usuage of the satellites for domestic communications. The report of the ad hoc committee forecast usage between the continental United States and Alaska. New York to Alaska, or to Mexico, or to San Francisco, is no farther than New York to many foreign points, and it is only realistic to recognize that the satellite system may well prove economically advantageous to supplement the other facilities for purely domestic communications. Under emergency conditions satellite operation between the east coast of the United States and the west coast, and Alaska could be vital to our national defense. When authorized by the Federal Communications Commission to provide services by way of the satellites, as contemplated by the legislation under consideration, channel facilities of the corporation should be available to Western Union for such use. Failing this, Western Union would have to go to one of the international carriers to lease required satellite channels.

"Western Union therefore urges that the legislation restrict the ownership of ground stations in the United States to the satellite corporation."

Now let me quote from one of the administration's spokesmen. This is from the testimony of Mr. Nicholas Katzenbach, Deputy Attorney General. Mr. Katzenbach appeared before the Senate Space Committee and accompanied the Attorney General, Mr. Robert Kennedy, when the Attorney General testified before the House Commerce Committee. Mr. Katzenbach also testified on behalf of the administration's position before the Senate Antitrust and Monopoly Subcommittee and before the Senate Commerce Committee. This particular quotation was a part of his prepared testimony before the Senate Commerce Committee.

"There are very good reasons for considering the ground stations to be properly part of the communications satellite system for which the proposed corporation will be responsible. But for the system, the ground stations would have no purpose.

"I am advised that technical compatibility between the satellites and the ground stations in any system is clearly mandatory, and that progress from initial satellites to more efficient and desirable types will not be possible if the ground stations would not be compatible with the improved satellites. There is a real danger that ground stations if separately owned by the carriers may, because of their high cost, represent an obstacle to technical growth so as prematurely to freeze the type of system.

"It is also important to note that satellites and ground stations will be technically able to handle all forms of communications, such as voice, record, and television, while particular carriers who might own ground stations may only hold authorizations for certain types of communications.

"Moreover, as anyone generally familiar with public utilities will realize, there may be different peaks in the demands for service, varying with the types of service or with the particular carrier. A more efficient utilization of the system could be achieved by pooling the capacity necessary to meet these varying peaks, thus conserving scarce radio spectrum allocations, rather than providing separate and partly overlapping reserves of capacity for each carrier and for each type of service. Having the corporation own and operate its own ground stations also could mean greater reliability, guaranteeing continuity of service in emergencies, such as failure at one ground station, by the ability quickly to reroute traffic through other ground stations under its own management.

"In addition, there might well be a savings in capital expenditures by avoiding the unnecessary duplication of ground stations constructed by the various carriers. Construction of ground stations as part of the corporation's assets would also facilitate regulation of rates by the FCC, because the costs involved could be isolated, rather than becoming hopelessly entangled in the present economic jungle of long-distance and oversea telephone services, the rates of which the FCC has thus far found it impossible to investigate or regulate effectively.

"To summarize, there are good reasons to believe that, with the corporation owning the ground stations, technical improvement to exploit a vigorous evolving technology might be more rapid, capital requirements and operating expenses might be minimized, the radiofrequency spectrum might be more effectively utilized, reliability in emergencies and to meet peak traffic demands might be

enhanced through pooling or rerouting, negotiations of the corporation with foreign entities might be simplified, and FCC regulation might be facilitated."

Mr. President, these two quotations point out very clearly the advantages, in fact, the compelling necessity, of having ground stations owned by the satellite corporation. It is perfectly clear that the carriers would benefit financially from being allowed to own their own ground stations; but the financial interests of the communications carriers are not to be looked after at the expense of the public interest.

Allowing the carriers to own the ground stations would result in excessive costs, would tend to slow down technological progress and impede our efforts to progress as rapidly as possible in the field of satellite communications technology, would probably result in duplication and furthermore, would enhance the monopolistic position of the dominant communications carriers.

Ground station ownership is a crucial factor in considering the establishment of any agency to operate the U.S. portion of a worldwide satellite communications system. As a matter of fact, if the corporation, be it privately or publicly owned, owns no more than the satellites themselves, it will not own a communications system.

There cannot be a communications system in any real or meaningful sense of the word unless the same entity which owns the satellites also owns and operates the ground stations.

Here we have another instance of a provision of this bill having been changed radically from the original proposal submitted by the administration. As a matter of fact, this bill has been amended so drastically, and in so many of the important features, that it could hardly be called the administration's bill. Interestingly enough, virtually every amendment which has been included has been one favorable to the carriers and adverse to the public interest.

CAPITAL STRUCTURE

Now, Mr. President, I should like to make a few comments on the next section of this bill. That is section 201(c)(8). This section sets out certain authority for the FCC in respect to the capital structure of the corporation. In effect, it gives the Commission power to approve any issuance of stock except the initial issuance and any borrowing which the corporation might undertake. Actually, the way the statute is worded, it says that the FCC shall authorize any issue by the corporation, or any borrowing, or the assumption of any obligation in respect to securities of any other person, upon a finding that such issuance, borrowing, or assumption is compatible with the public interest, convenience and necessity, and that such issuance or borrowing is necessary or appropriate for, or consistent with, carrying out the purposes and objectives of the act. This is very loose wording, Mr. President, and upon careful reading, it is easy to see that the FCC has in actuality only very limited power with regard to controlling the capital structure of this corporation to protect the public interest.

If an issue of stock or a borrowing by the corporation can be found to be compatible with the public interest, and if it is either necessary or appropriate for any of these purposes, then as this section is worded the FCC is required to approve that particular issue of borrowing.

The act does not say that there must be a finding by the FCC that the particular issuance of stock or borrowing is required in the public interest or that it is the particular method of financing which is most appropriate, or is most consistent, with the public interest. All that the corporation need show is that what it is doing is compatible with the public interest and at this point it should be stated for the record that subsection 8 contains no standard which the FCC is to use in determining the public interest with regard to the capital structure of this corporation.

HIGHER TELEPHONE RATES

This is by no means a minor point. The nature of the capital structure of the corporation will be a very important factor in determining the cost of capital.

This, in turn, will be an important factor in determining the rates which will be charged by the corporation.

It is well known that equity financing is typically more expensive than debt financing. Over the years a fairly consistent pattern of financing for public utility corporations has evolved. In general terms, that pattern has consisted of approximately one-third equity financing and two-thirds debt financing for most public utility corporations.

In this country the notable exception to that generally accepted pattern of public utility financing has been the American Telephone & Telegraph Co. A.T. & T. has consistently followed a pattern of using extensive equity financing. In fact, for a public utility the percentage of equity financing which has been used by A.T. & T. has generally been considered very high, at times running 50 to 60 percent of the total financing of the corporation. This, of course, means that the cost of capital to the corporation is higher than it might otherwise be. Consequently, rates are higher.

The FCC has never made any serious attempt to compel A.T. & T. to conform to what are accepted as sound, reasonable, and generally accepted patterns of public utility financing. The result of this failure on the part of the Federal Communications Commission has been that telephone users and users of other services offered by A.T. & T. have had to pay higher rates than they might otherwise have had to pay.

The question of A.T. & T.'s capital structure has been raised by State regulatory commissions and has been questioned by them. It has similarly been questioned by scholars in the field of public utility regulation.

There is no doubt that this particular method of financing a public utility allows its management greater flexibility in controlling the corporation's destinies. There is serious doubt, however, as to whether the management of the corporation so greatly affecting the public interest should be allowed to indulge its own personal desires with respect to financing policy at the expense of the many millions of customers which that company has.

When all the arguments and discussions over A.T. & T.'s policy of financing are distilled, it boils down to this: A.T. & T. has followed its policy of heavy reliance on equity financing because management likes that policy. It is admitted by management that such a policy is not required simply as a matter of conservative financial practice to protect either the customers, the stockholders, or the public. Management has simply liked that policy and the fact that it has proved expensive to the public has not been the deterrent. The FCC, the agency charged with protecting the public interest, has acquiesced in this policy of A.T. & T. In so doing, it has provided us with another instance of public regulation being used as a device to shield the private monopoly which is supposedly being regulated rather than protecting the public for whose benefit the monopoly franchise was granted, and for whose benefit the regulatory agency was established in the first place.

A.T. & T. DOMINATION

It is certain that the private corporation proposed by the bill now before us will be dominated by A.T. & T. That domination may result in a financial policy for the private satellite corporation similar to the financial policy which has been followed by A.T. & T. As this bill is worded, there is no power in the FCC which could prevent that policy from being followed. The public could not be protected, and the FCC would not have the power to keep rates low by insuring that the corporation followed sound financial practices in the public interest.

Mr. President, enough has been said so far to show that this bill is full of weak language and wording inappropriately conceived to accomplish what are vital objectives. As another instance of this wishy-washy approach, let me point to the last sentence of this bill, section 404(c)(iii). This section states that the FCC shall transmit to Congress annually a report which includes an evaluation of the corporation so as to assure the Congress that this structure is consistent with the most efficient and economical operation of the corporation.

The wording of this section itself admits that the powers supposedly set out in section 201(c)(8) are inadequate. If appropriate powers are given under 201(c)(8), there would never have to be any question of whether the capital structure was consistent with the most efficient and economical operation of the corporation.

If the authors of this bill want to protect the public interest and insure that a reasonable capital structure is maintained, let them rewrite section 201(c)(8) and include in it a standard by which the FCC can judge any proposed issue of stock, or any proposed borrowing of the corporation, or any proposed assumption of an obligation in respect to securities, and then give them the right to make a determination of whether the proposal before them is actually the best proposal possible, whether it is most in accord with the public interest, whether it is best intended to protect the users of the system and the public generally. As the bill is now written, there is neither adequate authority nor an appropriate standard for making the determinations referred to in connection with the capital structure of the private satellite corporation. The current provision of the bill provides enough window dressing that the carriers can point to it and contend that the public interest will be adequately protected without fear of any undue influence on the part of the FCC in the satellite corporation as they choose to run it.

Surely by now it must be clear to anyone that what we have before us is a carriers' bill. It may have an administration number on it, but in substance it is a bill designed to deliver to the carriers the essential element of what they have wanted all along.

TITLE III—CREATION OF A COMMUNICATIONS SATELLITE CORPORATION

Title III of the bill we are considering deals with the creation of a communications satellite corporation. The proposed corporation would be a private corporation not an agency or establishment of the U.S. Government. Section 301 of the bill provides that to the extent consistent with the act, the District of Columbia Corporation Act shall be applicable. The hearings which have been held on this bill, the reports which have been written to accompany the various bills reported out of committee, and the debate on the floor of the House all have been notably lacking in any consideration of what the District of Columbia Business Corporation Act provides which might or might not be appropriate for the private satellite corporation being proposed.

I have stated, as have many others, that the corporation which is proposed by this act is unique in many ways. It is sufficiently unique that the blanket application of an existing corporation act raises many problems. Although many members of the Senate have had considerable legal experience and have undoubtedly dealt with a great many problems involving corporation

law, there is little likelihood that the majority of Senators who will vote on this bill have any real knowledge of what is contained in the District of Columbia Business Corporation Act and how appropriate bill or inappropriate the provisions of that act are as applied to this proposed legislation.

There is, of course, a vast body of corporation law in this country. Many cases have been decided in each State jurisdiction and there are many cases which have been decided in Federal courts which concern problems of corporation law. The private business corporation as we know it today, however, is a statutory product and in most jurisdictions in this country exists, or can be brought into existence, only as a result of an enabling statute.

In the not too distant past corporations for private business purposes were created directly by acts of the State legislatures but that procedure has been abandoned in favor of the more realistic procedure of allowing private incorporation under the terms of a general act setting forth the requirements for incorporation.

It is my belief that the business corporation act of any single jurisdiction might well have many provisions which are not suited to application to a business organization as unique as the private satellite corporation proposed by the administration.

Certainly we can ill afford to apply any statute so comprehensive as the District of Columbia Business Corporation Act to such a unique organization without a thorough analysis of all the provisions of that act and the possible effect which their application might have on the existence, the operation and the control of the satellite corporation. We should also have a thorough understanding of how the provisions of the District of Columbia Act will affect the public interest which is so vital in the organization and operation of the satellite corporation being proposed.

While I think it would be most appropriate to have such an analysis presented to the Senate during its consideration of this bill, and while I hope very much that such an analysis will be made, it is not my purpose at this time to go into all the details of that act. There will, however, be some instances in my consideration of the sections of title III when it will seem appropriate to refer to the District of Columbia Act and its probable effects on the satellite corporation.

Before turning again to certain specific provisions in the bill, I would like to say that in my opinion section 301 represents another instance in which the Congress is being asked to buy a pig in a poke.

We are being asked to accept this provision of the bill when no one who has spoken in favor of it has offered any details as to what this section means, why this act was selected or what provisions of it are either appropriate or inappropriate for application to the private satellite corporation.

I would be most interested to know if the sponsors of this bill are aware, for example, of what provisions for merger consolidation, or dissolution are included in the District of Columbia Business Corporation Act that might be applicable to this satellite corporation.

I would be interested in knowing if the spokesmen in favor of this bill are fully informed on any possible provisions of the District of Columbia Act regarding contracts between the private satellite corporation and any other corporation who is represented directly on the board of directors of the private satellite corporation. Are there provisions in the District of Columbia Act which relate to the fiduciary obligations of directors which might in any way bolster up or detract from the role to be played by directors of this corporation who are appointed by the President.

EXECUTIVE COMMITTEES

Another matter which has not been discussed at all to my knowledge but which may well be of the utmost importance in the operation and in the control of the private satellite corporation relates to the question of executive committees. Do the sponsors of this bill have full knowledge of the provisions of the District of Columbia Act relating to the possibility of the establishment of an executive committee, its powers, its relation to the corporation?

In view of the fact that A.T. & T., the largest monopoly in this country, and the communications carrier most interested in the legislation before us, has for a great many years been controlled by a committee rather than by its full board of directors, and instead of being controlled by its shareholders, it would be interesting to know whether the law under which the private satellite corporation will operate would similarly permit that corporation to be controlled by an executive committee made up of only a few of the directors. I would be interested to know whether the sponsors of this act are informed as to the possibility of creating an executive committee made up entirely of directors elected by the communications common carriers. Under circumstances such as this it might well be that all of the arguments relating to the possible dominance of this corporation by A.T. & T. have overlooked essential points in terms of realities which we can expect.

I have a great many other questions relating to the problems under the District of Columbia Act as it may be applied to this corporation, but I think the problems which I have mentioned illustrate the kinds of situations which may be involved, most of which have not been considered to any extent by the committees which have held hearings on this bill.

APPOINTMENT OF INCORPORATORS

Now I should like to turn to section 302 of this bill. This section states that the President shall appoint incorporators by and with the advice and consent of the Senate. These incorporators are to serve as the initial board of directors until the first annual meeting of stockholders or until their successors are elected and have qualified. The initial board of directors of any corporation performs many important functions. Certainly one of the most important functions which the incorporators of this corporation will perform is arranging for the initial stock offering of the corporation. This initial offering is particularly important in the case of the private satellite corporation because under the wording of section 304(a) the policy which has been emphasized as being so important to the protection of the public interest applies only to the initial offering of stock by the satellite corporation. The policy I refer to is that of encouraging the widest distribution of ownership of the corporation's stock to the American public.

Both the policy of wide distribution to the public and the policy of selling stock at a price not in excess of $100 apply only to the stock initially offered. This means that the only protection which the American public has in terms of its being allowed to participate in the ownership of the private corporation comes with the initial offering.

That initial offering will be arranged by the incorporators and there is nothing in the act as it is proposed which would insure that the public is represented among the incorporators, or that the incorporators are to follow any particular standard in deciding how to arrange the initial offering or the amount of such offering.

THE FOX GUARDING THE HENHOUSE

I should like to quote from the report which accompanied this bill as it relates to section 302. I am quoting from page 20 of the report: "Your committee is hopeful that in making his choice the President will seek fair representation from the major political parties and a good cross section of the professions and industries which will be expected to take part in the U.S. commercial communications effort. For example, it is hoped that there will be incorporators drawn from both large and small communications common carriers, from persons wise in the problems of finance, from industries supplying rockets, electronic gear, tracking mechanisms, and the like. It is also hoped that there will be incorporators knowledgeable in the area of Federal Communications Commission regulations."

Isn't that a dandy group from which to choose the incorporators for a corporation which is supposed to protect the public interest? The committee doesn't suggest by any remote stretch of the imagination that the incorporators be selected in such a way that they represent the American public who are expected to participate as shareholders. There is no suggestion that the incorporators who will arrange the initial offering of stock by this corporation, select its officers and serve as its board of directors be representative of the American public. Instead, the committee reporting this bill hopes that the directors, the first board who are incorporators will be drawn from the communications carriers, the banking and financial institutions, the firms which supply rockets, electronic gear, and other equipment to the corporation and the like, all the people who will have a financial interest in the corporation which would normally be expected to conflict with the public interest. This is the group the committee wants to see represented.

This is not the group I would like to see represented on the board of directors of this corporation. It is inconceivable to me that a group of incorporators and directors selected from the industries and firms mentioned by the committee would be able to protect the public interest. The group suggested for nomination by the President is a group which would one and all have a built-in conflict of interest with planning, organizing, developing, and operating the corporation consistently with the public interest and with the interest of the individuals who may eventually become stockholders in such a private corporation.

The one thing that strikes me most about this particular portion of the report is that it is so honest and so consistent with the wording of the act as we have it.

This bill is clearly a carriers' bill.

It is a bill designed to protect the interests of those who would normally have financial interests adverse to the public.

Under normal corporate procedure, the incorporators of any corporation are ones who have a financial interest in the successful establishment and organization of the corporation. It is this interest which they are expected to protect and in this way we depend upon having a corporation created which will be consistent with the profit motives involved. Section 302 apparently fails to recognize the fact that the incorporators selected by the President will become directors of the corporation. As such, their fiduciary obligations under law will not be to the President and will not be to the public at large and will not be to the Federal Government.

The fiduciary obligations which will be imposed upon these directors will be obligations to the corporation itself.

There is certainly a crying need for a standard to be built into this act to insure that these incorporators in their capacity as such, and in their subsequent capacity as directors, will act consistently with the public interest in mind.

There is a great deal more involved in the success and in the operation of the satellite corporation than a normal profit motivation in the typical private corporation.

It is far from sufficient to give the President the power of approving the articles of incorporation of the satellite corporation as those articles will be initially filed. If for no other reason, this would be inadequate because the District of Columbia Corporation Act, which will apply to the corporation, allows amendment of the certificate of incorporation by a simple two-thirds vote of the outstanding shares entitled to vote. This in itself means that the President's power is of no real consequence for the very provisions which the President might refuse to approve for the original filing of the articles of incorporation could be added by amendment immediately after the articles had been filed. How illogical it is to give the President the power to approve the articles but leave him with no power over any amendments. This reduces his original act in approving the articles to nothing more than a meaningless formality. Certainly it affords the public and the stockholders no protection in terms of what the articles may eventually include.

By the same token, the President has no authority over the bylaws of the corporation. In many instances, problems of policy with regard to any private corporation are dealt with more effectively through the bylaws of the corporation than through the articles of incorporation. Not only is it easy in many instances for the management of a corporation to control its policy through the use of the bylaws rather than the use of the certificate, but it is also far more difficult for the stockholders of a corporation to obtain the same ready access to the bylaws they normally have to the articles of incorporation.

DIRECTORS AND OFFICERS

I now direct my attention to section 303 of the bill. This section deals with officers and directors of the corporation. Subsection (2) of section 303 provides that the board of directors shall consist of individuals who are citizens of the United States and that one of them shall be elected annually to serve as board chairman. The board itself is to consist of 15 members. The method of selecting these 15 directors is unique in terms of a private corporation and has some very interesting aspects.

First of all, section 303 provides that three members of the board of directors shall be appointed by the President of the United States by and with the advice and consent of the Senate. I believe I am correct, Mr. President, in stating that the single sentence referring to these directors and their appointment by the President appearing in section 303 is the only reference to the Presidentially appointed directors contained in the bill.

There is nothing which indicates that the nature or extent of their obligations in serving as directors is any different from the obligations of directors selected by either of the groups of shareholders who may elect the remaining 12 directors. There is no standard established in the bill which would provide a yardstick for judging the performance of these three Presidentially appointed directors. The bill contains no indication that their appointment is particularly intended to protect the public interest. The committee report of the Senate Commerce Committee does not give any indication that the members of the board who are appointed by the President have any responsibilities to the President or to the public which are different from the remaining members of the board.

It seems strange that this unusual arrangement of having the President of the United States appoint members to the board of directors of a private corporation should be inserted in this act with no further explanation of the reason for their appointment in this manner and with no explanation of the role which they are to play.

If we refer back to the language of section 301 which makes the District of Columbia Business Corporation Act applicable to the satellite corporation, we see an indication that the Presidential directors would normally be anticipated to act as fiduciaries of the corporation itself and that their responsibilities are to the corporation rather than to the public. I think there is a real possibility that we might place the men appointed by the President in an undesirable position. Certainly the public has a right to expect that the President would appoint individuals who would protect the public interest. Yet, as a matter of law, these individuals have a primary responsibility which is different. In this respect, the bill gives a false sense of security for, even though the directors are appointed by the President, they will serve for 3-year terms and will be responsible to the corporation and would be subject to the same type of shareholder derivative suits for breach of fiduciary obligations as the directors who are elected either by the carrier shareholders or by the noncarrier shareholders.

Looking now at the remaining 12 directors which the corporation will have, we see that six members are to be elected by the communications common carriers and six are to be elected by the holders of voting stock other than the common carriers. Although subsequent provisions of the bill provide that 50 percent of the voting stock is to be reserved for purchase by the communications carriers, there is no requirement that the carriers by any specified percentage of the 50 percent reserved for them in order to have the right to elect their six directors.

If, for example, the corporation offered floating stock in an amount of $100 million originally $50 million of that would be reserved for the communications carriers.

It is entirely possible that the noncarrier stock could be purchased in its entirety, that is, the total amount of $50 million floating stock could be purchased by noncarriers. At the same time, the carriers could purchase as little as $100 of the voting stock reserved for them. Even with this existing imbalance in terms of investment in the corporation, we would find the carriers enttiled to elect six directors, a number equal to the number of directors to be elected by the noncarriers. This seems a little foolish to say the least. The public would have paid $50 million for the right to elect six directors and the communications carriers could receive an equal right to elect six directors by virtue of an investment of one-fiftieth of the amount put up by the public.

Would anyone suggest that it is an unreasonable possibility that only—say—$1 million of the carriers' share will be subscribed? If anyone should have such thoughts, let me put them to rest once and for all. This would, in fact, be the most logical course for the carriers to follow if an initial offering of $100 million of voting stock were made. The purchase of a small amount of voting stock would insure the carriers of maximum representation on the board of directors. Any additional voting stock purchased by the carriers would not allow them to elect a larger number of directors.

From the standpoint of the carriers, there would be a disadvantage to the purchase of any more than a minimum amount of voting stock. Section 304(c) of the bill provides that voting stock of the corporation shall not be eligible for inclusion in the rate base of a carrier who purchases such voting stock. On the other hand, the same section, section 304(c), provides that nonvoting securities, bonds, debentures or other certificates of indebtedness of the satellite corporation shall be eligible for inclusion in the rate base of the carrier.

Obviously, then, it would be to the advantage of the carriers to have their investment in the corporation take the form of purchases of nonvoting stock, bonds or debentures. The corporation is entitled as a matter of right under this bill to issue such nonvoting securities or bonds or debentures without any effective limit. It is entirely possible for the corporation to issue nonvoting securities which have exactly the same characteristics as the voting stock except for the right to vote. Dividend rights, liquidation preferences and all other characteristics of the securities could be identical. There would be no reason why the management of the corporation itself should object to allowing the carriers to purchase nonvoting securities rather than depending upon voting securities for financing the corporation, and there would be every inducement for the carriers to try to persuade management that the nonvoting securities were the appropriate way of financing the private satellite corporation.

To demonstrate even more conclusively that the situation similar to the one I have been describing is in fact a real possibility, let me point out that the carriers themselves have consistently recommended financing the private corporation through the use of nonvoting stock. The original administration proposal, S. 2814, provided for two classes of stock—class A stock which would have voting rights, and which could be owned by the general public as well as the communications common carriers, and class B stock which would be nonvoting and which would be owned only by the communications common carriers.

A.T. & T. was quick to voice its objections to the provisions for class A stock. A.T. & T.'s recommendations as a result of the bill reported out by the Senate Space Committee were that the provisions providing for class A stock be eliminated. This, of course, would have made it possible for them to return to their original scheme as set forth in the ad hoc carrier committee report to provide for ownership exclusively by the communications carriers. It has also been the contention of the carriers from the beginning that any investment by such carriers in the stock of the satellite corporation should be includible in the rate bases of the owning carriers for ratemaking purposes.

The bill as passed by the House contains a provision for directors which is considerably different from that reported out by the Senate Commerce Committee. The House bill contains a provision which attempts to meet the difficulty of allowing the carriers to elect their full complement of such directors, irrespective of the percentage of voting stock held by the carriers. The language of the House bill reads as follows:

"DIRECTORS AND OFFICERS

"SEC. 303. (a) The corporation shall have a board of directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Three members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for a term of three years, six members of the board shall be elected annually by those stockholders who are not communications common carriers, and the remaining members of the board, not to exceed six, shall be elected annually by those stockholders who are communications common carriers in a number determined as follows: If such stockholders own in the aggregate not exceeding 15 per centum of the outstanding voting stock of the corporation, they shall elect one member; if they own in the aggregate in excess of 15 per centum but not exceeding 25 per centum, two members; if they own in the aggregate in excess of 25 per centum but not exceeding 35 per centum, three members; if they own in the aggregate in excess of 35 per centum but not exceeding 40 per centum, four members; if they own in

the aggregate in excess of 40 per centum but not exceeding 45 per centum, five members; and if they own in the aggregate in excess of 45 per centum, six members. No stockholder who is a communications common carrier and no trustee for such a stockholder shall vote, either directly or indirectly, through the votes of subsidiaries or affiliated companies, nominees, or other persons subject to his direction or control, for more than three candidates for membership on the board. Subject to such limitation, the articles of incorporation to be filed by the incorporators designated under section 302 shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–911(d))."

The language of the House bill would be an improvement over the language of section 303(a) in the bill we are considering but by no stretch of the imagination could that language be said to cure the problems relating to the directors of the corporation. The primary duty of the directors of this corporation under the proposed organization will be to protect the investment of the stockholders whether those stockholders are common carriers or aerospace manufacturers or private individuals. There is nothing in this bill which provides that the directors shall have any responsibility toward protecting the public interest which everyone has so readily admitted exists in the private satellite corporation.

CONFLICT OF INTEREST

Few problems have plagued this country as frequently and with such persistent recurrence in recent years as the problem of conflicts of interests on the part of individuals who are supposed to be in positions of trust and in positions where public interest is a primary motivation for all their actions. Many of the conflict-of-interest problems have reached the proportions of national scandal. To mention only a few in this category, I would point to the Dixon-Yates situation in which Mr. Wenzell was in the employ of the First Boston Corp. at the same time he was working actively for the Bureau of the Budget.

A.T. & T. has certainly not been immune to the conflict-of-interest problem. In connection with the antitrust suit against A.T. & T., which was terminated in 1956 with a consent decree, it has been made a matter of public record that Dr. Mervin J. Kelly, a president of Bell Laboratories, was instrumental in preparing the memorandum which was sent from the Department of Defense to the Justice Department advocating a settlement of the case on terms highly favorable to A.T. & T. During the course of this debate, I will discuss this situation and others like it at length. It is my purpose at this time only to point out the weakness of the bill we are considering with regard to this point.

Section 303(b) contains the only reference to this problem in the act. The final sentence of that section states simply, "No officer of the corporation shall receive any salary from any source other than the corporation during the period of his employment by the corporation." This language is so mild that I have some question whether it is even intended to deal with the conflict-of-interest problem at all. It may simply be a matter of having selected this wording to insure that the officers of the corporation would be full-time employees. If the language does insure that, that is the only protection which it does afford to the public. For one thing, the language covers only officers of the corporation. It does not mention directors at all. Second, it relates only to salaries from sources other than the corporation. It makes no reference to financial interests of any sort or to compensation other than salaries.

One would think that when a corporation so unique as this were being formed, a corporation in which it is anticipated that there will be a built-in conflict of interest, language would be included in the bill in very precise and definite terms to insure that the public interest would be protected from abuse. At the very least, there should be provisions in this bill to the effect that no officer or director can have any financial interest in any communication carrier corporation engaged in the business of wire communications or radio communications as defined by the Communications Act of 1934 as amended. There should also be provisions that no director or officer can have any financial interest in any aerospace manufacturer or supplying corporation which would do substantial business with the private satellite corporation. The absence of language to this effect is an open invitation to preference and favoritism.

FINANCING OF THE CORPORATION

The ad hoc carrier committee proposed the formation of a so-called nonprofit satellite corporation to develop, construct, operate, manage and promote the use of the satellite system. This corporation was to be owned and financed by the communications common carriers and would own the satellites themselves but not the ground stations. It was contemplated that the capital expenditures and expenses of operation of the satellite corporation in the development, construction, operation, management and arrangements for the use of the satellites would be allocated among the participating owners in proportion to their respective capital contributions. Each of the participating U.S. carriers would have been expected to carry its investment in satellites upon its own books and in its rate base in a manner prescribed or approved by the FCC.

The Kerr bill, S. 2650, perpetuated the idea of exclusive carrier ownership of the satellite corporation.

The proposals to limit ownership of the private corporation to the communications carriers met with an immediate unfavorable response from all sides. The carriers were identified by the administration as the "favored few" and statements were made to the effect that it would be unconscionable to turn over to this limited group the benefits of the large taxpayer investment which has made space communications possible.

Attorney General Kennedy, at his appearance before the House Interstate and Foreign Commerce Committee, made the following statement with regard to the possibility of carrier ownership of the private satellite corporation:

"Conceivably their special role could be recognized in other ways. But I do not believe that there is any justification for turning over this whole program, so heavily subsidized by the Government, to the existing communications industry, unless there are compelling reasons for doing so. I know of no such reasons.

"It is our firm conviction that the general public should be permitted to participate in this proposed corporation. A monopoly created by legislation should not be turned over to a favored few. This is even more true when the probable success of this venture has been assured by governmental research and development at considerable cost to the taxpayers.

"Public participation will help us to avoid domination by a single carrier. It will help to insure competition in all its ramifications. It will help to insure speed. Such a corporation would be interested in developing the widest possible usage of the system as soon as possible. It will help to insure adequate private financing if we do not close the door to noncarrier investment."

JUDGE LOEVINGER

A fuller and more complete statement of the case against limited ownership of the private corporation was made by Judge Lee Loevinger, the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice. Judge Loevinger, in his testimony before the Senate Antitrust and Monopoly Subcommittee, provided the following detailed analysis of the monopoly problem involved.

Under the proposals made to limit ownership to those common carriers approved by the Federal Communications Commission it would seem likely that ownership will be restricted to carriers engaged in international communications. Nine international carriers indicated a desire to participate in the ad hoc committee set up by the Federal Communications Commission to consider means for the establishment of a satellite communication system. In a report preliminary to issuance of an order setting up the committee the Commission stated that—

"The international carriers themselves are logically the ones best qualified to determine the nature and extent of the facilities best suited to their needs" (docket No. 14024, first report, May 24, 1961).

But the Government has not spent hundreds of millions of dollars in development of satellite communications merely to provide existing carriers with additional facilities to serve their own needs, important as this is. The needs of the Nation are broader and more important than those of the communications carriers. The satellite communication system is intended to promote broad national objectives. These objectives have been set forth in the President's statement of July 24, 1961, in his message to Congress of February 7, 1962, and in the various bills introduced in Congress.

The ad hoc report recommended that ownership be limited to international carriers and indicated that because of its foreign operations, General Telephone might qualify as an international carrier. Only five of the participants in the ad hoc committee indicated a willingness to make a financial contribution—A.T. & T., American Cable & Radio (an I.T. & T. subsidiary), Western Union, Hawaiian Telephone Co. and Radio Corp. of Puerto Rico (also an I.T. & T. subsidiary). RCA made no commitment for a financial contribution. A.T. & T., Western Union, RCA, and American Cable & Radio compete directly in offering international communications services. A.T. & T., American Cable & Radio, RCA, and General Telephone, through subsidiaries or parent companies, compete in the manufacture and sale of communication equipment.

Joint ownership of a communication system by competitors such as these would raise serious antitrust problems, in my opinion, unless Congress provides for specific antitrust exemption. The possibility would always exist that such ownership would result in limiting competition among the carriers in the furnishing of communication services, in the manufacture and sale of communication equipment, or in limiting competition in either of these areas of nonparticipating companies. Furthermore such limited ownership might well give de facto control to a single company, A.T. & T. With ownership so limited it appears highly probable that A.T. & T. would control the system, both because a number of the international carriers are dependent on A.T. & T. for certain services and because A.T. & T., with its financial resources, will contribute a far greater sum than the total amount that will be contributed by all other companies.

For example, in the ad hoc committee report A.T. & T. agreed to contribute $65 million, while the total contribution agreed to by all other companies was less than $13 million. In fact A.T. & T. has suggested that contribution be on the basis of expected use of the system and indicated this

would result in its contributing 75 to 80 percent of total investment. (Testimony of Mr. James E. Dingman, executive vice president of A.T. & T., before House Committee on Interstate and Foreign Commerce, on Mar. 16, 1962.)

Domination of this new system by a single company would tend to frustrate the public interest objectives which the President has set as our goals. We believe this to be the case despite the fact that the new corporation will be subject to regulation by the Federal Communications Commission, for regulation cannot guarantee equitable access to the system and competition in the purchase of equipment if ownership is limited to a few interested companies, with a single one of these exercising effective control.

Broadly based ownership will minimize the possibility of control by a single company and will encourage competition in the furnishing of communication services and in the manufacture and sale of communication equipment.

It has been argued that the controls proposed in this bill are greater than those previously imposed on a private corporation. If so, the unprecedented nature of the situation not only justifies but requires unusual measures. Satellite communication is made possible through research and development paid for by Government funds because of the national interest in the establishment of such a system.

This has been called an extension of existing facilities, but it is much more. The ability to provide at economical rates communications of all kinds to all parts of the world is a revolutionary development. It is as inappropriate to call satellite communications an extension of existing facilities as it would be to say the airplane is merely an extension of the transportation facilities afforded by canal boats or railroads.

It is agreed that a workable system must be established at the earliest possible date, and we believe this can best be accomplished by broadly based ownership of the system. There would be a natural reluctance on the part of companies with large investments in existing facilities to take speedy action which would make these facilities obsolete. A company controlled by A.T. & T. could scarcely avoid considering the effect of satellite facilities on existing investments in cable facilities.

Further, new developments and improvements in the system would be considered from the viewpoint of their effect on existing facilities. A.T. & T. has extensive investment in facilities used for the transmission of network television programs to stations throughout the country and it owns the facilities for the only nationwide long-distance telephone service in the United States. It is my understanding that with sufficient capacity television programs can be transmitted from the satellite system to stations throughout the country and the world and that new developments may make long-distance telephone service within the United States via satellite system economically feasible and desirable. These are examples of the conflict of interest that could arise in a corporation controlled by A.T. & T.

PROBLEM OF DOMINATION

The problem then as the administration saw it was twofold: First, there was the problem of domination of any private corporation by A.T. & T. for the reasons stated. A.T. & T. dominance under any plan of limited ownership would obviously have been inevitable. It was suggested, however, that broadening the base of ownership of the private corporation could reduce the possibility of dominance by A.T. & T.

The second problem was a more general one and dealt with the difficulty in reconciling the public interest with the existence of private monopoly power. A failure to recognize, or possibly it has been simply a failure to admit, that these are two separate and distinct problems has led to considerable confusion as to what remedies might conceivably be appropriate.

Referring back to the first problem, that of dominance of the private corporation by A.T. & T., it is conceivable, though it is highly unlikely, that an organizational structure for a private corporation could be devised which would allow ownership participation by the communications carriers and at the same time preclude A.T. & T. dominance. In theory such result might be possible. The bill as it has been drafted does not accomplish that desired result. If the bill before us is passed and the private corporation provided for therein is established, the way will be clear for A.T. & T. to achieve and exercise dominance over the policies and operations of the satellite corporation.

Turning briefly to the general monopoly problem involved in creating a corporation which is to be the sole operating unit in the field of commercial communications via space satellites, it is easy to see that the problem of ownership is entirely irrelevant. There is a natural tendency on the part of any private monopoly to consider its existing facilities and its existing investment in plant and equipment at any time when it considers the introduction of new technology. The fact that a corporation enjoying a monopoly in space satellite communications might be owned by 1 million private individuals rather than 9 communications carriers in no way affects this rational monopolistic behavior. Management can be expected to follow policies most favorable to the corporation, irrespective of the breadth of the ownership base of the corporation. A.T. & T. itself provides the most perfect example of this type situation.

A.T. & T. now prides itself on the fact that it has over 2 million shareholders. A.T. & T., in fact, has more shareholders than any other private corporation in the world. It would not only be irrelevant, it would be downright foolishness to argue that the existence of A.T. & T.'s 2 million shareholders in any way reduced or diminished A.T. & T.'s monopoly power in the communications field. By the same token, it would be at variance with the facts to suggest that this large number of shareholders has in any way diminished the tendency on the part of A.T. & T.'s management to act in a way which is consistent with what we have come to expect from the giant monopolies in this country.

If private monopoly power is allowed to exist in our society, there can be no justification for the assumption that the power will not be used. That power will be used in a manner designed to provide the greatest financial benefit to the economic unit which possesses the power. Just as A.T. & T. has historically used its monopoly power to the advantage of that corporation, so a private satellite corporation, a Government-created private monopoly, if you please, could be expected to exercise its monopoly power in a way intended to provide the greatest financial returns to the satellite corporation. A broad base of stock ownership in a corporation cannot be equated with managerial policies consistent with the public interest. Broad ownership is not a protection against abuse.

The administration recognized at least a part of the problem. Let us look now at the proposed remedy. The original version of S. 2814 provided that the corporation should be authorized to issue and have outstanding 1 million shares of class-A stock. This class-A stock was to be eligible for dividends and have voting rights. The corporation was to have the right to issue and have outstanding 1 million shares of the class-A stock. The shares of class-A stock initially issued were to be sold at a price of not less than $1,000 per share. The class-A stock could have been issued to and held by any person, including communications common carriers. There was no provision in the act which would have insured a widespread distribution to the public of voting stock in the corporation. The only limitation on ownership of the voting stock was a provision providing that no shareholder would be allowed to own more than 15 percent of the authorized class A, or more than 25 percent of the outstanding.

In view of the extremely high potential capitalization, namely, a total of $1 billion (1 million shares at a price of not less than $1,000 each) there was little chance of the 15 percent figure being applicable. This meant that it would be possible for a single stockholder to own as much as 25 percent of the class-A stock outstanding.

At hearings on the bill the question was raised as to why the price of class A stock had been set at not less than $1,000 per share. The price of the stock was an important issue in view of the fact that the administration was depending upon the broad base of ownership to avoid the difficulties of the problems just discussed. The answer was that the $1,000 figure had been selected in order to prevent the average man from investing in the corporation because there was some possibility that no dividends would be paid in the immediate future and there was also the possibility that a low price might encourage too many to buy stock in the corporation, or even lead to some speculation in so-called space stocks. In other words, the administration was depending on broad ownership to protect the public interest at the same time that it was taking steps to insure that there would be very little widespread public participation in the ownership of the corporation. Very few of the taxpayers who have financed the research and development in space communications would have been able to buy even a single share of the stock at a price of $1,000 per share. The amended version of the bill has lowered the price from $1,000 to $100 per share but even that limitation is of limited value, for it applies only to the stock initially offered by the corporation. Any subsequent issue of stock can apparently be at any price which the directors of the corporation select. Furthermore there is nothing to indicate what the size of the original stock offering shall be.

The amended version of the bill also contains a statement that the shares of stock initially offered shall be sold in a manner to encourage the widest distribution to the American public. That is fine language, Mr. President, but I would like to raise the question as to why the philosophy should be restricted only to the stock initially offered. It seems to me that if we are to rely upon widespread distribution to protect the public interest, then widespread distribution would be desirable for all issues of stock of the corporation.

NONVOTING SECURITIES

The corporation is authorized to issue in addition to its voting such non-voting securities, bonds, debentures, or other certificates of indebtedness of the corporation as the directors may decide are desirable. The limitations on price and the requirement that the securities be sold in a manner to encourage widespread distribution apply only to the voting stock of the corporation. There is no application of the limitations of section 340(a) to the securities authorized by section 304(c)(3). I can see no justification for this exclusion of the nonvoting securities, bonds, debentures, etc., from the philosophy of section 304(a) except that the bill as now worded will facilitate accomplishment of the longstanding objective of the carriers, namely, relying upon nonvoting securities which might be held by the carriers as the principal method of financing

the proposed private satellite corporation. Here we have yet another example where the bill has made possible exactly what the carriers have wanted all along.

PEOPLE'S CAPITALISM

If this is to be a venture in people's capitalism, then the means to achieving that end should be consistent and reliable. The shares of stock which are to be issued by this corporation should be sold at a price of $10 or possibly $25 a share. In that way the individuals who have paid the taxes to finance the investment in space communications would be able to participate in ownership of the corporation. The limitation on price should be made applicable to all securities, whether voting or nonvoting, to all bonds, all debentures and other certificates of indebtedness which the corporation might issue. Furthermore, all stock and all bonds and all debentures should be issued in such a way as to encourage the widest distribution to the American public. If public ownership of the corporation is to be the bulwark against the onrush of private monopoly, then the structure of the corporation should be such as to allow the public to buy stock and to participate in any debt financing undertaken by the corporation.

"AUTHORIZED" CARRIERS

The spokesmen in favor of this bill have repeatedly contended that the bill seeks to provide a broad base of ownership. This broad ownership is important, according to their argument, if the dangers of monopoly are to be avoided. Section after section of the bill, however, undercuts the whole idea of achieving widespread ownership.

Sections 304(b)(1) and 304(b)(2) provide another illustration of the way in which this bill has been drawn to facilitate the objectives of the communications carriers. Bear in mind that the FCC has from the beginning favored limiting ownership of the private satellite corporation to the international communications carriers. Now look at these two sections: 304(b)(2) provides that only those communications common carriers which are "authorized carriers" shall own shares of stock in the corporation at any time. It goes on to provide that no other communications common carriers shall own shares, either directly or indirectly, through subsidiaries or affiliated companies, nominees or any persons subject to its direction or control.

This is a curious provision, Mr. President. The communications industry in this country, including international communications originating from the United States, is dominated by A.T. & T. A.T. & T. is by far the largest domestic communications common carrier and by far the largest international communications common carrier.

In the international carriers' international field there are only eight communications common carriers besides A.T. & T. They are:

1. American Cable & Radio Corp. (a subsidiary of I.T. & T.).
2. Hawaiian Telephone Co.
3. Press Wireless, Inc.
4. Radio Corp. of Puerto Rico.
5. RCA Communications, Inc.
6. South Puerto Rico Sugar Corp.
7. Tropical Radio Telegraph Co.
8. The Western Union Telegraph Co.

You will notice that compared to A.T. & T. most of these are small companies. Some of them the average person probably has never heard of. The Western Union Telegraph Co., by some standards, is a large corporation. It has assets of approximately $350 million. Compared with A.T. & T.'s assets, which are in excess of $25 billion, however, Western Union is a very small operation.

RCA Communications, Inc., is a relatively small operation. Its parent corporation, RCA, is, of course, a very large organization, but even RCA is far from comparable to A.T. & T. RCA Communications could not even be classed as one of the major components of the parent RCA.

A mere glance at the list of international communications carriers shows why a private corporation, owned exclusively by these companies, would inevitably be dominated by A.T. & T.

DOMESTIC CARRIERS

If we shift our attention to domestic communications carriers, we find that there are a great many of these firms. Actually there are hundreds of domestic communications carriers, [3,500] and 212 telephone cooperatives but this should not be taken as an indication of any substantial competition for A.T. & T. A.T. & T. controls over 85 percent of all local telephone service in the United States. In addition, it has a 98 percent monopoly on long distance communications domestically. The remainder of the local market is served by the many small domestic carriers most of whom serve a single city or rural area. The only significant exception to this is General Telephone & Electronics. General Telephone operates in approximately 19 States and accounts for a fairly large percentage of the non-A.T. & T. telephone service. It is this particular structure of the communications industry which makes the language of section 304(b)(1) and 304(b)(2) so curious.

Why should a communications common carrier, desiring to purchase stock in the private satellite corporation, be compelled to seek authorization of such a purchase from the Federal Communications Commission. If the FCC desires to limit ownership to the small group of international carriers, the language of these two subsections provides the perfect vehicle for accomplishing that objective. The FCC has already expressed its point of view with regard to the public interest, convenience and necessity involved in ownership by domestic carriers. There is no standard set out for the FCC in these sections to indicate when or on what terms it should authorize a particular carrier to own stock in the corporation. What possible danger could there be in allowing the small domestic communications carriers to own stock in the satellite corporation? What useful purpose could authorization from the FCC serve?

The 50 percent of the voting stock which is not reserved for communications carriers can be purchased by individuals, corporations or any other entity without restriction and without the need for authorization by the FCC.

If dominance by A.T. & T. of the satellite corporation is a problem, and no one has disputed that, there is every reason to prefer language in the bill which would facilitate, or even encourage, the widest possible ownership of all the corporation's stock. This would include the encouragement of widespread distribution among all communications carriers, international and domestic, of the 50 percent of the stock reserved for carriers.

Possibly the sponsors of this bill have felt that the language in these sections was necessary to protect A.T. & T. from the small local domestic carriers. Since A.T. & T. has demonstrated such a strong interest in owning stock in this corporation possibly the small carriers could be expected to demonstrate a comparable interest. If that were the case, possibly the small carriers could buy enough stock out of the 50 percent reserved for carriers to provide a minor annoyance to A.T. & T.

With typical thoroughness, those who seem determined to protect the interests of A.T. & T. and insure that the large carriers get what they want have drafted these sections to make suppression of the public interest as easy as possible.

RESTRICTIONS ON OWNERSHIP

There is a great deal of the language of this bill which still needs further examination for most of it as yet has gone completely unexplained. Section 304(b)(3) is a good case in point. That provision provides that "at no time shall any stockholder who is not an authorized carrier, or any syndicate or affiliated group of such stockholders own more than 10 per centum of the shares of voting stock of a corporation issued and outstanding." This says that the individual or corporate stockholders who are noncarriers can own no more than 20 percent of the voting stock held by all noncarriers.

Why, Mr. President, why should noncarriers be so restricted when there is no similar restriction on the carriers? As this bill is written there is nothing which would prevent A.T. & T. from owning the full 50 percent of the voting stock allocated to the common carriers. It is true, of course, that a single carrier may not vote for more than three candidates for membership on the board of directors but nonetheless the fact remains that a single carrier can be the owner of 50 percent of the voting stock.

What is it that the sponsors of this bill are afraid of that requires limiting noncarrier ownership to 10 percent while allowing carrier ownership to the extent of 50 percent.

It is common knowledge that the only carrier who is in a financial position to purchase a large block of the stock of this corporation is A.T. & T. The fact has already been mentioned that when the international carriers who made up the Ad Hoc Carrier Committee were asked about their willingness to contribute capital to a private satellite corporation, their responses indicated a willingness to put up $78 million. Of that total, A.T. & T. stood willing to invest $65 million. A.T. & T. wants to invest in the corporation.

Whether it wants to invest in voting stock or nonvoting stock or bonds or debentures I do not know, but at any rate, the provisions of this bill which preserve the right of a single carrier to own 50 percent of the voting stock can only be for the benefit of A.T. & T. Irrespective of the general terms in which this bill is drawn, when on the facts as they exist, particular provisions can apply only to one corporation, the American Telephone & Telegraph Co., there is no way of escaping the fact that that provision is drafted for the benefit of A.T. & T.

If there were any real interest on the part of the sponsors of this bill to foster competition in the communications industry we would have a far different bill. If there were any real interest in curbing monopoly power, the advent of space satellite communication provides the opportunity to do it. If there were any real interest in protecting the public or even in encouraging widespread ownership of a private satellite corporation, this bill would be far different from what it is.

The only argument which has been made so far in favor of allowing unrestricted ownership by the carriers within the range of the 50 percent of stock reserved for them, is that there may be some difficulty in raising the capital necessary to finance the corporation. If that argument were taken on its face as being accurate, it would certainly militate against the inclusion of section 304(b)(1) and section 304(b)(2). If there is going to be any difficulty in finding communications carriers who will be interested in buying voting stock in the private corporation, there is certainly no justification for requiring such potential purchasers to receive an authorization from the FCC.

NONVOTING SECURITIES

In section 304(c) we have another provision which is tailormade to suit the interests of the communications carriers. This

section provides that the corporation may issue nonvoting securities, bonds, debentures and other certificates of indebtedness as it may determine. There is no limit upon the ownership upon any of these. This will certainly facilitate the carriers' long-standing desire to finance the corporation through nonvoting securities. Here, I use the term "securities" in a sense broad enough to include bonds, debentures and other certificates of indebtedness.

Any method of financing the corporation other than the issuance of voting stock is free from all restrictions on ownership. Any means of financing other than the original issue of voting stock is free of any requirement that wide distribution to the American public be sought. Since it is anticipated that the directors of the corporation will represent the major financial interests involved, there is every reason to believe that these directors will follow financial policies which are favored by the interests which they represent.

The limitations which appear in section 304(a) with regard to the price of voting stock and its wide distribution to the American public should apply to all classes of securities which may be issued by the corporation. The provisions of section 304(b)(3) which limit ownership to 10 percent of the shares of voting stock for noncarrier stockholders should be extended to cover all classes of securities issued or sold by the corporation and should be further extended to apply to communications carriers as well as to noncarrier stockholders.

THE DOUBLE RETURN

The mischief of section 304(c) does not stop here. That section provides that nonvoting securities, bonds, debentures, or other certificates of indebtedness of the corporation shall be eligible for inclusion in the rate base of the carrier. This notion of including an investment in the rate base is a carryover, apparently from the ad hoc committee report. Remember, however, that the ad hoc committee report suggested the creation of a nonprofit corporation with the carriers to receive no dividends or other direct financial return on their investment in the private corporation. Under those conditions it was suggested that the investment of the individual carriers be included in the carriers' rate base. This may have made some sense. The satellite corporation was not to own ground stations. Therefore, the investment of the individual carrier in the corporation would simply represent its investment in the ownership of the satellites themselves. As such, this would be little different from any other equipment owned by the individual carriers.

With the evolution of these bills, however, the situation has changed drastically. We now find nonvoting securities, bonds, debentures, etc., includible in the rate base even though they are securities which in and of themselves will yield a financial return. It is entirely possible for the corporation to issue nonvoting securities which have dividend provisions exactly equal to those of the voting stock. Bonds and debentures normally receive interest and it would be expected that any bonds or debentures issued by the satellite corporation would also receive interest. Any other certificates of indebtedness issued by the corporation would also under any normal circumstances provide a financial return to the holder. These are the kinds of securities which this bill provides are eligible for inclusion in the rate base of the carriers owning them.

Examine this carefully. It means that A.T. & T. can buy a dividend-paying common stock, receive the dividends, include its cash outlay for that stock in its rate base and turn right around and charge the customers for its various services a rate which will provide a reasonable return on the amount it spent to earn its dividends. The same would be true of bonds or debentures. A.T. & T. could spend millions of dollars to buy bonds yielding 5, 6, or 7 percent interest, include the purchase price of those bonds or debentures in its rate base and therefore be entitled to earn a reasonable return on the amount it paid for the bonds. This is not fancy. The Federal Communications Commission witnesses themselves testified to the fact that the bill as presently drafted does allow the possibility of a double return such as I have described.

This I consider to be outrageous. Why should this sort of subsidy be granted to the carriers? Certainly it does not accord with our traditional concepts of free enterprise to allow a guaranteed rate of return through public utility rates on capital which is supposed to represent venture capital supplied by the investor.

No wonder the communications carriers are enthusiastically supporting this bill. How can they possibly lose? Not only are they guaranteed financial success, they are guaranteed double financial success.

Surely, the proverbial license to steal would be of slight value compared to statutory protection of the type afforded the communications carriers by provisions such as this.

So far we have seen that this bill represents an effort to give to the communications carriers the benefits of millions of dollars of taxpayers' investment. It includes beyond that an effort to provide a continued subsidy to those carriers by requiring the government to use the privately owned satellite facilities for virtually all Government communications business, irrespective of any facilities which the Government itself may own.

Now we see the most flagrant abuse of all. In addition to all the other subversion of the public interest, we now find that the communications carriers have been provided with a way to earn a double return on their investment. Even if dividends or interest fail to materialize, the initial return would be guaranteed through the rate base of the carrier. But there is little danger that the corporation will not be profitable. Certainly the fixed charges represented by interest on bonds or debentures can be expected to be repaid. The dividends on stock issued by the corporation will undoubtedly accrue, even if there is some slight delay.

FOREIGN OWNERSHIP

I think it only fair to examine this bill in the light of the theoretical possibilities which it creates. Of course we all recognize that all of these possibilities may not ever come to pass, but it is only by understanding the full implications of the language as it is written that we can properly evaluate the proposed legislation.

Section 304(b) provides that not more than an aggregate of 20 percent of the shares of stock of the corporation authorized by subsection (a) of section 304 which are held by holders, other than authorized carriers, may be held by persons of the classes described in subsections 1 through 5 of section 310(a) of the Communications Act of 1934. Stated more simply, this provision means that as much as 20 percent of the voting stock to be owned by noncarriers may be held by foreign interests.

Whether such ownership by foreign interests is likely or not I do not know. It may be that it is not, in view of the fact that the private satellite corporation which is being proposed will own only the U.S. portion of a worldwide satellite system. On the other hand, if as many people believe the satellite corporation will be a highly profitable venture, then its securities may be a very attractive investment for foreign investors. In such an instance it might well be that there would be a strong demand for the 20 percent of the stock which could be owned by foreign interests.

Consider this provision in connection with the expressed philosophy that widespread distribution to the American public is desirable. Since only 50 percent of the voting stock will necessarily be subject to the provision encouraging widespread distribution to the public, the shares may have to be distributed to a number of diverse interests. If 20 percent of the 50 percent goes to foreign interests, that means that the American public has a reasonable opportunity to share in only 40 percent of the total of the voting stock of the corporation. Claimants to this 40 percent will include all the major financial institutions in the country. Viewed realistically, what are the chances for the small private investors to participate in ownership of this corporation? I would say, Mr. President, that the chances are very small indeed.

I would not like my remarks to be interpreted as indicating that I am opposed in any way to foreign participation in the satellite communications venture. That would be far from the truth. I merely point out that there are many inconsistencies in this bill, many provisions which can and in all probability will, operate directly to defeat the policies upon which the President of the United States based the assumption that private ownership of the satellite corporation was desirable.

TRANSFER OF STOCK AMONG CARRIERS

Section 304(f) is another interesting section of the bill and presents us with another instance in which the sponsors of the bill were unwilling to put in statutory language their alleged justification for including the section in the first place. I should like to quote at this point from the committee report as it relates to section 304(f):

Subsection (f) authorizes the Commission, on application of an authorized carrier and after notice and hearing, to compel any other authorized carrier to transfer for a fair and reasonable consideration to the applicant a number of shares of voting stock owned by such other authorized carrier, as the Commission determines will advance the public interest. The term "authorized carrier" relates, of course, back to the definition of "communications common carrier" in subsection 103(7) to include persons or entities related to the carrier itself.

When S. 2814 was referred to your committee, this subsection provided that the amount of shares to be transferred was to be a number that would be reasonable "in the light of the estimated proportionate use of the corporation's facilities by the applicant" and other factors. Your committee has deleted the quoted language in view of the concern expressed by some that it could lead to undue importance being placed on the extent of use as a measure for voting stock ownership. It was urged that a carrier using a large portion of the corporation's facilities would by resort to this device be able to increase its stock ownership and thereby possibly gain a dominant position in the corporation. It was, therefore, believed best to remove this specific standard from the bill, and instead insert language stating that the Commission "shall promote the widest possible distribution of stock among the authorized carriers" whenever consistent with the public interest.

In addition, whenever such a transfer is directed by the Commission, such transfer is to be for "a fair and reasonable consideration."

This particular provision was the subject of considerable testimony during the hearings on this bill. In view of the efforts by the communications carriers to establish a

private corporation in which stock ownership would be in proportion to use of the system, the concern expressed over the original wording of this section was not unfounded. Certainly, as the section was worded, it would have been very easy for the FCC to arrive at a distribution of the shares of stock of the corporation which reflected the proportionate use by the various communications carriers.

When questions arose regarding the wisdom or use of this section, the justification for retaining it at all was that it would allow the Commission to make it possible for new communications carriers wanting to join in the stock ownership of the corporation to do so even if all the stock allocated to the carriers had been purchased at that time. Other than that, no reasonable explanation for inserting this provision in the first place, or for retaining it when its value was questioned, was ever offered.

I would suggest that if a provision of this sort needs to be included in order to facilitate a transfer of stock to new carriers wishing to participate, then the language should be drafted in those terms. There is no need for leaving the language in such a state that it can easily be used by the carriers and the Commission to accomplish a result which both those groups have indicated they felt was desirable from the beginning, if Congress has determined on the basis of its hearings that that particular result would not be in accord with the public interest.

One comes readily to the conclusion that the draftsmen of this act and its sponsors have used allusions to protection of the public interest as a justification for language which can lend itself to abuse of the public interest.

I do not understand the apparent aversion of the individuals favoring this act to putting what they say they mean into the statute. That is the only way we can be assured that the intent of Congress will be carried out.

GOVERNMENT USE OF THE PRIVATE SATELLITE SYSTEM

As we all know, simple language can sometimes be used to obscure important facts. Proof of this point is found in section 305 (b)(4) of the act. That section provides that the corporation is authorized to contract with authorized users, including the U.S. Government, for the services of the communications satellite system. That seems simple enough and the normal reaction would probably be, "Why, certainly, that should be one of the powers of the corporation." I would agree with that reaction. I do, indeed, believe that the corporation should be authorized to contract with the U.S. Government. On the other hand, I would like to raise some questions as to the appropriateness of the language involved in this section.

The U.S. Government is put in the class of authorized users. Specifically, the language says the corporation may contract "with authorized users, including the U.S. Government." Does this mean that the U.S. Government must be authorized by the Federal Communications Commission or some other agency to use the satellite corporation?

Next comes the question of the rates at which the U.S. Government will contract with the private corporation for the services it affords. It has been assumed apparently that the U.S. Government will be required to contract for the services of the corporation at the same rates which all other users would pay.

The communications carriers normally file rate tariffs and those rates are applicable to all users in certain categories. In view of the fact that Government expenditures have made the satellite system possible to begin with, and in view of the added fact that the U.S. Government will be, in all probability, the largest user of the services of the satellite system, it would seem that we are justified in expecting that the Government would receive preferential rates for its use of the system. Preferential rates would be one way through which the corporation could reimburse the Government for some of the extensive expenditures on research and development which the Government has undertaken, and, in addition, help pay some of the operating costs of the space operations which will be needed to support the satellite communications.

Not too surprisingly, if we look carefully, we will find the FCC opposing what seems to be the only reasonable position to take in regard to the U.S. Government. As a matter of fact, Mr. President, if the FCC had its way, it would eliminate this particular language and not allow the U.S. Government to contract with the satellite corporation at all. The FCC would prefer that the Government be required to go through the communications carriers in its dealings with the satellite corporation. I am certain that the carriers would prefer having the Government go through this procedure, too. It would, no doubt, be highly profitable to the carriers to be assured of all Government business.

I am delighted to see that the Commerce Committee recognized the public interest sufficiently to make it possible for the Government to deal directly with the satellite corporation. It is disappointing, however, to find that the committee was unwilling to go the full measure in protecting the public interest and provide specifically that the U.S. Government would be allowed to contract with the corporation on more favorable rates if there was justification for those rates.

FOREIGN RELATIONS

We all know that the successful development of a satellite communications system will have political and economic benefits for the entire world. As our space technology is applied to international communications, we will have an opportunity to make new services available to many nations. Unquestionably the peaceful use of these services will be beneficial to all mankind.

A satellite communications system is essentially international. As the countries and continents of the world are increasingly linked together, the importance of the satellite communications system will naturally increase.

When this new means of international communications becomes economically feasible, it will provide direct communications services to many countries which do not have such service available at the present time. An improved communications system linking all the nations of the world will lead to a freer and more rapid exchange of information and ideas. There will be more rapid and more extensive exchanges of governmental, commercial, and private social communications throughout the world. There is every reason to hope that such improved communications will be helpful in allowing us to bridge some of the sharp political divisions which now exist between various nations of the world.

Any technological development with such far-reaching implications is obviously of vital concern to the national interest. The satellite communications system will be far more than a matter of international interest, however. It will be an important element of our Nation's foreign policy.

Mr. George C. McGhee, Under Secretary of State for Political Affairs, made the following statement in his testimony before the Senate Commerce Committee:

"The problems we face when we stop to consider just what this means are immense. First of all we are dealing with something which is new and which differs in scope and in kind from anything we have now. To grasp the magnitude of these problems we have only to consider as examples the difficulties of resolving the disparate interests of the many countries who will be served by this single satellite system, of making available through international agreement the needed frequencies for communications, and of restoring the competing national interests that will arise at every stage of constructing and developing a satellite system."

I believe that this represents a true understanding of the serious questions of foreign policy which will inevitably arise in the development and operation of a worldwide satellite communications system. If we attempt to separate commercial communication satellites from the Nation's overall satellite program as it is being guided and directed by NASA, we may find that we have produced incomplete and misdirected national policies. Our communications satellite program must be viewed as a part of the general satellite program and the satellite program itself must be recognized as only a part of an integrated national space research and exploration program. Our efforts in the development of satellite programs are but a part of our policy of space research for peaceful purposes. We will gather information and develop components in the satellite program which will be useful in other aspects of space exploration. Our efforts in the field of satellite communications will expand our general body of scientific knowledge. We must be sure that we have a comprehensive space program which will continue U.S. leadership in space technology. We must also take every possible step to insure that the United States is the first nation to develop the practical results of our space research program.

The U.S. communications satellite program and all other phases of space experimentation involve systems that have both military and nonmilitary application. If we are to have effective coordination, there must be close cooperation between NASA and the Department of Defense. If a separate agency is established to operate our communications satellite system, it must be closely coordinated with both of these other agencies. The overall policy direction for our space program must come from the President.

As we examine the issues of national policy relative to a communications satellite system, we must constantly bear in mind the nature of such a system. It is not merely an evolutionary development of existing communications facilities. It is far more than a mere cable in the sky. It is not, as A.T. & T. and the other carriers would have us believe, simply an alternative method of providing the normal communications services which now exist. The mere technology itself has become a symbol of our national purposes and goals in the peaceful exploration of outer space and our desire to develop new technology for the benefit of all the nations of the world.

Consider just one example of what the system we have been discussing means to the national policy of the United States. The U.S. Information Agency is attempting to satisfy what it describes as an incessant and insatiable curiosity about the United States and its people. That agency has the difficult and frequently delicate job of explaining abroad the policies and practices of our Government. The existence of an operational satellite system would do more than just expand the facilities available to USIA. It would make it possible for that agency to undertake bold, imaginative new programs designed to bring the message of freedom to peoples throughout the world.

Think, for example, of the impact of simultaneous, live, worldwide coverage of major political events.

We must be ready to use the facilities of a satellite system for all the purposes of peace as soon as the system becomes technically feasible. Improved international communications facilities will play an important role in developing desired growth in trade and commerce, in fostering economic development in new nations, and facilitating cultural and scientific exchanges. It may be necessary to minimize or deemphasize traditional profitmaking attitudes if they would stand in the way of the most rapid possible developments in the field of satellite communications.

The establishment of a satellite communications system will necessitate a large increase in the number and complexity of international agreements which must be negotiated. These negotiations will have to be completed successfully during times when international tensions are high. This is clearly a job for the Government of the United States. The State Department, acting in its traditional role and under the direction and supervision of the President, is the proper agency for the conduct of American foreign policy. We cannot afford to entrust vital aspects of our national policy to a private monopoly.

At this point I should like to quote from a statement by Ambassador Adlai Stevenson dealing with the problems of international cooperation in the peaceful uses of outer space. This statement was made on December 4, 1961, in the Political and Security Committee of the United Nations:

"STATEMENT BY AMBASSADOR STEVENSON

"(U.S. Delegation Press Release 3875)

"The subject before this committee this morning is, as you have indicated, outer space—and what we together decide to do, or not to do, to promote the exploration and use through peaceful cooperation.

"This is year 5 in the age of space. Already in 4 short years scientific instruments, then animals, then men, have been hurled into space and into orbit around the earth. Within a few more years satellites will bring vast new developments in weather forecasting and in worldwide telephone, radio, and television communications. More than that, rocket booster capacity will become sufficient to launch teams of men on journeys to the moon and to the nearest planets. And after that, one can only speculate what may come next.

"Unhappily this astounding progress in space science has not been matched by comparable progress in international cooperation. In the race of history social invention continues to lag behind scientific invention.

"We have already lost valuable time that can never be recovered.

"Unless we act soon the space age—like the naval age, like the air age, and the atomic age—will see waste and danger beyond description as a result of mankind's inability to exploit his technical advances in a rational social framework. In short, unless we act soon, we shall be making the old mistakes all over again.

"Despite the urgent need for immediate international action, I fear that we come to this subject ill-prepared to think clearly about it. I suspect that we are handicapped by our heritage of thought about the affairs of this single planet.

"We are conditioned to think in terms of nations. Our lives and concepts are predicated upon states whose boundaries are fixed by oceans and rivers and mountain ranges or by the manmade lines drawn sharply, across the two-dimensional and finite surface of planet Earth. We are conditioned to think in terms of nations defined by finite areas expressed in finite measurements—nations with more or less known resources and more or less counted populations. And especially we are conditioned to think in terms of national sovereignties.

"Such concepts have no meaningful application for the unexplored, unbounded, and possibly unpopulated reaches of outer space, which surround no nation more than any other nation, and which are innocent of the idea of national sovereignty.

"We are further handicapped, many of us, by the impression that the exploration of outer space is a matter of concern only to the great powers because they alone have the capacity to penetrate space. That impression gains force from the belief that outer space is unrelated to the day-to-day problems of nations whose energies are absorbed by such earthly daily questions as growing enough food to feed their peoples.

"This impression, I submit, is totally and dangerously wrong.

"The smallest nation represented here in the United Nations is deeply concerned with this question before us—and so is the poorest of our members. Indeed, they may have far more to gain from the shared benefits of space science—and on just such matters as growing food—than the larger and the richer societies.

"Moreover, the small nations have an overriding interest in seeing to it that access to space and the benefits of space science are not preempted by a few nations, that space exploration is not carried forward as a competition between big-power rivals, that the ideological quarrels which so unhappily afflict this planet are not boosted into space to infect other planets yet unsullied by the quarrels of men.

"Finally, all nations can play a part in assuring that mankind derives the maximum advantage from space technology in the here and the now and not just in the hereafter. Every nation can cooperate in the allocation of radio frequencies for space communications. Every nation can participate in global systems of weather prediction and communications.

"In outer space we start with a clean slate—an area yet unmarred by the accumulated conflicts and prejudices of our earthly past. We propose today that the United Nations write on this slate boldly and in an orderly and a creative way to narrow the gap between scientific progress and social invention, to offer to all nations, irrespective of the stage of their economy or scientific development, an opportunity to participate in one of the greatest adventures of man's existence.

"The United States, together with other delegations, today places before this committee a program for cooperation in outer space—a program embodied in the draft resolution now before you. We look forward to constructive discussions of these proposals—and to improvement upon them. They do not represent fixed positions. We are prepared to consider constructive suggestions from any member of the committee so that the widest possible measure of common agreement may be reached. But these proposals do represent our best and most thoughtful effort to put forward in good faith a program of international cooperation for the benefit of all mankind.

"GLOBAL SYSTEM OF COMMUNICATION SATELLITES

"Now the fourth part of the space program looks toward the establishment of a global system of communication satellites.

"Space technology has opened enormous possibilities for international communications. Within a few years satellites will make possible a vast increase in the control and quality of international radio, telephone, and telegraph traffic. In addition, something new will be added—the possibility of relaying television broadcasts around the globe.

"This fundamental breakthrough in communication could affect the lives of people everywhere.

"It could forge new bonds of mutual knowledge and understanding between nations.

"It could offer a powerful tool to improve literacy and education in developing areas.

"It could support world weather services by speedy transmittal of data.

"It could enable leaders of nations to talk face to face on a convenient and reliable basis.

"The United States wishes to see this facility made available to all states on a global and nondiscriminatory basis. We conceive of this as an international service. We would like to see United Nations members not only use this service but also participate in its ownership and operation if they so desire.

"The United Nations Organization itself stands to benefit directly from the use of satellites both in communicating with its representatives around the world and in disseminating programs of information and education.

"As an example of the potentialities of such use, we hope to have before long an experimental satellite which will transmit across the Atlantic, for brief periods, live television excerpts of debates in the General Assembly of the United Nations.

"In preparation for these developments the United States proposes that the International Telecommunication Union consider the various aspects of space communication in which international cooperation will be required. This will assure all members of the United Nations a fair opportunity to express their views. It is particularly important that the necessary arrangements be made for the allocation of radio frequencies for space communications.

"In order to enable less developed countries to participate in effective use of satellite communications, the expanded technical assistance program and the United Nations Special Fund should give sympathetic consideration to requests for assistance from less developed countries to improve the state of their domestic communications."

Ambassador Stevenson has stated that in space we start with a clean slate. What a tragic thing it would be for the United States and the rest of the world if we were to take this clean slate and write across the very top of it all the evils of private monopoly.

For good reason, the original administration bill, S. 2814, provided that the private satellite corporation which was proposed therein should not enter into negotiations with any international agency, foreign government or entity without a prior notification to the Department of State. That bill went on to provide that the Department of State would conduct or supervise such negotiations. It also stated that all agreements and arrangements with any such agency, government, or entity should be subject to the approval of the Department of State.

The private communications carriers fought very vigorously to have this provision removed. They argued long and loud that the communications satellite system had no new political, economic, or social implications that necessitated any change in their normal pattern of doing business. It was their contention that their experience in negotiating simple bilateral agreements with foreign countries to provide normal existing communications services qualified them to conduct all, or virtually all, of the negotiations necessary for the establishment of a worldwide satellite communications system. From the very beginning, the communications carriers have played down the significance of this wonderful new development in

their efforts to eliminate from all of the proposed bills any provision which would have recognized the important role of foreign policy and the national interest.

The substitute provision which now appears in the bill reported out of the Commerce Committee provides only for notification of the State Department of negotiations entered into by the private corporation. The corporation is supposed to advise the Department of State with regard to relevant foreign policy considerations. Apparently the determination of what are relevant foreign policy considerations is to be made by the private corporation rather than the State Department.

The corporation may request the Department of State to assist in negotiations if it feels that such assistance is necessary, and the bill states that the Department shall render such assistance as may be appropriate. In effect, then, this leaves the corporation free to handle all negotiations with foreign governments it chooses to handle but gives it the right to claim State Department assistance if for some reason it should encounter any difficulties while operating on its own. The State Department has been effectively removed and the corporation given the free hand which the carriers have sought for it all along.

Mr. PASTORE. Mr. President, I ask unanimous consent that the Secretary be permitted to make necessary changes and correct technical errors in the bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. KERR. Mr. President——

Mr. YARBOROUGH. Mr. President——

The VICE PRESIDENT. Does the Senator from Texas seek recognition?

Mr. YARBOROUGH. Mr. President, how much time have I remaining?

The VICE PRESIDENT. The Senator from Texas has 1 minute and a half remaining.

Mr. YARBOROUGH. Mr. President, I desire to pay tribute to all Senators with whom I have fought on this side of the question, opposing the bill now pending.

I shall ask unanimous consent that I may have printed in the RECORD an expression by Franklin Delano Roosevelt in his tribute to George W. Norris on September 29, 1932, at McCook, Nebr.

I hold with respect to each of my colleagues the opinion on our side of the question which was expressed by Franklin Delano Roosevelt of George W. Norris. I shall take the time to read only two paragraphs, and shall ask unanimous consent that the entire statement be printed in the RECORD. Speaking of the boys and girls of America and Norris, Franklin Roosevelt said:

> I should like them to read the able and heroic fight on behalf of the average citizen which he has made during his lonely and honorable career. I should like them to know that sometimes he has made this fight with his party, and sometimes—as now—against the leader of his party.
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> * * * * *
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> But especially it has been an unselfish fight, and directed to the fact that it is the little fellow who has the fewest friends in high places, and that too often it is the little fellow who has been forgotten by his government.

Mr. President, I ask unanimous consent that the entire speech be printed at this point in the RECORD, as taken from the foreword of "Integrity, the Life of George W. Norris," by the late Senator Richard L. Neuberger and Stephen B. Kahn.

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

FRANKLIN DELANO ROOSEVELT'S TRIBUTE TO GEORGE W. NORRIS ON SEPTEMBER 29, 1932, AT MCCOOK, NEBR.

We should remember that the ultimate analysis of history asks the answer to questions which are not concerned so much with what you and I, in these modern days, call ballyhoo, or headlines, as they are with much simpler fundamentals.

History asks, "Did the man have integrity?"

"Did the man have unselfishness?"

"Did the man have courage?"

"Did the man have consistency?"

And if the individual under the scrutiny of the historic microscope measured up to an affirmative answer to these questions, then history has set him down as great indeed in the pages of all the years to come.

There are few statesmen in America today who so definitely and clearly measure up to an affirmative answer to the four questions as does the senior Senator from Nebraska, George W. Norris. In his rare case, history has already written the verdict.

Not you alone in Nebraska, but we in every part of the Nation, give full recognition to his integrity, to his unselfishness, to his courage, and to his consistency. He stands forth—whether we agree with him on all the little details or not—he stands forth as the very perfect, gentle knight of American progressive ideals.

I am hoping that at this moment thousands of boys and girls—thousands of first voters—are listening to my words, for I should like them to give some thought and some study to the very remarkable public service of the man in whose hometown I now stand.

I should like them to read of the able and heroic fight on behalf of the average citizen which he has made during his lonely and honorable career. I should like them to know that sometimes he has made this fight with his party, and sometimes—as now—against the leader of his party.

I should like them to know that always he has been thinking of the rights and welfare of the average citizen, of the farmer, the laborer, the small businessman—yes, and of the rights and the welfare of those who have been born to or have acquired greater wealth.

But especially it has been an unselfish fight, and directed to the fact that it is the little fellow who has the fewest friends in high places, and that too often it is the little fellow who has been forgotten by his Government.

Mr. YARBOROUGH. Mr. President, the eldest of us all on our side of the question, the distinguished senior Senator from Illinois [Mr. DOUGLAS] deserves a special tribute. Unlike that great humanitarian Governor of Illinois Altgelt, Senator PAUL DOUGLAS will be no "Eagle Forgotten." His fame and work here will live as long as the Senate exists. In the long roll of history, a man's accomplishments are measured by what he does for people, not for what he does to people. PAUL DOUGLAS does things for people.

Mr. President, I ask unanimous consent that a letter to me from former President Harry S. Truman, dated August 13, 1962, together with the enclosure, be printed at this point in the RECORD.

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

INDEPENDENCE, MO.,
August 13, 1962.

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

DEAR SENATOR: I more than appreciated your telegrams of August 9 and 10, regarding my statement on the "giveaway" program, which seems to be now in progress.

I hope things will work out so the U.S. Government will continue to own the control on that situation.

Sincerely yours,

HARRY S. TRUMAN.

PRESS RELEASE OF AUGUST 13, 1962

When I arrived in Washington, Thursday morning, August 9, 1962, I was met, as usual, by many of my reporter friends. They had at least a dozen microphones set up, in front of which they asked me the usual questions.

One question seemed to interest them very much. It was, "What do you think of the Senate filibuster on the bill to give away the space communications program to private control?"

My reply was that I am against it. The Government of the United States has furnished between $25 and $30 billion to develop it without injury to so-called private enterprise.

That has been done in the Tennessee Valley development and the Northwest Power Pool. How far could we have proceeded in the development of atomic power if there had been no TVA and no power pool in the Northwest.

The special interests have been busy trying to ruin both those projects. Now they are as usual working on the greatest power control in history; the power of atomic energy.

It was my privilege to lay the keel of the first ship powered by atomic energy. It was a success. This power will be a success for the future development of all the power necessary in this world for heat, light, and energy.

Why tie it up in a way so the so-called special interests can tax future generations. The people as a whole paid for its development. They should have the benefit.

That benefit can be obtained from this great discovery and it should not be given away. The people who pay taxes have paid for it and the people of the United States should have the benefit.

The pending bill would give away the people's ownership.

That was tried at Muscle Shoals in Alabama at the Dixon-Yates program for the purpose of its possibly ruining TVA.

It was successful in hampering the Northwest Power Pool when Hells Canyon was given away.

It is my opinion that the Government of the United States should keep the ownership and control of this great discovery, financed and proven as practical by the Government of the United States.

Mr. YARBOROUGH. Mr. President, I think that among the greatest unsung heroes in this fight are many of the stockholders of A.T. & T. who have supported us. I ask unanimous consent to have printed at this point in the RECORD a letter I have received from Mrs. Florence Dies, of Kerrville, Tex. I should like to emphasize, by reading them, two sentences from the letter:

> Now, I am a widow and a substantial part of my income is from A.T. & T. stock, but I

cannot feel that this proposed giveaway is fair or just or to the best interest of our country. The A.T. & T. is making money and paying generous dividends to its stockholders and they should not have a monopoly on worldwide communications into the development of which millions of public funds have been poured.

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

KERRVILLE, TEX,
July 18, 1962.

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

DEAR MR. YARBOROUGH: I understand the bill to turn over the entire Tel-Star development to the American Telephone & Telegraph Co. has passed the House and will now come before the Senate.

I have read an article in a recent issue of the Nation, and also I heard Senator KEFAUVER in a TV debate, both on the same subject.

Now, I am a widow and a substantial part of my income is from A.T. & T. stock, but I cannot feel that this proposed give-away is fair or just or to the best interest of our country. The A.T. & T. is making money and paying generous dividends to its stockholders and they should not have a monopoly on world-wide communications into the development of which millions of public funds have been poured.

I would like to have your views on this subject.

* * * * *

Yours very truly,

FLORENCE DIES.

Mr. YARBOROUGH. Mr. President, I have received other messages from other stockholders of the A.T. & T. supporting our position.

The VICE PRESIDENT. The time of the Senator from Texas has expired.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that I may speak for 30 seconds on a question of personal privilege.

Mr. MANSFIELD. Mr. President, unless time is yielded to the Senator, I must object.

Mr. YARBOROUGH. Mr. President, will the Senator from Oklahoma yield me 30 seconds?

Mr. LONG of Louisiana. Mr. President, I will yield my 30 seconds to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I pay tribute to the distinguished Senator from Rhode Island.

The VICE PRESIDENT. Does the Senator from Oklahoma seek recognition?

Mr. KERR. I do.

The VICE PRESIDENT. Does the Senator from Oklahoma yield 30 seconds to the Senator from Texas?

Mr. KERR. I yield 30 seconds to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I pay tribute to the distinguished Senator from Rhode Island. I served with him on the Commerce Committee when it considered the bill. He had amendments which contained better language than that now in the bill. He sought to provide the President with the power to appoint five directors. That would have improved the bill. He sought to strengthen the bill in a number of ways. But representatives from the Federal Communications Commission and other departments of the Government came before the committee to pull the rug out from under him every time he tried to make a real substantial improvement in it.

I think this is a bad bill, a very bad bill, but if it had not been for having the rug pulled out from under him by numerous Government departments, the Senator from Rhode Island would have been able to report a much better bill to the Senate. He wanted to.

I thank the leadership for the courtesies it has extended to me. We have had a very sharp fight, and a hard one. But my opinion is unchanged. I think I am right. I thank the 80 members of the opposition—perhaps they number more by now—and for the uniform courtesy each of them has shown me, regardless of how sharply we fought the case.

I close by reading a sentence from a speech I heard on this Senate floor March 30, 1960, by Prime Minister Harold Macmillan, whose mother was an American:

> I was brought up by my mother to regard a Senator of the United States as the highest point of human felicity and dignity that it is possible to attain.

Mr. President, in their courtesy to each other in this hard and sometimes bitterly fought fight with feelings high and nerves on edge, I think Senators have given some measure of proof of that very generous statement by the Prime Minister.

Mr. SYMINGTON. Mr. President, will the Senator from Oklahoma yield?

Mr. KERR. I yield.

Mr. SYMINGTON. Mr. President, I have heard many compliments paid this afternoon to the distinguished senior Senator from Rhode Island [Mr. PASTORE.] I wish to join without any reservation whatever in those compliments. He has done a magnificent job.

As a member of the Senate Committee on Aeronautical and Space Sciences, I also wish to pay my respects to the distinguished senior Senator from Oklahoma [Mr. KERR], the chairman of that committee. I would pay my respects to him in my own time, except for the fact that I have no time left.

During the discussion of the bill before our committee, the great chairman, the Senator from Oklahoma, took pains to go over the bill very carefully with all the witnesses from the executive branch and with all the other witnesses. As a result, we now are about to vote on a better bill than we would have had in the absence of his diligence and his capacity. Therefore, Mr. President, on behalf of the entire committee, I express my deep and sincere appreciation to him.

Mr. KERR. Mr. President, I am very grateful to my good friend, the Senator from Missouri. I must say that I did not know this was what I was yielding for. However, I would still have yielded to him if I had known it was for that purpose. [Laughter.]

Mr. President, I wish to join in the tributes which have been paid to the distinguished Senator from Rhode Island [Mr. PASTORE] and to the distinguished Senator from Washington [Mr. MAGNUSON].

Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Oklahoma will state it.

Mr. KERR. How much time have I left?

The VICE PRESIDENT. Fifty-three and one-half minutes.

Mr. KERR. Mr. President, I shall not use a considerable portion of that time, but I feel better to know that it is available. [Laughter.]

If I were going to use that time, it would be to pay tribute to the scores of Members of the Senate who throughout this long fight have been at their posts of duty, and have responded to the challenge of this battle, and, in my judgment, have participated in the winning of one of the greatest fights ever waged in the U.S. Senate. That tribute is to our great majority leader [Mr. MANSFIELD], to the majority whip [Mr. HUMPHREY], to the distinguished minority leader [Mr. DIRKSEN], and to every Member of the Senate on his side of the aisle who has marched shoulder to shoulder in this battle to bring this bill to this position.

Mr. President, I had intended to make quite a speech this afternoon. The Chair has seen a number of Senators speak to me during the last hour and one-half, when they saw the reading stand on my desk. They have asked me how long I would speak. First, I said I would speak 45 minutes. Then I took off 5 minutes for each of the next seven Senators who asked that question of me. So now I am down to 10 minutes; and I shall try not to exceed that amount of time.

A while ago the distingushed Senator from Tennessee [Mr. KEFAUVER] said that this is the first time in the history of our Government that technology developed by the Government is being made available to private industry. Mr. President, I cannot believe that the Senator from Tennessee was either sincere or serious when he made that statement, for this Government has been making contributions to the development of private industry ever since the Government of the United States was first established. When the First Congress of the United States met, after our Government was formed, the first bill passed by those distinguished statesmen of long ago was an appropriation bill to pay their salaries and expenses as they traveled to and from the session of Congress and while they were attending the session. Certainly that was a high order of statesmanship on their part, and I commend them for their very wise, frugal, and timely action.

The next bill which was passed at that first session of Congress was one to make it possible for Government funds to be expended for the construction of a canal from one point in our then very small country to another point in it, in order to promote private enterprise and industry and transportation. Thereby began the nearly two centuries of programs, made possible by Government cooperation, in developing a better environment for private enterprise.

Today, we have in our country what is called the Tennesse Valley Authority—one of the great developments in the history of the United States. I have proven my devotion to it by the battles I have fought on this floor to give it the opportunity to serve that area and to develop its services in that area, as well as to limit it to that area; and there is no agency of our Government which exemplifies more dramatically the fact that this Government participates in providing the benefits of research to private enterprise in this country.

The TVA makes the results of its research programs available to industry, without charge. In fact, it goes beyond merely giving away this technology. It has underway extensive programs to encourage use of the information it gives away. Let me quote from a recent fact book on TVA operations concerning the record this great agency has established in the development of fertilizer technology:

How TVA operations benefit industry is illustrated in the history of concentrated superphosphate, the first material on which TVA worked cooperatively with State colleges and extension services. In calendar year 1935, the first full year of production at Muscle Shoals, U.S. output was only 91,000 tons, of which TVA provided 25,000 tons. In fiscal year 1949, U.S. output was almost 500,000 tons, of which TVA supplied its peak production of nearly 160,000 tons. As industry further developed the capacity to supply the demand for concentrated superphosphate, TVA, following its established policy, reduced its own production. In fiscal 1948, when TVA stopped making this product, U.S. production of concentrated superphosphate was more than 1,800,000 tons. Ammonium nitrate production shows similar trends.

Mr. President, this bill is not a giveaway. I should like to document that statement; but the distinguished Senator from Rhode Island [Mr. PASTORE] has already made one of the most compelling statements on it which could be made, and I shall not go further.

With reference to the research which has been done by the American Telephone & Telegraph Corp., Mr. President, let me say that in addition to spending approximately $50 million on Telstar, it has spent in excess of $1 billion for research and development in fields closely related to the satellite communications system development. In that connection, I ask unanimous consent to have printed at this point in the RECORD a brief statement in regard to what A.T. & T. has done in this regard.

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

MEMORANDUM OF AUGUST 16, 1962

To: Senator KERR.

From: Everard Smith, Jr.

Subject: Cost of Telstar project to A.T. & T.

In a letter to Senator MAGNUSON dated April 19, 1962, and signed by Mr. Dingman, executive vice president, A.T. & T., it was stated that the Telstar experimental satellite project, which consisted of orbiting an experimental active satellite and the provision of a completely operable ground station at Andover, Maine, had required expenditures of about $45 million that were directly allocable to that job since its inception in 1961. Considerably more would be required to complete the project.

Since that letter it has been estimated that an additional $5 million has been spent by A.T. & T. with respect to this project. Included in this $50 million is the cost of the Andover facility, estimated at $10 million with an additional $4 million required for a tie-in line which was necessary in order to make the facility operable.

Mr. Dingman went on to say that insofar as the basic components, without which the communications system would not be possible, were concerned the Bell System has spent $1.4 billion of its own money for research and development and that over $1 billion of this total was for research and development in fields closely pertinent to the satellite communications system development.

With respect to the Telstar launch and the costs paid to NASA by A.T. & T., A.T. & T. agreed to pay in advance the estimated amount of the launch. This was done on February 16, 1962, approximately 5 months prior to the launch date and A.T. & T. paid a total of $2,680,982. The breakdown is included below.

Estimated Telstar launch and other costs paid to the National Aeronautics and Space Administration by the American Telephone & Telegraph Co.

VEHICLE AND LAUNCH COSTS	
Launch vehicle, including modifications	$1,471,000
Vehicle transportation	20,000
Launch crew services	750,000
Guidance services	180,000
Total costs, Delta vehicle and launch	2,421,000
OTHER COSTS	
1. Range and associated services:	
(a) Propellants	8,100
(b) Supplies	1,000
(c) Overtime	12,000
(d) Work orders	10,000
(e) All other charges	2,700
(f) Documentary photographic services	2,000
(g) Reduction of data collected by range	12,000
Total	47,800
2. Field project branch expenses:	
(a) Salaries and wages (14 engineers, 4 technicians, and 4 clerical)	19,800
(b) Overtime	3,400
(c) Travel, Cape Canaveral to District of Columbia, re planning and work group meetings, 5 trips 4–5 man-days each	1,000
(d) Contract costs (telemetry, technical writers, etc.)	13,500
Total	37,700
3. Facilities modifications, Cape Canaveral, A.T. & T.'s pro rata share of total cost:	
(a) Antenna tower stiffening	8,900
(b) Antenna boresight pole	600
Total	9,500
4. Goddard space flight center expenses:	
(a) Salaries and wages (4 project management, 3 technical, and 1 clerical)	36,892

Estimated Telstar launch and other costs paid to the National Aeronautics and Space Administration by the American Telephone & Telegraph Co.—Continued

OTHER COSTS	
4. Goddard space flight center expenses—Continued	
(b) Travel:	
(1) District of Columbia to Murray Hill, N.J., for consultation on satellite (trips, 53; man-days 117)	$4,325
(2) District of Columbia to Rumford, Maine, retracking equipment (trips, 8; man-days, 21)	1,088
(3) District of Columbia to Cape Canaveral, Fla., vehicle launch supervision (trips, 5; man-days, 19)	897
(4) District of Columbia to Santa Monica, Calif., re vehicle (trips, 1; man-days, 4)	380
Total, Travel	6,690
Total	43,582
5. Tracking and telemetry	113,400
6. Magnetic tapes	8,000
Total other costs	259,982
Total estimated costs	2,680,982

NOTE.—This amount was billed to A.T. & T. and check for the entire amount was deposited in the Treasury on February 16, 1962, approximately 5 months in advance of launch date on July 10, 1962.

At present, the actual costs are being accumulated under NASA's accounting system. As provided in the agreement A.T. & T. will pay actual cost. The required adjustment will probably not exceed 2 or 3 percent and will be settled by supplementary payment or by refund as necessary.

At the present time the actual costs are being accumulated under NASA's accounting system and as provided in the original agreement, A.T. & T. will pay the actual cost. It is estimated that the adjustment will probably not exceed 2 or 3 percent and will be settled by either supplementary payment or by refund as necessary.

Mr. KERR. Mr. President, I had intended to go rather fully into that subject.

I cannot close my remarks without paying my respects to the distinguished Senator from Illinois [Mr. DOUGLAS]. One of the cherished privileges I have had as a Member of the Senate has been jousting, on this floor and off it, with the great Senator from Illinois. Let me say—as I have often said before—that I admire him for his courage, his intellectual integrity, and his devotion to his ideals.

Mr. President, the highest attribute a human being can have is reverence of his God. Next to that, in my judgment, are patriotism, courage, and loyalty. I think the great Senator from Illinois has all of them. But he and I disagree once

in awhile on philosophic and economic equations and questions. Yesterday on this floor, in a moment of unrestrained enthusiasm, he referred to the Senator from Oklahoma as the uncrowned king of the Senate.

I recognize that that is a little of a delicate subject for me to discuss, but I would not be entirely fair to myself, nor to my colleagues, if I did not correct that statement. The Senator from Oklahoma is not uncrowned in this body. He has been crowned every year since he has been here, by none other than the Senator from Illinois—and each time with a crown of thorns. [Laughter.] And there are the scars, now, that bear evidence of the verity of that statement.

But in his unrestrained enthusiasm yesterday, he not only mistakenly referred to me as one uncrowned; in the midst of one of his most eloquent moments he did something to himself that no other human being could do. We all know of his devotion to the principles and to the creed of his great religion and to the peaceful ideals that are as much a part of them as that noble brow and that snow-white hair. Yet he unfrocked himself right on the Senate floor. He said:

> If you charge me with inconsistency, I will have to say that the harsh experiences of the Senate have taught me that in this world, and in the Senate, one must preserve and utilize weapons of the flesh if one is to defend the freedom of the spirit.

Now, coming from as peaceful a soul as the Senator from Illinois, that is a statement that does not do him justice, because at all times he has been motivated and activated by the kindest sentiments for Senators in this body, and no one has been more the beneficiary of them than the Senator from Oklahoma.

But I would like to observe this: Ever since I have been here, the Senator from Illinois has been working and praying for cloture in the Senate, and lo and behold, he and others finally saw it achieved. And I believe he was the unhappiest Senator on the floor. [Laughter.]

Mr. President, it reminds me of what my father used to say: "Son, be careful what you try to do—you are liable to succeed." [Laughter.] "Why," he said, "be careful what you pray for—your prayers may be answered." And he told me the story of an old Baptist deacon driving down a country lane in early Oklahoma history, when the only roads were heavy dirt or deep sand, in an old model T Ford. It stalled. After awhile his preacher came by and saw his deacon there by his stalled automobile.

He said, "Brother Deacon, what is thy trouble?" The deacon said, "I have run down the battery on this car trying to start it. I have run myself down trying to crank it. And I can't get it to run." The preacher said, "Brother Deacon, have you tried everything in the world?" The deacon said, "Yes, Brother Pastor, I have." The preacher said, "Have you prayed?" The deacon said, "No, I have not." "Well," the preacher said, "let us pray."

So they knelt there on a hot afternoon in that sand by that old car. It was hot enough to fry an egg. They prayed, and they rose. The deacon got back into the car, put his foot on the starter, turned the motor over one time, the ignition caught and the engine started.

The deacon looked around with the kind of smile the Senator from Illinois should have had when cloture was finally invoked. He started off down the road in a cloud of dust. The Baptist preacher leaned up against a tree, wiped the sweat off his brow, and said, "Well, I'll be damned." [Laughter.] "Be careful what you try to do—you are liable to succeed."

Mr. President, it is with the greatest of reluctance that I refrain from delivering the eloquent message I had prepared in defense of and in support of this bill, but the passing of time is inexorable, and I agreed with the majority leader that I would not take more than a certain time, I agreed with the Senator from Rhode Island that I would not take more than a certain amount of time, and, Mr. President, I shall not do so.

Mr. MORSE. Mr. President——

The VICE PRESIDENT. The Senator from Oregon has 4 minutes remaining.

Mr. MORSE. The American flags flying over the Capitol, the Senate Office Buildings, and the White House should be lowered symbolically to half mast as the roll is about to be called on this bill. The bill will do irrevocable damage to the American people for decades to come, unless it is repealed.

In Pierre, S. Dak., this morning the President of the United States is reported as saying, "We cannot afford endless debate and delay."

Mr. President, my answer to the President's gratuitous remark is that the preservation of freedom and democratic processes in America cannot afford denial of full and adequate debate on every bill and all amendments to it that come before the Senate.

I support the President of the United States in almost all of the issues on which he takes a stand. I shall look forward to supporting his reelection in 1964. But, in my judgment, the President of the United States and his leadership in the Senate are dead wrong on this bill. In my opinion, the President has blackened his record by not protesting the gag rule technique that has been adopted by the Senate in order to prevent full debate on this bill that does such wrong to the public interest.

It is not only a monopoly bill; it is a cartel bill, as was so aptly described by the great international lawyer Ben Cohen before the Foreign Relations Committee. It is the first cartel in the history of the United States.

I point out to the President and his leadership that cartelism cannot be squared with economic freedom, or political freedom, either.

It is a giveaway bill, as evidenced by the fact that without this bill the antitrust laws would stand in the way of the corporation created by this bill seeking to exercise the powers that this bill gives to them.

It is a giveaway bill, as was so aptly stated by that great fighting ex-President, Harry Truman, of Independence, Mo.

It is a giveaway filled with subsidies for the monopoly created by the bill. There is the $9.5 billion subsidy of space research, over $500 million of which has gone directly into communications satellites, and the subsidy of continuing billions in research which NASA will conduct, and this one single monopoly corporation will get possession of free of charge. There is the subsidy of double payment on the corporation's bonds and the subsidy of commercial profits on "freedom programs" of the USIA and other Government usage, including that of the Department of Defense. The bill is honeycombed with shocking subsidies which might easily have been refined out of it through debate.

As testified by Edward Murrow, if we were to send USIS programs as they are now sent to the world, they would cost the American taxpayers $900 million a year.

We ought to be doubling and tripling—yes, increasing even more—the sending to the underdeveloped nations of the world these programs of freedom, if we are to win this great contest between communism and freedom. And yet this bill would put a profit dollar in the way of the American taxpayer in our battle against world communism.

Mr. President, this bill will make it impossible to protect competition, which is the very essence of the free enterprise system in this country. This bill will eliminate for all time from international competition, those carriers which are not among the selected 9 or 10 covered by the monopoly created by this bill.

We have fought for amendments, but the "gag rule" and the guillotine process of the Senate made it impossible for us to explain to the American people from this floor in detail the significance of those amendments, such as the NASA amendment and the three substitute amendments which the opponents of the bill offered. Those amendments all would have guaranteed the preservation of free competition in the development of a satellite communications system, to be destroyed by the monopolistic combine to be created by this bill. There are those who say, "This is not a monopolistic bill." Well, let them read the antitrust laws of the United States to see whether this proposed corporation could function without the passage of the bill. The only reason for this bill is the existence of the antitrust laws. This bill is needed to provide a special exemption from those laws, which are the backbone of free competition in this country.

Mr. President, I close by thanking the heroic men and woman who stood in opposition to this bill, for I think we fought the good fight, and I am willing to let the pages of history record whether we were right or wrong.

I close by saying I am sorry my leadership ever supported such a bill, which will rise to haunt the Congress and the Nation in the years to come.

Mr. GORE. Mr. President——

The VICE PRESIDENT. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President——

The VICE PRESIDENT. The Senator has 35 minutes remaining.

Mr. GORE. It is not certain that the victors of the hour can know the emotions of the vanquished. This issue is one on which many Members on both sides of the question have felt deeply. Surely that is the case with respect to the junior Senator from Tennessee.

Mr. President, though I am still one of the younger Members of this body, next year will mark a quarter of a century for me as a Member of the Congress of the United States. I have come to love with all my life the legislative branch of our Government. I believe, as General MacArthur said yesterday, that we "speak the voice of the people."

I have not offered an amendment since cloture was voted. Mr. President, I would find it extremely galling to offer an amendment and to have the leadership of my party table it without consideration.

I accepted the vote on cloture. I accepted the decision of the Senate. I tried to do so cheerfully. If by any chance I have given offense to anyone, I now apologize. Really, I did not attempt to throw any darts in debate—oh, perhaps I threw one or two at my friend from Oklahoma, but I was well aware of the condition of his hide. He and I have crossed swords before without offense or blood.

Mr. President, I wish to make a suggestion to which I have been giving some thought for the past 2 days. If the Senate should ever consider a change in its rules, I submit that, in the event of cloture, the motion to lay on the table ought not to be unconditional.

We have witnessed an odd and uncomely condition in the Senate. I doubt if any Member of this body is proud of it. We reached the point that for 3 days Senators have been unable to consider proposed amendments on the basis of substance and merit. This is an indictment of this body, a body of which I am proud to be a part.

I bear some responsibility, and I am willing and proud to bear some responsibility, for bringing the debate to the point of cloture. But I am talking of the future now, Mr. President, and I am talking to my colleagues who love the legislative branch of the Government. I read what Thomas Jefferson said about the importance of rules:

> Nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority against the attempts of power.

Mr. President, the majority is always ready to vote. They, the majority, have the power of decision when the roll is called. But where the tongues of the minority are cleft and their lips are sealed, it is seen that we are utterly helpless to obtain consideration of an amendment, no matter how meritorious. So I beseech my colleagues, not with respect to this particular issue, the conclusion of which is now forgone, to think of the future. We must preserve this institution as one which, in the words of General MacArthur, "speaks the voice of the people."

Mr. President, the pending issue is about to be decided. In my humble opinion, the Senate is committing a grievous error. I recognize that this is a minority point of view here in the Senate, but I ask Senators to give me their attention for a brief time so that I may say why.

The bill proposes to vest in one corporation, monopoly rights which are not ours yet to vest. The bill proposes to vest in this one corporation rights to the heavens. A global satellite communications system can come into being only through the successful negotiation and conclusion of a whole series of agreements with many nations. Without such agreements, interference and jamming will make it worthless.

The power of the people of the United States must be asserted and used to obtain those agreements. I am willing for that, and I should like to see the Government of the United States in the forefront. I revolt at permitting a private corporation to use the power of all our people to negotiate with foreign countries on behalf of the United States for the profit of the corporation.

As my colleagues know, I have directed most of my remarks to the foreign policy aspects of the pending bill. I think they are the major aspects.

The Assistant Secretary of Defense testified that the problem here under consideration was only about 10 percent communications.

I should like to read, in order that the Senate may unmistakably know what it is about to do, approximately three sentences from the bill, which are unqualified and unlimited by any other section of the bill. The sentences are not seriatim in the bill, but they are seriatim as to meaning:

> SEC. 301. There is hereby authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.
>
> SEC. 305. (a) In order to achieve the objectives and to carry out the purposes of this Act, the corporation is authorized to—
>
> (1) plan, initiate, construct, own, manage, and operate itself or in conjunction with foreign governments or business entities a commercial communications satellite system;
>
> SEC. 402. Whenever the corporation shall enter into business negotiations with respect to facilities, operations, or services authorized by this Act with any international or foreign entity, it shall notify the Department of State of the negotiations, and the Department of State shall advise the corporation of relevant foreign policy considerations.

Mr. President, there can be no question whatever that by the bill a private corporation organized for profit, which the bill would make a chosen instrument for satellite communications, would be authorized to enter into negotiations with and to conclude agreements with foreign governments.

Many of my colleagues have said that we cannot take away the power of the President by an act of Congress to direct the foreign policy of the U.S. Government, subject to the advice and consent of the Senate. With that I agree. But the question I have been trying to raise, and upon which I have been unable, I am disturbed to admit, to convince many Senators, is the limitations of the power of the President to direct the actions of a private corporation, which the bill would make a chosen instrument and authorize to enter into foreign policy negotiations and agreements with any nation on earth. This, I think, is a most serious error.

Perhaps the most grievous of all errors is that it will hamper—I withdraw the word "will"; I have used "will" before, but at this hour of decision, perhaps I should say "may"—it may hamper the conclusion of the requisite agreements to bring into operation a system of global satellite communications. Indeed, it may mean defeat of our efforts.

The second most grievous error is that the bill would subvert the policy of the U.S. Government, announced and pledged to the United Nations by Ambassador Stevenson last December 20, to develop satellite communications as an international service. He pledged that it would be available to all mankind, and available alike to all members of the United Nations. But the bill, instead, vests all rights which we hope to acquire in the one proposed corporation organized for profit.

Mr. President, I would that this was one of the glorious hours of the Senate, an hour when the heritage of the people was being preserved intact for future generations. I would that the present battle could stand alongside the successful battles of George W. Norris, who for 15 years prevented the giving away of Muscle Shoals to private interests, thus preserving the TVA for all the people. I would that those of us who have battled were worthy successors to the greats of the past who successfully fought special interests.

Alas, that is not to be. Ours is a story of defeat, and our hearts are heavy.

But Mr. President, I am not entirely without hope. The House of Representatives is not a tool of the Senate. I had the privilege of serving in that body for 14 years. The House of Representatives is a proud and coequal body of our bicameral legislative branch of the Government. I know that the majority of the Senate has legislated on the basis that the bill will be ramrodded through the House as it has been ramrodded here, that the House will take, and must take, whatever the Senate has done, however erroneous it may be, without dotting an "i" or crossing a "t." But from my conversations with my former colleagues in the other body, I am not without some hope that the amendments which have received no consideration here may receive consideration there.

Mr. President, I close by thanking Senators one and all for the courtesy and generosity of their attention and for their patience with me during this long hard fight. I know that now and then I have appeared a little like a porcupine, and if some quills are still to be found in any of my neighbors, I apologize sincerely. I have the deepest affection and respect for every Member of the U.S. Senate. The only fault I

find with them, really, is that upon occasion they are stubborn and difficult to persuade to my point of view.

Lastly, though it appears futile, let me urge the defeat of the pending bill.

Mr. MANSFIELD. Mr. President, while I served in the House of Representatives there was a Member there from the State of Oklahoma by the name of Monroney. One day he made a speech in which he uttered a line which has remained in my memory ever since. From the well of the House he told his colleagues:

You have got to call them as you see them.

I think that is what we have done here.

I have no apologies on the part of the leadership for the part played by my distinguished colleague, the Senator from Minnesota [Mr. HUMPHREY] and me in carrying out our part in the consideration of the proposal before the Senate. I do not like to be referred to by my colleagues as being jubilant because cloture was invoked. I was not jubilant. I was not even happy; and had cloture not been invoked, I would not have been jubilant or happy either.

In this body, "You have got to call them as you see them." Insofar as we can, we must stay away from personalities, because personalities are of least importance and the issues are of most importance.

Questions have been raised about Senators and how much stock they own in A.T. & T. That question was raised on the floor of the Senate. The newspapers stated that no Senator rose to tell how much he had in his possession.

Mr. President, I do not own one single share of A.T. & T. and never have. In fact, I do not own any stocks and never have. But I think I have a duty as a Senator and, as long as I am here, regardless of the consequence, that duty will be carried out.

I am not one of God's elected. I am one of the people's elected, and I have nothing but respect for Senators who opposed the measure. I have nothing but respect for those who are in favor of the proposed legislation.

I am appalled at the charge leveled at the majority of this body that the measure is a giveaway piece of legislation. I am appalled when it is said that we are creating a monopoly, when, if the Senate did not pass the measure, it would create a private monopoly.

I think we have shown a great deal of patience in the consideration of the measure, and I, for one, am very proud of the Senate.

No person has won a victory; no person has suffered a defeat. This institution, which we say we love and venerate—and I believe we all do—has won a victory.

Mr. PASTORE. Mr. President, during the debate on the proposed legislation the opponents of H.R. 11040 have made four principal arguments. These four arguments are:

First. That H.R. 11040 is a giveaway by the Government of a great national asset to a private corporation.

Second. That H.R. 11040 will create a private monopoly controlled by the communications common carriers who should be competing with each other and who, because of their investment in cable and radio facilities, would want to retard progress in satellite communications.

Third. That the FCC, which under H.R. 11040 has so important a regulatory assignment, has wholly failed to regulate A.T. & T. in the past and therefore cannot be counted upon to protect the public interest in space satellite communications.

Fourth. That H.R. 11040 delegates sovereign powers to private corporations with respect to the making of treaties and agreements which would otherwise require Senate ratification.

These, I think, are the principal arguments. There are, of course, others. The opponents have sent up a virtual barrage of arguments most of which have been answered during the debate or have fallen by their own weight.

At this time, I shall deal mainly with these four, and in the order listed.

First. The charge that H.R. 11040 will constitute a giveaway by the Government of a great national asset to a private corporation: The argument is made that communications satellite technology has been developed by the Federal Government through the use of tax funds amounting to billions of dollars. It is argued that in view of this investment, the public is entitled to the benefits of the system and that the way to insure such benefits is by ownership and operation of the system by a Government corporation. A private corporation, it is said, would be a giveaway.

Let us examine this charge of giveaway. Space communications results from the fusing of two great streams of research and development. The one is that done by the Government in space satellites—the boosters or missiles to get the satellites in orbit. The Government has spent billions in this missile research and development. But there is the other field—communications. And in this field private enterprise has spent billions of dollars in research and development. In both instances, the research was not directed primarily at space communications: That is simply one of the many applications made possible.

My point is that without both efforts, the one governmental and the other private, space communications would not be possible today.

We all accept the very great contributions of Government in the booster field. But the opponents tend to slough aside the long research efforts of private industry in the communications field. Let me give you just a few examples. The satellite transmitter and receiver require power which must be obtained from sunlight and that is possible because of solar cells developed by private industry. The satellite makes extensive use of transistors which the private industry developed. The receiving ground station uses a specially designed, ultrasensitive antenna, while the ground transmitting station makes use of conventional electronics that is only conventional because of years and years of research by the communications industry. I do not pretend to understand what all these developments—these traveling-wave masers or traveling-wave tubes—are. But I do know that the contributions of the private communications industry are just as important to this new venture as that of the Government-backed booster industry.

Suppose that the Government decided to own and operate the communications satellite venture and that it turned to the communications industry and said: "Give us your know-how in the communications end of this matter, we will pay for it." What if the industry responded: "You cannot pay fairly—it represents billions of dollars of research over many years; if we just let you step in now, it will be a giveaway of those years of research." That is pretty silly, is not it? But does the position of the opponents of H.R. 11040 make any more sense? The charge of giveaways is just a slogan—an empty shibboleth that obscures the real question: How can we best serve the American public—indeed the world—in this new field of space communication? What is the best way to obtain its benefits for this country and its associates?

The traditional answer in many countries would have been government ownership; for, the government in these countries owns the entire communications industry. The traditional answer in this country would have been private enterprise, under government regulation. And here I want to stress that private enterprise in this country has fully met its traditional assignment: It has indisputably provided this Nation with the best communications system in the world.

But the President and my committee did not make the choice on the basis of tradition. In his statement of July 24, 1961, the President set out certain policy requirements which the space satellite communications system had to meet. In transmitting the bill calling for a private satellite communications corporation, the President explicitly found—after a considerable study—that such a private system would promote the defined policy objectives. His representatives before the Congress ably demonstrated that this would be the case. After hearing extensive testimony, your committees are convinced of this.

So what it all comes down to is this: In the opinion of the President, your committees, and the interested agencies, the approach in H.R. 11040 represents the best way to provide more efficient and more economical telecommunication for the people of the United States and of the nations of the world.

Of course, there will be profits to the private investors under H.R. 11040. But such profits will be in the form of a reasonable return on the capital funds invested in property dedicated to public service by the corporation. There is nothing wrong—no giveaway—in that. That is the traditional, the fair way of dealing with public utilities. And, here

I want to stress that provision has been made for the widest possible sharing by the public in this reasonable rate of return. As the President pointed out, provision has been made so that all potential investors have equal rights with the communications industry to own a part of this enterprise. This, I think, properly reflects the great research and development contributions of the Government and the private industry.

Even the public monopoly proposed by the minority would be in the form of a corporation—similar to the Tennessee Valley Authority—which would be financed not by the taxpayer, but by private investors. Even under the minority proposal the return on capital investment would flow to investors in revenue bonds issued by the Government corporation. The return would not go to the taxpayers as a group. I do not see why a public corporation of the TVA type would attract a greater degree of public participation than the corporation proposed by H.R. 11040.

So I hope that we can debate the other issues without resort to this charge of giveaway. I think it important to point out that the money spent by the United States for the national space and missile program has paid off in unexpectedly rich benefits in many fields. It would be improper and unfair to require the different industries to be burdened with the research costs that have resulted in these new developments as much as it would to require the corporation being created under this legislation to carry the Federal research and development costs that may have contributed to the progress made in missiles and space communications. This is one of the true benefits that enhances our society and stimulates our economy and presents the full benefit to the number of people who use the products and facilities. In less than 5 years national space spending has developed new industries, spawned new communities, introduced new consumer products and advanced medical research, patient care and diagnostic techniques to an amazing degree.

Recently, in the June 16, 1962, issue of Science Newsletter, there appeared an article which shows how the young space age enterprise has sprung factories and corporations to produce new and unique consumer products. These items include temperature-resistant pots and pans, dishes and glassware made from pyroceram, a ceramic originally developed for missile nose cones. Teflon, a plastic used as a heat shield to protect space vehicles from the searing temperatures encountered during launch and reentry is now used to coat pots and pans, making it possible to fry foods without grease and cook without water. Tools using a mere squeeze of the fingers designed for repair work in space under zero gravity—weightless—conditions are making repairs simpler for the handyman at home. Homeowners now may get an inexhaustible hot-water supply from a new inexpensive electronic heating unit.

However, among the richest bonuses from the U.S. space investment has been the application of research and technology, particularly that concerned with missiles, to medicine. In fact, missiles for space have meant better medicine on earth.

A derivative of hydrazine, developed as a liquid missile propellant, has proved effective in treating tuberculosis and certain forms of mental illness. Another chemical used in missiles has been adapted to produce a means for rapidly lowering blood temperatures. A small efficient valve developed for missiles now can be used to replace a defective valve in the human heart. Another medical aid from missiles is a viscometer, a tool for studying blood, developed from the guidance system of the Polaris missile.

Space age telemetering devices are being applied to vocational rehabilitation problems.

Pressure suits used by astronauts to maintain normal blood pressure and circulation in space are given new hope to bedridden victims of strokes.

Medical researchers in the Office of the Surgeon General of the U.S. Air Force adapted the lower half of outmoded spacesuits for stroke victims considered hopeless invalids. The space trousers have enabled these people not only to walk but to work again.

Medical diagnosis also has been advanced by space-developed technology. Computers used to formulate the telemetered date from the astronauts during space flights indicate it is possible to convert the entire medical diagnostic process into mathematical models which will provide more accurate and complete diagnosis.

Are these new factories and corporations the recipients of a giveaway? Or are they the wonderful by-products of our space research, greatly benefiting this Nation? Surely the latter. Surely, the term "giveaway" can no more be applied to the commercial uses of satellite communication than it could be applied to the commercial uses of jet aircraft and to advancements in such fields as synthetic rubber.

Second, I turn now to the second major argument. It is urged that H.R. 11040 will not foster competition, but instead will create a private monopoly; that it will turn over ownership of that monopoly to communications common carriers that should be expected to compete with each other. It is also argued that these carriers have millions of dollars invested in cables and radio facilities which would be rendered obsolete by early development and full utilization of a satellite system so that they would be motivated to retard progress in satellite communications. And, finally, it is contended that one form of communication should not be entitled to own another form of communication. Let us consider these contentions, one by one.

This legislation does not carve out a general exemption from the antitrust laws on behalf of the corporation or any of the persons or owners participating in its ownership. This is made completely clear by section 102(c) of H.R. 11040, which I shall read in part:

> The activities of the corporation created under this act and of the persons or companies participating in the ownership of the corporation shall be consistent with the Federal antitrust laws.

Deputy Attorney General Katzenbach left no doubt as to the Department of Justice's opinion in this regard in his testimony given to the Commerce Committee. So let no one think for a moment that this corporation can be perverted and used as a cloak or device for actions or behavior violating the antitrust laws. The purpose of H.R. 11040 on this score is simple: It is not feasible to have multiple satellite systems so that each carrier could establish its own in conjunction with its foreign correspondents, as it does with respect to its other classes of facilities. It, therefore, becomes necessary to work out some equitable and reliable means for all such carriers to have use of and access to a single system. H.R. 11040 provides this means, and at the same time affords an opportunity to the general public to participate in ownership of the system with the common carriers. Beyond permitting some presently competing entities to participate in the ownership of the corporation for this specific and limited purpose, H.R. 11040 stresses that the conduct of such entities must at all times be consistent with our antitrust laws.

Nor will H.R. 11040 turn over control of the satellite corporation to companies that are in competition with each other. While such companies are permitted to participate in ownership of the corporation, the provisions of H.R. 11040 have been carefully designed to prevent any single owner or group of owners from dominating the policies and actions of the corporation. The carriers as a group cannot vote for more than 6 of the 15 directors of the Board, and no 1 carrier can vote for more than 3 directors. In the case of noncarrier stockholders, they too are limited to the election of less than a majority of the Board and, in addition, no such stockholder can acquire more than 10 percent of the total voting stock. Provision is made for the appointment by the President of three directors who will represent the broad public interest. Their presence on the Board will, I feel confident, be effective in preventing domination by a single ownership interest.

In addition to structuring the corporation to preserve competition and to prevent monopolistic abuses by any single owner or group of owners, numerous additional safeguards are written into the legislation. All communication carriers will be entitled to equitable access and nondiscriminatory use of the satellite system under just and reasonable terms and conditions. On the same basis, the carriers will also be guaranteed fair treatment in the use of any separate ground station that may be licensed to any carrier. The FCC is given the power and duty to regulate these matters in great detail. Practices such as competitive bidding will insure that no manufacturer of hardware or communications equipment will enjoy an inside track in matters of procurement by the corporation.

With all of these measures and precautions there is absolutely no substance to the charge that H.R. 11040 would result in a lessening of competition either among competing carriers or competing hardware manufacturers.

Now, let me take the assertion that the carriers would seek to retard development and progress of the satellite system because they have millions of dollars invested in cable and radio facilities which would be rendered obsolete through the effectuation and full utilization of the satellite system. I have already shown that the carriers will have but a minority voice in the decisions made by the corporation. But in any event, this is not a situation in which the new facilities will replace or threaten to replace existing facilities. Rather, we have here a situation in which the satellite facilities will be needed in addition to the existing facilities in order to satisfy the rapidly increasing demand for communications service.

This means that plant expansion will be by way of space communication rather than by way of adding undersea cables or conventional radio. It will be similar to the plant expansion starting about 1956 in the field of telephony. Despite the fact that practically all plant for oversea telephone was radio plant, some hundreds of millions of dollars have been spent for undersea cables of various nations. It does not appear that existing investment in radio facilities hampered adoption of different and more efficient facilities.

Further, H.R. 11040 provides for comprehensive Government control in this respect. For example, any decisions by the corporation with respect to the type of system is subject to review and approval of the FCC, which will have power to prevent addition of a type not in the public interest and to require additions of a type in the public interest. This is explicity provided for in subsections 7–10 of section 201(c).

But most important, it should be kept in mind that the type of system that is to be established will be determined largely by agreement reached by our Government with other governments as to the frequencies on which such system will operate and the technical standards to govern the operation and performance of any system.

All actions of the corporation, as well as our common carriers, relating to the establishment and operation of all segments of the satellite system will be required to conform to such international agreements and to the national policy objectives enunciated by H.R. 11040. As a practical matter, they will have to: In this field, international agreements must be strictly observed or there is complete chaos. So, in the light of all these circumstances, we need have no fear that business judgments of the corporation will be permitted to jeopardize or contravene the public interest.

Finally, let me take up the argument that one form of communication should not be entitled to own another form of communication—that the satellite communication will compete with present forms of communication. This argument has no more validity than the argument that jet airplanes are competitive with piston-driven airplanes, or that diesel engines are competitive with steam or electric engines, and should, therefore, be in wholly separate hands.

If this argument were valid, our domestic common carrier industry would not have been permitted to use coaxial cables, microwave radio, and other dynamic improvements in the art of communication. But all of these were developed by that industry and were systematically integrated into the general communications complex with tremendous benefits to the public.

I have heard references by some to competition between air and ground transportation, between land and water transportation, and between bus and rail transportation. But these are each competing in the same market, in service directly to the public. The satellite corporation and the carriers will not be competing in the same market. No one, either the proponents of H.R. 11040 or the advocates of Government ownership, has proposed that the satellite entity should go into competition with the existing carriers in serving the general public directly. To the contrary—the satellite corporation under H.R. 11040 will serve mainly the carriers. Even the Government corporation contemplated by the substitute measure offered by Senator KEFAUVER would likewise serve the carriers.

Let me repeat these simple but all-important facts. The market to be served by the corporation consists of the carriers who will use its facilities. The market to be served by the carriers will be the senders and recipients of communications traffic. The corporation will depend upon the carriers for its revenues; the carriers will depend upon the corporation for facilities. Thus, this will not be a situation in which one enterprise is motivated to control another enterprise in order to stifle competition, to the public detriment. On the contrary, the interest of the carriers will lie in promoting the success of the corporation, thereby promoting their own success, with resulting benefits to the public.

Third. The charge that the FCC, which has such an important regulatory assignment under H.R. 11040, has failed to adequately regulate A.T. & T. I intend to cover every aspect of this charge on the merits and will show that it has no merit. But before doing so, I want to say that I do not understand the logic of the opponents of H.R. 11040 on this point. If the Commission has not been doing its job in this important matter of regulating A.T. & T., that does not mean that we must turn space satellite communications over to a Government corporation. There is no magic in a Government corporation—it is composed of men who must have integrity and do their jobs and have funds for proper staffing. So in the final analysis it is a matter of good men, adequate funds and sufficient staff—whether they be in the Commission or the Government corporation.

Let me turn, however, to the specific charges. It has been charged by Senator LONG that the FCC has failed to regulate A.T. & T. in 10 specific respects. But neither the record of the Senator's hearing, nor the FCC's actual record of regulation over the years of A.T. & T. support these charges or their implications. In a letter written on May 2, 1962, the FCC responded to these charges which were repeated in testimony given to the Commerce Committee in its hearings on this legislation. The letter is reproduced beginning at page 391 of the committee's printed record. I urge the Senators to read this letter and the attachment thereto which is a detailed résumé of the principal ratemaking actions taken by the FCC since its inception in 1934.

Let us look at the charges that Senator LONG has made in the light of the record of the Commission's activities and accomplishments. One group of charges is that the FCC has never made a formal determination of what is a fair rate of return for interstate and international telephone services or the basis upon which such return should be computed; that the FCC has never held a formal proceeding on A.T. & T.'s rates; that it has not been able to obtain the information necessary to set rates; and that it has not followed recommendations made by its staff regarding the need for action to reduce rates.

The remaining charges are that the FCC has never determined the reasonableness of the entire telephone rate structure, including the internal relationship of rates and the rates for television transmission services; that the FCC has never known the costs to A.T. & T. of equipment sold to it by its manufacturing subsidiary, Western Electric; and that the FCC has not required A.T. & T. and its operating subsidiaries to purchase equipment under competitive bidding.

Concerning the first group of charges, does the Commission's record give any support at all to Senator LONG's inferences that A.T. & T.'s rates have gone unregulated by the FCC?

The Commission over the years has conducted a number of formal investigations and hearings for the purpose of establishing proper rate levels and rate structures applicable to the telegraph services of our domestic and international telegraph carriers. Formal rather than informal proceedings in the telegraph field have been employed by the Commission inasmuch as in this field, unlike the telephone field, it has been dealing, for the most part, with the carriers' efforts to increase rates in order to improve their revenues because of rising costs. Also, in the international telegraph field, service is furnished by several common carriers in competition with each other. The conflicting interests of the international carriers stemming from such competition complicate the ratemaking task and this generally has necessitated extensive hearings to resolve the ratemaking issues in this field.

In the telephone field, the Commission has been able to employ informal regulatory procedures to a much greater extent than has been possible in the telegraph field. As you may know, the

Commission has promulgated and administered over the years a system of accounts observed by all common carriers fully subject to the Communications Act. It also prescribes and revises depreciation rates applied by almost all such carriers and has established an extensive and comprehensive reporting system by which it is kept informed of essential developments and trends in the carriers' operations. The Commission has maintained continuing studies of the extensive financial and operating data which the Bell System companies are required to file in monthly, annual, and special reports. In this manner, the Commission is constantly in position to assesss the reasonableness of the Bell System's overall earnings from its services subject to the Commission's jurisdiction.

Historically, A.T. & T. and the other Bell System companies have experienced continuous and substantial growth in the public's use of their services. This growth, together with the many far-reaching improvements introduced in the art of telephony, have offset and, on occasion, have outstripped the rising costs of plant and operations generally. This long-range trend has tended to make possible reductions—rather than increases—in rates for interstate long distance services, which account for more than 85 percent of interstate revenues.

Whenever, in the judgment of the Commission, it has appeared that overall earnings were at a level to warrant rate reductions, the Commission has generally been successful in obtaining rate reductions that appeared warranted without conducting protracted and costly hearings. By this means, the benefits of the reductions are promptly made available to the public. Since 1935, there have been a large number of reductions, with only one general increase in long distance telephone rates. The reductions have amounted to hundreds of millions of dollars in annual savings to the public. The most recent—amounting to some $50 million—became effective in September 1959. It is noteworthy that interstate long distance telephone rates are 19 percent lower than they were in 1940. It is also noteworthy that all major interstate rate reductions were the result of action initiated by the Commission.

Informality in procedure cannot be equated with ineffectiveness in achieving results. Nor are informal procedures necessarily less effective than the more time-consuming formal procedures. On the contrary, as the Deputy Director of the Bureau of the Budget, Mr. Elmer B. Staats, stated in 1960, in testimony before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary, agencies may use formal hearing processes in areas where modern fact-gathering and data-processing techniques would provide better information more quickly and at less cost. Moreover, as he also noted:

> When decisions are delayed for months or years, industries are unable to make long-range plans, particularly in areas of technological growth. Delays and backlogs have meant denial of justice in some cases and economics losses in others.
>
> In our fast-moving technology, agency decisions ultimately may be made on considerations that are already outmoded.

But the Commission has made clear that it is not committed to a policy of always refraining from the use of formal proceedings in the regulation of interstate telephone service. The considerations which bear upon the choice between formal and informal proceedings are many and varied. The Commission has followed the rule of using the procedure which seemed best calculated to protect the public interest in light of the circumstances presented at any particular time. For example, on several occasions where the use of informal procedures was initially unsuccessful in bringing about the results which the Commission sought to achieve, the Commission instituted formal rate-reduction proceedings through the issuance of show-cause orders. In each instance, this action led to a satisfactory resolution of the matter without the need to proceed with the hearings.

It is entirely unwarranted to contend that simply because the Commission has not formalized its many actions and determinations regarding telephone rates by the conduct of extended and costly proceedings that those rates are unregulated or that the Commission has no basis for judging their reasonableness. Ratemaking is not an exact science. It involves the application of expert judgment to a difficult complex of facts and circumstances that are constantly changing and requiring reevaluation. The relevant information on which to base these judgments is obtained by the Commission and its staff for study and analysis. The fact that telephone rates, unlike the prices for most other commodities and services, are substantially below their 1940 levels, as a result of reductions initiated and effected by the Commission informally is ample proof that the Commission's regulation is alert and effective.

Senator LONG has sought to indict the FCC because it has not always adopted the views and recommendations of its staff. Is this any cause for condemnation? For in the final analysis it is the seven Commissioners and not their staff that are charged with responsibility for making these judgments which are so vital to the public and the industry. These seven men are conscientious men of integrity, experience and knowledgeable in their field.

Turning now to Senator LONG's charges that the FCC has never determined the propriety of A.T. & T.'s rates for individual classes of services, nor the reasonableness of the internal relationship of its rates. The Commission is now engaged in concluding a comprehensive formal investigation of the rates of A.T. & T. for all of its various private line telephone and telegraph services. A final decision in this proceeding, which has consumed more than 100 days of hearing, is pending at this time. In addition, the Commission now has in various stages of hearing the rates of A.T. & T. and the other Bell System companies for their Telpak service, wide area telephone service, and wide area data service. These proceedings will enable the Commission to determine appropriate rate levels and structures for each of these special services.

With respect to A.T. & T.'s rates for television transmission service, the Senator has charged that the Commission has never passed upon their reasonableness. The fact is, however, that during the 1950's the FCC on several occasions examined the rate level and rate structure for this service in considerable detail and on the basis of cost studies made by the company at the Commission's request. The Commission was satisfied by its analysis that the overall level of the rates was within reasonable limits.

With respect to A.T. & T.'s rates for oversea telephone services, until several years ago the revenues from these services amounted to a relatively few million dollars annually and constituted only a small fraction of A.T. & T.'s total service revenues. Because of more pressing regulatory problems confronting the Commission, and its limited staff and resources, special attention to the oversea rates did not appear to be warranted. But in regulating the overall interstate rates and earnings of the Bell System, the oversea operations of A.T. & T. were treated, in effect, as part of those operations.

By 1960, oversea telephone revenues of A.T. & T. had reached a level of more than $40 million annually. Several new high capacity transoceanic cables had been installed and others were in a planning stage. Also, satellites as a means of oversea communication appeared to be a real likelihood. Therefore, in June of 1961, the Commission directed A.T. & T. to institute detailed studies to develop complete operating and earnings data with respect to its oversea operations for analysis by the Commission. The data furnished by these studies is now being studied by the Commission to determine the reasonableness of A.T. & T.'s oversea rates and what further regulatory action may be required.

The charge is made that the Commission does not know the costs to A.T. & T. of equipment sold to it by Western Electric. Western Electric is the manufacturing and supply unit of the Bell System. Its prices and profits with respect to its sales to A.T. & T. and the other Bell System companies have a direct impact on their rates and revenue requirements.

No regulatory commission has direct control or supervision of Western's prices and profits. However, as part of telephone rate regulation those prices and profits are subject to examination as to their justification and reasonableness.

Since 1948, the FCC, in cooperation with State regulatory commissions, has conducted periodic reviews of Western's operations. Monthly and annual reports are issued to all regulatory commissions summarizing essential operating data. On several occasions when it appeared to the FCC from this data that Western Electric's profits from its sales to Bell System companies were approaching

questionable levels, the Commission has initiated action to effect price reductions. Within the past year, such Commission action brought about a $58,000,000 annual reduction in Western's prices.

Finally, the criticism is made that the FCC has not required A.T. & T. or its operating subsidiaries to use competitive bidding in their purchase of telephone equipment. However, I am advised by the FCC that notwithstanding that it has broad authority to investigate the transactions of common carriers and their affiliated companies, it does not have the statutory authority to require that transactions of carriers involving the furnishing of equipment and supplies shall be upon competitive bids.

Clearly, the regulatory tasks in the common carrier field are many and complex and are constantly growing in all dimensions. It is also true that with a larger staff and budget, the Commission could do a more complete job of common carrier regulations in many areas. I think this is true as to most agencies and departments of Government.

But this does not mean that the FCC has failed to do as effective a job of regulation as has been permitted by its available resources. Nor does it mean that the FCC lacks the will to carry out the responsibilities with which it has been entrusted by the Communications Act. Nor does it mean that the basic apparatus and expertise within the FCC cannot be relied upon to discharge the additional responsibilities which would be delegated to the FCC by H.R. 11040. Although its resources may not have been sufficient to carry on an optimum program, the Commission has protected the public interest in just and reasonable common carrier rates and services.

Only recently, the FCC's efforts resulted in a change in the procedures used by the Bell System to allocate its investment and expenses between interstate and intrastate telephone services. These changes relieved the intrastate services of the Bell System of about $46 million of annual revenue requirements. A majority of the State commissions have already taken advantage of these benefits by reducing intrastate rates. Other such changes in the allocation procedures initiated by the FCC during the last decade have relieved the users of exchange service and other intrastate services of an estimated $150 million of annual revenue requirements.

Now let me say a word about the Booz Allen & Hamilton report, concerning which you have heard so much.

I will not give you my views on this matter but rather the views of Booz Allen & Hamilton itself. For it has written:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., May 29, 1962.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I believe that you are familiar with the recent management survey of the FCC conducted by Booz Allen & Hamilton. To complete your files, I am enclosing herewith a letter dated May 3, 1962, from Booz Allen & Hamilton, Inc., management consultants, to the Honorable David E. Bell, Director of the Bureau of the Budget. In this letter, Booz Allen & Hamilton expressed their deep concern with certain press accounts relating particularly to the adequacy of the Commission's regulation of telecommunication common carriers. They state that certain articles in the press are inaccurate interpretations of statements in their report with respect to FCC regulation of the telephone industry and impute to them views and attitudes which they do not hold.

The above-mentioned letter from Booz Allen & Hamilton is enclosed as well as a copy of the letter from the Deputy Director of the Budget Bureau transmitting it to me.

Sincerely yours,

NEWTON N. MINOW,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 10, 1962.

Hon. NEWTON N. MINOW,
Chairman, Federal Communications Commission, Washington, D.C.

DEAR MR. MINOW: I am enclosing a copy of a self-explanatory letter dated May 3 which I have received from Booz Allen & Hamilton, Inc., management consultants, relative to the recent report of that company of the organization and administration of the Federal Communications Commission.

In accordance with the suggestion contained in the last paragraph of that letter, I am forwarding it to the Commission for its information.

Sincerely yours,

ELMER B. STAATS,
Deputy Director.

BOOZ ALLEN & HAMILTON, INC.,
New York, N.Y., May 3, 1962.

Mr. DAVID E. BELL,
Director, Bureau of the Budget, Washington, D.C.

DEAR MR. BELL: Since public release by the Federal Communications Commission on April 24 of our report on the organization and administration of the Commission, submitted to you under date of March 27, we have been deeply concerned by certain press accounts relating particularly to the adequacy of the Commission's regulation of telecommunication common carriers.

These articles in the press are, we believe, inaccurate interpretation of statements in our report with respect to FCC regulation of the telephone industry. They impute to us views and attitudes which we do not hold. For the record, it appears necessary that we clarify the intent and meaning of the report of our study of FCC operations.

Our sole purpose in the pertinent sections of the report was to emphasize the finding of our study that the Common Carrier Bureau is not well equipped in terms of organization, facilities or staff resources to meet its heavy statutory responsibilities in the face of a rising workload. We, of course, take full responsibility for the conclusions dealing with the operational appraisal represented by these statements.

Within this context we should like to make it clear that nothing in these or any other sections of the report was intended to convey the impression resulting from some press accounts.

1. We did not evaluate the public interest or appraise public policy with respect to the industries regulated by the FCC.

As you will recall, the terms of our contract specifically exempted the scope or degree of regulation from the study assignment. We were not expected nor did we attempt to express judgments on these matters in connection with the survey.

2. We do not believe, and the study provided no basis for believing, that common carrier rates are either too high or too low or that they should be adjusted either up or down.

No such statement was made in the report and no such implication was intended. Our management review entailed an evaluation of the effectiveness with which the Federal Communications Commission was administering its operations to meet statutory and program objectives. The report comments neither on the advisability of FCC policies nor on its substantive regulatory actions.

3. We have taken no position, and have no basis for taking any position, on the question as to whether the public interest is or is not being served by present regulatory actions with respect to common carrier operations.

No conclusion that we took such a position is warranted. This subject was not within the scope of our competence, was outside the terms of the survey and would not be, in any case, a subject on which our firm should take any position under our policies. Definition and interpretation of public policy and of the public interest, in our judgment, are matters for the Congress and the courts; they are not the proper province of consultants.

The above comments do not change the intent or purpose of our management analysis or recommendations. They serve, however, to place our views in the proper perspective. We would, accordingly, appreciate your transmitting a copy of this letter to the Chairman of the Federal Communications Commission.

Very truly yours,

BERNARD L. GLADIEUX.

This brief résumé of the highlights of Commission regulatory policies and activities amply demonstrates, I believe, that the Commission has been effective in protecting the public interest. It also demonstrates that the suggestion that the Commission cannot be relied upon to carry out the regulatory responsibilities contemplated by H.R. 11040 is wholly without substance.

Fourth. The contention is made that H.R. 11040 delegates sovereign powers to private corporations with respect to the making of treaties and agreements which would otherwise require Senate ratification.

This assertion is based on section 402, which requires that the corporation, whenever it is to enter into business negotiations with any international or foreign entity, shall notify the Department of State of the negotiations with any international or foreign entity, and that the Department shall advise the corporation of relevant foreign policy considerations. It is contended that every phase of the operations of the satellite system will be intimately connected with foreign policy and that it is unrealistic to assume that a distinction can be made between business negotiations, which do not affect the national interest, and other negotiations which do.

But H.R. 11040 does not delegate to the corporation the conduct of our foreign policy. The responsibility for our foreign policy rests entirely with the President in accordance with his constitutional authority and duties. No legislation can abrogate or dilute that responsibility.

H.R. 11040 certainly does not purport to do so. On the contrary, section 201(a), which delineates the powers of the President, makes this clear. Paragraph (4) thereof states that the Presi-

dent shall exercise such supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States. Paragraph (5) states that the President shall insure that timely arrangements are made under which there can be foreign participation in the establishment and use of a communications satellite system.

Section 402 of H.R. 11040, which the minority contends is a delegation to the corporation of the conduct of our foreign policy, must be read in the light of these other provisions and with an awareness of the President's constitutional powers. When so read, it is clear that section 402, far from being in derogation of the President's powers, actually facilitates their employment through its requirement of notice. Let me read you the committee report on this section:

This section is to insure that the corporation in its business negotiations with international or foreign entities over facilities, operations, or services, will conform to relevant foreign policies of the United States. Section 402 should be read with section 201(a)(4) as both are concerned with the role of the corporation in relation to U.S. foreign policy. Together these sections assure that this role will be carried out in a manner which contributes to the success of that policy. Section 402(a)(4) recognizes the President's authority to take whatever steps he deems appropriate to assure that the relationships of the corporation with foreign governments, entities, or international agencies are consistent with the foreign policy of the United States. This section reaffirms the traditional responsibility of the President, and through him of the Department of State, for conducting foreign policy. Section 402, on the other hand, is concerned with the narrower problem of the corporation's business negotiations with international or foreign entities. With respect to these negotiations, the corporation is to notify the Department of State when entering into negotiations and that Department is to advise the corporation of relevant foreign policy considerations.

So this provision, 402, merely recognizes that there are types of business negotiations that the corporation can enter into with foreign entities which either do not involve any foreign policy considerations or which can be pursued by the corporation in a manner entirely consistent with such foreign policies as may be applicable. But even as to such types of negotiations, the section requires the corporation to notify the Department of State of the negotiations and to keep the Department properly advised throughout them. In this way, we can be certain that should any negotiations involve significant foreign policies which require direct concern and participation of the Department, the Department will be aware of them and can take appropriate action.

Let us keep in mind the purpose and function of a communications satellite system. It is to provide a facility whereby nations of the world can communicate with each other on a more efficient and economical basis than is possible today. As with other modes of communications, those nations will either share in the ownership of the system or will make appropriate arrangements under which they may use it without ownership.

For almost a century, U.S. carriers have negotiated agreements with foreign communications agencies with respect to the establishment of communications between the United States and foreign points and the sharing of ownership, operation, and use of communication facilities such as transoceanic cables. None of these arrangements or agreements have ever been regarded as an usurpation of our sovereign powers of government. Never has it been suggested that these agreements between our common carriers and the foreign nations have been of a nature to require Senate ratification.

It is within this framework that it is expected that arrangements will be made between the proposed satellite corporation and foreign communications agencies with respect to the ownership and use of the satellite system. However, one significant feature will be superimposed, namely, that by virtue of H.R. 11040, it becomes a statutory duty of the corporation to enter into arrangements with foreign entities in a manner which will promote the widest possible foreign participation in the satellite system. Because we regard this objective as being so vital to our national interest and foreign policy, H.R. 11040, in section 402, requires the corporation to keep the Department of State fully advised of all of its negotiations with foreign interests. And, as I stressed at the outset, section 201(e) reaffirms the power of the President to exercise such supervision over relationships of the corporation with those entities as may be appropriate to assure consistency of the relationships with our Nation's policies.

The authority of the President under 201(e) is plenary. Look at the language of the section. There is no limitation on his supervisory authority to insure consistency with our foreign policy. The President, through his foreign policy agent, the State Department, has emphatically said that it does not limit him. The language is clear. That, I submit, should be the end of the matter. In addition, I will insert for the RECORD a letter received from the Department of State on this subject.

Throughout this debate, criticism of this bill has focused on the question whether the bill adequately protects the foreign policy interests of the United States. It is appropriate that this question should receive a great deal of attention. It is an important question. However, I think the record will show that this body has considered at length and in detail the foreign policy implications of this legislation. Before the bill was brought to the floor, two standing committees of the Senate—the Space Committee and the Commerce Committee—held extensive hearings. The Department of State testified before both committees in support of the bill. After the bill came to the floor, some Senators urged that it be considered by the Foreign Relations Committee in order to make absolutely certain that our foreign policy interests were adequately protected. Accordingly, the bill was referred to the Foreign Relations Committee. Secretary of State Dean Rusk testified in support of the bill. He explained in detail how it provided the necessary authority to the President. After the Secretary had completed his testimony, Senator SPARKMAN asked him a number of pointed questions which were intended to clarify what the bill meant. That colloquy is reprinted in the report of the Foreign Relations Committee. To remove any doubts, I asked the Secretary to set forth again what the bill means insofar as it affects foreign policy. Let me read what he says:

DEPARTMENT OF STATE,
Washington, D.C.

Hon. JOHN O. PASTORE,
U.S. Senate.

DEAR SENATOR PASTORE: You have asked me to set forth the views of the Department of State on those sections of the communications satellite bill which provide authority to the Government to supervise and direct activities and relationships of the corporation which materially affect foreign policy. I am pleased to do so.

As you know, the Department has repeatedly expressed its support of the present bill. We have testified to this effect before several committees of the Congress. As recently as August 6, I testified before the Senate Committee on Foreign Relations and explained in detail how the bill would protect the foreign policy interests of the United States.

The authority of the President is contained in section 201(a). That section authorizes and directs the President to do certain things "in order to achieve the objectives and to carry out the purposes of this act." Congress has declared the major purposes and objectives in section 102. It is the policy of the United States, as declared by Congress, to establish a commercial communications satellite system, "in conjunction and in cooperation with other countries," which will "contribute to world peace and understanding." In developing the system, "care and attention will be directed toward providing such services to economically less-developed countries and areas." To achieve these and other purposes of the act, the President is directed, among other things, to—

"(4) exercise such supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;

"(5) insure that timely arrangements are made under which there can be foreign participation in the establishment and use of a communications satellite system;

"(7) so exercise his authority as to help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the system with existing communications facilities both in the United States and abroad."

Sections 201(a) 4, 5, and 7 both reaffirm the plenary constitutional power of the President to conduct foreign policy and authorize him to issue such directives and orders to the corporation as are appropriate "to achieve the objectives and to carry out the purposes of this Act." It is for the President to determine foreign policy, and to require the corporation to act in conformity with that policy, subject to the limitation, as I pointed out in my testimony, that his direction must be consistent with the concept of the corporation as a commercial enterprise and with other provisions of our Constitution and laws.

Under section 201(a)4, it is for the President to determine, in each case, what supervision is appropriate. For example, the President will have to determine when and under what circumstances we will enter into agreements and arrangements with foreign governments, entities, or international bodies. He will also determine which agreements should be negotiated by the Government, and which can be left to the corporation. And under section 201(a)5, the President has authority to determine the form and content of any international arrangements—bilateral, regional or multilateral—which may be required to bring about a global system, and to assure appropriate foreign participation in that system.

During the Senate debate on the bill, several Senators expressed concern that the bill delegated to the corporation authority to negotiate arrangements which it would be more appropriate for the Government to negotiate. This concern is, in our view, unwarranted. As we have noted, section 201(a)4 gives the President complete authority to conduct any negotiations with foreign governments, entities or international bodies when, in his judgment, it is appropriate. This concern was perhaps based on a misunderstanding of section 402. That section is not a delegation of authority to the corporation to conduct negotiations. Rather, it is a recognition that even the most minor technical and business negotiations, which the corporation would have to conduct on its own behalf, might have foreign policy implications. To assure that the interests of the United States are protected when the corporation negotiates, section 402 requires the corporation to notify the Department of State before entering into such negotiations. The Department will then advise the corporation and, if requested, assist it.

It should be noted that the language of section 402 has been changed considerably from the form in which it appeared in the original administration bill. In its original form, section 402 authorized the Department of State to "conduct or supervise" negotiations with any "international agency, foreign government, or entity." Moreover, the section provided that all agreements and arrangements of the corporation with such agency, government, or entity would be subject to the approval of the Department of State. In the original bill, section 402 was the instrument through which the Government was to exercise supervision over activities of the corporation which might affect our foreign policy. Taken literally, however, the section would have imposed on the Department of State the responsibility for supervising and approving the vast number of ordinary business and technical arrangements which the corporation, as an operating business entity, will invariably enter into with its counterparts in other countries. The Department did not want to be burdened with this responsibility. Moreover, section 402 as originally written lodged in the Department of State an authority which the Constitution confers on the President. Accordingly, the authority contained in the original section 402 was transferred to section 201(a)4, and section 402 was rewritten to accomplish the more limited task just decribed. The action of the Senate in defeating an amendment offered by Senator GORE, which would have restored the original language of section 402, is consistent with the Department's position.

The views which I have set forth above were thoroughly discussed during my appearance before the Senate Foreign Relations Committee. It is my understanding that that committee shares these views.

If I can be of further assistance to you, please do not hesitate to call upon me.

Sincerely yours,

DEAN RUSK.

That statement, by the Secretary of State, authoritatively explains what the bill means. Moreover, I agree with the Secretary's explanation of the bill, and I believe the Foreign Relations Committee also agrees with it. So let the RECORD now show, once and for all, that this is what the bill means.

THE NEED FOR LEGISLATIVE ACTION NOW

The critics of H.R. 11040 urge that there is no need for enacting legislation at this time and that progress in the establishment and operation of a communications satellite system will not be impeded by waiting another year. They could not be in greater error.

Witness after witness who has testified on H.R. 11040 and who represent the most responsible and knowledgeable people concerned with this problem have discredited any such assumption. They have pressed uniformly for the early enactment of H.R. 11040. In addition to the President, Secretary of State Rusk, Secretary of Defense McNamara, NASA's Administrator Webb and Deputy Administrator Dryden, Attorney General Kennedy, FCC Chairman Minow, among others, have all stressed that Congress cannot afford to delay taking action now.

Why do they unanimously regard action as imperative in order to insure our country's continued position of leadership in this field? The reasons are many and substantial.

The technology is moving forward at an explosive rate, as Telstar shows and as future experiments will also demonstrate. Public policy must not lag behind this technology. Legislation is essential now in order to provide that policy. It is needed to establish the organizational framework within which Government and industry may bring to operational fruition the tremendous progress that we are making in research and experimentation.

Consider the many steps which must be taken before the entity which will own and operate the system is in a position to begin functioning. Under H.R. 11040, the proposed corporation must be organized, funds must be raised, and a staff recruited before the corporation can plan operation of the system. These steps will necessarily consume time. It will also require a period of time for the President, NASA, and the Federal Communications Commission to study and adopt policies and procedures to carry out their respective responsibilities under H.R. 11040. Most important, however, is the generally accepted fact that we will be in a stronger position to advance arrangements with foreign interests with respect to such important matters as frequency allocation, joint research and development, ownership, and use of a global system, if the nations of the world are certain as to our policies, including the instrumentality which will represent the United States in these areas.

Let me read from the recent testimony of Secretary Rusk before the Foreign Relations Committee with respect to the benefits to be gained by our Nation from legislation at this time.

Secretary Rusk stated:

But there is every reason to suppose that the impetus from the passage of this legislation and the organization of this company will bring measurably closer the time when an effective global satellite communications system is in operation. That, in itself, will be a great advance for the foreign policy of the United States.

I hope that we could agree, however, that there would be advantage in our coming to a decision now one way or the other in order to put us in a position to move internationally on these matters with some assurance as to our own arrangements, what they are going to be, because they will be looking to us for some leadership and wanting to know what our arrangements are, and it is already, I think, time now for us to work with other governments, and we ought not to be in the position in those discussions of not really knowing what our own national decision is on this basis, and I hope you can come to a decision.

Secretary McNamara also urging expedition, stated:

Delay in the establishment of this corporation delays the determination of certain of the characteristics of the system, particularly those characteristics that relate to negotiations to be carried on with foreign governments or foreign agencies, corporate and otherwise.

Dr. Dryden put the case most succinctly:

Mr. Chairman, our country can be the leader in the establishment of a communications satellite system to serve the communications needs of the world, thus demonstrating our technical capabilities and our desire to utilize these capabilities for the benefit of all mankind.

If this result is to be obtained, if we are to be the leader, we must decide now on the organization to get the job done. To insure rapid progress the organization must marshall the abilities and experience of private industry and of government. The bill before you represents a melding of views of responsible committees of the Congress, and provides a workable and comprehensive plan.

With regard to the position of our Government at the most significant conference of the International Telecommunication Union to be held in October 1963 with respect to allocating frequencies for space communication, Dr. Dryden stated:

I think it is quite true that if we have a decision made and know where we are going, we will be in a much more favorable position, our State Department will be in a much more favorable position, since they are the ones that conduct the negotiations on frequency allocations, than if there were nothing in operation at all.

This testimony—responsible and authoritative—could be multiplied manifold. The case for action now is indisputable. The case for inaction or delay is reprehensible.

EXTENSION OF SERVICE TO ECONOMICALLY LESS DEVELOPED NATIONS (SEC. 201(C)(3))

Questions have been raised regarding the procedures that will be involved in applying section 201(c)(3). This section provides that the Commission shall, on advice of the Secretary of State that commercial communications service to a foreign point by means of the satellite system and satellite terminal stations should be established in the national interest, institute forthwith appropriate proceedings under section 214(d) of the Communications Act to require the establishment of such service by the cor-

poration and appropriate common carriers. Section 214(d) of the Communications Act, which is patterned after other public utility statutes, provides the mechanism by which a common carrier may be required to extend its facilities to serve new points.

Let us examine the possible application of section 201(c)(3) in light of what is involved in communication via a satellite system. To have communication via the system, there are three essential elements: a foreign entity with a ground station; the satellite; and a U.S. carrier also with access to the satellite through a ground station in the United States. In this connection, it is important to remember that the corporation will, in the main, be a common carrier's carrier; that is, it will make its facilities available to those carriers and foreign entities furnishing service directly to the public. These carriers, that is, the foreign entity and the U.S. carrier will, as they do today, work out agreements between themselves for the through transmission of international traffic via the satellite system. It is expected that for the most part the carriers will use the satellite system interchangeably with existing cable and radio facilities in transmitting such traffic.

Both the foreign entity and U.S. carrier will of course be required to obtain circuit capacity in the satellite system and a ground station.

With this background, how will section 201(c)(3) work in actual operation as to the three elements: First, the foreign entity or ground station; second, the satellite corporation and the satellite; and third, the U.S. international communications common carrier.

First, as a practical matter, section 201(c)(3) would, in all probability, have no applicability to the foreign ground station, and specifically to the question of constructing such a station. That will ordinarily be a matter for the foreign country. Of course, the latter may receive technical and financial assistance from the U.S. Government and perhaps from the corporation. But that would not come within the province of the Commission or the specific statutory obligations of the corporation.

Second, as to the satellite corporation, it is also doubtful whether, as a practical matter, there will be occasion to resort to section 201(c)(3). A foreign country cannot, of course, communicate via satellite with a carrier in this country unless it has technical access to a satellite which in turn is transmitting to a ground station in this country. In the event that such a satellite and ground station are in existence because of the technological nature of the system, that is to say, that there is a properly positioned low or high altitude satellite and terminal, there would be no need to employ administrative procedures in order to secure the establishment of service between the foreign country and the United States. Under sections 201(a)(4) and (5), the President could require the establishment of such service or at least could direct the corporation to take the lead in endeavoring to open such communications.

In the event that there is no satellite in existence technically capable of rendering service to the country in question, the Commission could, upon the advice of the Secretary of State or its own motion, institute proceedings under 201(c)(3) looking to the addition of the necessary satellite—and, if also needed, ground station—by the satellite corporation. For this purpose, the Commission could also invoke the provisions of section 201(c)(10) to require the corporation to make such additions to its facilities. But it should be remembered that the satellite corporation will not have sole control of the system: Under the policy of the bill, many foreign nations will participate in the system's ownership and operation. These nations will have a voice with respect to any decisions that may relate to ownership, use, or expansion of the satellite system. So the decision as to the extension of service to a new foreign point will be international in the broadest sense of that term. Such a decision will clearly involve the President's responsibilities and powers under section 201(a)(4) and (5).

Furthermore, section 201(c)(3) is concerned only with communication between this country and a foreign point. But the foreign nation, on the other hand, will undoubtedly wish to communicate via the satellite with many other nations. So on this ground also the question may not be the narrow one presented under section 201(c)(3) but rather a much broader one, calling for participation and decision by many nations.

If that is the case, it is unlikely that the determination as to the need for such new service will be made pursuant to section 214(d) proceedings. It will be made at the international conference table where the U.S. position will be formulated under the supervision of the President, to the extent he deems appropriate in the interest of our national and foreign policy.

Now I shall discuss the third aspect of 201(c)(3)—the U.S. carrier which will receive the communication from the foreign entity and in turn will send communications via the satellite from this country to the foreign point. As I said, it is essential that there be such a U.S. carrier, if there is to be communication between this country and the foreign point.

Let me emphasize here that that has been no problem in the past. The record reveals no instance in which common carrier communication has not been established with any foreign point that may have desired such communication. On the contrary there have been instances where U.S. carriers have been in competition with each other to establish a circuit to a foreign point. The statistics show that telephone service is available currently via radio or cable to about 160 foreign points of which 65 points are served by direct circuits without relay through an intermediate communications system. In the case of telegraph service, as many as 70 foreign points are served directly and 180 points, many of which are remote and sparsely populated, are served by indirect routes. Where any foreign country desires communication with the United States, that desire has been fully satisfied by the establishment of service via cable or radio.

We anticipate that this same pattern of extensive service will continue in the new field of satellite communications. We see no reason to think otherwise. If we are wrong—if the pattern does not continue, then we have available sections 201(c)(3) and 214(d) to require such service.

AMERICAN ENTERPRISE IS THE HOPE OF AMERICA

Mr. President, I shall not detain the Senate very long. As a matter of fact, I shall speak for not more than 5 or 6 minutes.

A great deal has been said, but I tell the Members of the Senate that it has been a joy and a pleasure for me to work with the majority leader, Senator MANSFIELD, who has been very helpful at every turn. I know that some very mean and unkind things have been said in the discussion of the proposed legislation. I know that in most instances it was caused by the excitement and emotion of the moment. However, no matter what the reason might be, when something mean and cruel is said, unfortunately, for the moment it finds its mark and has its effect. Let all that be behind us now.

Russia at this moment is in a very festive mood. I know it must be an hour of jubilation, because we experienced it ourselves, here in this very chamber when, a short time ago, our astronaut Glenn orbited the earth three times. The Russians orbited not one cosmonaut but two at the same time, and they communicated with one another for more than 50 times in space.

I recall a short time ago that the President came before us in joint session and said it was the plan and the purpose of the United States to land the first man on the moon. That promise, that hope, that prayer has become a little dim, because of the accomplishments of the Russians in space.

I do know one thing, Mr. President, there are fields in which we do excell. If we search throughout the world to find the best telephonic system, where will we find it? Where will we go to find it but in the United States of America? Who made it possible in the United States but private industry?

If we went out to find the best radio in the world, where would we find it? We would find it in the United States of America. Who gave it to the people of the United States of America on a gratis basis, if it was not private industry?

If we turn on television, who gave it to the United States of America, if it was not NBC, CBS, and ABC. Who are they? Private industry in America has made American science glorious and great. Perhaps the Russians may land the first man on the moon. That will be a sad day for us in America. It may be a loss of prestige. Maybe we have lost that fight. I pray here tonight that we have not.

However, I do know one thing. If the message of America is to be brought to all the corners of the world, it can only be done through the ingenuity of what exists in America today. Where will we look for it? Where will we find it? Will we find it in bureaucracy? Will we find it in the FCC? Will we find it anywhere but in A.T. & T., Western Union, I.T. & T., RCA, NBC, ABC, or CBS? That is American private industry.

What the bill does is to bring all of American ingenuity, public and private, official and individual, under one roof. That is what the bill does. If anyone wishes to call that a monopoly, call it a monopoly. If it is a monopoly of American brains in this contest in which we find ourselves, O God, let us have that monopoly.

Yes, I have searched my soul on this bill, just as every Member of this Senate has. I struggled with myself. It was not easy to be against DOUGLAS, not for PASTORE. It was not easy to be against MORSE, not for PASTORE. It was not easy to be against YARBOROUGH and GORE, not for PASTORE. I have been with them too long here. But I have lived with this bill. I know what is in it. I know what it means. If we kill this bill tonight we remain without a program. The administration has planned everything in this bill. If we kill the bill, we must start anew. We must begin formulating our plans all over again.

We must do that, because we will have nothing. This bill is what the administration has suggested. It is what President Kennedy has said time and time and time again that he wants. Let him who wishes to do so give it a vicious name, or label it as he will. However, let me say this. All of us in a sense are sinners. None of us is perfect. But as my God looks at me tonight, with all that I have done in this bill and all that I have fought to do with this bill, and all that I know that is in this bill, I can look Him straight in the face.

SEVERAL SENATORS. Vote! Vote!

Mr. MORTON. Mr. President, I will take only 50 seconds. Let us get back to the substance of this bill, if we may. This is a telephone bill, as I understand it. I remember 40 years ago at my grandfather's house in the country we had two telephones, one from the home company and one from the Cumberland Co. This was before the days of A.T. & T. and before Southern Bell Telephone Co.

I think it is a good thing that we do not have five or six different telephones in every home. I think it is a good thing that we are practically at the point of passing the pending bill.

Mr. LAUSCHE. Mr. President, the curtain on this play will drop in a few minutes. There have been many sideshows on the bill. The true play has revolved around whether we shall have public or private ownership. That has been the issue throughout the whole presentation on the bill. As for me, I want private industry. I subscribe fully to what the Senator from Rhode Island has said. Let the curtain go down. As far as I am concerned, I will follow the course that all past experience has demonstrated to be the best for our country. When private enterprise can operate a system, let it do it.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on the passage of the bill.

The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MUSKIE (when his name was called). On this vote I have a pair with the senior Senator from Pennsylvania [Mr. CLARK]. If present and voting, he would vote "nay." Were I at liberty to vote, I would vote "yea." I withhold my vote.

Mr. SMITH of Massachusetts (when his name was called). On this vote I have a live pair with the junior Senator from Colorado [Mr. CARROLL]. Were he present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

Mr. METCALF (after having voted in the affirmative). On this vote I have a pair with the junior Senator from Alaska [Mr. GRUENING]. If he were present and voting, he would vote "nay." Were I at liberty to vote, I would vote "yea." I therefore withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS], are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Colorado [Mr. CARROLL], the Senator from Idaho [Mr. CHURCH], the Senator from Wyoming [Mr. HICKEY], are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Idaho [Mr. CHURCH], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Wyoming [Mr. HICKEY], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS], would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senators from Maryland [Mr. BUTLER, and Mr. BEALL], the Senator from Indiana [Mr. CAPEHART], the Senator from California [Mr. KUCHEL], the Senator from New Hampshire [Mr. MURPHY], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent and, if present and voting, would each vote "yea."

The result was announced—yeas 66, nays 11, as follows:

[No. 208 Leg.]

YEAS—66

Aiken	Hayden	Morton
Bennett	Hickenlooper	Mundt
Boggs	Hill	Pastore
Bottum	Holland	Pearson
Bush	Hruska	Pell
Byrd, Va.	Humphrey	Prouty
Byrd, W. Va.	Jackson	Proxmire
Cannon	Javits	Randolph
Carlson	Jordan, N.C.	Robertson
Case	Jordan, Idaho	Scott
Chavez	Keating	Smith, Maine
Cooper	Kerr	Sparkman
Cotton	Lausche	Stennis
Curtis	Long, Mo.	Symington
Dirksen	Long, Hawaii	Talmadge
Dodd	Magnuson	Thurmond
Ellender	Mansfield	Tower
Ervin	McCarthy	Wiley
Fong	McClellan	Williams, N.J.
Goldwater	McGee	Williams, Del.
Hart	Miller	Young, N. Dak.
Hartke	Monroney	Young, Ohio

NAYS—11

Bartlett	Kefauver	Moss
Burdick	Long, La.	Neuberger
Douglas	McNamara	Yarborough
Gore	Morse	

NOT VOTING—23

Allott	Clark	Metcalf
Anderson	Eastland	Murphy
Beall	Engle	Muskie
Bible	Fulbright	Russell
Butler	Gruening	Saltonstall
Capehart	Hickey	Smathers
Carroll	Johnston	Smith, Mass.
Church	Kuchel	

So the bill (H.R. 11040) was passed.

Mr. KERR. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the satellite communications system bill, as passed by the Senate, be printed.

The VICE PRESIDENT. Without objection, it is so ordered.

FOOD AND AGRICULTURE ACT OF 1962

Mr. HUMPHREY. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1746, House bill 12391, the bill to improve and protect farm income, and so forth.

The motion was agreed to; and the Senate proceeded to consider the bill (H.R. 12391) to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve natural resources, and for other purposes, which had been reported from the Committee on Agriculture and Forestry, with an amendment, to strike out all after the enacting clause and insert:

That this Act be cited as the "Food and Agriculture Act of 1962".

TITLE I—LAND-USE ADJUSTMENT

SEC. 101. The Soil Conservation and Domestic Allotment Act (49 Stat. 163), as amended, is further amended as follows:

(1) by repealing subsections (b), (c), (d), (e), (f), and (g) of section 7;

(2) by repealing subsection (a) of section 8;

(3) by amending the first sentence of subsection (b) of section 8 of said Act, as amended, by striking out the language "Subject to the limitations provided in subsection (a) of this section, the" and inserting in lieu thereof the word "The"; and

(4) by adding a new subsection at the end of section 16 of said Act to read as follows:

"(e) (1) For the purpose of promoting the conservation and economic use of land, the Secretary, without regard to the foregoing provisions of this Act, except those relating to the use of the services of State and local committees, is authorized to enter into agreements, to be carried out during such period not to exceed fifteen years as he may determine, with farm and ranch owners and operators providing for practices or measures to be carried out on any lands owned or operated by them and regularly used in the production of crops (including crops such as tame hay, alfalfa, and clovers, which do not require annual tillage, and including lands covered by conservation reserve contracts under subtitle B of the Soil Bank Act) for the purpose of conserving and developing soil, water, forest, wildlife, and recreation resources, or for nonagricultural purposes. Such agreements shall include such terms and conditions as the Secretary may deem desirable to effectuate the purposes of this subsection and may provide for payments, the furnishing of materials and services, and other assistance, in amounts determined by the Secretary to be fair and reasonable, in consideration of the obligations undertaken by the farm and ranch owners and operators and the rights acquired by the Secretary.

"(2) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under this subsection.

"(3) The Secretary may agree to such modification of agreements previously entered into as he may determine to be desirable to carry out the purposes of this subsection or to facilitate the practical administration of the program carried out pursuant to this subsection.

"(4) The Secretary shall issue such regulations as he determines necessary to carry out the provisions of this subsection.

"(5) Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this subsection, may provide in any agreement hereunder for (A) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (B) surrender of any such history and allotments.

"(6) There is hereby authorized to be appropriated such sums as may be necessary to carry out this subsection. The Secretary shall not enter into agreements hereunder which would require payments, the furnishing of materials and services, and other assistance, in amounts in excess of $10,000,000 in any calendar year."

(5) by adding a new subsection at the end of section 16 of said Act to read as follows:

"(f) The Secretary is authorized to use the services, facilities, and authorities of Commodity Credit Corporation for the purpose of making disbursements to producers under programs formulated pursuant to sections 8 and 16(e) of this Act: *Provided,* That no such disbursements shall be made by Commodity Credit Corporation unless it has received funds to cover the amount thereof from appropriations available for the purpose of carrying out such programs."

SEC. 102. (a) Section 31 of title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, is amended to read as follows:

"SEC. 31. The Secretary is authorized and directed to develop a program of land conservation and land utilization, including the more economic use of lands and the retirement of lands which are submarginal or not primarily suitable for cultivation, in order thereby to correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, enabling local public authorities to provide public recreation, preserving natural resources, protecting fish and wildlife, mitigating floods, preventing impairment of dams and reservoirs, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands.

(b) Subsection (a) of section 32 of title III of the Bankhead-Jones Farm Tenant Act, as amended, is repealed.

(c) Section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, is amended to read as follows:

"(e) to cooperate with Federal, State, territorial, and other public agencies in developing plans for a program of land conservation and land utilization, to assist in carrying out such plans by means of loans to State and local public agencies designated by the State legislature or the Governor, to conduct surveys and investigations relating to conditions and factors affecting, and the methods of accomplishing most effectively the purposes of this title, and to disseminate information concerning these activities. Loans to State and local public agencies shall be made only if such plans have been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over such plans, or by the Governor if there is no such State agency. No appropriation shall be made for any single loan under this subsection in excess of $250,000 unless such loan has been approved by resolutions adopted by the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Loans under this subsection shall be made under contracts which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than 30 years, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury on its marketable public obligations outstanding at the beginning of the fiscal year in which the loan is made, which are neither due nor callable for redemption for 15 years from date of issue. Repayment of principal and interest on such loans shall begin within 5 years."

SEC. 103. The Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, is amended as follows:

(1) Paragraph (1) of section 4 of said Act is amended by changing the semicolon at the end thereof to a colon and adding the following: "*Provided,* That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further,* That the Secretary shall be authorized to participate in recreational development in any watershed project only to the extent that the need therefor is demonstrated in accordance with standards established by him, taking into account the anticipated man-days of use of the projected recreational development and giving consideration to the availability within the region of existing water-based outdoor recreational developments: *Provided further,* That when the Secretary and a local organization have agreed that the immediate acquisition by the local organization of land, easements, or rights-of-way is advisable for the preservation of sites for works of improvement included in a plan from encroachment by residential, commercial, industrial, or other development, the Secretary shall be authorized to advance to the local organization from funds appropriated for construction of works of improvement the amounts required for the acquisition of such land, easements or rights-of-way; and, except where such costs are to be borne by the Secretary, such advance shall be repaid by the local organization, with interest, prior to construction of the works of improvement, for credit to such construction funds.

(2) Clause (A) of paragraph 2 of section 4 of said Act is amended to read as follows: "(A) such proportionate share, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs, of the costs of installing any works of improvement, involving Federal assistance (excluding engineering costs), which is applicable to the agricultural phases of the conservation, development, utilization, and disposal of water or for fish and wildlife or recreational development, and".

TITLE II—AGRICULTURAL TRADE DEVELOPMENT

SEC. 201. Title IV of the Agricultural Trade Development and Assistance Act of 1954, as amended, is further amended as follows:

(1) Section 401 is amended by adding at the end thereof the following new sentence: "It is also the purpose of this title to stimulate and increase the sale of surplus agricultural commodities for dollars through long-term supply agreements and through the extension of credit for the purchase of such commodities, by agreements either with friendly nations or with the private trade, thereby assisting the development of the economies of friendly nations and maximizing dollar trade: *Provided,* That agreements with the private trade shall be limited to the purchase of commodities for shipment to underdeveloped countries for consumption in the underdeveloped countries to which they are shipped."

(2) Section 402 is amended—

(a) by inserting ", including financial institutions acting in behalf of such nations," after the words "friendly nations"; and

(b) by adding at the end thereof the following: "In furtherance of the purpose of maximizing dollar sales through the private trade, the Secretary of Agriculture is authorized to enter into sales agreements with foreign and United States private trade under which he shall undertake to provide for the delivery of surplus agricultural commodities over such periods of time and under the terms and conditions set forth in this title. Any agreement entered into hereunder with the private trade shall provide for the furnishing of such security as the Secretary determines necessary to provide reasonable assurance of payment of the amount due for agricultural commodities sold pursuant to such agreement."

(3) Section 403 is amended—

(a) by deleting the words "approximately equal" from the last sentence thereof and

substituting therefor the word "reasonable"; and

(b) by inserting after the word "agreement" in the last sentence thereof the following: ", except that the date for beginning such annual payments may be deferred for a period not later than two years after such date of last delivery,".

(4) Section 405 is amended to read as follows:

"SEC. 405. In entering into agreements with friendly nations for the sale of surplus agricultural commodities, the President may, to the extent deemed practicable and in the best interests of the United States, permit other friendly and historic supplying nations to participate in supplying such commodities under the sales agreement on the same terms and conditions as those applicable to the United States."

(5) Section 406 is amended by inserting after the word "sections" the following: "101 (b) and (c),".

TITLE III—COMMODITY PROGRAMS

Subtitle A—1963 feed grain program

SEC. 301. Section 105(c) of the Agricultural Act of 1949 is amended by adding the following new paragraphs (5) and (6):

"(5) The level of price support for the 1963 crop of corn shall be established by the Secretary at such level not less than 65 per centum of the parity price therefor as the Secretary may determine. Price support for corn, grain sorghums, and barley shall be made available on not to exceed the normal production of the 1963 acreage of corn, grain sorghums, and barley of each eligible farm based on its average yield per acre for the 1959 and 1960 crop acreage.

"(6) The Secretary shall require as a condition of eligibility for price support on the 1963 crop of corn and grain sorghums that the producer shall participate in the special agricultural conservation program for 1963 for corn and grain sorghums to the extent prescribed by the Secretary and (except in the case of a producer of malting barley as hereinafter described and except in the case of a producer of barley on a summer-fallow farm as hereinafter described) shall not knowingly devote an acreage on the farm to barley in excess of the average acreage devoted on the farm to barley in 1959 and 1960. The Secretary shall require as a condition of eligibility for price support on the 1963 crop of barley that the producer shall participate in the special agricultural conservation program for 1963 for barley to the extent prescribed by the Secretary and shall not knowingly devote an acreage on the farm to corn and grain sorghums in excess of the average acreage devoted on the farm to corn and grain sorghums in 1959 and 1960: *Provided*, That no producer of malting barley shall be required to participate in the special agricultural conservation program for 1963 for barley if such producer has previously produced a malting variety of barley, plants barley only of an acceptable malting variety for harvest in 1963, does not knowingly devote an acreage on the farm to barley in excess of 110 per centum of the average acreage devoted on the farm to barley in 1959 and 1960, and does not knowingly devote an acreage on the farm to corn and grain sorghums in excess of the average acreage devoted on the farm to corn and grain sorghums in 1959 and 1960: *Provided further*, That no producer of barley on a farm where summer fallow is the normal practice shall be required to participate in the special agricultural conservation program for 1963 for barley if he (i) does not knowingly devote an acreage on the farm to barley in excess of the average acreage devoted on the farm to barley in 1959 and 1960 plus the acreage devoted to summer fallow in 1962 which is diverted from the production of wheat under the special 1963 wheat program, and (ii) does not knowingly devote an acreage on the farm to corn, grain sorghums, and barley in excess of 80 per centum of the average acreage devoted on the farm to corn, grain sorghums, and barley in 1959 and 1960."

SEC. 302. Section 16 of the Soil Conservation and Domestic Allotment Act, as amended, is amended by adding the following new subsection:

"(g) Notwithstanding any other provisions of law—

"(1) The Secretary shall formulate and carry out a special agricultural conservation program for 1963, without regard to provisions which would be applicable to the regular agricultural conservation program, under which, subject to such terms and conditions as the Secretary determines, conservation payments in amounts determined by the Secretary to be fair and reasonable shall be made to producers who divert acreage from the production of corn and grain sorghums, and barley, respectively, to an approved conservation use and increase their average acreage of cropland devoted in 1959 and 1960 to designated soil conserving crops or practices including summer fallow and idle land by an equal amount: *Provided, however*, That any producer may elect in lieu of such payment to devote such diverted acreage to castor beans, guar, safflower, sunflower, or sesame, if designated by the Secretary. In order to be eligible for a payment, a producer (other than a producer of malting barley as described in section 105(c)(6) of the Agricultural Act of 1949, or a producer of barley on a summer-fallow farm as described in such section) who participates in the special agricultural conservation program of 1963 for corn and grain sorghums must not knowingly devote an acreage on the farm in excess of the average acreage devoted on the farm to barley in 1959 and 1960, and a producer who participates in the special agricultural conservation program for 1963 for barley must not knowingly devote an acreage on the farm to corn and grain sorghums in excess of the average acreage devoted on the farm to corn and grain sorghums in 1959 and 1960. The excess, if any, of the acreage devoted to barley in 1963 on a summer-fallow farm as described in section 105(c)(6) of the Agricultural Act of 1949 over the average acreage devoted to barley on such farm in 1959 and 1960 shall be considered as planted to corn and grain sorghums for the purpose of determining extent of participation and payments under the special agricultural conservation program for 1963 for corn and grain sorghums. Such special agricultural conservation program shall require the producer to take such measures as the Secretary may deem appropriate to keep such diverted acreage free from insects, weeds, and rodents. The acreage eligible for payments in cash or in an equivalent amount in kind under such conservation program shall be an acreage equivalent to 20 per centum of the average acreage on the farm planted to corn and grain sorghums, or barley, in the crop years 1959 and 1960 or up to twenty acres, whichever is greater. Such payments in cash or in kind at the basic county support rate for the 1962 crop in effect at the time payment rates for the special feed grain program for 1963 are established, adjusted to reflect any changes between the national support rates for the 1962 and 1963 crops may be made on an amount of the commodity not in excess of 50 per centum of the normal production of the acreage diverted from the commodity on the farm based on its adjusted average yield per acre for the 1959 and 1960 crop acreage. Payments in kind only may be made by the Secretary for the diversion of up to an additional 20 per centum of the average acreage on the farm planted to corn and grain sorghums, or barley, in the crop years 1959 and 1960. Payments in kind on such additional acreage may be made at the basic county support rate for the 1962 crop in effect at the time payments rates for the special feed grain program for 1963 are established, adjusted to reflect any changes between the national support rates for the 1962 and 1963 crops on an amount of corn and grain sorghums, or barley, not in excess of 60 per centum of the normal production of the acreage diverted from the commodity on the farm based on its adjusted average yield per acre for the 1959 and 1960 crop acreage. The Secretary may make such adjustments in acreage and yields for the 1959 and 1960 crop years as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, type of soil, soil and water conservation measures, and topography. To the extent that a producer proves the actual acreages and yields for the farm for the 1959 and 1960 crop years, such acreages and yields shall be used in making determinations. The Secretary may make not to exceed 50 per centum of any payments to producers in advance of determination of performance.

"(2) There are hereby authorized to be appropriated such amounts as may be necessary to enable the Secretary to carry out this section 16(g). Obligations may be incurred in advance of appropriations therefor and the Commodity Credit Corporation is authorized to advance from its capital funds such sums as may be necessary to pay administrative expenses in connection with such program during the fiscal year ending June 30, 1963, and to pay such costs as may be incurred in carrying out section 303 of the Food and Agriculture Act of 1962.

"(3) The Secretary shall provide by regulations for the sharing of payments under this subsection among producers on the farm on a fair and equitable basis and in keeping with existing contracts."

SEC. 303. Payments in cash shall be made by Commodity Credit Corporation and payments in kind shall be made through the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for feed grains and, notwithstanding any other provision of law, the Commodity Credit Corporation shall, in accordance with regulations prescribed by the Secretary, assist the producer in the marketing of such certificates at such time and in such manner as the Secretary determines will best effectuate the purposes of the special feed grain program for 1963 authorized by this Act. In the case of any certificate not presented for redemption within thirty days of the date of its issuance, reasonable costs of storage and other carrying charges, as determined by the Secretary, for the period beginning thirty days after its issuance and ending with the date of its presentation for redemption shall be deducted from the value of the certificate.

SEC. 304. Nothwithstanding any other provision of law, the Secretary may place such limits on the extent that producers may participate in the special feed grain conservation program for 1963 authorized by this Act as he determines necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of corn, grain sorghums, or barley.

Subtitle B—Wheat

SEC. 310. Section 331 of the Agricultural Adjustment Act of 1938, as amended, is hereby amended by striking out the last paragraph thereof and inserting in lieu thereof the following paragraphs:

"Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circum-

stances, wheat not disposed of prior to such date must be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the Act.

"The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in interstate and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.

"The provisions of this part affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce."

SEC. 311. Section 332 of the Agricultural Adjustment Act of 1938, as amended, is hereby amended by striking out the provisions of such section and by inserting in lieu thereof the following:

"National Marketing Quota

"SEC. 332. (a) Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the Act.

"(b) If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) as the average amount which was utilized as livestock (including poultry) feed in the marketing years beginning in 1959 and 1960; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the Act: *Provided*, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: *And provided further*, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

"(c) If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If, on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this part by a uniform percentage."

SEC. 312. Section 333 of the Agricultural Adjustment Act of 1938, as amended, is hereby amended to read as follows:

"National Acreage Allotment

"SEC. 333. Whenever the amount of the national marketing quota for wheat is proclaimed for any marketing year, the Secretary at the same time shall proclaim a national acreage allotment for the crop of wheat planted for harvest in the calendar year in which such marketing year begins. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of expected yields and expected underplantings of farm acreage allotments will, together with (1) the expected production on the increases in acreage allotments for farms based upon small-farm base acreages pursuant to section 335, and (2) the expected production on increased acreages resulting from the small-farm exemption pursuant to section 335, make available a supply of wheat equal to the national marketing quota for wheat for such marketing year."

SEC. 313. Section 334 of the Agricultural Adjustment Act of 1938, as amended, is further amended as follows:

(1) By amending subsection (e) thereof by striking out in the first sentence thereof "any of the 1962, 1963, and 1964 crops" and inserting in lieu thereof "the 1962 crop".

(2) By repealing subsection (g) thereof and by redesignating subsections (h) and (i) thereof as (g) and (h) respectively.

(3) By amending subsection (i) thereof, redesignated by this section as subsection (h), by inserting the following sentence immediately following the seventh sentence thereof: "The land-use provisions of section 339 shall not be applicable to any farm receiving an additional allotment under this subsection."

(4) By striking out of the last sentence of subsection (i) thereof (added by Public Law 87-357, 87th Congress, 1st session), redesignated by this section as subsection (h), "or 1963".

(5) By adding at the end thereof the following new subsection:

"(i) If, with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any kind of wheat are inadequate to provide for the production of a sufficient quantity of such kind of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such kind of wheat, and (2) has produced such kind of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such kind of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of paragraph (6) of Public Law 74, Seventy-seventh Congress (7 U.S.C. 1340(6)), and section 326(b) of this Act, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land-use provisions of section 339 shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support."

SEC. 314. Part III of subtitle B of title III of the Agricultural Adjustment Act of 1938, as amended, is hereby amended by adding immediately after section 334 thereof the following:

"Commercial Area

"SEC. 334a. If the acreage allotment for any State for any crop of wheat is twenty-five thousand acres or less, the Secretary, in order to promote efficient administration of this Act and the Agricultural Act of 1949, may designate such State as outside the commercial wheat-producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation."

SEC. 315. Section 335 of the Agricultural Adjustment Act of 1938, as amended, is hereby amended to read as follows:

"Small farm exemption

"SEC. 335. Notwithstanding any other provision of this part, no farm marketing quota for any crop of wheat shall be applicable to any farm with a farm acreage allotment of less than fifteen acres if the acreage of such crop of wheat does not exceed the small-farm base acreage determined for the farm, unless the operator elects in writing on a form and within the time prescribed by the Secretary to be subject to the farm acreage allotment and marketing quota. The small-farm base acreage for a farm shall be the smaller of (A) the average acreage of the crop of wheat planted for harvest in the three years in which the acreage was highest during the five-year period 1957-1961, or such later five-year period determined by the Secretary to be representative, with adjustments for abnormal weather conditions, established

crop-rotation practices on the farm, and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable small-farm base acreage, or (B) fifteen acres. The acreage allotment for any farm shall be the larger of (1) the small-farm base acreage determined as provided above on the basis of the five-year period 1957–1961, reduced by the same percentage by which the national acreage allotment for the crop is reduced below fifty-five million acres, or (2) the acreage allotment determined without regard to (1) above. If the operator of any such farm fails to make such election with respect to any crop of wheat, (i) for the purposes of Public Law 74, Seventy-seventh Congress (7 U.S.C. 1340), as amended, the farm acreage allotment for such crop of wheat shall be deemed to be the larger of (A) the small-farm base acreage or (B) the acreage allotment for the farm, (ii) the land-use provisions of section 339 shall be inapplicable to the farm, (iii) such crop of wheat shall not be eligible for price support, and (iv) wheat marketing certificates applicable to such crop shall not be issued with respect to the farm. The additional acreage required to provide acreage allotments for farms based upon small-farm base acreages under this section shall be in addition to National, State, and county acreage allotments."

SEC. 316. Section 336 of the Agricultural Adjustment Act of 1938, as amended, is hereby amended to read as follows:

"Referendum

"SEC. 336. If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than sixty days after such proclamation is published in the Federal Register, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 335 to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period."

SEC. 317. Section 337 of the Agricultural Adjustment Act of 1938, as amended, is hereby repealed.

SEC. 318. The Agricultural Adjustment Act of 1938, as amended, is hereby amended by adding after section 338 a new section as follows:

"Land Use

"SEC. 339. (a)(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (i) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment is reduced below fifty-five million acres by the number of acres in the national acreage allotment. The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

"(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this subtitle.

"(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

"(b) The Secretary is authorized to formulate and carry out a program with respect to the 1963, 1964, and 1965 crops of wheat under which, subject to such terms and conditions as he determines are desirable to effectuate the purposes of this section, payments may be made in amounts not in excess of 50 per centum of the estimated basic county support rate on the normal production of the acreage diverted taking into account the income objectives of the Act, determined by the Secretary to be fair and reasonable with respect to acreage diverted pursuant to subsection (a) of this section. The Secretary may permit producers on any farm to divert from the production of wheat an acreage, in addition to the acreage diverted pursuant to subsection (a), equal to 20 per centum of the farm acreage allotment for wheat: *Provided*, That the producers on any farm may, at their election, divert such acreage in addition to the acreage diverted pursuant to subsection (a), as will bring the total acreage diverted on the farm to fifteen acres. Such program shall require (1) that the diverted acreage shall be devoted to conservation uses approved by the Secretary; (2) that the total acreage of cropland on the farm devoted to soil-conserving uses, including summer fallow and idle land but excluding the acreage diverted as provided above, and acreage diverted under section 16(g) of the Soil Conservation and Domestic Allotment Act shall be not less than the total average acreage of cropland devoted to soil-conserving uses including summer fallow and idle land on the farm during a representative period, as determined by the Secretary, adjusted to the extent the Secretary determines appropriate for (i) abnormal weather conditions or other factors affecting production, (ii) established crop-rotation practices on the farm, (iii) participation in other Federal farm programs, (iv) unusually high percentage of land on the farm devoted to conserving uses, and (v) other factors which the Secretary determines should be considered for the purpose of establishing a fair and equitable soil-conserving acreage for the farm; and (3) that the producer shall not knowingly exceed (i) any farm acreage allotment in effect for any commodity produced on the farm, and (ii) except as the Secretary may by regulations prescribe, with the farm acreage allotments on any other farm for any crop in which the producer has a share: *Provided*, That no producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty: *And provided further*, That no producer shall be deemed to have exceeded a farm acreage allotment for any crop of wheat if the farm is exempt from the farm marketing quota for such crop under section 335. The producers on a new farm shall not be eligible for payments hereunder. The Secretary shall provide for the sharing of payment among producers on the farm on a fair and equitable basis. Payments may be made in cash or in wheat.

"(c) The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the land-use program formulated under subsection (b) of this section.

"(d) Not to exceed 50 per centum of any payment to producers under subsection (b) of this section may be made in advance of determination of performance.

"(e) The Secretary may permit the diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, other annual field crops for which price support is not made available, and flax, when such crops are not in surplus supply and will not be in surplus supply if permitted to be grown on the diverted acreage, subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable taking into consideration the use of such acreage for the production of such crops: *Provided*, That in no event shall the payment exceed one-half the rate which would otherwise be applicable if such acreage were devoted to conservation uses and no price support shall be made available for the production of any such crop on such diverted acreage.

"(f) The program formulated pursuant to subsection (b) of this section may include such terms and conditions, in addition to those specifically provided for herein, as the Secretary determines are desirable to effectuate the purposes of this section.

"(g) The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.

"(h) The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this section and to pay administrative expenses necessary in carrying out this section during the period ending June 30, 1963. There is authorized to be appropriated such amounts as may be

necessary thereafter to pay such administrative expenses.

"(1) Notwithstanding any other provision of law, performance rendered in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of this section, or of section 124 of the Agricultural Act of 1961 (75 Stat. 297–298), and payment may be made therefor in accordance with such action or advice to the extent the Secretary deems it desirable in order to provide fair and equitable treatment."

SEC. 319. Public Law 74, Seventy-seventh Congress (7 U.S.C. 1340), as amended, is hereby amended as follows:

(1) By amending paragraph (1) to read as follows:

"(1) The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the normal yield of wheat per acre established for the farm multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year."

(2) by amending paragraph (2) to read as follows:

"(2) Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested. Each producer having an interest in the crop of wheat on any farm for which a farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess."

(3) By inserting in paragraph (3) "twice" before "the normal production" in the first and second sentences thereof, and by inserting in the second sentence thereof "twice the" between "of" and "normal" in the phrase "upon the basis of normal production", by striking out "corn and" from the first sentence thereof, and by striking out "corn or" from the last sentence thereof.

(4) By amending paragraph (4) to read as follows:

"(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on, the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty."

(5) By striking out "corn or" from paragraph (5).

(6) By striking out "corn or" from paragraph (6).

(7) By repealing paragraph (7), and by renumbering paragraphs (8) through (11) as (7) through (10), respectively.

(8) By striking out "corn or" and ", as the case may be," from paragraph (8), redesignated by this section as paragraph (7), and adding at the end of such paragraph the following sentence: "If the buyer fails to collect such penalty, such buyer and all persons entitled to share in the wheat marketed from the farm or the proceeds thereof shall be jointly and severally liable for such penalty."

(9) By repealing paragraph (12), and by adding the following new paragraphs to follow paragraph (11), redesignated by this section as paragraph (10):

"(11) The persons liable for the payment or collection of the penalty on any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

"(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him."

SEC. 320. Section 301(b)(13) of the Agricultural Adjustment Act of 1938, as amended, is amended—

(1) by striking out paragraph (A);

(2) by inserting in paragraphs (D) and (E) after the words "in the case of rice" the words "and wheat" and by inserting in said paragraphs after the words "per acre of rice" the following: "or wheat, as the case may be,";

(3) by striking from paragraph (G) the following: (A) "wheat," in each of the two places it first occurs therein; (B) "and, in the case of wheat, but not in the case of corn, cotton, or peanuts, for trends in yields"; (C) "ten calendar years in the case of wheat, and"; and (D) "in the case of corn, cotton, or peanuts,".

SEC. 321. Section 371 of the Agricultural Adjustment Act of 1938, as amended, is hereby amended as follows:

(1) Subsection (a) is amended by deleting "corn, wheat," in the first sentence thereof.

(2) The first sentence of subsection (b) is amended by striking out "any national acreage allotment for corn or", "wheat," and "in order to effect the declared policy of this Act or".

SEC. 322. Section 385 of the Agricultural Adjustment Act of 1938, as amended, is hereby amended by inserting in the first sentence after "parity payment," the following: "payment under section 339,".

SEC. 323. The amendments to the Agricultural Adjustment Act of 1938, as amended, and to Public Law 74, Seventy-seventh Congress, as amended, made by sections 310 through 322 of this Act shall be in effect only with respect to programs applicable to the crops planted for harvest in the calendar year 1963 or any subsequent year and the marketing years beginning in the calendar year 1963, or any subsequent year.

Wheat Marketing Allocation Program

SEC. 324. Title III of the Agricultural Adjustment Act of 1938, as amended, is hereby amended (1) by designating subtitles D and E as subtitles E and F, respectively, and (2) by inserting after subtitle C a new subtitle D as follows:

"Subtitle D—Wheat marketing allocation

"Legislative Findings

"SEC. 379a. Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for nonagricultural products and place them in a position of serious disparity with other industrial groups. The conditions affecting the production of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this subtitle.

"Wheat marketing allocation

"SEC. 379b. During any marketing year for which a marketing quota is in effect for wheat, beginning with the marketing year for the 1963 crop, a wheat marketing allocation program shall be in effect in this subtitle. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which will be used during such year for human consumption in the United States, as food, food products, and beverages, composed wholly or partly of wheat, and that portion of the amount of wheat which will be exported in the form of wheat or products thereof during the marketing year on which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of this subtitle, and (2) the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the normal yield of wheat for the farm as determined by the Secretary, and multiplying the resulting number of bushels by the national allocation percentage. If a noncommercial wheat-producing area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.

"Marketing certificates

"SEC. 379c. (a) The Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount

of wheat stored to avoid or postpone a marketing quota penalty, which is released from storage during the marketing year on account of underplanting or underproduction. The Secretary shall provide for the sharing of wheat marketing certificates among producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds therefrom.

"(b) No producer shall be eligible to receive wheat marketing certificates with respect to any farm for any marketing year in which a marketing quota penalty is assessed for any commodity on such farm or in which the farm has not complied with the land-use requirements of section 339 to the extent prescribed by the Secretary, or in which, except as the Secretary may by regulation prescribe, the producer exceeds the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm, if such farm is exempt from the farm marketing quota for such crop under section 335.

"(c) Whenever a wheat marketing allocation program is in effect for any marketing year, the Secretary shall determine and proclaim for such marketing year the face value per bushel of marketing certificates. The face value per bushel of marketing certificates shall be equal to the amount by which the level of price support for wheat accompanied by certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).

"(d) Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

"Marketing Restrictions

"SEC. 379. (a) All persons are prohibited from acquiring marketing certificates from the producer to whom such certificates are issued, unless such certificates are acquired in connection with the acquisition from such producer of a number of bushels of wheat equivalent to the marketing certificates. Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates held by persons other than the producer to whom such certificates are issued shall be purchased by Commodity Credit Corporation. Notwithstanding the foregoing provisions of this section, Commodity Credit Corporation is authorized to purchase from producers certificates not accompanied by wheat in cases where the Secretary determines that it would constitute an undue hardship to require the producer to transfer his certificates only in connection with the disposition of wheat.

"(b) During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products composed wholly or partly of wheat shall, prior to marketing any such product for human food in the United States, acquire marketing certificates equivalent to the number of bushels of wheat contained in such product, and (ii) all persons exporting wheat or food products composed wholly or partly of wheat shall prior to such export acquire marketing certificates equivalent to the number of bushels so exported. Marketing certificates shall be valid to cover only sales or exportations made during the marketing year with respect to which they are issued, and after being once used to cover a sale or export of a food product or an export of wheat shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary.

"(c) Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulations as he may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.

"(d) As used in this subtitle, the term 'food products' means any product to be used for human consumption, including beverage.

"Assistance in Purchase and Sale of Marketing Certificates

"SEC. 379e. For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it.

"Conversion Factors

"SEC. 379f. The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

"Authority To Facilitate Transition

"SEC. 379g. The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this subtitle. Notwithstanding any other provision of this subtitle, such authority shall include, but shall not be limited to, the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this subtitle from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.

"Reports and Records

"SEC. 379h. This section shall apply to processors of wheat, warehousemen and exporters of wheat and flour, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subtitle. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.

"Penalties

"SEC. 379i. (a) Any person who violates or attempts to violate or who participates or aids in the violation of any of the provisions of subsection (b) of section 379d of this Act shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

"(b) Any person, except a producer in his capacity as a producer, who violates or attempts to violate or who participates or aids in the violation of any provision of this subtitle, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who fails to make any report or keep any record as required by section 379h shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

"(c) Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this subtitle, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 379h shall, (i) forfeit any right to receive marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.

"(d) Any person who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than $10,000 or imprisonment of not more than ten years, or both.

"Regulations

"SEC. 379j. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subtitle including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates."

SEC. 325. The Agricultural Act of 1949, as amended, is amended as follows:

(1) By inserting after section 106 the following new section:

"SEC. 107. Notwithstanding the provisions of section 101 of this Act, beginning with the 1963 crop—

"(1) price support for wheat accompanied by marketing certificates shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines appropriate taking into consideration the factors specified in section 401(b),

"(2) if marketing quotas are in effect for wheat price support for wheat not accompanied by marketing certificates shall be at such level as the Secretary determines appropriate taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains,

"(3) price support shall be made available only to cooperators; and if a commer-

cial wheat-producing area is established for such crop, price support shall be made available only in the commercial wheat-producing area,

"(4) price support for any crop of wheat for which marketing quotas have been disapproved by producers shall be at such level not to exceed 50 per centum of the parity price therefor as the Secretary determines appropriate after consideration of the factors specified in section 401(b),

"(5) the level of price support for any crop of wheat for which a national marketing quota is not proclaimed shall be as provided in section 101, and

"(6) if marketing quotas are in effect for the crop of wheat, a 'cooperator' with respect to any crop of wheat produced on a farm shall be a producer who (i) does not knowingly exceed (A) the farm acreage allotment for wheat or any other commodity on the farm or (B) except as the Secretary may by regulation prescribe, the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer, and (ii) complies with the land-use requirements of section 339 of the Agricultural Adjustment Act of 1938, as amended, to the extent prescribed by the Secretary. If marketing quotas are not in effect for the crop of wheat, a 'cooperator' with respect to any crop of wheat produced on a farm shall be a producer who does not knowingly exceed the farm acreage allotment for wheat. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, but the producer shall not be eligible to receive price support on such marketing excess. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm, if such farm is exempt from the farm marketing quota for such crop under section 335."

(2) By changing the period at the end of the third sentence in section 407 to a colon and adding the following: *"Provided,* That if a commercial wheat marketing allocation program is in effect, the current support price for wheat shall be the support price for wheat accompanied by marketing certificate and wheat sold shall be accompanied by a marketing certificate."

TITLE IV—GENERAL PROVISIONS

SEC. 401. The Consolidated Farmers Home Administration Act of 1961 (75 Stat. 307) is amended as follows:

(1) By striking out the period at the end of section 304 and inserting a comma and the following: "including recreational uses and facilities.";

(2) By inserting in section 306(a) after "soil conservation practices," the following: "shifts in land-use including the development of recreational facilities,"; and by inserting after the word "drainage" the words "or sewer";

(3) By striking out in section 309(f)(1) the figure "$10,000,000" and inserting in lieu thereof the figure "$25,000,000"; and

(4) By inserting in section 312 after the words "and conservation" the words "including recreational uses and facilities".

SEC. 402. Subsections (a) and (b) of section 3 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 903), be and the same are hereby amended to read as follows:

"SEC. 3. (a) There are authorized to be appropriated, for the purposes of this Act, such sums as the Congress may from time to time determine to be necessary.

"(b) When authorized by Congress, the Administrator is authorized, with the approval of the Secretary of Agriculture, to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds in such amounts as the Congress may approve annually in appropriation Acts for making loans under titles I and II of this Act. Such notes shall be in such form and denominations and be subject to such terms and conditions as may be prescribed by the Administrator with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury not in excess of the rate provided for in sections 4 and 5 of this Act. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administrator issued hereunder, and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administrator. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

"The appropriations for loans made under the authority of subsection (a) and funds obtained in accordance with the preceding paragraph of this subsection and the unexpended balances of any funds available on the date of enactment of the Food and Agriculture Act of 1962 for loans under this Act, including any funds made available for loans under the item 'Rural Electrification Administration,' in the Department of Agriculture appropriation Acts current on such date of enactment, shall be merged into a single account hereafter in this section called the 'loan account'. All notes, bonds, obligations, and property, including those now held by the Administrator on behalf of the Secretary of the Treasury, and all collections therefrom, made or held under the loan provisions of titles I and II of this Act, shall be assets of said account.

"The notes of the Administrator issued to the Secretary of the Treasury under titles I and II of this Act, and all other liabilities against the appropriations or assets in the loan account shall be liabilities of said account, and all other obligations against such appropriations or assets shall be obligations of said account. Money in the loan account shall also be available for interest and principal repayments on notes issued by the Administrator to the Secretary of the Treasury. Otherwise, the balances in said account shall remain available to the Administrator for loans under titles I and II of this Act and for advances in connection therewith, except that no such loans shall be made in any year in excess of the amounts previously authorized therefor in appropriation Acts for such year or available pursuant to subsection (e) of this section. The amounts so authorized for loans and advances shall remain available until expended."

SEC. 403. Subsection (f) of section 3 of the Rural Electrification Act, as amended, is repealed.

SEC. 404. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

TITLE V—INDUSTRIAL USES OF AGRICULTURAL PRODUCTS

Declarations and findings

SEC. 501. The Congress of the United States hereby makes the following declarations and findings concerning the development of new and improved uses for farm products, new crops to replace those now in surplus, and the disposal of surplus commodities owned by the Government:

(a) Farms in the United States have a capacity to produce more farm products than can now be marketed at prices that will return sufficient incomes to farmers to maintain an efficient and progressive agricultural industry;

(b) A prosperous agriculture will contribute immensely to national welfare by efficient production of needed food, feed, and fiber, by provision of raw materials for the transportation and processing industries, by purchases of production supplies, and by its contribution to maintenance of a balanced and high-level national economy;

(c) National defense and security interests of the United States require protection of agricultural resources against deterioration and the maintenance of high productive capacity in order to meet possible emergency needs of the United States and other friendly nations;

(d) Basic research in agricultural products and their uses is essential in any long-range program of benefit to agriculture;

(e) Research programs to develop new and improved uses for farm products and new farm products have potentialities for providing outlets for a larger volume of farm production and greater stability of the prices of farm commodities;

(f) Public and private research agencies, including the Departments of Agriculture and Commerce, the land-grant colleges, other universities and research institutions, as well as private firms, can and should be utilized for an all-out attack on development of new and improved uses, and new and extended markets and outlets for farm products and byproducts. Research, pilot plant, development and trial commercialization work and corollary economic and related studies should be devoted to the expansion of industrial uses for agricultural commodities in surplus, and to any food and feed uses and replacement crops that can make substantial contributions toward the solution of the surplus problem. Facilities should be established as needed to permit adequate experimentation and testing, and production and market development, of promising new uses and new products;

(g) Development of new and improved industrial and other uses of farm products and new farm products and new and extended markets and outlets for farm products and by-products will enlarge income opportunities for farmers. It also will reduce Government costs for acquisition, storage, and ultimate disposition of commodities now in surplus;

(h) Disposition of a portion of the surplus stocks of the Commodity Credit Corporation through industrial channels for new or by-product uses, so that the carryover of any commodity beyond the needs of the Nation can be reduced, will have a stabilizing effect on the market prices for farm commodities.

Agricultural Research and Industrial Use Administration

SEC. 502. There is created and established in the Department of Agriculture an agency of the United States to be known as the Agricultural Research and Industrial Use Administration, all of the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years and who shall receive basic compensation at the rate of $20,000 per annum. The duties of this agency shall be to coordinate and expedite efforts to develop, through research, new industrial uses, and increased use under existing processes, of agricultural products; to develop new replacement crops; and to reduce the stocks of commodities owned by the Commodity Credit Corporation.

Salaries

SEC. 503. The positions of the three Deputy Administrators of the agency shall be in grade GS–18 of the General Schedule established by the Classification Act of 1949, as

amended. Such positions shall be in addition to the number of positions authorized to be placed in such grade by section 505(b) of such Act. The agency is authorized to fix the compensation, notwithstanding other provisions of law, for not more than ten positions which require the services of especially qualified scientific or professional personnel: *Provided*, That the rates of basic compensation for positions established pursuant to this provision shall not exceed the maximum payable under the Act of August 1, 1947 (61 Stat. 715), as amended and supplemented. The agency may appoint and fix the compensation of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, technical, or other special services, without regard to the civil service laws or the Classification Act of 1949, as amended.

Powers and Duties

SEC. 504. The agency shall have power and authority, within the limits of the funds made available to it, to coordinate and expedite activities toward research, pilot plant, development, trial commercialization, and industrial uses, with Federal and State Governments, educational institutions, private research organizations, trade associations, individuals, and industrial corporations in expanding the industrial utilization of the products of farm and forest and the development of new crops. In the discharge of these duties, the agency is authorized to:

(a) Make use of the facilities of the Department of Agriculture and other Federal departments and agencies, land-grant institutions, and experiment stations. The agency shall utilize existing facilities owned or controlled by the Federal Government to the greatest extent practicable, including pilot plants, regional laboratories, and other facilities and equipment, and is authorized to utilize authority now available to the Secretary of Agriculture under existing law;

(b) Make grants, for periods not to exceed five years duration, to State agricultural experiment stations, colleges, universities, and other research institutions and individuals;

(c) Contract with foreign individuals, organizations, institutions of learning, or private corporations where payment can be made in foreign currency accumulated under Public Law 480, Eighty-third Congress. The agency is hereby authorized to utilize such foreign currencies notwithstanding other provisions of law requiring reimbursement;

(d) Make contracts or cooperative arrangements in the manner provided by sections 10(a) and 205 of the Act of August 14, 1946 (7 U.S.C. 427i, 1624), including contracts and agreements providing for the commercialization, market acceptance, and the economic feasibility of industrial utilization in the competitive market for agricultural products and processes with respect thereto;

(e) Extend suitable incentives to farmers or to industry to hasten the establishment of a new crop or of a new industrial use, where such appear likely to lead to durable additional markets;

(f) Direct the Commodity Credit Corporation to make delivery of any of its stocks of commodities to agencies of the Government, persons, or corporations designated by the agency where such stocks are to be used for (1) research, (2) pilot plant operation, (3) trial commercialization, (4) export of manufactured products, or (5) new or byproduct uses. The Commodity Credit Corporation, with respect to commodities thus requisitioned by the agency, shall pay necessary handling and delivery charges to the destination directed by the agency. Such sums of money as the agency shall receive, if any, on such transfers of commodities, shall be turned over to the Commodity Credit Corporation;

(g) Make contracts or leases for the private operation of any property or facilities transferred from another Government agency pursuant to this title or other legislative authority;

(h) Make loans or grants to those with whom contracts or other arrangements are entered into, for the purpose of providing assistance in the acquisition or expansion of facilities and equipment for research or development activities;

(i) Provide in all contracts for the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed: *Provided, however*, That nothing herein shall be construed to authorize the agency to enter into any contractual or other arrangement inconsistent with any provision of law affecting the issuance or use of patents;

(j) Grant exclusive licenses with or without payment of royalty for a fixed period of not to exceed five years for the use of patents under the control of the Department of Agriculture;

(k) Pay incentive awards to private citizens for suitable and acceptable suggestions to implement the program established by this title, such payments to be made in accordance with previously published rules stating the amounts of, criteria for determining, and subjects of, such awards; and

(l) Test production procedures on a commercial basis, maintain and operate manufacturing facilities where necessary to prove the commercial feasibility of volume production and to build, purchase, or lease plant facilities, or necessary equipment suitable for manufacturing needs.

Transfer of Government Plants

SEC. 505. Notwithstanding any other provision of law, any Government agency holding any Government-owned facility useful in the program authorized by this title is authorized to transfer such facility to the agency, for use in the program, if requested to do so by the agency: *Provided*, That such transfer has the approval of the Director of the Bureau of the Budget. The agency is authorized to exercise, with respect to the facilities transferred, all of the authority vested in the agencies transferring such facilities. At the time of such transfer, funds and personnel related to the operation or administration of such facilities, shall, with the approval of the Director of the Bureau of the Budget, also be transferred to the agency.

Definition of "Agricultural Products"

SEC. 506. The terms "agricultural products" and "farm and forest products" as used in this title shall have the same meaning as the term "agricultural products" in section 207 of the Act of August 14, 1946 (7 U.S.C. 1626).

Annual Report

SEC. 507. The Administrator shall present annually to the Congress not later than the 20th day of January in each year a full report of his activities under this title.

Savings Provision

SEC. 508. The authorities under this title are in addition to and not in substitution for authorities otherwise available under existing law.

Appropriations

SEC. 509. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Mr. HICKENLOOPER. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. HICKENLOOPER. Is it the intention of the acting majority leader to have anything done on this bill tonight?

Mr. HUMPHREY. No.

Mr. HICKENLOOPER. Or is it the intention merely to lay the bill before the Senate at this time?

Mr. HUMPHREY. That is correct.

Mr. HICKENLOOPER. Do I correctly understand that the debate on the farm bill will begin on Monday?

Mr. HUMPHREY. That is correct.

EXECUTIVE SESSION

Mr. HUMPHREY. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. If there be no reports of committees, the nominations on the Executive Calendar will be stated.

DIPLOMATIC AND FOREIGN SERVICE AMBASSADORS

The Chief Clerk read the nomination of Foy D. Kohler, of Ohio, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Soviet Socialist Republics.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of John H. Ferguson, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of William Leonhart, of West Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Tanganyika.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

NOMINATION PASSED OVER

The Chief Clerk read the nomination of Charles E. Bohlen, of the District of Columbia, a Foreign Service officer of the class of career ambassador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

The VICE PRESIDENT. Without objection——

Mr. THURMOND. Mr. President, I object to consideration at this time of the nomination of Mr. Bohlen to be Ambassador to France.

The VICE PRESIDENT. The Senator has a right to object, but an objection cannot block consideration of the nomination.

Mr. HUMPHREY. Mr. President, under the circumstances, we shall pass over this particular nomination.

The VICE PRESIDENT. Without objection, the nomination will be passed over.

ASSISTANT SECRETARY OF STATE

The Chief Clerk read the nomination of William R. Tyler, of the District of Columbia, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

AGENCY FOR INTERNATIONAL DEVELOPMENT

The Chief Clerk read the nomination of Bernard T. Brennan, of New York, to be Deputy Administrator for Administration, of the Agency for International Development.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The VICE PRESIDENT. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. HUMPHREY. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

DAIRY LEGISLATION

Mr. ELLENDER. Mr. President, I wish to give assurance to Senators that during the consideration of the farm bill, no proposed legislation affecting the milk program will be offered by me.

It is my purpose at this time to introduce a bill pertaining to the milk program—in the hope that the Committee on Agriculture and Forestry can hold hearings on the bill within a few weeks; and it may be that I shall ask that funds be provided, to make possible the holding, during the adjournment period this fall, of hearings on the measure which I shall introduce. The bill that I am introducing is intended as a starting point for discussion. It was prepared at my request for that purpose and does not represent the views of the administration. I am hopeful that the milk producers and their representatives and others in the milk industry will come in with suggestions for improvements in this legislation or alternative workable proposals. I am hopeful that the industry will do everything in its power to put its house in order before drastic legislation becomes necessary, for this type legislation would be the last thing I would want to happen to dairy farmers.

Yesterday, the Secretary of Agriculture sent me a letter. I ask unanimous consent to have it printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. ELLENDER. Mr. President, this letter from the Secretary of Agriculture is a report on the current situation regarding the major problems in the dairy industry. It requests that the Committee on Agriculture and Forestry consider further the need for improved dairy legislation. This request of the Secretary of Agriculture is in accord with a statement which I made about 30 days ago; namely, that during this session, although I found that it was rather late to hold hearings on dairy legislation and to enact a law pertaining to it, we would at least hold hearings.

In his report the Secretary points out that at the present time we have over 400 million pounds of CCC-owned butter in freezer storage and that we are very near to the limit of available freezer storage capacity. The Department has estimated, by a nationwide survey, that there is only 90 million pounds of additional freezer storage capacity available throughout the country for storage of CCC-owned butter. Two-thirds of the remaining freezing space available is in Florida, Texas, and California, far from the major butter producing areas. However, there is no assurance that all of this space will be made available for storage of CCC-owned butter. Further, the Department estimates that the total uncommitted CCC inventories of butter will reach 500 million pounds early next year, thus equaling the total potential freezing storage capacity.

The Department is making every effort to utilize fully the quantities of butter that the Department has on hand. Donations to the school lunch program, welfare institutions, Veterans' Administration, armed services installations, and needy families during the first 9 months of the 1961–62 fiscal year have been 45 percent greater than during the same period of the previous year. Donations of butter to needy persons, for example, are now at the rate of 12 pounds per person per year, almost twice as much as the per capita consumption of butter by persons who must buy it through commercial channels. In addition, the Department has offered 200 million pounds of surplus butter for foreign donations under the food-for-peace program and is now contracting for the processing and canning of 100 million pounds of butter into oil because this product can be stored in cooler space rather than freezer space, notwithstanding the fact that there are no prospective foreign outlets in sight at present for large quantities.

The Department, as of July 31, 1962, also had uncommitted stocks of 105 million pounds of cheese and 556 million pounds of nonfat dry milk, in spite of the fact that donations of cheese for domestic school lunch and welfare uses in the first 9 months of 1961–62 were six times greater than the year earlier, and that 40 million pounds of cheese have been made available for foreign donations. Donations of nonfat dry milk for domestic use have been increased 40 percent, and, for foreign use, 38 percent. In other words, the Department of Agriculture is making every effort to sell or give away as much butter, cheese, and dry milk as it possibly can; but, in spite of this, Government stocks continue to increase.

The dairy program is the most costly of all programs now on the books. Under this program, prices must be supported at between 75 and 90 percent of parity, with no curbs whatever on production. Farmers can produce all they wish; and the Government must, under the law, be ready to buy at these prices all excess production. In the last marketing year, the net cost of the price-support operation for dairy products totaled $597 million. This includes total purchases, armed services milk program, storage costs, and section 32 expenditures; minus such proceeds as accrue through commercial sales for exports. It does not include the school milk program, which last year totaled about $90 million. During this period the support price for milk was at 83 percent of parity, or $3.40 per hundred pounds.

Notwithstanding the fact that the price support has been reduced to $3.11 per hundred pounds, the Department of Agriculture estimates that the net cost of the dairy price support program this year will again be in excess of a half billion dollars.

Mr. President, I have said repeatedly that, in my opinion, some changes in the dairy laws are imperative if the program itself is to survive. In that connection, I am introducing a bill which would, first, amend the present law to provide price supports at from 0 to 90 percent of parity, rather than the 75 to 90 percent of parity; and, second, to reduce the prices received by producers in marketing order areas for milk produced in excess of that needed for fluid requirements, including the essential reserves, to a level which would discourage the production and marketing of milk in excess of the market's requirements.

Mr. President, this bill does not provide for controls or penalties. It provides only for lower prices for milk produced in excess of our needs.

For example, no market order area will be affected until and unless that market area produces in excess of the needs of that market. Of course, when this happens, prices for the excess only will be lowered to such levels as will discourage its production.

It is my hope and expectation that the Committee on Agriculture and Forestry will hold hearings in an effort to develop legislation which will solve some of the more pressing problems now experienced by the Government in the administration of price support and related laws now on the books. I would like all who are interested in dairying to be prepared to offer constructive suggestions to this end.

While the bill that I have introduced may not be the ultimate solution to our problems, certainly it does point the way for a voluntary reduction in supplies, by offering producers a lower price for milk and cream which are neither needed nor necessary, and which, as the Secretary of Agriculture has pointed out, cannot even be given away.

I feel certain that the farmers of this Nation do not want their Government to spend huge sums of money in order to support the price of milk which cannot be used, and I am sure that the taxpayers will rebel at the continued practice of such nonsense.

There is no doubt but that the hearings will result in renewed efforts by those who are sincerely interested in Agriculture to develop a sound workable program.

I send to the desk, for appropriate reference, a bill to reduce Government expenditures for price support for dairy products and discourage the production of excess supplies.

I ask unanimous consent that the bill as a whole be printed in the RECORD at this point—it is very short—and that a short explanation thereof be placed in the RECORD at this point.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and explanatory statement will be printed in the RECORD.

The bill (S. 3655) to reduce Government expenditures for price support for dairy products and discourage the production of excess supplies, introduced by Mr. ELLENDER, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 201 of the Agricultural Act of 1949 is amended—

(1) By striking out "honey, milk, butterfat, and the products of milk and butterfat" and inserting "and honey".

(2) By striking out all of subsection (c).

(b) Section 301 of the Agricultural Act of 1949 is amended by striking out "title II" and inserting "section 201".

SEC. 2. The Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is amended by inserting after section 8e a new section 8f to read as follows:

"SEC. 8f. Notwithstanding any other provision of this title—

"(1) Any marketing order fixing minimum prices for milk shall provide that during any accounting period or periods in which the amount of milk priced and pooled under the order is in excess of an amount determined by the Secretary to be necessary to insure meeting the requirements of the market in the highest use classification, giving consideration to the reserves essential to such market, the total value of milk purchased by any handler or by all handlers shall be apportioned so that each producer whose milk is priced and pooled under the order who contributed to such excess shall receive for that portion of his milk reflecting the excess over the amount so determined by the Secretary a price which is below the prices applicable to milk for manufacturing purposes, and which the Secretary determines will discourage the production and marketing of such excess milk. The amount determined to be in excess in the case of any such producer shall be the amount marketed by him in excess of an allotment based on (a) the amount determined hereunder by the Secretary to be necessary for the market, and (b) the amount produced by him and priced and pooled under the order during a prior representative period or, in the case of a new order, a comparable amount. Due provision shall be made for abnormal conditions, hardship cases, new producers, and other appropriate factors.

"(2) In the case of any producer who during any such period delivers a portion of his milk to persons not fully regulated by the order, any such order shall provide for reducing the allotment of, or payments to be received by, any such producer to compensate for any marketings of excess milk to such other persons for such period or periods as necessary to insure equitable participation in marketings among all producers.

"(3) Any such order shall provide for such reports and the keeping of such books and records by producers and by the person or persons to whom he may dispose of milk as the Secretary may prescribe and upon request of the Secretary make required records available for inspection.

"(4) No handler, including a cooperative association, shall make payment to a producer on milk marketed in excess of his allotment, at a rate other than that prescribed for such excess milk.

"(5) The authorization for provisions contained in section 8c(7)(D) shall be applicable to orders containing provisions under this section with the same force and effect as though this section was specified therein.

"(6) Any producer for whom an allotment is established under the authority of this section may obtain a review of the lawfulness of his allotment as prescribed by the order of the Secretary establishing the allotment and rules and regulations thereunder, which shall constitute the exclusive procedure for review thereof and section 8c(15)(A) of this title shall not apply thereto. Under such order, rules, or regulations any officers or employees of the Department or any committees or boards created or designated by the Secretary of Agriculture may be vested with authority to perform any or all functions in connection with such review proceedings, including ruling thereon. Committees or boards created or designated for this purpose shall be deemed agencies of the Secretary within the meaning of subsection 8c(7)(C) and section 10 of this title. The ruling upon such review shall be final if in accordance with law. The producer may obtain a judicial review of such ruling in accordance with the provisions of section 8c(15)(B) of this title.

"(7) The provisions of section 8a(5) shall not apply to any producer in the application of this section or regulations issued pursuant thereto.

"(8) With due regard for the statutory requirements with respect to notice and public hearing prior to the amendment of existing milk marketing orders, nothing contained in this section is intended to or shall be construed as affecting in any way whatsoever the continued operation and administration of each of such orders during the interval between the date of enactment of this section and the respective dates upon which appropriate amendments are effectuated in connection with existing milk marketing orders: *Provided,* That appropriate amendments to existing orders incorporating provisions required by this section shall be made effective not later than nine months after the date of enactment of this section, otherwise any such order not so amended shall be suspended or terminated until so amended."

The explanatory statement presented by Mr. ELLENDER is as follows:

STATEMENT BY SENATOR ELLENDER

The bill would (1) provide price support at 0 to 90 percent of parity for milk and butterfat, and (2) reduce the price received by producers in marketing order areas for milk in excess of that needed for fluid requirements (including essential reserves) to a level which will discourage its production and marketing.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill provides for price support for milk and butterfat at 0 to 90 percent of parity. Subsection (a) repeals the provisions of section 201 of the Agricultural Act of 1949 requiring price support at 75 to 90 percent of parity for milk, butterfat, and the products of milk and butterfat. Subsection (b) makes it clear that although milk is designated in title II of the 1949 act (in section 202), it would be covered by the 0 to 90 percent support provisions of title III of the 1949 act.

Section 2 adds a new section 8f to the marketing order law to provide for lower prices to producers on milk in excess of the market's requirements.

Subsection (1) of the proposed section 8f would require each milk marketing order to provide that whenever the amount of milk priced under the order exceeded the amount required to meet fluid needs, allowing for necessary reserves, the amount paid out of the pool for the excess would be such as to discourage production and marketing of an excess. Each producer would receive an allotment, based on past marketings under the order, so that his share of the excess (on which he would receive the reduced price) could be determined. Provision is made for new producers, new orders, hardship cases, and other factors. The price to handlers would not be reduced, so that the difference between the handler's payments and the reduced amount paid to the producers for the excess produced by them would go to increase the blend price paid for the nonexcess milk.

Subsection (2) prevents producers from diverting their excess milk to other markets to escape the price reduction. Their allotments or payments would be reduced to compensate for such diversion.

Subsection (3) provides for reports, books, and records.

Subsection (4) prohibits handlers from paying producers more than the specified reduced price for excess milk.

Subsection (5) makes the general authorization of section 8c(7)(D) of the act for incidental and necessary provisions applicable to orders issued under the new section 8f. It is now applicable to all orders now authorized by the act.

Subsection (6) provides for a method of review of producer allotments.

Subsection (7) exempts producers exceeding allotments under new section 8f from the civil forfeiture provisions of section 8a(5) of the act.

Subsection (8) provides a 9-month period after enactment during which existing milk marketing orders must be amended to conform to the requirements of new section 8f.

EXHIBIT 1

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 15, 1962.

HON. ALLEN J. ELLENDER,
Chairman, Senate Committee on Agriculture and Forestry, U.S. Senate.

DEAR SENATOR ELLENDER: On several occasions during consideration of the pending farm bill you have stated your intention to have your committee consider further the need for improved dairy legislation. We would welcome such action at the earliest feasible time. The dairy price support program is now reaching an extremely critical situation. In my opinion there is an urgent and immediate need for legislative action in order to prevent a debacle with the most serious consequences for dairy farmers, consumers, and taxpayers. I should like to report to you on the current situation in respect to major problems in the dairy industry which I believe your committee would wish to consider.

Purchases of dairy products under the price support program are outrunning the Government's greatly expanded utilization of these products for domestic and foreign assistance programs. As a result, stocks of CCC-owned dairy products in storage are growing rapidly to unprecedented levels.

The most urgent problem concerns butter. At present, we have over 400 million pounds of CCC-owned butter in freezer storage. We are very near to the limit of available freezer storage capacity. We have estimated, by a nationwide survey, that there is only 90 million pounds of freezer storage capacity available throughout the country for storage of CCC-owned butter, in addition to the warehouses already filled with CCC's present stocks. Two-thirds of this remaining freezer space is in Florida, Texas, and California—far from the major butter-production areas—and there is no assurance that all of this space will be made available. Because space is not available locally, we are already required to ship butter from Minneapolis to the South for storage, necessitating extra transportation costs of 1 to 4 cents per pound before its ultimate disposition will be possible.

In the face of this already-tight butter storage situation, CCC continues to acquire butter under the mandatory 75 percent of parity price support program at a rate considerably faster than it can be utilized for authorized disposal outlets. We estimate the total uncommitted CCC inventories of butter will reach 500 million pounds early next year—thus equaling the total potential freezer storage capacity available. Thus we are face to face with the prospect within a few months of having no place to put butter acquired through price-support purchases.

We are making every effort to utilize maximum quantities of butter for authorized purposes. Donations of butter to the school-lunch program, welfare institutions, Veterans' Administration and armed services installations and needy families during the first 9 months of the 1961–62 fiscal year have been 45 percent greater than during the same period of the previous year. Donations of butter to needy persons in the United States are now at a rate of 12 pounds per person per year—almost two times as much as the average per capita consumption by persons who buy butter through commercial channels.

The Department of Agriculture has offered 200 million pounds of surplus butter for foreign donations under the food-for-peace program. This butter will be converted into butteroil or ghee and canned, or into canned butter, at a cost of nearly 5 cents per pound, as necessary to make it usable for these outlets. However, we do not anticipate that a large volume can be utilized for such outlets in the immediate future.

Although we do not have prospective foreign outlets in sight at present for large quantities, we are now contracting for processing and canning 100 million pounds of butter into oil. This product can be stored in cooler space, thus freeing freezer space for storage of additional acquisitions of butter. This step is necessary in order to minimize the risk of deterioration of older stocks of CCC-owned butter, and to assure sufficient freezer capacity to handle the prospective additional acquisitions during the months immediately ahead.

Supplies of cheese and nonfat dry milk, although creating a less urgent storage problem, are also large. Donations of cheese for domestic school lunch and welfare uses in the first 9 months of 1961–62 were six times greater than a year earlier. We have made available 40 million pounds of cheese for foreign donation. Donations of nonfat dry milk for domestic use were increased 40 percent and for foreign use 38 percent. Still greater quantities are being made available wherever they can be used in the food-for-peace program. Yet CCC stocks of these products likewise continue to outrun available disposal outlets. Uncommitted inventories, as of July 31, 1962, totaled 105 million pounds of cheese and 556 million pounds of nonfat dry milk.

The cost to taxpayers of the dairy price support program has reached an alltime high. During the marketing year which ended March 31, 1962, net costs of price-support operations for dairy products totaled $597 million dollars. These Government expenditures amount to 50 cents for each 100 pounds of milk marketed by U.S. dairy farmers during 1961–62. The U.S. average price received by farmers for milk sold during this period was $4.23 per hundredweight. The cost of price-support operations for the amount of milk produced during the year by an average dairy cow comes to $36; the cost for a herd of 30 average milk cows for the year was $1,080.

We estimate that the net cost of the dairy price-support program will again exceed half a billion dollars for the 1962–63 marketing year. Despite these enormous total expenditures for dairy price supports, despite the heavy contribution of the Government to the farmer's income from milk, dairy farmers' incomes are far from adequate. The Department of Agriculture each year analyzes costs and returns of representative efficient dairy farms in various sections of the Nation. In 1960, when milk prices were comparable to those of today, dairy farm operators received net returns on their labor ranging from 33 cents per hour in eastern Wisconsin to 72 cents in the Northeast (mainly New York). The dairy farms analyzed represented average investments of about $40,000. An allowance of only 4.1 percent was made in these studies for return on investment. These low returns on labor and investment received by dairy farmers make it abundantly clear that milk prices could not be reduced without serious hardship and inequity to dairy farmers and their families. Present levels of dairy-farm income are too low for the good economic health of rural communities, and for a desirable contribution to overall national prosperity.

Although the leveling off in milk production in recent months indicates that the uptrend in production has been at least temporarily checked, the serious imbalance between milk supply and demand shows little sign of correction in the foreseeable future. Individual dairy farmers are continuing to improve their efficiency and increase production at a rapid rate. At present milk prices, this is the only means the individual dairy farmer has of maintaining his gross income in the face of continually increasing production costs. While some producers may go out of production at present prices, the increases in production of those remaining will maintain production at a high level. Increased efficiency may reduce costs per unit of production somewhat but, unless the support price on milk is increased, producer returns will remain at extremely low levels and even efficient dairy farmers and their families will remain in a depressed income situation.

Under the circumstances of the 1960's, there is no realistic prospect that acquisitions of dairy products under the mandatory price support program at 75 percent of parity will not continue to outrun commercial demand and all reasonable surplus utilization outlets. This means that under the present law, inadequate as it is to assure fair and stable incomes for dairymen, Government costs and CCC purchases will continue at extremely high levels.

The near-emergency in freezer storage capacity for butter stocks, the persistent high level of Government price support costs, and the need of dairy farm families for adequate and stable incomes, make immediate legislative action a matter of urgent priority. New legislation is needed in order to:

1. Limit the acquisition of dairy products to quantities which can be utilized, without waste, in the national interest;

2. Authorize dairy farmers, if they choose by a two-thirds majority to do so, to bring milk supplies into reasonable balance with demand and needs for Government programs, in order to maintain their prices and incomes at a fair and adequate level; and

3. Provide for a gradual transition toward reduced Government expenditures for price support operations, at the choice of dairy farmers themselves, either through lower support-price levels or through adjustment of milk supplies to demand.

I realize that it is now late in the session, and that much of your committee's time has already been occupied this year with consideration of the dairy problem. However, the problem is growing increasingly acute. The opportunity for deliberate and constructive consideration is passing. Within a year's time, the seriousness of the problem of managing surplus stocks, coupled with excessive costs to the taxpayers, may foreclose the gradual adjustments which could be effective if initiated promptly. Accordingly, I urge that your committee give further consideration to the critical situation in the dairy industry in the hope that dairy legislation may be developed to cope with the problems which confront us.

Sincerely yours,

ORVILLE L. FREEMAN.

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

Mr. ELLENDER. I yield.

Mr. PROXMIRE. As a Senator from the State of Wisconsin which produces more milk than any other State by far, and exports more milk than the next five States combined, I am tremendously interested in the bill introduced by the chairman of the Agriculture and Forestry Committee, and am much interested in the statement he has made.

I am grateful to the Senator from Louisiana for expressing his usually keen concern and tremendous competence in this field.

Along with the consideration which we must give to the increasing cost of this program—and the Senator is absolutely right in calling for legislation and action in this field—I do hope there will be at least equal weight given to the crisis in dairy farm income, a crisis which, the longer it lasts, the more we become used to it, but which is, overall, far more serious and more important than the crisis in stocks of butter, cheese, and dry milk and the increased cost to the taxpayers.

We must remember that the dairy problem has not largely been caused by the dairy farmer producing too much. The serious problem is the drop in consumption of milk.

How can the dairy farmer be blamed for this? He has been producing a cleaner product than ever—getting less for it and yet people buy less.

The dairy farmer gets only 6 or 7 cents a quart for his milk.

People complain about the cost of the dairy program. Add the total cost, to the full amount the dairy farmer receives in the market, and the American taxpayer-consumer is receiving the best bargain in the world. He is paying far less than consumers in any other country or than in this country at any other time in history. Once again, Mr. President, I am looking forward to these hearings.

Mr. ELLENDER. Yes; and if they cannot be concluded, or if in a couple

of weeks we find that it will be impossible to hold hearings during this session, then I shall ask the Senate to provide funds so that we may be able to hold hearings in the field as necessary.

The Senator well knows that a couple of months ago, when it became apparent that the Committee on Agriculture and Forestry could not deal with the milk problem because there was so much opposition to the proposals made in the bill—and I may say, in passing, I was opposed to some of the provisions of the milk title—I said then, and I want to repeat now, that unless something is done about that program, it is bound to be in the same category as our potato program of 7 or 8 years ago, when, in less than 2 days, Congress adopted a resolution to do away with the potato program altogether.

I do not want that to happen to the milk program. I express the hope that the milk producers will be able to study this bill and offer suggestions. In the meantime it occurs to me that the milk producers could do a lot to help themselves, and perhaps arrive at an arrangement so that we would not have to have such a bill. They could take upon themselves ways and means of curtailing production in keeping with our needs.

Mr. PROXMIRE. I think the suggestion is excellent. Many Wisconsin farmers earnestly support that feeling and they want to act to get the Federal Government out of this field as much as it possibly can be taken out. They feel very badly about the cost to the Federal Government and would welcome that kind of opportunity.

I think the Senator from Louisiana is right in calling on the leaders of the dairy industry to come forward with their own program, and do as much as they can, themselves, and come before us with an agreed-upon approach, so as to cut down the cost of the program, and, I hope, do something to increase dairy farm income, because it is disgracefully low.

I thank the Senator for yielding.

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

Mr. ELLENDER. I yield.

Mr. KEATING. As a Senator from a State which has very sizable milk production—very sizable—the very finest milk, the best one could drink——

Mr. PROXMIRE. Second only to Wisconsin.

Mr. KEATING. I do not yield for that purpose. I want to say it seems to me the Senator from Louisiana has approached this problem from a very constructive point of view. I shall endeavor to have the producers from New York State, insofar as I can, give study to the bill which the Senator from Louisiana has introduced. I have not seen it. I know nothing about its terms, but I will see that it gets into the hands of those deeply concerned, farmers, various organizations, and so forth.

It is my hope that they will be able to come up with constructive suggestions, as they often have in the past. I will cooperate with the Senator in his plans for hearings in the field. After all, it is difficult for many of these people to come to Washington. Perhaps we could have hearings, for instance, in three or four places in upper New York State. I am sure the Senator from Vermont would want one in Vermont. I do hope, if hearings in the field are planned, it will be possible to conduct some hearings in communities in New York State which are large milk-producing areas.

Mr. ELLENDER. I wish to say to my good friend from New York that the bill I introduced is not by any means perfect. I emphasize that it does not provide for national quotas of any kind. That was included in a proposal submitted by the administration.

This is a bill which I have tried to draft in the light of much testimony which was adduced in connection with the farm bill which was considered and passed in May. I repeat, it is not an administration bill.

After the hearings, in an effort to get people together, I saw that there was little chance to obtain unanimity as to what to do, and I then abandoned the idea of suggesting to the committee that dairying be included in the farm bill, but instead suggested separate legislation.

As I said, I consider this bill to be a simple bill, in that an attempt would be made to discourage the production of excess milk in milkshed areas. The Senator from New York knows that when the marketing order provisions of the law were put on the statute books it was the hope that wholesome milk would be produced in the milkshed areas and that certain regulations would be imposed on the producers of that milk so that under the marketing orders they would have more or less a fixed minimum price.

What I would do, in the bill, is to provide a good price for those who produce milk for fluid consumption. I would discourage those who produce more than is necessary for consumption as fluid milk by reducing their returns on the excess.

I say to my good friend from New York that his area, along with several other States, in my opinion, have violated the principle of the milkshed law enacted years ago. When the law was first put on the statute books, as much as 85 to 90 percent of the milk produced in the milkshed areas was used for direct consumption as fluid milk, and only from 10 to 15 percent was extra milk. In order to have a steady supply of milk I realize that we must provide a little more than the minimum necessary, but some milk producers have produced far more than they should. Those are the ones I am trying to reach; to encourage them to curtail their production. That would be accomplished by giving them a lesser price support for the extra milk, which may be used for manufacturing purposes.

Mr. KEATING. I am not sufficiently familiar with what the Senator would provide in his proposed legislation, nor with the position of the milk industry at this point, to discuss with him the merits of the proposed legislation. I assure the Senator I will make it a point to see that the various organizations in New York State are fully aware of what the Senator seeks to accomplish by his legislation.

The very fact that the Senator indicates that New York, Ohio, and certain other areas have produced more milk than they should and have violated at least the spirit of existing agricultural marketing legislation makes it apparent to me that it is important that hearings be held in milk producing areas of the Northeast. The points of view of all groups must be presented to the committee, so that no conclusions will be drawn which may be injurious to the milk producers in a given area without a full opportunity for these producers to be heard. I am sure the Senator, in his usual fair manner, would wish to afford producers this opportunity.

Mr. ELLENDER. Let us consider, for example, a situation in nearby Virginia. Some years ago a particular milkshed area was short in the production of milk for direct consumption. Production has increased to the point that now about 90 percent of the milk produced in this milkshed area of Virginia to which I refer is used for direct consumption, and only 10 percent is used for ice cream, butter, and things like that, all of which is used locally. The dairy farmers in this particular milkshed discourage the production of excess milk. As a result they are in good shape.

However, in the New York-New Jersey market order area the production of milk for direct consumption in 1960 amounted to only 51.7 percent of total receipts, and in 1961 to 49 percent of total receipts, with the remainder going to manufacturing purposes.

Mr. KEATING. Of course, we in New York are known to manufacture the finest ice cream, cheese, and butter manufactured by any State in the Union.

Mr. ELLENDER. But there is no reason why the Federal Government should be required to support the price of milk in a marketing order area when, as I said, much of it is used for manufacturing purposes, but at the same time they receive even higher prices for class I milk. The intent of the law was to regulate the various milksheds in order to provide milk for direct consumption rather than for manufacturing. While the marketing order law is intended to provide a fair price to encourage a stable supply for fluid use, the blend price under marketing orders now encourages producers to produce far in excess of fluid requirements.

Mr. KEATING. If the State of New York is getting more Federal money than other States under this program, it is the only program on the statute books in respect to which that is happening. Usually, although New Yorkers pay 20 percent of all Federal taxes, we get the short end of the stick when it comes to Federal spending.

I know the sincerity of the Senator. I know he wants to go forward with this program. My purpose in rising was to assure him that he will have the cooperation of this Senator, who represents a large dairying State, but also to urge him that the producers of the State be given every opportunity to testify.

Mr. ELLENDER. I shall be glad to do that.

I hope the Senator will tell his constituents that I shall be happy to listen to their spokesmen and that they should come forward with some constructive suggestions.

I repeat, if the program is permitted to drift along with such tremendous losses as I have indicated, it will place in jeopardy not only the milk program but also other farm programs now on the statute books.

Mr. KEATING. Those are already in jeopardy, in my judgment.

Mr. ELLENDER. They are. I have tried the best way I could to correct the situation, but some folks voted against the proposals made. I still feel that unless something is done, particularly in the case of wheat, corn, and other feed grains, we stand to lose not only those programs but also other programs which have benefited agriculture to a large extent.

Mr. KEATING. I agree with the Senator; but what I would do and what the Senator would do, I think might be quite different.

Mr. PROXMIRE. Mr. President, I thank the Senator for his patience. Will the Senator yield to me once more?

Mr. ELLENDER. I yield.

Mr. PROXMIRE. I have in my hand a brief explanation of the bill. I have not had an opportunity to study it. I am anxious to do so.

One of the things which the bill would do would be to drop the floor for milk price supports down to zero.

Mr. ELLENDER. That is correct. The Secretary would have authority to fix the support level between zero and 90 percent of parity. It would not have to drop to zero.

Mr. PROXMIRE. The provision now is for 75 percent of parity.

Mr. ELLENDER. Yes.

Mr. PROXMIRE. As I have stated before, I think the biggest injustice in America—and I have documented this on the floor of the Senate—is low farm income, and especially low dairy income, for it is disgracefully low. Seventy-five percent of parity is now already far too low, and if this support price goes even lower as the amendment of the Senator from Louisiana permits, it will destroy the dairy industry in the State of Wisconsin.

I am deeply concerned with the provision in this bill to permit zero price supports. I hope that in some way we can work out this problem. I recognize that there is a very urgent problem with respect to the butter surplus.

The butter surplus must be dealt with. But I hope that the distinguished chairman of the Committee on Agriculture and Forestry, who is deeply concerned, I am sure, with the plight of farmers and has been for years, and knows more about it than virtually anyone in the Senate or in the Congress, would recognize what this can do to a great State like my own State, which relies so heavily on dairy production, and what it can do to our dairy farmers, who work tremendously hard and have a big investment. They have vastly increased their efficiency, and are getting along on about 75 cents an hour at best. Now the average has sunk to about 50 cents an hour. These are people with a $40,000 or $50,000 investment in their farms on the average. If it did go to zero percent of parity—and that is the floor that is put on it by the bill—under present circumstances it would be impossible for tens of thousands of farmers of my State and for the dairy industry generally in my State to operate.

I hope that if the Senator from Louisiana has hearings in the field, he will come to Wisconsin, and will come particularly to the areas of our State in which we produce so much milk.

Mr. ELLENDER. Of course, I realize that the provision of the bill might deal quite a blow to some of the constituents of my good friend. But, as I read the proposal that I am placing before the Senate, it may be possible for the Secretary of Agriculture to have a support price affecting milk producers in the milkshed areas and another that would operate generally outside of the milk area, and provide a higher price support for producers of milk outside of marketing areas. It may be that we can work out something along that line. Under the bill the Secretary might fix a support level that would be fair to the producers in Wisconsin. But producers in marketing order areas who produce excessive supplies might receive for their excess an amount below the support price.

I am trying to have the milk producers in the regulated milksheds of our Nation at least follow the spirit of the marketing orders and produce milk at high prices—good prices—for fluid consumption. That was the intent of the law.

Mr. PROXMIRE. I agree with the Senator. But it is not clear to me why the floor must go to zero.

Mr. ELLENDER. I believe the law has been abused. The only way we can solve the problem is by making the farmer's return for excess milk in milkshed areas so low that it would discourage farmers from producing it. Give them a high price for fluid milk and a low price for excess milk. That is the purpose I have in mind. If we can accomplish it in one way or in any other that my good friend may suggest, I will be with him. But I repeat that something must be done if the milk program is to continue.

It may also be necessary to reduce the national support price below the present 75 percent of parity minimum level. The action provided by the bill for regulated milksheds may not be enough to solve the problem. The Secretary should also have authority to reduce the national support price. I hope that at the hearings the industry and all interested parties will help us to work out a program that will protect and improve income of dairy farmers and also reduce program costs. I hope that can be done.

TISSUE BANK OF THE DISTRICT OF COLUMBIA

Mr. PROXMIRE. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 2321) to encourage and aid the development of reconstructive medicine and surgery and the development of medico-surgical research by authorizing the licensing of tissue banks in the District of Columbia, by facilitating antemortem and postmortem donations of human tissue for tissue bank purposes, and for other purposes, the Secretary of the Senate be, and he is hereby, authorized and directed to make the following change, viz: On page 5, line 19 of the engrossed bill, strike out the word "section", where it appears the second time, and insert in lieu thereof "section 7,".

Mr. PROXMIRE. Mr. President, the concurrent resolution would make a technical correction in the health bill to provide for the tissue bank in the District of Columbia. It would strike out the word "section" and insert in lieu thereof "section 7." I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 88) was considered and agreed to.

FEDERAL GOVERNMENT MUST BEAR COST OF PROTECTING FOOD AGAINST FALLOUT

Mr. PROXMIRE. Mr. President, it appears that there is a real possibility that dairy farmers in some areas will be expected to take appropriate countermeasures to prevent radioactive contamination of milk.

If this is necessary I think it is absolutely clear that costs of keeping milk pure and free of fallout should not have to be paid by individual farmers, or by consumers of milk in the specific areas affected.

Without question the Federal Government should bear the cost of protective countermeasures if they are needed to prevent radioactivity in milk.

Dairy farmers will certainly take all necessary precautions to keep milk pure and healthy. Any cost of such measures, I believe, should be paid by the Federal Government.

The reason is very apparent. The fact is that these tests are necessary for the defense of our Nation. The tests that the Russians are carrying on are tests which obviously no American citizen can prevent. We all wish we could. At any rate, the costs of the tests will be enormously heavy for our farmers, and particularly our dairy farmers. That cost is going to be serious and direct within a few days on the basis of the understanding I have received lately. So I think it is only fair, in view of the low farm income we have now, that the cost be borne by all Americans, since it is something that is incurred in the defense of our country.

Mr. President, it would be a serious error for people to stop eating dairy products or drinking milk. That kind of countermeasure does not make sense.

Widely publicized radioactivity rises in some areas in recent months has focused attention on milk. Because it is nature's most perfect food and plays such a large role in infant diets, this has caused understandable concern.

Nutrition experts say it would be a mistake to curtail milk consumption. One study shows that if essential body-building calcium is derived from other sources like green leafy vegetables, the human radioactivity intake is multiplied.

However, if radioactivity from nuclear tests continues to rise in specific areas, dairy producers can and will take appropriate countermeasures. Of these the most effective and workable would be to shift cows from pasture to dry feed.

STORED FEED IS FALLOUT FREE

Since feed is under storage, it is not contaminated with radioactivity. Cows fed on stored corn and other feed grains will produce milk free of radioactive hazards even if the out-of-doors contamination should become serious.

If and when such measures are needed I am confident that dairy farmers will be willing to cooperate fully to maintain the high standards of quality and purity that are traditional in this industry.

Portable measurement devices are available and can be used, if necessary, to pinpoint high radiation levels early enough to make unnecessary changes in consumption or marketing.

But without question, any extra cost of protecting milk should be borne by the Federal Government, not by individual farmers or consumers. To charge this indirect cost of nuclear testing to dairy producers who have the bad fortune to be located in spots of high radioactivity would be cruelly unfair.

The Department of Agriculture should immediately establish standby procedures to insure that adequate supplies of stored feed are made available to dairy farmers if radioactive contamination in specific areas should require a shift away from grass and pasture.

The reported high radioactivity levels in Minnesota and Iowa last week again emphasize the need for clear national authority and standards on radioactivity hazards.

Decisions on the possible need for countermeasures must be absolutely reliable. Otherwise there would be serious danger of unwarranted milk scares which would deprive children of essential nutrition and cripple a great American industry.

I therefore urge immediate enactment of the Proxmire bill to vest full authority over radioactivity hazards in the Public Health Service. It has been referred to the Senate Committee on Labor and Public Welfare, and I hope that it will receive prompt attention.

There already exists a Department of Agriculture program that can be used effectively to cover a major part of the cost of shifting dairy herds to stored feed. It is the livestock feed program, which already makes it possible to provide feed at 75 percent of the support price to farmers in areas afflicted by natural disaster or catastrophe. This program has been used in cases of drought, hailstorms, and floods. It can and should be extended to cover cases where pasture is made unsuitable for grazing because of fallout contamination.

On the basis of recent reports, it appears that the Department of Agriculture has not taken full advantage of the livestock feed program. In spite of the serious drought this summer in Pennsylvania, Maryland, New York, and other sections of the East and Northeast, the Department has not taken steps to make livestock feed available, as authorized by law. While this year's voluntary feed grain surplus reduction program has been a marked success, and has reduced feed stocks in storage by a full 12 million tons—far more than predicted—there remain ample supplies to permit the livestock feed program to be put into effect. It is a source of regret and dismay to many that this has not been done.

Applying our stockpile of stored feed to the livestock feed program would be a most worthwhile use. Making it available on a similar basis to farmers who switch their herds away from pasture to dry feed to protect milk from radioactivity is a logical extension of the livestock feed program for disaster areas.

Since the cost of protecting the Nation's health and safety from fallout hazards is a national responsibility, closely related to civil defense and our military situation, as well as to the responsibilities of the Public Health Service, it seems appropriate that the cost of any necessary countermeasures should not be charged to our farm programs. The high cost of farm programs has become such a political football that it may be a better policy all around for the cost of protecting the American people from radioactive fallout be allocated elsewhere.

Mr. President, I ask unanimous consent that a letter from the Public Health Service and one from Dr. Dexter Goldman, of Madison, Wis., both to me, be printed at this point in the RECORD, along with a study prepared by a group of doctors and scientists in Madison entitled "Fallout, Radiation, and Public Health" and the accompanying letter of introduction.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
PUBLIC HEALTH SERVICE,
Washington, D.C.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Washington, D.C.

DEAR SENATOR PROXMIRE: We are glad to have the opportunity to comment on the points concerning the problem of preventing contamination of bovine milk with radioactivity made in the letter of May 24, 1962, to you from Dr. Dexter S. Goldman. Your office was notified by telephone July 11, 1962, of a slight delay that developed in answering this letter. We hope that this delay has not been a source of inconvenience to you.

It appears that the principal point made by Dr. Goldman is that the Government scientific community and the milk industry should stress the fact that milk can be made safe as a food. The Public Health Service has pointed out that it has used milk as an index because it is widely used by young children, is readily available throughout the country, and serves as a practical and effective index for contamination by some of the more important isotopes such as strontium 90 and iodine 131. Some of these factors which make milk a good index also lend themselves to reducing the level of these isotopes more easily than they could be reduced in other foods. For example, the fact that milk is a liquid makes it possible to use ion exchange techniques for the removal of strontium. The fact that milk is processed, both at the farm and at the plant by well-trained personnel using complex equipment, leads itself to further measurement and treatment once definitive methodology can be agreed upon. Therefore, the Public Health Service has initiated several projects working toward the type of emphasis Dr. Goldman has stressed in his letter.

For example, early in 1960 several projects were initiated by the Public Health Service to develop methods of removing or reducing radionuclides in milk as a result of successes in the laboratory during the preceding 2 years. One of these was the establishment of a pilot plant at the Agricultural Research Center, Beltsville, Md., in cooperation with the Atomic Energy Commission and the Department of Agriculture. Results from this effort have indicated that the process is feasible and nutritional studies are presently in progress to determine if any detrimental changes may have occurred as a result of the treatment process. With his experience as a biochemist I am sure Dr. Goldman is well aware of the time required to obtain definitive answers from nutritional studies involving animals.

Concomitantly with the Beltsville study, investigations into methods of reducing concentrations in the raw fluid milk through alteration of farming practices were initiated in cooperation with the St. Louis County Health Department. These studies have progressed to the point where experimental pastures have been grown on soil where several types of lime, phosphates and other fertilizers have been applied. Reductions of roughly 50 percent in radionuclide content of the milk have been noted between the experimental and control herds. Again, it is too early to recommend that these practices be instituted without at least one replication to verify the initial result.

In summary, the Public Health Service, through this Division and the Division of Environmental Engineering and Food Protection, has been working continuously with the milk industry representatives to develop alternative approaches to the problem as quickly as possible. Everyone is well aware of the economic and health aspects occasioned by the reduction of milk consumption. We have continually advised the public and the industry of the need for further study before a definitive answer can be given to the questions you have posed.

Let me assure you that we appreciate Dr. Goldman's suggestions on this problem and that they will be considered when further studies are planned.

Sincerely yours,
JAMES G. TERRILL, Jr.,
Acting Chief, Division of Radiological Health.

MADISON, WIS.,
May 24, 1962.

Senator WILLIAM PROXMIRE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: Many people, including myself and my wife, are becoming increasingly concerned over the hazards of nuclear device testing, hazards which will reap their toll in future generations. We wish to express our opposition to these tests and urge that talks, not tests, are the way out.

The primary purpose of this letter, however, is not the question of the tests themselves. Rather, I would like to suggest how

the population can be protected from some of the harmful effects of fallout. It is possible to combine these protective measures with measures which will give the dairy industry significant aid.

Before I go into this matter I would like to state my qualifications to discuss this problem. I hold a bachelor of science in chemistry and a doctor of philosophy in biochemistry from the University of California. I spent 2 years in postdoctorate study at the University of Wisconsin's Institute for Enzyme Research, where I am now an associate clinical professor. For the past 9 years I have been chief biochemist in the tuberculosis research laboratory of the Madison Veterans' Administration Hospital. My fields of interest have been metabolism and the mechanism of action of toxic materials. I believe, therefore, that I may speak with some assurance on this subject.

It is safe to say that most authorities agree that—

1. Nuclear explosions produce radioactive isotopes which gradually appear as airborne contamination in our atmosphere.

2. Some of these isotopes (strontium 90, iodine 131, carbon 14) are retained by the body and accumulate preferentially in some tissues.

3. Radiations damage is cumulative and all radiation is harmful; there is no such thing as a threshold of exposure.

4. The damage from radiation will appear gradually in future generations and will be accumulated by the population.

5. Children are most susceptible to damage from strontium 90 because of the growth of their bone structure.

6. Even if we stop testing now, radiation from atmospheric fallout will continue to rise due to the equilibration of the stratospheric and tropospheric air masses.

7. The milk industry in Wisconsin is in poor economic condition.

I am not being facetious in this last item and I believe that you will agree with me that it is indeed pertinent.

Since we may agree that fallout will continue then we must also agree that we have a moral obligation to reduce the harmful effects of this fallout. I would like to suggest that the dairy industry is the place to start with this program. Milk is a key food in the diet of the people of this country and it is a key industry in Wisconsin. There is a quiet boycott that is gradually affecting the eating habits of the American people. First the cholesterol nonsense did the dairy industry much harm. Now a real fear of radiation contamination is making people wonder if they should eliminate milk from their diet. Needless to say this will have grave consequences both on their diet and on the economy of this State.

I wish to propose, therefore, that instead of hiding the dangers inherent in the consumption of milk containing strontium 90 from fallout you, as a Senator from Wisconsin, should stress the fact that milk can and must be made safe as a food. Some of the facts are already known. The cow, in the formation of milk, discriminates against strontium 90. This discrimination is increased if the calcium content of the cow's is increased. This may be accomplished by proper liming methods. The majority of the remaining strontium 90 may be removed by ion-exchange techniques. Several methods appear to be feasible for this. Accordingly, by careful control of the nutrition of the cow and by processing the milk properly essentially all the strontium 90 can be removed from the milk. The result should be that a good source of an excellent food is protected and the economy of the dairy industry is enhanced since people will depend on milk products for safe food.

It should also be pointed out that as of now milk is the only food which can be decontaminated and, accordingly, should be the basic food for growing children.

The question of the effectiveness of dietary calcium as a method of controlling strontium 90 absorption from contaminated food has often been discussed. I believe that the definitive work has been reported by Dr. Gran from the University of Oslo, Norway, and by Dr. Wasserman of Cornell University, New York. These scientists show quite conclusively that excess calcium in the diet projects against strontium 90 in the diet and that the discrepancies between the reports of several scientists can be resolved by showing that the protection by dietary calcium depends on the body's requirement for calcium. Thus young animals, who require large amounts of calcium, receive maximal protection; this would hold also for cows since they require large amounts of calcium in the formation of milk.

It appears then that two major points are involved here. First, milk can be made a safe and dependable food for all people. Second, this can, in all probability, be done within the context of present agricultural techniques. If this is so then the major capital investment for the installation of special equipment in dairies for the elimination of strontium 90 from milk will be unnecessary. All dairy farmers, by practicing proper feeding procedures, will profit from this. One note of caution is implicit in these points. The effects of large excesses of dietary calcium has not been adequately studied in large animals. All the studies reported have been on small laboratory animals. I urge, therefore, the immediate proposal of significant research in this area. The University of Wisconsin would be an excellent location for this work considering the long association of its College of Agriculture with problems of calcium nutrition and development of high grade milk cows.

I would like to suggest, finally, that you seize the initiative in this problem. By doing so I suggest that you will render a great service to all people by publicizing the fact that milk must and can and will be made safe. You will render a great service to all people by pointing out the dangers of radiation in fallout and how these dangers can be controlled. Finally you will render a great service to the economy of this State and country.

I hope that you will find in these comments some thoughts that you feel are valuable. If the opportunity presents itself I would be pleased to discuss these suggestions with you and, perhaps, with scientists of the dairy industry the next time you are back in Wisconsin.

Some months ago I requested several publications from you concerning civil defense and radiation problems. I wish to acknowledge, with thanks, your supplying these to me.

Sincerely yours,

DEXTER S. GOLDMAN.

MADISON, WIS.,
July 30, 1962.

DEAR COLLEAGUE: We feel that the following information, gathered at random from stated sources, is of importance to you and to your patients. Very little of this information has been made available, in an understandable fashion, to the general public; indeed, very little has appeared in our medical journals.

As physicians should we not be in a position to advise patients concerning the health hazards due to radiation from fallout? Although there are differences of opinion regarding the extent of these hazards there is definite evidence of the potential dangers of continued nuclear device testing. These hazards will, of course, increase if nuclear testing is continued.

The information enclosed discusses simple methods for the control of fallout radiation hazards. Particular attention is paid to iodine 131 which affects thyroid tissue and to strontium 90 which affects bone. Both these radionuclides are found in milk; much publicity has been given to this fact. Little or no publicity has been given to the facts that the uptake of ingested I-131 and Sr-90 can be sharply reduced and to the equally important fact that by simple techniques, not requiring capital investment, milk can be rendered essentially free of Sr-90.

We urge you to read the enclosed information; it is well worth the time necessary. We hope it will serve as the basis for future discussion within our own organization.

The information in these pages was compiled as a service for the physicians of Madison, Wisconsin by the Madison Women for Peace. Consequently, we felt justified in presupposing a great deal of knowledge on such topics as, for example, the relationship between calcium and vitamin D. We suggest that if you have any questions about this report, you ask your doctor.

Caution: In this report certain suggestions are made which may minimize the effects of radioactive substances in the diet. It should be stressed that these suggestions were made to doctors for their evaluation. Dietary changes which may be perfectly safe for one individual could be hazardous to another. It cannot be overemphasized that people should not implement any of the suggestions made without prior consultation with their physician.

Sincerely yours,

Thomas V. Geppert, M.D.; Laurence T. Giles, M.D.; Frank C. Larson, M.D.; Evelyn D. Lipp, M.D.; William A. Tanner, M.D.; H. Kent Tenney, M.D.; Harry A. Waisman, M.D.; Arvin Weinstein, M.D.

FALLOUT, RADIATION, AND PUBLIC HEALTH

(This report was prepared by the environmental hazards committee of the Madison (Wisc.) Women for Peace, Elsie C. Goldman, M.S., chairman; Angela Carney, Secretary; Evelyn D. Lipp, M.D.; Dexter S. Goldman, Ph. D., scientific adviser.)

"The establishment of radiation protection standards involves a balancing of the benefits to be derived from the controlled use of radiation and atomic energy against the risk of radiation exposure. This principle is based on the position adopted by the Federal Radiation Council that 'any radiation exposure of the population involves some risk, the magnitude of which increases with the exposure.' The possibility that somatic effects as well as genetic effects might have no threshold appeared acceptable, as a conservative assumption, to increasing numbers of scientists." (The Federal Radiation Council (Rept. No. 1).)

Before weapons tests started there was no such thing as strontium 90 or iodine 131 either in the food we eat, in the atmosphere, or in the human body. If the United States and the Soviet Union stopped all tests now the peak fallout of strontium 90 would occur in 1970–75 (United Nations General Assembly, "Report of the United Nations Scientific Committee on the Effects of Atomic Radiation," General Assembly, 13th sess., New York, 1958, pp. 111–113). Fallout is continually increasing before that time and decreasing after that time so that total exposure is cumulative over this period. The Federal Radiation Council estimates that all testing through 1961 produced an average bone radiation dose of less than 10 percent of background radiation (less than 5 percent for the whole body) over a 70-year life span. With the resumption of testing these figures must be increased significantly. A more meaningful figure is the 1-year exposure figure rather than the 70-year average. The 1-year figures for radiation to bone in 1958–59 was 20 to 60 percent of background

(dosage from the major Russian tests of 1961 will not occur until 1963).

STRONTIUM 90 ACCUMULATION, 1953–60

The absorption of strontium 90 by humans can be illustrated by the findings of Kulp & Schulert (Science, 136, 619, 1962). Average strontium 90 concentration in whole skeleton samples of New York adults in 1953 was less than 0.01 picocuries[1] per gram of calcium. In 1960 children ranging in age from 6 to 24 months (New York, Boston area) had an average of 3.0 pc. strontium 90 per gram of calcium in their bones, while children of 5–19 years of age in 1960 (same area) had an average of 1.5 pc Sr^{90} per gram of calcium. In Australia the figures were 1.1 and 0.5 respectively. This difference is due to (a) weapons tests being carried on in the Northern Hemisphere and (b) the quite slow Northern to Southern Hemisphere atmospheric exchange.

RADIATION DOSE FROM STRONTIUM 90

Strontium 90 is deposited in bone, and its turnover from bone is very slow. The bone marrow, accordingly, is continually exposed to a source of high energy radiation in its immediate environment. A concentration of 20 pc. of strontium 90 per gm. of calcium will yield a radiation dose of 0.056 rads per year to the total body (U.S. Atomic Energy Comm. Health and Safety Laboratory, Publ. 42, Oct. 1958, p. 275).

WHEN SCIENTISTS DISAGREE

The American Academy of Pediatrics, through its committee on environmental hazards (April 1962) has notified its members that radiation from fallout poses no particular hazard. This statement has been countered by a detailed statement by the Scientific Advisory Board of the Greater St. Louis Citizens' Committee for Nuclear Information (Vol. 4, No. 6, May 1962). Since these statements are concerned with both massive radiation and long-term low-level radiation effects they make valuable reading. In particular, the citizens' committee points out that the first two postulated effects of high radiation doses, i.e., shifts in the sex ratio and retardation of children's growth, have been observed in exposed Japanese and Marshall Islands populations.

FIRST GENERATION GENETIC EFFECTS

In 1958 the National Academy of Sciences estimated that the accumulated radiation dose due to fallout (predicted on the rates of fallout from 1958 and previous testing only) would result in the appearance of from 160–800 genetically defective children per year in the United States (approximately 80,000 genetically defective children are born each year in the United States). Since this is a first generation effect only, this would take approximately 30 years to reach its maximum, e.g., in the first year only perhaps 10 percent of this additional number might appear. Assuming the same birth rate and the same radiation dose as was present in the United States in 1958, the ultimate worldwide increase in genetically defective children would be 2,500 to 13,000 per year. Since the rate of testing in 1962 is much greater than was anticipated in the above statement it is probable that these figures should be increased.

ULTIMATE GENETIC EFFECTS

Prof. James Crow (Public Affairs Pamphlet No. 256, Public Affairs Commission of New York) states that, "Following an increase in the mutation rate, the resulting effects would be spread very thinly through many generations. Although the amount of harm would be greater in the first generation children than in any other single generation, the first generation effect is nonetheless a very small fraction of the total. Geneticists have estimated that about half the damage would occur in 30–50 generations."

Herman Muller, Nobel Laureate, says: "It can be calculated that the fallout radiation resulting from the above-ground testing of a single 100 megaton bomb would be likely to induce more than 100,000 cases of leukemia, bone cancer, and other fatal ills in the present population of the world. Moreover, a conservative estimate places at about a million the number of harmful mutations that the next generation of mankind would inherit in consequence of that bomb" (Saga, April 1962).

EFFECTS OF SPECIFIC ISOTOPES

Iodine 131 has a half-life of about 8 days, and emits high energy gamma rays. This isotope is concentrated in the thyroid and thus delivers a significant dose of radiation to a specific tissue. The principal source of contamination is fresh milk. Eisenbud et al. (Science, 136, 370, 1962) have shown that the ingestion of 1 quart of milk containing 100 pc. of I–131 per day leads to a I–131 burden in thyroids of 300 to 700 pc. at equilibrium.

FEDERAL RADIATION COUNCIL GUIDELINES

The Federal Radiation Council's guidelines state that when ingestion of I–131 is in excess of 100 pc. per day (averaged over 1 year), range III has been reached. Range III is defined as that level of radiation at which, "consideration of control measures designed to limit intake" are needed. (U.S. Department of Health, Education, and Welfare, Public Health Service. "Fallout Surveillance and Protection," Oct. 26, 1961.) In the middle of May 1962, milk in many western U.S. cities contained more than 600 pc. of I–131 per quart.

Thyroid malignancies have been frequently noted in children who have received X-ray treatment of the upper thorax or pharynx. By extension, seemingly low levels of I–131 in children should be of concern.

SUMMER 1962, IODINE 113 LEVELS

In the middle of June 1962 Surgeon General Terry, in a letter to the St. Louis Committee for Nuclear Information, stated, "In other words there are several areas in the midcontinent section of the country where the estimated thyroid doses of infants based upon the concentrations of radioiodine in milk have approached the radiation protection guide recommended by the Federal Radiation Council," i.e., approached range III.

These radiation levels are most probably well below those levels which will lead to thyroid malfunction, but they may well be in the range which may lead to tumor production. It should be emphasized that children are more sensitive to radiation than adults and that children's thyroids are more efficient at concentrating iodine than are adults'.

CONTROL MEASURES

Since we cannot prevent this amount of contamination from entering our environment, we have a responsibility to our patients and the community to reduce the long-range hazards implicit in the presence of this contamination.

IODINE 131

One technique for reducing strontium 90 and iodine 131 absorption is by diluting it out in vivo with nonradioactive calcium and iodine, respectively. Reduction of absorption of iodine 131 is relatively simple, since the MDR (0.1 mg. per day per person) can be safely exceeded tenfold to twentyfold for the relatively short periods during which nuclear tests are conducted. As little as one drop of S/S KI per day will be adequate.

Since the half life of iodine 131 is short, the use of stored milk will reduce the intake of this isotope.

DIETARY CALCIUM DILUTES OUT STRONTIUM 90

The use of calcium as diluent for dietary strontium 90 poses a graver problem, for large excesses of dietary calcium above the MDR (1 gm. per day per person) can be hazardous. There is at present considerable confusion in the literature on the efficacy of dietary calcium as a diluent for dietary strontium 90. A report by Wasserman and Comar (Proc. Soc. Exp. Biol. Med., 103, 124 (1960)) reconciles the differences in the literature by showing that unless the age of the animals and the diets are rigidly controlled quantitative information cannot be obtained. They conclude that (a) in immature rats, elevated dietary calcium levels (4 times MDR) with or without increased phosphorus levels would almost proportionately reduce the body burden of radiostrontium, (b) in mature rats, elevated dietary calcium alone would not proportionately reduce the radiostrontium, and (c) in mature rats, simultaneous increases in dietary calcium and phosphorus levels would to some degree reduce the ultimate body burden of radiostrontium.

In an independent study Gran (Acta Physiologica Scandinavica, 48 Suppl. 1, Oslo, 1960, "Studies on Calcium and Strontium 90 Metabolism in Rats," tables 15 and 16), showed that about 70 percent of ingested strontium 90 is retained when dietary calcium equals the MDR and 95 percent of the ingested strontium 90 is excreted when calcium ingestion is at three times the MDR.

It would appear that for children, dietary calcium at two to three times the MDR (as calcium phosphate), with a concomitant reduction of vitamin D intake to about 500 IU per day, will offer some protection. Calcium phosphate wafers equivalent to 3 gms. of calcium will be adequate.

STRONTIUM 90 CONTROL THROUGH INCREASED CA FOR PLANTS AND ANIMALS

Proper control of soil calcium levels can reduce the uptake of Sr^{90} by plants. Likewise, control of calcium levels in animal feed will reduce the Sr^{90} content of milk. Both of these obviously pose no hazard to humans. Wasserman (personal communication) states: "In recent studies, we have investigated the effect of dietary calcium on the secretion of Sr^{90} into milk of the lactating cow and goat. In these experiments, it again became apparent that, within physiological limits, a reduction in Sr^{90} level in milk could be brought about by elevating dietary calcium, and this relationship was nearly an inverse proportionality."

It is important to realize that:

MILK

1. The elimination of milk from the diet of children in an attempt to reduce strontium 90 intake is of no use, indeed it is hazardous. Other sources of dietary calcium (grains, vegetables, etc.) have a higher strontium/calcium ratio than does milk.

2. Since the half-life of strontium 90 is very long the use of stored milk will in no way reduce the ingestion of this isotope.

3. Milk can be made the safe food by the almost total elimination of strontium 90 through the proper nutrition of the cow.

4. It is more advantageous to reduce the strontium 90 hazard by altering the nutrition of the cow than by adding calcium to the child's diet. However, until such time as all milk is decontaminated we suggest that consideration be given to daily supplementary doses of calcium phosphate for the child.

Mr. PROXMIRE. Mr. President, in order to carry out the steps that may be necessary to provide an adequate supply of pure, wholesome milk, free of contamination by radioactive fallout, and without raising costs to individual farmers or consumers in areas which

[1] 1 picocurie (pc) = 1 micromicrocurie = 10^{-12} curies.

may have high fallout levels, I am submitting two amendments to the pending farm bill, H.R. 12391.

The first amendment would give the Secretary of Agriculture authority to reimburse dairy producers for the cost of necessary countermeasures—approved by the Secretary—to prevent or reduce contamination of milk by radioactive fallout. These countermeasures would include the use of instruments to measure fallout levels in specific counties, or on individual farms, as well as the cost of shifting cows from pasture to stored feed, and other appropriate countermeasures.

The second amendment broadens the existing livestock feed program for disaster areas, by providing specific authority to make CCC grain available to dairy farmers who must feed their cows on stored feed to prevent radioactive contamination of milk. This is a logical extension of an existing program that has in the past worked satisfactorily by making cheaper feed available to farmers in disaster counties. The same assistance should be available in the case of the "disaster" of pastures contaminated by radioactive fallout.

I send these two amendments to the desk and ask that they be printed. I also ask unanimous consent that they be printed at this point in the RECORD.

The PRESIDING OFFICER. The amendments will be received and printed and will lie on the table; and without objection, the amendments will be printed in the RECORD at this point.

The amendments ordered to be printed in the RECORD are as follows:

On page 94, between lines 17 and 18, insert the following new section:

"SEC. 405. (a) In order to assure the Nation of an adequate supply of milk free of contamination by radioactive fallout, the Secretary of Agriculture is authorized to reimburse producers of milk in any area or areas of the United States for reasonable costs incurred by them in carrying out countermeasures approved by him to prevent or reduce the contamination of milk from such fallout.

"(b) The Secretary is authorized to promulgate such rules and regulations as he deems appropriate to effectuate the purposes of this section.

"(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

On page 94, between lines 17 and 18, insert the following new section:

"SEC. 405. Section 407 of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new sentence as follows: 'Notwithstanding the foregoing, whenever the Secretary determines it necessary in order to assure the Nation an adequate supply of milk free of contamination by radioactive fallout, he may make feed owned or controlled by the Commodity Credit Corporation available to producers of milk in any area or areas of the United States at such prices and on such terms and conditions as he deems appropriate in the public interest.'"

FEDERAL AGENCIES RESPOND TO RACHEL CARSON'S PESTICIDE CHALLENGE

Mr. PROXMIRE. Mr. President, on several occasions I have drawn attention to the series of three articles by Rachel Carson on indiscriminate use of pesticides which appeared recently in the New Yorker. Entitled "Silent Spring," the articles form the main part of a book which will be published in October.

Because the questions raised by Miss Carson are important, and because the Federal Government is greatly involved in the use of pesticides and poisons for insect and other environmental control programs, I wrote to the Secretary of Interior and the Secretary of Agriculture asking them to comment on the articles.

I have now received replies from each Department. I ask unanimous consent that the replies and statement be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 1, 1962.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: Thank you for your letter of July 20 pertaining to a recent series of articles in the New Yorker magazine by Miss Rachel Carson on the harmful effects of pesticidal chemicals.

We share Miss Carson's concern regarding the mounting use of pesticides and their impact upon many forms of animal life. Some of the incidents described by her were the result of findings from research by the Fish and Wildlife Service of this Department which has responsibility for studying the effects of pesticidal chemicals upon fish and wildlife resources and for assisting in the development of ways and means whereby necessary pest control can be accomplished with minimum harm to these values.

We have initiated a staff review of the numerous incidents described by Miss Carson. Upon completion of this analysis we shall provide you with a report evaluating the research findings on the various referenced pesticides and other information you requested.

Your interest in this problem is appreciated.

Sincerely yours,
FRANK P. BRIGGS,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 16, 1962.

Hon. WILLIAM PROXMIRE,
U.S. Senate.

DEAR SENATOR PROXMIRE: This has further reference to your letter of July 20 and our acknowledgment of July 24, on the subject of pesticides.

The Federal Council for Science and Technology has named an ad hoc panel to examine those programs in Federal agencies, and to gather such data as are presently available on the overall problems of pesticide use, both within and without Government activities. This Department is represented on the panel and will, of course, make all of its resources available for this study.

In the meanwhile we have issued the attached statement which reflects our views on the subject.

Sincerely yours,
KENNETH M. BIRKHEAD,
Assistant to the Secretary.

U.S. DEPARTMENT OF AGRICULTURE COMMENTS ON RACHEL CARSON'S ARTICLES IN THE NEW YORKER

Miss Carson presents a lucid description of the real and potential dangers of misusing chemical pesticides. These are poisonous compounds and, if used improperly, can be dangerous.

The articles serve to alert people to this danger. They also emphasize the need for greater public support of efforts to develop more effective biological and nonchemical pest control techniques, to develop more sophisticated chemicals that will affect only one or two species of pests, and to intensify research on the effect of pesticides on people and animals.

Miss Carson does not advocate halting all use of chemical pesticides. She does advocate the use of the best judgment in selecting the right control method—whether biological, chemical, or other—for use in the right way at the right time.

She expresses the concern of many people about the effect of chemical pesticides on birds, animals, and people. We are fully aware of, and share, this concern.

Here are some of the things we are doing to provide needed protection to the public:

1. At the request of the Secretary of Agriculture, a Federal Pest Control Review Board was established in 1961. All pest control programs sponsored by the Federal Government and the cooperating States are reviewed by this Board. Members of the Board include representatives from the Departments of Agriculture, Defense, Interior, and Health, Education, and Welfare.

For many years the Department of Agriculture has worked closely with the Public Health Service and the Food and Drug Administration in matters concerning the safe use of pesticides. In carrying out its responsibilities, the Department of Agriculture utilizes the knowledge and judgment of scientists in these agencies of the Department of Health, Education, and Welfare concerning the safety to people of pesticides used on foods.

The USDA is responsible for registering all pesticides to be shipped in interstate commerce. To obtain registration pesticide manufacturers or formulators must first prove to USDA that the product, used as directed, will be effective, safe for users, safe for people living in the area, safe for crops and livestock, and safe in respect to residues in foods.

If any residue will be left on foods when the product is used as directed, the manufacturer must obtain from the Food and Drug Administration a tolerance to cover the residue present. This tolerance sets a legal limit on the amount of the chemical permitted to remain on foods.

2. We will request the Congress to amend the Federal Insecticide, Fungicide, and Rodenticide Act to do away with the provision that now permits a company to register a pesticide "under protest" after the Department has denied registration on any question of health or safety.

3. The Department requested an increase of $250,000 for the fiscal year beginning July 1, 1962, to strengthen its control over pesticides. A good share of this money will be spent to increase the staff of toxicologists and pharmacologists.

4. We are continuing to expand research on methods of controlling insects without the use of chemicals that leave harmful residues. Two-thirds of the Department's research on insects is now devoted to biological controls, use of chemicals specific to a particular insect, attractants, and basic studies of insect physiology and pathology. In the last 2 years, the Congress appropriated some $2.9 million for construction of three new USDA laboratories devoted to research on biological control of insects, pesticide residues, and insects affecting man and animals.

Chemical pesticides have helped and will continue to help make possible the better living conditions this Nation enjoys. The

burst of productivity over the past decade on U.S. farms parallels the increasing use of chemical pesticides. These chemicals have also enabled us to eliminate or to minimize the effects of disease-carrying pests throughout the world.

Without pesticides, many of the foods we take for granted would be luxury items available to only a few.

Commercial apple production would be impossible, as would be the production of eastern-grown peaches. Oranges and grapefruit would be subject to infestation by maggots, and the producers of potatoes and tomatoes would lose every second or third crop. The expansion of beef and dairy production in the southeastern section of the country would have been impossible.

Scientists of the Department and cooperating agencies do not claim to know all the chemical and biological effects of these pesticides, for our knowledge is not complete. However, it is substantial and is constantly increasing.

The U.S. Department of Agriculture will continue to exercise strict control over pesticides offered for sale in interstate commerce and will constantly seek better methods to control pests.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON APPLIED SCIENCE LABORATORY AT GODDARD SPACE FLIGHT CENTER, GREENBELT, MD.

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on the construction of an Applied Science Laboratory at Goddard Space Flight Center, Greenbelt, Md.; to the Committee on Aeronautics and Space Sciences.

WITHDRAWAL OF CERTAIN WINES FROM BONDED WINE CELLARS WITHOUT PAYMENT OF TAX

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide for the withdrawal of wine from bonded wine cellars, without payment of tax, for use in the manufacture of preparations unfit for internal human use (with accompanying papers); to the Committee on Finance.

REPORT ON COBALT BY U.S. TARIFF COMMISSION

A letter from the Chairman, U.S. Tariff Commission, Washington, D.C., transmitting, pursuant to law, a report of that Commission, relating to cobalt (with an accompanying report); to the Committee on Finance.

REPORT ON REVIEW OF PAYMENTS MADE BY THE UNITED STATES FOR CONSTRUCTION OF AIRFIELDS IN FRANCE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on review of payments made by the United States for the construction of airfields in France (with an accompanying report); to the Committee on Government Operations.

REPORT ON REVIEWS AT SELECTED LOCAL HOUSING AUTHORITIES TO ASCERTAIN STATUS OF PRIOR FINDINGS AND RECOMMENDATIONS, HOUSING AND HOME FINANCE AGENCY

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on reviews at selected local housing authorities to ascertain status of prior findings and recommendations, Public Housing Administration, Housing and Home Finance Agency, dated August 1962 (with an accompanying report); to the Committee on Government Operations.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Acting Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a report of the Acting Archivist of the United States on a list of papers and documents on the files of several departments and agencies of the Government which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. JOHNSTON and Mr. CARLSON members of the committee on the part of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RUSSELL, from the Committee on Armed Services, with amendments:

H.R. 5532. An act to amend the Armed Services Procurement Act of 1947 (Rept. No. 1884).

By Mr. SALTONSTALL, from the Committee on Armed Services, without amendment:

S. 3628. A bill to amend title 10, United States Code, to authorize the appointment of citizens or nationals of the United States from American Samoa, Guam, or the Virgin Islands to the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy (Rept. No. 1885).

By Mr. ROBERTSON, from the Committee on Banking and Currency, without amendment:

S. 3154. A bill to amend Public Law 86-184, an act to provide for the striking of medals in commemoration of the 100th anniversary of the admission of West Virginia into the Union as a State (Rept. No. 1886); and

H.R. 11310. An act to amend section 3515 of the Revised Statutes to eliminate tin in the alloy of the 1-cent piece (Rept. No. 1887).

BILLS INTRODUCED

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

By Mr. BARTLETT:

S. 3649. A bill to provide that the vessels *Montauk* and *Glenbrook* may be U.S.-flag commercial vessels for the purposes of section 901(b) of the Merchant Marine Act, 1936; to the Committee on Commerce.

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

By Mr. GOLDWATER:

S. 3650. A bill for the relief of Flora Romano Torre; to the Committee on the Judiciary.

By Mr. FONG:

S. 3651. A bill authorizing modification of the project for Kaunakakai Harbor, Molokai, Hawaii; to the Committee on Public Works.

By Mr. CHAVEZ:

S. 3652. A bill for the relief of Mary Zita Garcia; to the Committee on the Judiciary.

By Mr. BEALL:

S. 3653. A bill to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and provide certain services to the Antietam-South Mountain Centennial Association, Inc., for use at the 1962 reenactment of the Battle of Antietam, and for other purposes; to the Committee on Armed Services.

By Mr. MAGNUSON (by request):

S. 3654. A bill to exclude cargo which is lumber from conference agreements under the Shipping Act, 1916, and from certain tariff filing requirements under such act; to the Committee on Commerce.

By Mr. ELLENDER:

S. 3655. A bill to reduce Government expenditures for price support for dairy products and discourage the production of excess supplies; to the Committee on Agriculture and Forestry.

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

CONCURRENT RESOLUTION

CHANGE IN ENROLLMENT OF S. 2321, THE DISTRICT OF COLUMBIA TISSUE BANK ACT

Mr. PROXMIRE submitted a concurrent resolution (S. Con. Res. 88) authorizing a change in the enrollment of S. 2321, the District of Columbia Tissue Bank Act, which was considered and agreed to.

(See the above concurrent resolution printed in full when submitted by Mr. PROXMIRE, which appears under a separate heading.)

RESOLUTION

INCLUSION OF QUESTION OF HUNGARY ON AGENDA OF UNITED NATIONS GENERAL ASSEMBLY

Mr. LAUSCHE (for himself, Mr. YOUNG of Ohio, Mr. HARTKE, Mr. KEATING, Mr. SCOTT, and Mr. HART) submitted a resolution (S. Res. 377) favoring inclusion on the agenda of the 17th session of the United Nations General Assembly of "The Question of Hungary," which was referred to the Committee on Foreign Relations.

(See the above resolution printed in full when submitted by Mr. LAUSCHE, which appears under a separate heading.)

REGISTRY OF VESSELS "MONTAUK" AND "GLENBROOK" AS U.S.-FLAG COMMERCIAL VESSELS

Mr. BARTLETT. Mr. President, I introduce, for appropriate reference, a bill which would extend the eligibility of two U.S.-flag tramp ships for the carriage of cargoes under section 901 of the Merchant Marine Act, 1936—the cargo preference laws. These ships will otherwise become ineligible for such cargoes by operation of Public Law 87-266, which makes ineligible for such cargoes vessels converted abroad unless before September 21, 1961, the owner notified the Maritime Administration of his intention to redocument the vessel under U.S. flag and unless before September 21, 1962, the owner actually completes the conversion work and carries out his intention to redocument.

The owners of these two ships complied with the first requirement, giving timely notice of their intention to redocument their ships; but find that because of a labor situation abroad, their conversion contracts will not be per-

formed and the conversion work will not be completed by the September 21, 1962, deadline. It will be impossible, therefore, to bring the ships to the United States for redocumentation in time. Both ships are being converted in Spanish shipyards. Both were placed in these yards for the commencement of conversion work in time to complete the work and to redocument the ships by the deadline. But shipyard delays, work slowdowns due to unsettled labor conditions in Spain, and, in one case, strikes, have prevented timely completion of the work. I am advised that the best efforts of the owners have been unavailing to bring the work to completion.

These vessels are now registered under the U.S. flag, and before entering the shipyards were operated under the U.S. flag. If they become ineligible for cargo preference cargoes, their ability to operate in competition with lower cost, foreign-flag tramp ships will be nil.

The proponents have asked that they be given a forum so that Congress can evaluate the equities of their position. I am, therefore, introducing this draft so that it can be considered in a hearing.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 3649) to provide that the vessels *Montauk* and *Glenbrook* may be U.S.-flag commercial vessels for the purposes of section 901(b) of the Merchant Marine Act, 1936, introduced by Mr. BARTLETT, was received, read twice by its title, and referred to the Committee on Commerce.

INCLUSION OF QUESTION OF HUNGARY ON AGENDA OF UNITED NATIONS GENERAL ASSEMBLY

Mr. LAUSCHE. Mr. President, I send to the desk a resolution sponsored by myself, my colleague from Ohio [Mr. YOUNG], the Senator from Indiana [Mr. HARTKE], the Senator from New York [Mr. KEATING], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Michigan [Mr. HART], asking that our Government continue on the docket of the United Nations the issue of the invasion of Hungary by Communist Russia in 1956. I ask that the resolution be appropriately referred.

The PRESIDING OFFICER (Mr. BURDICK in the chair). The resolution will be received and appropriately referred.

The resolution (S. Res. 377) was referred to the Committee on Foreign Relations, as follows:

Whereas the brutal suppression of the uprising of the brave Hungarian patriots in 1956, the massive intervention of Soviet armed forces on that occasion, and the consequent suffering inflicted upon the Hungarian people by slavish Communist rule have been the causes for repeated action by the United Nations General Assembly; and

Whereas there has been a blatant and persistent refusal by the present Hungarian regime and the Union of Soviet Socialist Republics to comply with General Assembly resolutions; and

Whereas the Hungarian people are presently denied the right to conduct free and independent elections to choose a government responsive to their will; and

Whereas the question of Hungary involves the denial of fundamental freedoms and human rights and a flagrant violation of the principles of the United Nations Charter: Therefore be it

Resolved, That it is the sense of the Senate that the President of the United States should instruct the United States delegation to the seventeenth session of the United National General Assembly to take all possible measures to have the question of Hungary included on the agenda of the Seventeenth General Assembly as an important and urgent item, and to take all possible measures to insure that credentials in the General Assembly are denied to representatives of the present Hungarian regime.

AMENDMENT OF TRADING WITH THE ENEMY ACT—AMENDMENT

Mr. LONG of Louisiana submitted an amendment, intended to be proposed by him, to the amendment intended to be proposed by Mr. JOHNSTON (for himself, Mr. DIRKSEN, Mr. BIBLE, Mr. BUSH, and Mr. SALTONSTALL) to the bill (S. 495) to amend the Trading With the Enemy Act, as amended, which was ordered to lie on the table and to be printed.

AMENDMENT OF WAR CLAIMS ACT OF 1948, TO PROVIDE COMPENSATION FOR CERTAIN WORLD WAR II LOSSES—AMENDMENT

Mr. LONG of Louisiana submitted an amendment, intended to be proposed by him, to the bill (H.R. 7283) to amend the War Claims Act of 1948, as amended, to provide compensation for certain World War II losses, which was ordered to lie on the table and to be printed.

REVENUE ACT OF 1962—AMENDMENT

Mr. WILLIAMS of Delaware (for himself, Mr. AIKEN, Mrs. SMITH of Maine, and Mr. PROXMIRE) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 10650) to amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes, which was ordered to lie on the table and to be printed.

INCREASES IN RATES OF DISABILITY COMPENSATION—AMENDMENT

Mr. LONG of Louisiana submitted an amendment, intended to be proposed by him, to the bill (H.R. 10743) to amend title 38, United States Code, to provide increases in rates of disability compensation, and for other purposes, which was ordered to lie on the table and to be printed.

TRADE EXPANSION ACT OF 1962—AMENDMENTS

Mr. SMATHERS. Mr. President, I submit, for appropriate reference, amendments intended to be proposed by me to H.R. 11970, the trade expansion measure, together with an explanatory statement of the amendments.

I ask unanimous consent that the amendments, together with the explanation be printed in the RECORD.

The PRESIDING OFFICER. The amendments will be received and appropriately referred; and, without objection, the amendments and statement will be printed in the RECORD.

The amendments were referred to the Committee on Finance, as follows:

On page 51, beginning with "(1)" in line 18, strike out all through "subsection (b)" in line 1, on page 52, and insert in lieu thereof the following: "The amount of trade readjustment allowance payable to an adversely affected worker under subsection (a) or (b)".

On page 52, line 10, strike out "payable" and insert in lieu thereof "paid".

On page 52, line 20, strike out "payable" and insert in lieu thereof "paid".

On page 53, beginning with line 14, strike out all through line 2 on page 54 and insert:

"(g)(1) If unemployment insurance is paid under a State law to an adversely affected worker for a week for which—

"(A) he receives a trade readjustment allowance, or

"(B) he would be entitled (determined without regard to subsection (c) or (e) or to any disqualification under section 327) to receive a trade readjustment allowance if he applied for such allowance,

the State agency making such payment shall, unless it has been reimbursed for such payment under other Federal law, be reimbursed from funds appropriated pursuant to section 337, to the extent such payment does not exceed the amount of the trade readjustment allowance such worker would have received, or would have been entitled to receive, as the case may be, if he had not received the State payment. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the State agency.

"(2) In any case in which a State agency is reimbursed under paragraph (1) for payments of unemployment insurance made to an adversely affected worker, such payments, and the period of unemployment of such worker for which such payments were made, may be disregarded under the State law (and for purposes of applying section 3303 of the Internal Revenue Code of 1954) in determining whether or not an employer is entitled to a reduction rate of contributions permitted by the State law, but only if, under the State law, such payments and such period are disregarded in determining such worker's eligibility for benefits under the State law upon the termination of such worker's eligibility to receive trade readjustment allowances as determined under section 324."

The statement presented by Mr. SMATHERS is as follows:

STATEMENT IN EXPLANATION OF AMENDMENT TO H.R. 11970 TO PROVIDE FOR FEDERAL REIMBURSEMENT

The purpose of the amendment is to provide for the payment of trade readjustment allowances (TRA) for workers from Federal funds. To the extent, then, that a worker who is entitled to TRA for a week of unemployment is paid State unemployment insurance for the same week, the State agency will be reimbursed the amount of State unemployment insurance it has paid the worker, but not more than the amount of TRA the worker would have been paid had he not received the State unemployment insurance.

The amendment would also permit a State law to delete charges made to an employer's

account for weeks of State unemployment insurance paid to an adversely affected worker which have been reimbursed to the State agency if such law provides for the reinstatement of the worker's rights to such unemployment insurance.

Under H.R. 11970 as presently drafted the amount of TRA payable to a worker for any week must be reduced by any amount of State unemployment insurance to which he is entitled for the same week, whether or not he has filed a claim for such insurance. Thus, it would be advantageous for any claimant who had State rights to unemployment insurance to claim them. The Federal Government then would pay only the difference between the worker's weekly benefit amount under the State law and the trade readjustment allowance computed under H.R. 11970. The attached amendment would delete paragraph (1) of subsection (c) of section 323 which so provides, would reletter paragraph (2) as subsection (c), and would delete the words "under subsection (b)" on line 1, page 52.

As so amended subsection (c) would reduce a worker's TRA payment for a week by the amount of any State unemployment insurance that he has received or is seeking for such week; but if the appropriate agency finally determines that the worker is not entitled to unemployment insurance for the week, the reduction shall not apply. This provision is retained to preclude a worker's being entitled to both State unemployment insurance and TRA for the same week, as for example where a worker files for both TRA and State unemployment insurance for the same week but it is not known at the time for payment whether he will actually receive the State unemployment insurance.

Subsection (d) would be amended to provide that the State agency shall be reimbursed, in accordance with subsection (g), for State unemployment insurance paid by it if it has not been reimbursed under another Federal law, as, for example, under the Manpower Development and Training Act of 1962.

Subsection (g) would be amended to contain two paragraphs. Paragraph (1) would require reimbursement to be made to a State agency for State unemployment insurance paid to an adversely affected worker for a week with respect to which he is entitled to a trade readjustment allowance. The amount of the reimbursement may not, however, exceed the amount of the trade readjustment allowance the worker would have received had he not received the State payment.

Paragraph (2) would provide that notwithstanding any other provision of law (including sec. 3303(a)(1) of the Federal Unemployment Tax Act which sets forth the conditions under which a State law may permit employers to receive reduced rates of contribution) any charges to an employer's account for unemployment insurance paid to an adversely affected worker for which reimbursement has been made to the State agency may be deleted, but only on the condition that the worker's rights to the unemployment insurance for which reimbursement was made are reinstated to him. The reinstatement would not be effective until the expiration of the period for which he is entitled to trade readjustment allowances (generally 52 weeks) or at the end of his trade readjustment allowance benefit period (generally 2 years), whichever is earlier.

The drafting of the amendment for Federal reimbursement assumes the Senate Finance Committee's acceptance of the technical amendment which will be submitted by the administration.

ADDITIONAL COSTS OF AMENDMENT

If TRA is paid from Federal funds rather than as a supplement to State unemployment insurance, the Federal cost for such allowances would be increased from an estimated $35 million for the 5-year period to an estimated $64.1 million. The added cost of $29.1 million represents the amount of State unemployment insurance payments which adversely affected workers would have received in the absence of the TRA program.

FOOD AND AGRICULTURE ACT OF 1962—AMENDMENTS

Mr. MUNDT submitted amendments, intended to be proposed by him, to the bill (H.R. 12391) to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve natural resources, and for other purposes, which were ordered to lie on the table and to be printed.

Mr. YOUNG of North Dakota submitted amendments, intended to be proposed by him, to House bill 12391, supra, which were ordered to lie on the table and to be printed.

Mr. PROXMIRE submitted amendments, intended to be proposed by him, to House bill 12391, supra, which were ordered to lie on the table and to be printed.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 17, 1962, he presented to the President of the United States the enrolled bill (S. 3491) to amend the Atomic Energy Act of 1954, as amended, and for other purposes.

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. GOLDWATER:

Address delivered by him before the assembly session of the American Bar Association in San Francisco, Calif., on August 8, 1962.

By Mr. CARROLL:

Statement by him relating to Interstate Commerce Commission regulations.

COMPETITION FROM FOREIGN PETROLEUM

Mr. McGEE. Mr. President, the problems of the oil industry are many and varied. Among them is increasing competition from petroleum and petroleum products produced in other areas in the world.

It is obvious that a healthy oil industry is a necessity in this country, and I would like to call the attention of this body to an appeal by the Independent Petroleum Association of America for a new approach to the problem of imports. Mr. Harold Decker, president of the association, appeared before the Senate Finance Committee early this month and made a statement which is an effective summary of the position of many oilmen in the country. I ask unanimous consent that his statement be printed in the body of the RECORD.

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

SUMMARY STATEMENT OF HAROLD DECKER, PRESIDENT, INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA, BEFORE THE SENATE FINANCE COMMITTEE, AUGUST 2, 1962

My name is Harold Decker and I reside in Houston, Tex. I appear as president of the Independent Petroleum Association of America, a national association with membership of more than 6,000 oil and gas producers located in every producing area in the United States.

In the interest of time, I will summarize my statement and ask that my entire statement be made a part of the record of these hearings.

The domestic oil producing industry is in serious economic difficulty. The industry has suffered a continuous decline since 1956. The national economy (gross national product) during this time has increased almost 25 percent. Crude oil production, however, has been static. There has been no growth; no expansion. About 30 percent of the industry's capacity is now idle.

We believe this presents a serious problem to the Nation both (1) economically and (2) securitywise. That is why we appeal to this commitee.

Oil and gas production is a major industry. When it is depressed there is a marked effect on the overall economy, particularly in the 33 States which produce oil and gas.

Of overriding importance, the domestic petroleum industry is vital to our military security. This has been established by the experience of World Wars I and II; the Iranian shutdown of 1951; and the Suez crisis of 1956. In addition, it is a strong deterrent to war as demonstrated during these latter two experiences.

Important from the security viewpoint is the fact that while domestic production of crude oil has been stagnated for 6 years Russian production has increased 100 percent. As a result, oil has now become the most effective weapon in the aggressive Russian war on the economic front throughout the world.

One of the principal factors contributing to the unhealthy condition of the domestic industry is excessive oil imports. Even though imports are now limited pursuant to the national security provision of present law which is retained in H.R. 11970 as section 232, imports have continued to increase. The present limitation program, inaugurated in 1959, has been helpful in slowing down the rate of increase in imports but it has not met its objective of revitalizing the industry.

My purpose, therefore, is to urge this committee to initiate further congressional action to strengthen the national security provision by providing more definite and specific legislative direction.

Available evidence points to the need for further congressional action. Under the national security provision, in 1957, the Government found that imports of crude oil threatened the security. This finding reflected concern about the performance of the industry during 1956 and the years prior thereto.

Yet, since then, despite this governmental finding, and the limitation program, the health and vigor of the domestic industry has suffered a steady decline while imports have enjoyed a steady increase.

During these intervening 6 years, every principal economic indicator of the industry shows deterioration. For example:

1. Geophysical and core drilling crews active in exploration is more than 30 percent below 1956.

2. Wells drilled in 1961 were 19 percent below 1956. Exploratory drilling dropped 30 percent in this period.

3. Rotary rigs active in 1961 were 33 percent below 1956.

4. Employment in the production of oil and gas was 9 percent below 1956.

5. The price of domestic crude oil in 1961 was 20 cents a barrel below 1957, in the face of steadily increasing costs.

6. The rate of return on invested capital for the domestic petroleum industry has fallen below the average for manufacturing industries in general.

7. During the last 5 years, there has been an unhealthy trend toward sellouts and mergers in the producing segment of the domestic oil industry.

As for imports, despite the existence of the limitation program, they have continued to increase. Total imports of crude oil and all products have increased as follows:

	Barrels	Percent of U.S. crude oil production
1946	377,000	7.9
1956	1,436,000	20.1
1961	1,889,000	26.3
1962 (1st half)	2,090,000	28.4

Recently, the Department of the Interior established oil import levels (excluding residual) for the last half of 1962. This new level will permit an increase of some 100,000 barrels per day above the like period in 1961. These increased imports for the year 1962 continue to follow the familiar pattern of increasing imports.

If residual fuel oil, which is treated separately under the present limitation program, is excluded, imports of crude oil and the lighter products show the following increasing trend:

	Barrels daily	Percent of U.S. crude oil production
1946–50	374,000	7.2
1951–55	664,000	10.3
1956	991,000	13.9
1957	1,099,000	15.3
1958	1,201,000	17.9
1959	1,170,000	16.6
1960	1,178,000	16.7
1961	1,245,000	17.3
1962 (1st half)	1,320,000	18.2
1962 (2d half, estimated)	1,380,000	19.0

In 1956, when these imports amounted to less than 14 percent of domestic production, the Government concluded that the security was threatened. Since that time imports have increased substantially in volume and also in relation to domestic production.

In 1959 when the present mandatory program was initiated, the Government reaffirmed its prior finding that oil imports threaten the national security and stated that the basis of the program "is the certified requirements of our national security which make it necessary that we preserve to the greatest extent possible a vigorous, healthy petroleum industry in the United States."

This objective has not been realized. The industry is not vigorous and healthy or growing and expanding as it should be.

If proper action is taken not only would the oil import problem be served but also a substantial contribution could be made in the balance-of-payments problem currently of so much concern.

One of the most substantial contributing factors to this growing problem is the excess of petroleum imports over petroleum exports. For example, during the past 7 years, this Nation has experienced an average deficit of $829 million per year in its foreign petroleum trade. During this same period, our Nation's total balance-of-payments deficit has averaged $2.2 billion annually. In other words, the adverse balance of trade in petroleum during the past 7 years accounts for 38 percent of the overall U.S. balance-of-payments deficit and almost 50 percent in 1961.

In connection with the balance-of-payments problem, we recently were encouraged by the announcement of Secretary of Defense McNamara that his Department's purchase policies are being reviewed for the purpose of cutting down on foreign buying. The purchase of foreign petroleum is a large item. According to Defense Department reports, foreign procurement of petroleum approximates $300 million annually. This is a significant outflow in relation to the total adverse balance of payments.

Foreign procurement of petroleum supplies by the military has been increasing. The largest increases have been with respect to petroleum products other than heavy residual fuel oil. The volume of these light products purchased from foreign sources since 1953 is as follows:

Calendar year	Barrels daily	Percent of tota domestic and foreign purchases
1953	43,000	12.0
1956	120,000	25.5
1961	199,000	33.8

This increasing trend has taken place while the domestic industry has been operating 20 to 30 percent below capacity in both production and refining. Petroleum products are plentiful in the United States. A substantial portion of these foreign military purchases, some of which is even being imported into the United States, could and should be shifted to the United States.

We feel there is an urgent need to strengthen the existing oil import limitation program. There is a need for a substantial reduction in the level of crude oil imports. We feel this reduction should be in the order of 250,000 barrels daily. Of fundamental importance, there is a need for a stable and assured balance between imports and domestic production established by law. The necessary long-range investments required to find and develop adequate petroleum supplies require the assurance of a lasting national policy as to oil imports. That assurance is lacking today. Uncertainty prevails and the industry's future is thereby threatened.

Accordingly, we respectfully urge that section 232 of H.R. 11970 be amended so as to incorporate more specific and definite guidelines as follows:

1. Require, by law in the interest of national security, Government limitations on the importation of crude oil and all its derivatives including residual fuel oil.

2. Impose an overall limitation on all imports, excluding residual fuel oil, not to exceed the 14-percent relationship to domestic crude oil production that existed in the year 1956 prior to the continuing decline in the health and vigor of the domestic industry.

These recommendations would implement and strengthen the present program. They could be incorporated into the law and put into effect in complete harmony with the present administrative machinery, which has been operating for more than 3 years.

When the trade bill recently passed the House, officials of the executive branch took the position that legislative action was not needed and made assurances that administrative action would be taken to accomplish the following:

1. The President's Study Committee created last December to review the oil import matter will report by September 1.

2. A system of limitation of oil imports will be retained.

3. Imports will be related to domestic production.

4. Efforts will be undertaken to stabilize the problem of increasing imports from Canada.

In principle, these assurances are substantially what we seek. But they are deficient in two respects.

First, administrative actions are subject to change and therefore lack the element of stability. It is stability that is of paramount need now.

Second, these assurances lack definiteness as to the level of imports and their relationship to domestic production. We have had an administrative program for 5 years, yet both the level and relationship have increased steadily. The law should provide legislative guidelines which will assure that the domestic industry will grow in keeping with national needs.

The best assurance of ample supplies of oil and gas at reasonable prices to the consumer always has been a vigorous and competitive domestic industry.

We respectfully urge your recognition of the serious problem of excessive oil imports.

ADDRESS BY THEODORE C. SORENSEN BEFORE WESTERN STATES DEMOCRATIC CONFERENCE

Mr. GOLDWATER. Mr. President, it was certainly a very strange meeting which the Western States Democratic Conference recently concluded in Seattle. First they were harangued by Mr. W. H. "Ping" Ferry, vice president of the Fund for the Republic, who amused the audience with irresponsible and slanderous statements concerning the career of that distinguished American, Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation.

Other peculiar individuals then mounted the rostrum and contributed equally preposterous comments concerning American affairs. The high point in sheer schizophrenia was ultimately reached by Mr. Theodore C. Sorensen, who holds the title as Special Counsel to the President of the United States.

At this point I ask unanimous consent to insert a copy of the diatribe of which he delivered himself.

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

ADDRESS BY THEODORE C. SORENSEN, SPECIAL COUNSEL TO THE PRESIDENT, BEFORE THE WESTERN STATES DEMOCRATIC CONFERENCE, SEATTLE, WASH., AUGUST 6, 1962

We meet in a year of decision. The American people must choose whether this Nation is to "sail or anchor down"—whether we are to blaze new trails for century 21 or return to the well-worn paths of century 19.

The 21st century is but 38 years away. We who are here tonight know that we must educate our children to meet its challenges. We must conserve our resources to meet its needs. We must expand our economy to

realize its promise. And we must preserve the human race to enjoy that century in freedom.

But while our eyes are on the century ahead, our opponents are looking back, increasingly united in the blindness of their opposition and in the bitterness of their abuse. They call for cuts in Federal spending, but they do not say where. They tell our older citizens to purchase health insurance, but they do not say how. They predict unemployment will dissolve without public action, but they do not say when.

They do say they are for balancing the budget, not by stating it more accurately, separating capital assets from current expenditures, not by closing tax loopholes or cutting farm surpluses, not by boosting the economy to boost tax revenues, but by blocking all efforts for education, for conservation, for public works and public health.

They do say they believe in free enterprise, and so do we all, but they mean freedom to pollute our air and our water, freedom to raid our forests and public lands, freedom to pay substandard wages, to make windfall profits on the national stockpile, and to cut people off of public welfare as inveterate frauds or loafers. Oh, to be sure, they are not always, hardhearted, all humans weep, but they weep for that 7 percent of the taxpayers who receive 80 percent of dividend income. They weep for those speculators who considered themselves geniuses when the stock market rose after Kennedy's election, and then blamed him when it fell back to the same level this year. They weep, not for the farmer or rancher who is struggling to make ends meet, but for the storage operator who enjoyed a threefold increase in surpluses under Mr. Benson and wants to keep it that way. They weep for the AMA, not those without funds for hospitalization. They weep for the billboard owners, not those who are denied our scenic beauties.

But too often, let us face the fact, their views have prevailed in the Congress. In neither House do we have a solid majority consistently supporting the policies of the Democratic Party and President Kennedy. We have lost important battles, often by a handful of votes, on the floor of both Houses and in most of the major committees. But by and large these are battles which have been lost before, in sessions with even larger Democratic proportions, they are the old familiar battles over education, health insurance, agriculture, and tax loopholes. And in no instance has the loss of any one of those battles meant the end of the war.

GAINS FOR THE DEMOCRATIC PROGRAM

For whatever may be said about those Democrats who oppose us, the fact remains that every single seat gained by the Democratic Party in this fall's election will be a gain for the Democratic program. And I learned as a boy from the life and lips of George Norris that those "who sow in tears shall reap in joy," and that today's defeats often pave the way for tomorrow's victories.

There are some who attribute these defeats to the fact that the program is too extreme. And perhaps it is.

For we have proposed that human consumers receive the same protection against worthless drugs that has been enjoyed by American hogs, sheep, and cattle since 1913. That is rather extreme.

We have proposed that the special concerns of the 125 million people who live in our urban areas receive the same Cabinet-level representation as those of the 13 million who live on the farm. That is rather extreme.

We have proposed helping our public schools pay those to whom we entrust the minds of our children an annual income comparable to the income of those to whom we entrust the care of our plumbing.

We have proposed that Federal help should be available to those local systems of mass transportation that now convey us through the streets at speeds averaging slightly below the 12 miles per hour averaged by the public horsecars of two generations ago.

We have proposed investing in new national parks, forests and wildlife refuges an amount equal to one-fifth of our annual investment in chewing gum.

We have proposed that the corn farmer and the wheat rancher be treated with at least as much commonsense as our farm laws now accord the peanut grower.

And we have proposed that our working men and women contribute throughout their working careers to their own health insurance program under social security instead of being forced, once their jobs and their savings are gone, to seek help from public charity.

Perhaps these goals seem extreme to some, but to me they spell out the means of securing "the blessings of liberty to ourselves and our posterity."

Others say the program is not extreme, but the President's popularity has declined. There is no denying the increasing tempo of abuse, but I would refer you to the recent poll of historians evaluating all our previous Chief Executives. Every Democratic President since the Civil War was judged to rank in the "great" or "near great" category. And all of our greatest Presidents in their times were bitterly abused, and hated, and reelected. For no one gets this country moving again without disturbing the status quo, without stirring up the vested interests, and without doing what is necessary instead of what is popular.

PRESIDENT KENNEDY'S CONCERN

To be sure, President Kennedy is concerned; concerned, however, not about his critics but about his country; about the 1 million young Americans who are both out of school and out of work; about the 150,000 unemployed workers who every month exhaust their benefit rights before they can find a job; about the growing shortage of doctors and medical students, when nearly half of those students come from the wealthiest 12 percent of our families. He is concerned about the 8 million adults who are classified as functionally illiterate; about the thousands of migrant workers whose families lack the basic safeguards of decency; about those untold numbers of American consumers who have been scarred by untested cosmetics, misled by worthless drugs, or made ill by improper foods. So, criticsim or no criticism, John Kennedy intends to "stick to his guns."

But when he looks ahead to the peaks that are yet to be scaled, the President is not unmindful of the distance already climbed. The 87th Congress, breaking a legislative stalemate, has thus far passed a score of key bills that could never be passed before, including bills for area redevelopment, higher minimum wages, better housing and urban renewal, new attacks on crime and delinquency, and water pollution.

More was done by this Congress to combat the recession than by any Congress since the thirties. And today this Nation has achieved the highest GNP and the highest industrial production in its history. Our working men and women are earning $27 billion more a year. Our businessmen are netting $10 billion more a year. And these are not phony inflation dollars that cannot buy more groceries, but sound dollars, backed by our Nation's best postwar record of price stability in any comparable period of recovery, and backed by our best record of balancing our international accounts since they declined in 1958. The national debt is a smaller portion of our gross national product now than it was in 1960, after our predecessors had increased it by $27 billion. And the budget deficits caused by the recession they left us are far smaller now than the $12 billion deficit they ran up in 1959, one of the 5 deficits they incurred in 8 years of preaching fiscal solvency.

And in those areas where the Congress has not acted, the President has acted, particularly in civil rights. The man who broke down the walls of intolerance to enter the White House has been breaking them down ever since on behalf of Negro children who want a better education, on behalf of their parents who want to vote and to travel and to work. Those who stand up for their rights are being protected and so are those who sit down.

THE WINDS OF WAR HAVE NOT BEEN LOOSED

But if events on the domestic scene have confounded those critics who predicted disaster under Democratic rule, events around the world have junked their pessimistic prophecies even more. The foul winds of war have not been loosed; and the fair winds of peace have calmed the troubled land of Laos. Mr. Khrushchev has not taken over West Berlin. Mr. Castro has not taken over Latin America. Mr. Ho Chi Minh has not taken over Vietnam. And Mr. Gizenga has not taken over the Congo.

Those who once scoffed at the Peace Corps as a haven for misguided visionaries have been touched by the moving tributes to American idealism that come from dozens of far-off huts and villages. Those who once jeered at our efforts in space as a wasteful, useless science-fiction charade now hail our striking successes as symbols of American initiative, ingenuity, and power. And those who once assailed the Alliance for Progress as part of a no-win policy this year joined in the applause when the 20 American Republics, in conference at Punta del Este, decreed unanimously to isolate the Castro-Communist offensive as a clear and present danger.

When President and Mrs. Kennedy twice toured Latin America, they were greeted with milling mobs. But this time the mobs were not jeering, they were cheering. They were not throwing stones but lifting banners, banners hailing the greatest new era in U.S.-Latin relations since the days of the good-neighbor policy, banners proclaiming the new hemispheric hope of the sixties: Alianza Para Progresso.

And, finally, it is increasingly recognized, at home and abroad, that this Nation, for the first time, has a coherent, consistent effort to launch a peace race instead of an arms race to foster world law instead of world war.

TO FOSTER WORLD LAW INSTEAD OF WORLD WAR

For the first time we have a full-time full-scale Disarmament Agency working out ways and means of reaching this goal.

For the first time we are attending a disarmament conference with a specific, step-by-step plan for general and complete disarmament.

For the first time we are on record, along with the United Kingdom, with the actual draft of an effective treaty to ban all nuclear tests, a treaty which may yet be accepted now that the Soviets realize they can no longer prevent the West from testing by pretending to talk while preparing to test themselves.

For the first time we have a long-term foreign aid program, strengthening the basis for peace and freedom in those nations willing to help themselves.

For the first time we have an expanded, independent food-for-peace program, providing school lunches and famine relief and daily bread for the hungry and needy of many lands, shipping abroad more food in

the last 18 months than Herbert Hoover and his associates shipped in 10 years of World War I relief efforts.

For the first time we have enough authority at the bargaining table to get an agreement on the disarmament of outer space because we are no longer second in outer space.

For the first time we have launched our own initiative in the United Nations on disarmament, development and space and pledged our participation in a U.N. bond issue which will require those nations now trying to starve that organization to death to pay up or get out.

And, for the first time, we have an agency to encourage others to travel to this country and see what we are really like and an organized effort to secure better housing and better treatment for the diplomats of other countries and other colors and a new cultural exchange agreement with the Soviet Union and, of lasting importance, a program both to weld and to build the economies of the free world through increased tariff reduction and trade expansion.

THE WAR WE MUST DETER

This administration also knows that until all arms are abolished, we can preserve the peace, and convince others to parley for peace, only by preparing for war—the war we must deter. And I believe one reason the peace prevails today is the buildup we have undertaken to make certain no aggressor is ever tempted by our weakness. We have strengthened the missile power and the air power and the manpower of our Armed Forces. And the President knows that, if we are not only to survive but to prevail in the long run, we must strengthen our brainpower and our willpower, with all the measures he has proposed to build a bulwark of healthy minds, healthy bodies, and a healthy American economy.

It is in this spirit, bearing in mind both our achievements and our goals, that the people of western America are called upon to fulfill their proud traditions and to send men of wisdom and vision to Washington this fall. No other group of 13 States will play so key a role in shaping our Nation's future with 12 Senate races, 10 Governors' races, and 69 House seats at stake. If our opponents are to gain in the Senate, it is here they will try hardest to gain. If we are to gain in the House, it is here that we must make those gains. And, moved by the enthusiasm and dedication I have seen here tonight, it is my prediction that when, in November next, the defenders of privilege and opponents of progress are swept from their seats of power, it will be a wind from the West that uproots them.

But our concern is not merely the future of our program, or our party, or even our Nation. Our concern is for the future of mankind. And when the youngest of my sons has grown to the cares of manhood, the world in which he lives will be shaped by what we do today. If men today are moved by greed and pride alone, if nations blind themselves with hatred and with habit, if we shrink back from the new and the untried and the unknown, then his world may well be a world of sorrow instead of hope. But if we can strive for the good society as well as the good life if "mercy and truth are met together," not only in the hearts of men but in the seats of power, then surely my son in century 21 will be "neither Red nor dead but alive and free," in a world of peace and abundance.

Mr. GOLDWATER. Mr. President, you will note that the first big decision before the country, as stated by Mr. Sorensen, is whether to "sail or anchor down." Then follows a rhetorical flood of demagogic castigation of all those who oppose the New Frontier program. The good guys and the bad guys are sharply distinguished. The bad buys want to cut Federal spending. The bad guys want to decrease Federal controls. The bad guys want to make people work for a living. The bad guys want to face the realities of 1962 rather than live in the dream world of 2001, in which Mr. Sorensen apparently already resides. The bad guys also hate people—hate children, hate sick old widows; want to give away all that the country possesses to avaricious robber barons. The bad guys do not care about our national defense; they have hindered our missile program; they never voted to appropriate money for an army or for a navy. The bad guys are racists; they are against civil rights; they are against children having schools; they are against people being happy; and they must all be eliminated because they are just plain bad.

The good guys want to give everything to everybody. They are good to everybody in every way. People are going to work shorter hours and make more money. Income is to go up and prices are to go down. Taxes are going to be decreased; benefits are going to be increased; the national defense is going to be strengthened; the Russians are going to be handled properly; South America is going to become richer and more prosperous; the whole world is going to be a better place in which to live. The good guys are going to win because they stand for the good things.

Actually these utterances by Mr. Sorensen can only be described as tripe and trash. Yet there is a bewildering puzzlement contained in his remarks. The good guys are the ones who are in favor of Mr. Kennedy and the New Frontier program, but the bad guys are never identified. It used to be that a good old-fashioned Democratic demagog, when he painted the picture of the good and bad guys, always said that the Republicans were the bad ones.

Poor Mr. Sorensen, he is in a fix because, sad to relate, all those goody-goody programs which he so dearly loves, and which will bring about the millennium sometime from now, are being sabotaged by large segments of the Democratic Party who happen to endorse programs which bad guys can support.

Since the Democratic Party has 64 out of 100 seats in the U.S. Senate, and since they control the House of Representatives by 263 to 174, Mr. Sorensen can not blast the Congress without blasting his own party. Neither can he urge the voters to elect Democrats under the guise that the President needs more Democrats to control either the Senate or the House. Mr. Sorensen is between Scylla and Charybdis. Frankly, one suspects that he had better anchor down because it appears as though he is already in the whirlpool and is heading for the rocks.

It will be refreshing to see how the chairman of the Senate Finance Committee, the Honorable HARRY FLOOD BYRD, who is one of the bad guys because he believes we should cut Federal spending, responds to Mr. Sorensen's declamation. Once Mr. Sorensen has convinced Mr. BYRD, he might try his persuasion on Chairmen MANSFIELD, MCCLELLAN, ROBERTSON, EASTLAND, CHAVEZ, RUSSELL, HAYDEN, and others, saving, of course, Mr. KERR for last.

Perhaps Mr. Sorensen's only solution will be to abolish the two-party system, elect all Democrats to the Senate and the House of Representatives, and then divide the Democrats into the good Democrats and bad Democrats and let them fight it out among themselves.

In the meantime, if this is the type of legal counsel which President Kennedy is receiving through the services of Mr. Sorensen, this speaker for one has no difficulty in understanding why the program of the New Frontier is rapidly disappearing.

If Mr. Sorensen really wants to know where some of the bad guys are located, he may be interested in a study compiled by the Republican policy committee which we will be delighted to make available to him. This study shows that the Democratic chairmen of the 16 standing committees of the Senate during the period from January 23, 1962, to August 9, 1962, on 328 occasions voted collectively against administration proposals.

When the senior members of the crew display such little confidence in the navigator, perhaps it is time to put the anchor down.

It is a tribute to the sagacity of certain Democrats and a tribute to the two-party system that the Congress of the United States still possesses enough commonsense to ignore the Sorensens and to resist the march toward socialism and the destruction of our free enterprise system advocated by scatterbrained New Frontiersmen.

DRUG CONTROLS

Mr. SMITH of Massachusetts. Mr. President, within the next few weeks the Senate will consider legislation to tighten existing controls of the drug industry. The need for these controls has been pointed up recently by the crisis over thalidomide. Other questions have also been raised about practices in this industry. One of the most important so far as the American public is concerned is that of pricing. Evidence has been presented before a Senate committee indicating that some American drug firms have greatly overpriced their drugs.

The high price of modern drugs has been a leading factor in the enormous rise of medical costs in recent years. The expense of steady drug care is the type of financial burden that our senior citizens often find impossible to bear.

Because of this, I feel Congress has good cause to be concerned with the pricing practices of the drug industry. It is particularly interesting to me that the Armed Forces have been able to purchase drugs abroad at substantial reductions over the prices that they must pay in this country. I hope that my colleagues will bear this in mind when considering the drug legislation that will soon be before us. I ask unanimous consent to have printed in the RECORD an article from the Boston Globe concerning this problem.

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

PENTAGON SAVES $7 MILLION BY BUYING DRUGS OVERSEAS

(By Allen M. Smythe)

WASHINGTON.—With annual expenditure of $73 million the Pentagon is the largest customer of the drug industry. Secretary Robert S. McNamara has designated the new Defense Supply Agency as the sole buyer of all defense medical supplies. DSA officials are expanding the Navy policy for foreign purchases of the new wonder drugs.

Since December of 1959 the Pentagon has paid $5,306,000 on 25 contracts to Italian, Swedish, and Danish drug firms. The domestic price would have been $12,804,000. The prices ranged from one-half to less than one-eighth of the U.S. bids.

DSA officials say the high-priced identical bids of U.S. patented and produced drugs justify their buying overseas. Domestic producers have been offered royalties of 10 percent of their costs. The Comptroller General has upheld this policy. It was pointed out that the issuance of a patent does not guarantee a monopoly. Its validity and infringement must be proved.

Title 28, United States Code, section 1498, states the "sole remedy to patent holders against Federal purchases is reasonable compensation." The Pentagon have offered to go to the Court of Claims in a friendly suit to certify any claims. No drug company has accepted the challenge. It would mean revealing exact costs.

Tetracycline, an antibotic, was bought in Italy for $5.61 per 100 tablets when it was sold to U.S. hospitals for around $30.

The price of Carlo Erba, Milan, is now $2.92. The firm buys its raw material from Le Petit, a French firm licensed by Charles Pfizer Co. to make and sell this drug in Europe. Erba is reported to be partly owned by American Home Products Corp.

Meprobamate, a tranquilizer, is now bought in Stockholm, Sweden, from A. S. Kabi for $2.07 per 500 tablets. Wholesale prices quoted the Pentagon are around $17. An equivalent amount bought in U.S. cutrate drugstores would cost $39.50. Miltown is the trade name of the drug by Carter Products. Equanil is the trade name used by Wyeth Laboratories.

A year ago, nitrofuranton cost $5.50 per bottle of 100 tablets from Italy. Subsequent orders reduced the price to $2.95. Wholesale prices here are several times higher.

The drug sulfadiazine costs only $4.50 per 1,000 tablets when bought in Denmark.

Angry protests by drug firms against oversea buying of their patented formulas have made little impression on Pentagon purchasing agents.

Drug officials point out the sharp decrease in death rate of both young and old and they stress the need of adequate funds for profits and future research.

Congress has been debating for over a year the need of new laws to control the sale of these drugs. The Department of Justice has antitrust action pending against the manufacturers of tetracycline and meprobamate in the Southern District, U.S. Court, New York.

U.S. SATELLITE COMMUNICATIONS SYSTEM

Mr. WILEY. Mr. President, the legislation for establishing a U.S. satellite communications system soon—I sincerely hope—will come up for a vote—and approval—in the Senate.

The system—as soon as it is established—will have real significance for Mr. and Mrs. America, and the world.

Among other things, it will mean:

A broadening of our news—education—cultural horizons—as reflected in early United States-Europe television exchanges via Telstar; including possible direct home reception from Telstar-type satellites—now being explored by the television-communications industries;

Opportunity to shift the overheavy traffic on existing radio, telegraph, telephone, and other conventional channels to the satellite system; and

Ultimately, dramatically improved—and perhaps less costly—telephone, radio, television, and other communications at home, as well as around the globe.

During consideration of this legislation, a number of outstanding Wisconsin newspapers have editorialized upon the significance of the private-enterprise contribution to this program as exemplified in Telstar.

I ask unanimous consent to have a cross section of these editorials printed at this point in the RECORD.

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

[From the Brookfield News, July 19, 1962]

NOT GOVERNMENT FUNDS

Although it may be questioned whether we have many television programs worthy of being broadcast to foreign nations, private industry in America deserves commendation for rocketing into orbit the world's first space relay system for long-distance transmission of radio, telephone, and television signals.

Such an accomplishment would not have been possible in Communist Russia, for there is no free enterprise system there, and only the government functions in the communications field. We are glad it was Telstar, and not Red star, that was first. It's a far cry from the early American communications systems of Indian drums and smoke signals. Later Americans developed the telephone, the transatlantic cable, the wireless, the radio, and finally TV in black and white or assorted colors.

The first experiments having been somewhat successful, additional earth satellites will be launched by the privately owned firms sponsoring this effort to improve communications around the world, using power absorbed from the sun. What telephone repairman climbs up to the satellite to fix it when something goes wrong, even the Bell System hasn't answered.

[From the Green Bay (Wis.) Press-Gazette, July 13, 1962]

THE TELSTAR SUCCESS

The amazing success of the Telstar satellite on its first test brought home to Americans the spectacular advances which this country has made in space communications. It did not have the emotional appeal of the flights of the astronauts because human lives were not involved. But this project will have more immediate practical effects on American lives than any of our other space efforts.

Telstar will make possible a worldwide television network. Transmission of news dispatches and pictures around the world will be dramatically improved. Perfect voice communication will be possible without any use of cables.

Communication of ideas between peoples and nations is the greatest hope for advancing the cause of the free world, and Telstar has proved that in this field the American lead over the Russians is immense.

Yet at the same time that the initial Telstar launching was achieved a bitter debate was raging in the U.S. Senate which will have a vital effect on the future of this whole world space communication project.

The administration has proposed that the future development and operation of the project be turned over to a corporation which would be financed by private capital and managed by a board of directors composed of both private citizens and Government representatives. This plan is an alternative to complete Government financing and control.

Some of our more demogagic Senators are crying out that this will be the greatest giveaway in history. They take the position that the Government has financed the research and development of space communications so far and that now the administration proposes turning these benefits over to large private corporations for their own profit.

But upon careful examination this hysterical outcry doesn't hold much water.

Many private corporations have spent millions of dollars on research and development of this project. Many of the basic elements were privately developed, transistors, solar batteries, guidance systems, television communications themselves. American Telephone & Telegraph Co. financed the complete $4 million cost of building, launching, and tracking Telstar.

After all, who owns large private corporations like A.T. & T.? This stock is about as widely held by the American public as any corporation's. The old bugaboo that private industry consists of a few fat-bellied millionaires who live by preying on Government largess no longer scares Americans because many of them own stock in these enterprises.

It really comes down to this. If space communications are financed by a quasi-private corporation through sale of stock to the public, then those who buy the securities are voluntary investors. But if the Government finances the project through tax money, we are all involuntary investors. And speaking of tax money, the Government will receive 52 percent of any profits the private corporation realizes through the project.

We should all know by now that American scientific progress has been achieved largely because of and through our free enterprise system. It is logical that Government should finance initial research and experiments in scientific fields whose practical results are unpredictable, or in fields involving national security.

But when these initial experiments reveal that the results have practical commercial possibilities, such as nuclear fission and now space communications, future development and operation of these commercial aspects should be a function of private enterprise within legitimate governmental controls.

[From the Madison (Wis.) Wisconsin State Journal, July 12, 1962]

A MESSAGE TO MATCH THE AUDIENCE

It has been 118 years since Samuel F. B. Morse clicked off that first message over a telegraph line.

His words—"What hath God wrought"—have been etched in history, a lasting message showing man's ceaseless attempts to spread his communication.

And now we note another historic event, the Telstar satellite which is setting the pace for worldwide live television broadcasts.

There were no stirring words to signal this great first, but the sight of the Stars and

Stripes waving a salute to the event was a proud one.

But lest the world think that we waved the flag just to show another American first in space, let it realize that here is an accomplishment that can only succeed through mutual effort.

For this is a form of communication which can draw the world of man closer together for better understanding.

Yet we cannot make the world look and listen unless we have something to show and say that will make it turn its eyes and ears to us.

Therein lies a great lesson.

And it emphasizes the point many scientists have been working for—the peaceful use of space. Here is wide open opportunity to help the mutual brotherhood of man, to gird the earth with peaceful messages instead of just fiery rockets.

The educational potentialities are limitless; the entertainment value of lesser moment.

True, it will take years for the full value of this enterprise to be realized, but we can have confidence in this first success.

Whether or not he was the first printer, Gutenberg must have felt somewhat the same.

"What hath God wrought," reminds us of the responsibilities in what man "wroughts."

[From the Madison (Wis.) Wisconsin State Journal, July 12, 1962]

PRIVATE ENTERPRISE SCORES AGAIN

There is another note which should be made on Telstar.

It does not matter here whether a certain stock zooms on the market as a result of this accomplishment.

What does matter is that private enterprise has scored a signal victory.

If the world needed any more proof that the old picture of capitalism—bloated, vested, arrogant, greedy—is erroneous, it has it now.

Capitalism today is as dedicated as the laboratory, as up to date as Madison Avenue, as forward looking as Canaveral.

Space, like the earth, seems to get smaller with each scientific achievement.

But we have proof now that there's still room in it for good new private enterprise.

[From the Mayville (Wis.) News, July 12, 1962]

THE OBSERVER'S COLUMN

That Telstar shot earlier this week was quite an accomplishment for our country and A.T. & T. We're living in an age of marvels, shooting a TV beam at the Telstar so the program can be viewed in Europe. Having the shot turn out so successfully must have been a huge relief for the A.T. & T. folks who gambled a wad of dough that it would turn out all right. It was a real accomplishment.

[From the Milwaukee (Wis.) Journal, July 11, 1962]

TELSTAR'S SPECTACULAR START

Telstar, the world's first active communications satellite, is measuring up to all expectations.

This appears to have been a virtually flawless operation in a field in which America's open door policy has led to embarrassment because of delays and failures. There was none of that with Telstar. Its development by Bell Laboratories met tight schedules. Its launching from Cape Canaveral by the National Aeronautics and Space Administration (NASA) went without a hitch. The Thor-Agena rocket performed properly. The satellite went into an orbit almost precisely as planned. Tests were conducted on schedule, with excellent results here and in Europe.

Perhaps there was a too heavy larding of self-praise for American Telephone & Telegraph Co., parent firm of Bell Laboratories. An achievement of this magnitude can stand on its own without such obvious help from the public relations forces. But this was a minor detail.

Vice President JOHNSON hailed Telstar as opening "a new frontier of international telephone, international television, and most of all international understanding."

The emphasis at the moment is on international television, because that is easily dramatized. The public can be stirred by the prospect of viewing events as they are happening, without considering the limitations. The potential of instant television is limited.

Few events of a world-shaking nature lend themselves to on-the-spot television coverage. The time difference between Europe and America creates conflict. Most TV entertainment programs can be packaged for use locally at convenient hours. There is little live television in this country; there will be less between nations, even with an array of satellites to receive a signal from earth, amplify it, and speed it to another earth station.

Where communications satellites will probably serve the greatest need is in the workaday world of commercial communications. Existing undersea cables and radiotelephone circuits are crowded and will soon be jammed. The satellites offer new channels and probably cheaper ones. Ultimately, it is expected that three satellites parked 23,500 miles above the equator and traveling at the same relative speed as the earth so that they appear to be stationary will be able to handle transmissions from all parts of the world.

That lies in the future. The important fact now is that Telstar has made a spectacular beginning. It has won for America and private American technology an impressive first in the use of space for communications.

[From the Milwaukee (Wis.) Journal, July 16, 1962]

FROM MARCONI TO TELSTAR

In Napoleon's time the French took a great stride in communications. Semaphores were set up on hilltops and messages could be relayed from one to another. It beat the speed of horseback messengers.

From the time the first electric battery was invented in 1799 men began experimenting with its possibilities in communications. By 1837 a patent on a telegraph set was taken out in England. But it remained for Samuel F. B. Morse to develop a usable system. With $90,000 appropriated by Congress, he erected a telegraph line between Washington and Baltimore and sent his first message: "What hath God wrought."

Alexander Graham Bell made the next big step. He got his first patent on the telephone March 7, 1876, and organized the first telephone company a year later.

It was 61 years ago, on December 12, 1901, that Guglielmo Marconi sent the first transatlantic wireless message from Cornwall, England, to Newfoundland. He lived until 1937 and saw radio ring the world. In his latter years television was being developed and the first commercial programs began in 1939 in New York. The war put a crimp in that but from 1946 on television swept the country.

The other night, on each side of the Atlantic, television viewers watched transatlantic television transmitted through the Telstar satellite. From semaphores to satellite communications in a little more than 150 years. From wireless to Telstar in 61 years.

Man's ingenuity is fantastic and it is getting so that it takes a genius to understand just what man is up to.

[From the Milwaukee (Wis.) Journal, July 16, 1962]

TELSTAR AND THE H-BOMBS

(Reprinted from the Racine Journal-Times)

The Telstar satellite, in contrast to the space bomb, is a reminder of what we could be doing with the space program, in terms of money and initiative, if it were not necessary to concentrate on a nuclear weapons program at the same time. What opportunities would be open to the United States, to Soviet Russia; and the other civilized nations, if so much of their time, energy and money were not devoted to making weapons of aggression or defense.

[From the Watertown (Wis.) Daily Times, July 18, 1962]

TIMES SQUARE—TELSTAR

The recent space achievement known as Telstar, which is going to completely revolutionize communications, has been called by one editor the beginning of the age in infinity.

Here is how Telstar works in the simplest possible language for so vast and new a subject:

Telstar zips around the globe at 5 miles a second, and at a height of up to 3,500 miles. To make it perform, scientists first use special tracking equipment to pick it up as it comes over the horizon. Its progress is charted carefully until it reaches the proper range above the earth for its work to begin.

At the right time, a ground transmitter shoots a radio signal at the satellite. By the time, it reaches its target, the signal is only a whisper of its original self. Telstar takes in the signal, magnifies it 10 billion times, and shoots it back to earth to a ground receiver. The receiver amplifies the signal again to complete the circuit. The whole process takes place with the speed of light—186,000 miles a second.

Telstar is able to relay 600 telephone messages, or one television signal at a time without getting them scrambled.

Few people of the millions who have read about this achievement and who watched it on recent television presentations have yet been able to realize what an important step Telstar is and what effect it will have on the world and on mankind itself.

ARBITRATION OF INTERNATIONAL INVESTMENT DISPUTES—RESOLUTION OF AMERICAN BAR ASSOCIATION

Mr. WILEY. Mr. President, the House of Delegates of the American Bar Association recently adopted a resolution with respect to the establishment of international machinery for conciliation and arbitration of international investment disputes.

Internationally, there arise, from time to time, economic disputes that threaten to create crises, first, between the contesting interests; and, second, sometimes of a much broader nature.

In a world, too, in which changeovers of political governments result from extensive changes in economic policy, the situation is further complicated.

The American Bar Association resolution then—proposing the establishment of machinery for resolution of such disputes—takes on special significance.

I ask unanimous consent to have the American Bar Association resolution printed at this point in the RECORD.

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

The house of delegates adopted on Thursday, August 9, 1962, the following resolution with respect to the establishment of international machinery for the conciliation and arbitration of international investment disputes, urging support of the establishment by an international agreement of such machinery in close conjunction with the World Bank (International Bank for Reconstruction and Development) and authorizing officers of the section of international and comparative law to appear before the Departments of State, Treasury, and Commerce and before the Congress in support of the treaty and necessary enabling legislation:

"Whereas the international flow of private capital to the less developed areas of the world will be encouraged by more effective measures for the protection of the rights of private investors, this being a problem which has also received the attention of the organized bars of many countries adhering to the principle of the rule of law;

"Whereas the case-by-case growth of legal principles, characteristic of the common-law tradition, has proven to be one of the more effective methods of developing contemporary law, including the laws relating to the rights of private investors in foreign countries;

"Whereas President Eugene R. Black, of the World Bank (International Bank for Reconstruction and Development), announced in Vienna in September 1961, that the Bank would explore with other international institutions and with member governments the feasibility of establishing specific machinery for the conciliation and arbitration of disputes between governments and foreign private investors;

"Whereas the prompt settlement of international investment disputes would be promoted by affording private claimants direct access to conciliation and arbitral machinery without the necessity of formally securing governmental espousal or diplomatic protection of claims;

"Whereas a proposal limited to procedural machinery for the conciliation and arbitration of international investment disputes can be advanced independently of and without dependence upon other current proposals for bilateral or multilateral treaties defining principles of law applicable to international investments or providing for insurance or other guaranties of international private investments: Therefore be it

"Resolved, That the American Bar Association favor the establishment of machinery for the conciliation and arbitration of international investment disputes between governments and foreign private investors in accordance with principles of law applicable to the rights of investors and with provision for direct access to such machinery by private persons to the extent that the parties to the international investment dispute have consented thereto; further

"Resolved, That the association favor in principle the negotiation and ratification of an international agreement for the establishment of such machinery for conciliation and arbitration in close conjunction with the World Bank; further

"Resolved, That copies of this resolution be sent to the Secretaries of State, Treasury, and Commerce and to the appropriate committees of the Congress, and that the officers of the section of international and comparative law be authorized before said departments and committees in support of such an international agreement and necessary enabling legislation."

HOOVER'S U.N. SUPPLEMENT GAINS FRIENDS

Mr. MUNDT. Mr. President, seldom has a new idea or a constructive suggestion on world affairs captivated public attention and won significant support as rapidly and extensively as Herbert Hoover's suggestion that the United States of America take the lead in establishing a Council of Free Nations to protect and preserve human freedom against Communist aggression.

Former President Herbert Hoover is a man of dogged determination and persuasive persistency. He is today renowned and respected throughout the free world. Few if any other living human beings—unless it be Winston Churchill—have such widespread appeal to such an enormous worldwide audience. Thus, Hoover's courageous and exciting proposal has received many favorable reactions from abroad as well as widespread acclaim here at home.

Hoover first initiated his suggestions, leading to the one made at his birthplace in Iowa on the occasion of his 88th birthday, in 1950 when he discussed the great contributions to collective security which could accrue from a United Nations without Communists. During the intervening dozen years, he has reverted to this hypothesis again and again in private letters, public appearances, and in conversations with those who visit him. It has continued to win friends and gain supporters since it was first discussed in 1950.

His latest discussion of it reveals how he has refined and reenforced his concept by proposing a Council of Free Nations which would supplement the United Nations rather than serve as a substitute for it. In other words, he proposes a NATO or SEATO of free nations who would be drawn together and work together as a result of an ideological position rather than a geographical position. It makes sound sense. I ask unanimous consent, Mr. President, to have the editorial printed in the RECORD.

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

A COUNCIL OF FREE NATIONS

Uppermost in the minds and prayers of the plain people everywhere is that war should cease and that peace should come to the world.

This is the great lesson Herbert Hoover learned as he went about his work in some 50 nations of the world since he graduated from Stanford in 1895. As an engineer, bringing American technology with its train of greater productivity and better living; as a humanist, directing the reconstruction of scores of nations in the shattered aftermath of two world wars, rescuing millions from famine; and as President of the United States, supporting the League of Nations, the World Court and, later, the United Nations, Hoover always carried in his mind the idea that the plain people want an end of war.

While he was never under any illusions that the United Nations charter assures lasting peace, Hoover confessed his disappointment that the United Nations "has failed to give us even a remote hope of lasting peace." The trouble was not with the charter as such. There will be no peace, he sadly learned, so long as the Soviet Union chooses to use its veto more to block every act that would promote peace as it has done more than 100 times. Communists want peace only after they have dominated the world.

In 1950, Hoover urged the reorganization of the United Nations without the Communists, and, if that were impractical, then the formation of a united front of those people who disavow communism, and who stand for morals and religion and love freedom. Last week, he returned to that idea, but refined it considerably. Now convinced the United Nations cannot be reorganized, he would form a council of free nations, based on the regional agreements in which some 40 nations now pledge themselves to defend each other if any are attacked.

When the Soviet Union blocks any peace-serving measure in the future, then the free nations with their superior power would go to the rescue. Hoover's plan would give the freedom-loving nations an impregnable striking arm that the United Nations cannot create so long as the Soviet Union can veto it.

Opinion in the United States now tends that way, but looks to the Atlantic community for such a coalition. Hoover's idea of including all freedom loving peoples would make it global—and that much more effective.

THE SELLOUT OF WEST NEW GUINEA

Mr. SCOTT. Mr. President, while the so-called neutralist Minister of Interior of the recently formed coalition Lao Government crows about an unconfirmed report that our neutralist friends in Laos had shot down an unarmed American plane, the neutralists in the United Nations are being joined by the "activists" of this administration in complimenting themselves for the sellout of West New Guinea to still another questionable neutralist, President Sukarno, of Indonesia. I fear, Mr. President, that this country will live to regret the day that we interceded in behalf of the pro-Communist Indonesian leader and so jeopardized the Dutch position that they were forced to sign a treaty bringing the West New Guinea dispute to an end.

The principle of genuine self-determination went down the drain.

It is most difficult for me to understand how this administration can, on one hand be consistently pumping up the U.N. balloon with reassurances to the American people that it is the solution and the bulwark against Communist expansion. At the same time in a Machiavellian sort of way, aiding and abetting a nation which is a signator to the U.N. Charter in violating that charter by threatening the use of force unless another member nation capitulates to its demands. It is of further continuing amazement to me how this administration, led by some fuzzy accommodators in the State Department, can consistently take positions contrary to our age-old allies. This works to the eventual detriment to the U.S. position in the free

world and to the eventual weakening of the once strong ties as between the NATO nations.

Arthur Krock in an article in today's New York Times spells out vividly the newest sellout of this administration in the field of foreign policy.

I ask unanimous consent that this article and a news item reporting the Dutch views, be printed at this point in the RECORD.

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

[From the New York Times, Aug. 17, 1962]

OUR GOOD OFFICES SANCTION AGGRESSION IN THE PACIFIC

(By Arthur Krock)

WASHINGTON, August 16.—The expulsion of the Netherlands as administrator of West New Guinea, and its replacement by the Government of Indonesia, is the latest of the triumphs of the threat of armed force as a means of territorial aggression. And in this particular instance it was the United States which supplied the pressures by which this triumph was attained.

The explanations offered, on and off the record, by officials here is that, if the Dutch had longer resisted Sukarno's ambition, he would have carried out his threat to attain it by military measures, and there would have been war in the Pacific. And, the explanation continues, the only way to avert this dangerous prospect was to let the Dutch know in advance that the United States would close the channels through which their forces in that distant area would have to be supplied; and that also it had obtained pledges from the British to follow the same policy. This perforce immobilized Australia, which administers the remainder of New Guinea, from lending any assistance to an armed stand by the Netherlands against the Indonesian aggressor.

But this explanation serves to emphasize that it was the threat of military aggression against another nation's territory, to which in this instance the aggressor has neither an ethnic nor historical claim, that was the means by which the threat accomplished its purpose. And in congratulating themselves on what the State Department hailed today as "the resolution of the West New Guinea dispute through peaceful negotiations," the U.N. was celebrating a member's violation of the U.N. Charter, and the Department the abandonment of a policy which the United States has long proclaimed.

(1) The signatories to the U.N. Charter, of which Indonesia is one, pledge themselves to "refrain * * * from the threat or use of force against the territorial integrity * * * of any State." In threatening to occupy the Netherlands' territory of West New Guinea by force unless the Dutch ceded its administration to Indonesia, and in landing troops there while the above-styled "peaceful negotiations" were in process, Sukarno fractured this pledge in several places. (2) Refusal to abet external aggression or to give official recognition to its success have been the historic policies of the United States which the Kennedy administration has often reiterated. But in forcing the Dutch capitulation to Sukarno, the United States laid this policy on the shelf.

THE LESSON OF HISTORY

To those who feel that the threat of an aggressor to go to war is sufficient cause for the United States to abandon this historic policy, and even assist him to gain his objective, this justification by the Government of its courses in the Dutch-Indonesian dispute will be sufficient. But the longer this reasoning controls the foreign policy of the United States, the weaker will be its influence in preserving the peace of the world which is the proclaimed goal of all its international activities. And the oftener the United States brings pressure on its friends and allies to surrender to such aggression as Sukarno's, the feebler will be the alliances with free world nations that are the foundations of U.S. security. Moreover, history offers overwhelmingly proof that aggression cannot be successfully compromised; that compromise leads inevitably to larger wars than those it is relied on to avert.

At the U.N. yesterday, negotiators were felicitating one another on the "peaceful" outcome in West New Guinea, and were thanking the U.S. Government and the Acting Secretary General of the U.N. for a result in which both abjured their sworn principles. But last night the Premier of the Netherlands dispelled this artificial atmosphere with a blast of the truth. Holland, he said, "could not count on the support of its allies, and for that reason we had to sign" the capitulation to the aggressor. And the UPI dispatch which carried this quotation, reported that the Dutch Government feels bitterly disappointed at the strong-arm activities of the United States, which accomplished the humiliation of one of its stanchest allies in the world contest with militant communism.

Also, how many believe that, after Sukarno has administered West New Guinea for 7 years, the promised U.N. plebiscite will bring independence to the Papuan natives, even assuming they still will have the courage to vote for it?

NEW GUINEA

THE HAGUE.—The Dutch expressed disappointment and bitterness today over the New Guinea agreement with Indonesia, and criticized the United States for alleged lack of support.

Authoritative sources said the Netherlands was forced to sign the treaty to avert eruption of a full-scale war over the Southwest Pacific territory.

"Holland could not count on support of its allies and for that reason we had to sign," Premier J. E. de Quay said in a statement to the nation last night.

Dutch officials felt that the United States failed to back up State Department promises of aid in West New Guinea.

Authoritative sources stressed the Dutch had no choice. If Holland had not agreed, war would have broken out, they said.

The United States had told the Dutch the 7th Fleet would not be used against Indonesia, the sources said, while all the Dutch could hope for in the way of U.S. help would be assistance with the evacuation of the territory.

The sources said the treaty looked attractive on paper, but a close analysis showed that, in fact, Papuan self-determination did not receive the "adequate and cast iron safeguards" Holland asked for.

The American mediation plan drafted by retired Diplomat Ellsworth Bunker was weakened by the State Department itself, the sources said. What remained was the empty shell of the American compromise proposal.

The fate of the 700,000 Papuans is now more or less left completely to the discretion and politeness of Indonesia, they said.

BENEFITS OF THE MORRILL ACT

Mr. PELL. Mr. President, one century ago, the President of the United States, Abraham Lincoln, signed into law the Morrill Act, establishing the land-grant system of public higher education. This year the 68 land-grant colleges and universities in the 50 States and Puerto Rico are celebrating their centennial. I offer them my sincere congratulations.

In my own State of Rhode Island two universities have availed themselves of the benefits of the Morrill Act. From 1863 to 1892 Brown University thrived and developed as a land-grant institution. In 1892 the University of Rhode Island, then known as the Rhode Island College of Agriculture and Mechanic Arts, became the recipient of the benefits of the land-grant endowment. We in Rhode Island are indeed proud of the accomplishments of these two fine institutions.

Our Nation can be proud of the democratic tradition established and fostered in this important act. The belief that everyone with ability should have the opportunity to attend college has become a part of the American creed.

We live today in a world of turmoil and change. The importance of education in enabling the American people to face the challenges of this nuclear era cannot be emphasized too often. Approximately half of the students seeking higher education in 1970 will have to be turned away, unless there is a dramatic increase in college faculties and facilities. The Morrill Act marks the establishment of a century-old tradition of encouraging all able persons to attend college. Accordingly, in these times of crisis, it seems particularly appropriate to celebrate the centennial of this nationwide program of assistance to institutions of higher learning.

U.S. AID FOR TEXTILE STUDY

Mr. PELL. Mr. President, the July 11, 1962, edition of the Providence Journal carried a most interesting article in which a special task force of the National Academy of Science recently recommended that the Federal Government assist a program of basic research on advanced education for the textile industry. This report, which has been transmitted to Secretary Hodges, recommends that a national textile research institute be established under the National Academy of Science.

As we all know, the issuance of this report is one of the seven points announced in President Kennedy's special program of assistance for the textile industry, which was established largely in response to the splendid work accomplished by my distinguished senior colleague, Senator PASTORE. I am also especially pleased to call attention to this proposal, since in my own campaign, I supported the establishment of a textile research institute. It is my fervent hope that the Department of Commerce will soon take action to implement such a proposal, which, I believe, would be most helpful in helping our American textile industry to develop new products and new markets.

I ask unanimous consent to have the article printed in the RECORD.

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

U.S. AID FOR TEXTILE STUDY URGED

(By Orlando B. Potter)

WASHINGTON.—A special task force of the National Academy of Sciences yesterday recommended that the Federal Government

support a program of basic research and advanced education for the textile industry.

The report, made by a group of textile experts headed by Stanley Backer, associate professor of mechanical engineering at Massachusetts Institute of Technology, said that it is doubtful that the industry will conduct enough basic research on its own to survive.

But it said the Government assistance is warranted because the textile industry is in a unique position, having suffered a decline of almost calamitous proportions in recent years, partly as a result of Government policies.

The report recommends the establishment of a National Institute for Textile Research under the National Academy of Sciences to implement the Federal assistance program. It also recommends establishment of an Office of Textile Research in the Department of Commerce.

The special report was transmitted to Secretary of Commerce Luther H. Hodges by Detlev W. Bronk, President of the National Academy of Sciences, on April 11, but was not released until yesterday.

On Monday Secretary Hodges was urged by the Textile Workers Union of America to release the report.

The union noted that the textile report had been undertaken as one of the seven points in President's Kennedy's special program of relief for the industry, which was announced last year at the urging of Senator JOHN O. PASTORE.

The TWUA's letter to the Secretary complained that no action was being taken to implement the report, and urged that the administration act on it as soon as possible.

The Commerce Department offered no reason yesterday for the delay in releasing the report. It simply said that the recommendations on research needs "are being considered in connection with other aspects of the industry."

The report stated that the U.S. textile industry needs new techniques and new products to retain and strengthen existing markets in the face of world competition.

But it went on to say that, under present conditions, there is neither the personnel nor the resources to do the job.

It is "extremely difficult," the report said, to attract "high-quality people" for technical development of the industry, partly because of unfavorable publicity and partly because of the attention given to more glamorous defense-oriented research projects.

It said that only 3 textile training institutions limit their activities to graduate education and research, and their total output in the last year was 15 students at the master's degree level and 5 at the doctor of philosophy level.

ADJOURNMENT TO 11 O'CLOCK ON MONDAY NEXT

Mr. PROXMIRE. Mr. President, if there is no further business to come before the Senate, under the order previously entered, I move that the Senate now stand in adjournment until 11 o'clock on Monday morning.

The motion was agreed to; and (at 5 o'clock and 42 minutes p.m.) the Senate adjourned, under the previous order, until Monday, August 20, 1962, at 11 o'clock a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 17 (legislative day of August 14), 1962:

DIPLOMATIC AND FOREIGN SERVICE AMBASSADORS

Foy D. Kohler, of Ohio, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Soviet Socialist Republics.

John H. Ferguson, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

William Leonhart, of West Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Tanganyika.

ASSISTANT SECRETARY OF STATE

William R. Tyler, of the District of Columbia, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Bernard T. Brennan, of New York, to be Deputy Administrator for Administration, Agency for International Development.

EXTENSIONS OF REMARKS

How Can You Hire the Handicapped if the ICC Won't License the Handicapped?

EXTENSION OF REMARKS
OF
HON. JOHN A. CARROLL
OF COLORADO
IN THE SENATE OF THE UNITED STATES
Friday, August 17, 1962

Mr. CARROLL. Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD a statement which I have prepared concerning an ICC regulation.

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

STATEMENT BY HON. JOHN A. CARROLL, OF COLORADO

Senators will remember that on August 13 I addressed the Senate, deploring the existence of an Interstate Commerce Commission regulation which denies absolutely to rehabilitated amputees the right to drive in interstate commerce.

As I have pointed out to the Senate, this unnecessary rule causes hardship and suffering to those whom it is this country's stated policy to encourage and assist—the physically handicapped.

This flatly dogmatic rule is totally unnecessary and unreasonable. If a doctor certifies that a man's loss of limb will not prevent him from safely operating a vehicle, the Interstate Commerce Commission should allow the man to drive in interstate commerce, assuming he is otherwise qualified.

Such is the system employed by the Federal Aviation Agency in certifying pilots. It works well.

The Interstate Commerce Commission regulation causes needless hardship to rehabilitated amputees. Interstate truckdrivers who lose a leg are denied the opportunity to return to their chosen profession.

This is not the only hardship which this rule causes. I am informed that Interstate Commerce Commission regulations for licensing commercial drivers are often taken as models by State and local authorities. I am informed that several of our States and communities have adopted this ban on amputees solely because it is an Interstate Commerce Commission regulation. Others are in the process of doing so.

This means that an ever-increasing number of perfectly capable drivers are losing their livelihood every day. In some areas able-bodied amputee drivers are actually denied a license to drive Good Will and Salvation Army trucks.

The Commission has said it intends to await the conclusion of a study undertaken by the Harvard School of Public Health before it reviews this regulation.

This study, which has been in process for over a year, will not be completed for at least 2 more years and perhaps not for 4 more years.

This wait is unnecessary. The Commission has available today all the facts it needs.

Let me bring to the attention of the Senate the concluding paragraph of an earlier study undertaken by Harvard entitled, "Statistical Study of 624 Pairs of Disabled Versus Nondisabled Drivers Listed in the Commonwealth of Massachusetts Registry of Motor Vehicles":

"The date shows a decidedly lower absolute rate of involvement of disabled veteran and handicapped drivers versus their nondisabled counterparts if relative hazard criteria are ignored. The ratio was approximately 2 to 1. That is, the nondisabled controlled group drivers sustained approximately twice as many accidents and were charged with approximately twice as many nonaccident violations as the disabled. This ratio appeared to remain constant regardless of the variable considered.

These conclusions are borne out by other studies made of the safety records of the rehabilitated in heavy industries. The rehabilitated worker actually has a much better safety record than does the physically normal worker.

I believe—and I am sure many in Congress share this belief—that on the basis of the facts in hand and because of the obvious and continuing inequity involved, the Commission ought to proceed now to revise this regulation.

Address by Senator Goldwater Before American Bar Association

EXTENSION OF REMARKS
OF
HON. BARRY GOLDWATER
OF ARIZONA
IN THE SENATE OF THE UNITED STATES
Friday, August 17, 1962

Mr. GOLDWATER. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an address delivered by me on August 8, 1962, before the assembly session of the American Bar Association, in San Francisco, Calif.

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

ADDRESS OF U.S. SENATOR BARRY GOLDWATER, REPUBLICAN, OF ARIZONA, BEFORE THE ASSEMBLY SESSION OF THE AMERICAN BAR ASSOCIATION, AUDITORIUM OF THE CALIFORNIA MASONIC MEMORIAL TEMPLE, SAN FRANCISCO

Mr. President, members and guests of the American Bar Association, I am both delighted and honored to be here today to participate in this important session of your very fine organization. Of course, you know that the American Bar Association is one of those groups of which we poor laymen stand in some awe. Its high professional standing and the great legal knowledge of its members are such that those of us with no law training approach an engagement such as this with considerable trepidation.

But perhaps it is proper, now and then, for you who are skilled in the details of the law to hear from one whose primary job it is to participate in the writing of new laws or the alteration of old ones.

And today I should like to direct your attention primarily to one area of law—that area which deals with the problems of labor-management relations. This area is becoming increasingly important in the life of the Nation. It has a direct bearing on the Nation's economic future in a time of extreme uncertainty and hesitancy. And it is an area which, I believe, warrants the closest attention of all Americans who are interested in our concepts of freedom and in sound economic growth.

The newspapers have been filled with news of serious labor disputes during recent months. The problems of the flight engineers and the Eastern Air Lines have become familiar to many Americans. The labor troubles in the aerospace industry have found their way into many headlines. Here, in California, a strike in the construction industry has recently taken place. Other disputes have occurred or are occurring at missile sites, in the automobile industry, on the east coast docks, and on our railroads. The list goes on and on.

In addition, the Government figures for the first 5 months of this year show a 60-percent increase in the number of work days lost due to labor disputes. It should be clear that the process of collective bargaining and its effects upon the economy and national security pose a problem of transcendent importance to all Americans.

Concern about the current labor picture and the various problems surrounding it is not mine alone. It has been voiced recently by such diverse publications and political leaders as the Washington Post, Senator KARL MUNDT, Life magazine, Senator JOHN MCCLELLAN and even the New York Times. The Post calls "the need for additional law in this field clear and unmistakable." The Times refers to "a need for improved legal machinery to deal with emergency labor disputes." The Life article was titled "The Need for New Labor Laws."

Too frequently we attempt to find a cure without first acquiring a full and complete knowledge of the cause of the difficulty. The problem only becomes greater if we sweep the cause under the rug. This is particularly true where a problem has been created by actions of the Congress and continues to exist because the Congress refuses to recognize the cause and acknowledge the necessity for corrective action.

What I wish to discuss with this audience today is, in a broad sense, the subject of concentrated power. In my understanding of the Constitution the intent written into it by our Founding Fathers, was the prohibition against the gathering of power in any one branch of our tripartite system of government or any segment of our society. You gentlemen as lawyers are constantly aware of the dangers involved in such concentration and a good deal of your activities are directed against it. We are witnessing in our National Government today, and we have seen for nearly three decades, the movement of more and more power away from the people and the States into the hands of the bureaucrats in Washington. And we have witnessed how this power can be used to benefit one segment of the economy, giving it monopolistic power.

I refer specifically to the concentration of power in the hands of labor leaders of today. This power came about as the result of Federal legislation. Its correction can only come through congressional action which would remove those portions of the Labor-Management Act which confer a privileged status on labor unions. This exempt position is not related to the unions' bargaining power in legitimate labor-management disputes.

I would suggest the tremendous concentration of potential power in the hands of labor is contrary to the public interest and in the public I include the working union members.

Labor unions enjoy many special privileges and immunities under Federal law which are creative of power. By far the most important of these is the exclusive right to represent all the employees in the unit for purposes of collective bargaining, even if the union has been selected as bargaining agent by only a narrow majority, which in many circumstances under our existing law, in fact, constitutes only a minority. Under the law, those employees who do not wish to join, as well as those whom the union for whatever reason excludes from membership, can neither bargain for themselves nor select any person or agency other than the union so designated to bargain for them. They are, in reality, the involuntary principals of agents imposed upon them by law. In granting unions this right, the Government, in effect, has bestowed upon them the power of government itself. Although this provision of law has a certain usefulness in the area of collective bargaining, it results in the most serious injustice to those employees who wish to join the union but are excluded by the union itself. They have no voice in helping to determine the union's bargaining demands and policies, are not permitted to do their own bargaining, and they are compelled to accept and work under the terms and conditions of the agreements between the union and the employer, even if they find such terms and conditions highly unsatisfactory.

Moreover, in certain industries there is a widespread practice whereby employers recruit their labor force through the local unions in the particular area. This is particularly true in those industries where the most highly skilled, and consequently the most highly paid employees are needed to perform the work. It is precisely in these industries where union membership exclusionary policies are most widely and persistently applied. As a result, untold numbers of completely qualified workers, who for one reason or another are denied admission to union membership, are excluded not only from many jobs, but particularly from the most highly paid jobs as well.

There is an unconscious tendency on the part of many to regard labor-management relations as the exclusive concern of the parties directly involved; that is, of the union and employer.

Where a settlement is reached as the result of collective bargaining and without the intervention of a work stoppage resulting from either a strike or a lockout, it is safe to say, almost without exception, that in reaching the settlement none of the negotiating parties paid the slightest attention to its future impact on the economy of the Nation or its effect on the public interest.

The labor union representatives have a tendency to identify their own interests with those of the public—to believe, often in good faith, that what is good for the union and its members cannot possibly be bad for the public as a whole. Or, to put it another way, they have a tendency to regard the membership of the labor movement as constituting the general public itself. They do not usually think of themselves as the spokesmen for a special interest group.

Management on the other hand thinks in terms of the profitability of its operations, for in a free enterprise system, continued profitability is the basic condition for the survival of the enterprise. Unless the business is one enjoying a monopoly status which would enable it to share its profits directly with the public, it is the belief of a free enterprise economy that the natural forces of competition compel management to pass the results of economic and technical progress on to the public in the form of lower prices, improvements in quality, and new and theretofore unavailable products and services.

Unfortunately, even where an enterprise enjoys a temporary monopoly—and in a basically competitive economy most industrial and commercial monopolies are temporary—the greater profits of such an enterprise, where they are shared at all, are, as a result of union bargaining pressure, shared with the employees of the firm in the form of higher wages and increased benefits, rather than with the general public.

The public itself, generally, remains largely unaware of these underlying considerations which characterize the collective bargaining scene. It is only when the bargaining negotiations break down in a major or nationwide industry, which is engaged in production essential to the national security or welfare, that there is a shocked realization on the part of the public that it too has an important, perhaps the most important, stake in the outcome of the controversy.

The public is the overlooked body in most of the legislation written in the Congress of late, particularly in the field of labor-management relations. There are protections written into the labor-management law, and while they are not adequate, they exist, but the tendency today is to ignore them and by this action to further ignore the important role the public plays in any labor-management dispute. The key to these actions is not just the seeking of more power to be used from a central position, but the actual adoption of this power in an ad hoc manner or, to put it more plainly, working around existing laws. To understand this we must review briefly the recent comments of Archibald Cox, the Solicitor General of the United States and a key labor adviser to the President. He stated that under present conditions, the public consequences of decisions made by labor and management are so wide and serious that "the Government must have the opportunity to bring those consequences to bear in the making of decision."

Cox went on to spell out the administration's contention that "the public is entitled to a voice" in labor-management decisions. Translated this means that the Federal Government should take an ever-increasing role in the settlement of labor-management problems. It means that we can look forward to more, not less, Government encroachment in the collective bargaining process.

This becomes understandable when you consider the three recent examples of the extralegal approach to labor matters.

First, of course, we have the Government acting as a full third party in the recent steel negotiations. Following the signing of the Government-induced contract in that

industry, the President thought his work was done. But when the steel companies, acting upon the mistaken belief that they were free to manage their own affairs, raised their prices the President immediately reasserted the Government's role. The results of that episode in Government-business relations are too well known to require comment. I mention it merely to illustrate one point—that the entire chain of events took place without reference to the Taft-Hartley Act or any other law, with the notable exception of the antitrust laws which were trotted out as part of the attack on the steel companies.

Second, we have the prolonged dispute in the airlines industry concerning the flight engineers. In this, the President and Secretary of Labor Goldberg have seen fit to operate outside the restrictions of the applicable law, the Railway Labor Act, on a number of occasions. Once again, the use of ad hoc boards became a favorite device of the administration.

Finally, in an effort to stave off a strike in the vital aerospace industry, the President and his Secretary of Labor came up with what they called a board of distinguished citizens and a 60-day postponement of the walkout on the part of the unions. Once again, the solution was completely ad hoc and once again the established procedures found in the law—in this case the Taft-Hartley Act—were completely ignored. It is also evident that this administration is not disposed to request new labor legislation; a number of bills have been offered in the Congress to deal with problems created by work stoppages in vital industries.

Senator WAYNE MORSE, for example, recently introduced a bill to amend the Taft-Hartley Act's national emergency strike provisions. This proposal would compel workers to stay on the job in national emergency situations and require compulsory arbitration of the disputes involved. Senator JOHN MCCLELLAN, with other Senators, has proposed legislation which would "prohibit strikes by employees employed in certain strategic defense facilities." This bill also requires compulsory arbitration. In addition, Senator MIKE MONRONEY and another group of Senators want to amend the Railway Labor Act as it pertains to the national airlines and introduce the element of compulsion to take care of the engineers' strike against two airlines.

Significantly enough, all of these proposed changes in existing labor laws involve important elements of coercion and compulsion. They seem definitely to be in keeping with the thinking of those who believe that only by action from Washington can any of our problems, social, economic, political, or labor be solved.

In this connection, it behooves us to examine the nature of the continually recurring labor crises in the United States. Even a cursory examination will reveal one obvious truth—that labor unions have access to far to much power for the good of the economy or the health of the Nation.

Now it surprises no one to realize the immense size and the great economic strength possessed by American unions today. It is worth noting, however, that big labor did not gain its present vital position in our society wholly, or even primarily, through its own efforts. The Federal Government, that ever-present arbiter, policeman and entrepreneur of American life, has made organized labor what it is today.

Just to give you an idea of the preferred position held by today's union in the economic scheme of things, I have compiled a list of special privileges, immunities and rights and powers enjoyed by labor unions under the Federal law. And let me emphasize at the outset that most of these special considerations may have been justified when they were initially given to the labor movement because of their weakness and lack of size. However, possible justification from an historical standpoint certainly doesn't justify their continued existence in today's era of monopolistic union power.

The list I refer to is as follows:

1. Almost total immunity under the antitrust laws.

2. Immunity from taxation.

3. Immunity from injunctions by Federal courts.

4. Authority to use union funds for purposes not related to collective bargaining even where union membership is compulsory.

5. Power to compel workers to join the union as a condition of continued employment.

6. The right of a union selected by a majority of the workers to bargain for all employees. This includes the right to bargain for those who were compelled to join the union as well as those who can be arbitrarily denied membership.

7. Power to compel the employer to bargain exclusively with the majority union.

8. Absolute authority to deny union membership to workers employed in the bargaining unit, on any grounds or for no reason at all.

9. The right, in some situations, to invade the privacy of workers, even against their wishes. This deprives them of a legal right enjoyed by all other members of society.

10. The right, in some situations, to compel employers to make available for union use the private property of the employer.

11. The right to compel the employer to provide protection against any physical violence on the part of workers who resist invasion of their privacy.

12. Unions are immune from the payment of damages for personal and property injuries inflicted on employers or others by unions members engaged in activities, such as strikes or picketing. And this stands even in situations where such activities have been officially authorized and directed by the union.

13. The right to strike for objectives wholly unrelated to any proper subject of collective bargaining. This is in contrast to the severely limited right of an employer to engage in a lockout.

14. The right, in some situations, to examine an employer's books and records—including those containing such confidential data as costs, profits, and prices.

15. And finally, the almost complete immunity of unions from any liability, penalty, or restriction under State law under the doctrine of Federal preemption.

Now, I'm sure you realize that no other private organization, institution, association or individual in the United States is the beneficiary of such a powerful combination of immunities, benefits, privileges, rights and powers—under either State or Federal law.

And in presenting this list I am not suggesting that all of these special grants, without exception, should be removed. I do it merely to suggest that the entire question of unlimited powers for labor unions should be reviewed carefully by the Congress. I am firm in my belief that the repeal or limitation of some of these privileges and immunities is required to restore a more reasonable and workable balance in the Nation's labor-management relations. In this way, and only in this way, can we prepare the way for the conduct of free and fair collective bargaining between management and labor without Government interference. It is true that we would still have interruptions in production, but they would be substantially reduced in number. The ones we would have would represent the inevitable price a just society must be willing to pay in order to preserve its freedom.