Tate, Benjamin C.
Taylor, Theron J.
Tazewell, John P.
Tefft, John E.
Temme, Robert L.
Thielges, Bernard A.
Thomas, John M.
Thorne, Fred H.
Thurmon, Norman E.
Tickle, Paul A.
Tofalo, Francis
Tolerton, Raymond C., Jr.
Tower, Robert G.
Tracy, Weimer B., Jr.
Traylor, James T., Jr.
Treadwell, Thurman "K," Jr.
Tuttle, Louis "K," Jr.
Umbarger, Bernard S.
Underwood, William E.
van Lier Ribbink, Edvard F.
VanNess, Harper E., Jr.
Vessell, Frank G.
Vineyard, Merriwell W.
Vitucci, Vito L.
Volonte, Joseph E.
Waldman, Albert C., Jr.
Walker, Lewis W., Jr.
Wall, Maurice E.
Wallace, Kenneth C.
Ward, Charles W.
Ward, Herbert H., III
Ward, James R.
Warner, Robert E.
Watson, Samuel E.
Webb, Charles D.
Welles, William T.
Wessel, Robert L.
West, Horace B.
Westrup, Warren E.
Wharton, Claude A., Jr.
Whisler, George H., Jr.
White, Norman E.
White, Richard S., III
Whiteaker, James G.
Wills, James K.
Wilson, Walter K.
Winter, Edward J.
Wissman, Robert G.
Witmer, Robert M.
Wolff, Paul M.
Woodall, Reuben F.
Woodward, Horace J.
Woodward, Nelson C.
Wooldridge, Arthur R., Jr.
Wynkoop, David P.
Young, Howard S., Jr.
Zane, Curtis J.
Zimermann, Richard G.
Zoeller, Robert J.

MEDICAL CORPS

*To be captains*

Bond, George F.
Country, John C.
Cowart, Elgin C., Jr.
Giknis, Francis L.
Hamill, James E.
Holmes, James H.
Johnson, Wendell A.
Kee, Charles E.
Lieurance, Richard E.
Marshall, Francies
Pariser, Harold P.
Weidemann, Karl C.
Wells, Peter F., II
Whiteside, James E.

SUPPLY CORPS

*To be captains*

Arthur, Harry B.
Baldwin, Frank A.
Barbero, Francesco M.
Beckmeyer, Harold E.
Brademan, Royce A.
Cook, Glover H.
Daley, Clement E.
Daniels, Royce L.
Diggle, Raymond H.
Dowd, Wallace R., Jr.
Eckfield, Kenyon C.
Ernst, Clayton W.
Foster, Thomas E., Jr.
Fulton, Clyde E.
Furtwangler, Leo E., Jr.
Garrett, John H., Jr.
Grimsley, Geleter
Hamblen, Eunice A.
Haskell, John W.
Hauge, George E.
Herron, John C.
Hopwood, Alonzo L.
Hughes, Augustus P., Jr.
Hurley, Robert E.
Jeffrey, Paul W.
Jeppson, Robert B., Jr.
Kesselring, Waverley D.
Klofkorn, Kenneth R.
Knapp, Michael J.
Leedy, Ralph G.
Leighton, Richard W.
Lewis, John M., Jr.
Lewis, Wellington H.
Lohse, William M.
Lotterhos, Augustus, Jr.
MacQuarrie, Harry A.
Mago, Bernard A.
Maiman, Elmer J.
McLanahan, Clarence E.
Mills, Hubert P.
Morrissey, John E.
Nalley, Thomas L.
Normile, Walter G.
Oldfield, Edward C., Jr.
Paist, John B., Jr.
Parrish, Melvin O.
Peach, William T., III
Perkins, Charles F.
Sanders, Allen B.
Schmeder, Charles E.
Scott, John A.
Sheehan, William J.
Sirginson, Arthur W.
Slettvet, Richard M.
Swan, Alfred W.
Swint, Elwin O.
Tolleson, Carlos L.
Tolson, Walter W.
Wade, John W.
Wiedman, Charles, Jr.
Williams, Douglas O.
Wilson, Robert H.
Wright, Jack L.
Zivnuska, Robert W.

CHAPLAIN CORPS

*To be captains*

Cahill, Richard A.
Ernstmeyer, Milton S.
Ferris, James S.
Gendron, Anthony L.
Kapalczynski, Eugene J.
Lonergan, Vincent J.
Sargent, Gerald H.
Schneck, Robert J.
Swinson, Jesse L.
Tuxbury, Vernon W

CIVIL ENGINEER CORPS

*To be captains*

Anderson, Nelson R.
Bartlett, James V.
Busbee, Greer A., Jr.
Callahan, John F.
Castanes, James C.
Cline, Warren F.
Cunney, Edward G.
Dillion, John "G"
Dougherty, John A.
Grubb, Clarence A.
Hobson, Harold E.
Johnson, Edwin E.
Meeks, Arthur F.
Miller, William A.
Pickett, Bryan S.
Trzyna, Zbyszko C.
Turner, Charles W.

DENTAL CORPS

*To be captains*

Colby, Gage
D'Vincent, Richard "C"
Giammusso, Anthony P.
Grossman, Frank D.
Johnson, Van L., Jr.
Knapp, Victor P.
Nystul, Oliver G.
Rinck, Theodore J. H.
Troxell, Richard R.

MEDICAL SERVICE CORPS

*To be captains*

Austin, Paul L.
Buckner, James F.
Chartier, Armand P.
Dreitlein, William M.
Duwel, Bernard F.
Haase, Edward F.
Herrmann, Robert S.
Isert, Lawrence L.
Kuntz, Robert E.
Luckie, Robert G.
Mann, Charles F.
Vasa, Ralph L.
Westbrook, Francis L.
Witcofski, Louie K.

NURSE CORPS

*To be captain*

Monahan, Dorothy P.

IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Ronald Michael D'Amuar
Robert Karp Gosney
John V. Fiorentin
Robert E. Reed-Hill
John Edward Stein, Jr.
Robert Baker Walls, Jr.
Edward Bruce Weick
Daniel L. Welker

The following-named (Army Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

John J. Rapuano, Jr.

The following-named (U.S. Military Academy graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Dennis F. O'Block
Donald M. Schwartz
Herbert D. Raymond III

The following-named (U.S. Naval Academy graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Richard W. Andrews
Barry V. Banks
Barry N. Beck
Ronald Benigo
William C. Blaha
John D. Buckelew
Edward J. Bush, Jr.
Paul R. Caldwell
Michael J. Chumer
James B. Croft, Jr.
Martin E. Costello
John H. Dillon
Robert J. Dougal
Fred T. Fagan, Jr.
Edward M. Fox
Paul M. Frankovich
Anthony J. Garcia
Edward C. Gerhard
Mario G. Gerhardt
William J. Gleeson
Earl J. Gorman, Jr.
David W. Gould
Frank T. Grassi
Paul B. Graves
William A. Griffis II
Roy D. Hammock
Robert W. Harvey, Jr.
Paul D. Havens
Douglas J. Herrman
Homer E. Hire, Jr.
Jeffrey C. Hogan
Thomas J. Holden
Jeffrey D. E. Jefferies
Robert J. Johnson, Jr.
William C. Jones
Charles C. Krulak
David L. Lapham
David W. Lorenzo
Michael E. Lundy
Dale J. Lux
Alan E. Mahar
John T. Mahoney, Jr.
Patrick M. Malone
James E. McDonald, Jr.
Edward F. Miglarese, Jr.
Peter M. Molloy
Gerald F. Moran
Geoffrey D. Nelson
John A. Nordin
Vincent E. O'Neill
Everett W. Pentz, Jr.
Dennis N. T. Perkins
Charles A. Pinney III
Patrick M. Prout
Berton M. Ranta
Larry L. Robinson
Glenn W. Russell, Jr.
Richard P. Scott, Jr.
Ronald J. Shabosky
James R. Shoff
Ray G. Snyder
Robert C. Springer
Joseph D. Stewart
Dean A. Stiemke
Alan R. Tatlock
Robert R. Teall
James R. Thompson
Robert R. Timberg
William A. Tinsley III
Bruce E. Welch
Jerome A. Welch
Gordon R. Willson
David B. Wilshin
Robin F. Wirsching
Erik C. Woods
Jack B. Zimmermann

The following named (meritorious noncommissioned officers) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Calvin Kossiver
Clyde P. Drewett

# SENATE

## SATURDAY, APRIL 25, 1964

*(Legislative day of Monday, March 30, 1964)*

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

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

Our Father, God, at the beginning of deliberations in this forum of freedom, we come in the glad assurance, not just of our feeble hold of Thee, but, rather, of Thy mighty grasp of us.

Even as with bending backs we toil in the valley, we are grateful that the light of Thine eternal purpose falls upon our daily tasks, and that in the beauty of common things we may partake of the holy sacrament of Thy presence.

On the earth blackened by hate, we thank Thee for men and women of good will under all skies, the saving salt of a desperate world, upon whose integrity of character and upon whose understanding compassion for other nations and races the hopes of tomorrow's world rest.

Steel our hearts to be the servants of Thy will, as we serve the present age.

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

## THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 24, 1964, was dispensed with.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, before suggesting the absence of a quorum, I ask unanimous consent that the Senate proceed to the consideration of executive business, to consider the nomination for membership on the Atomic Energy Commission.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to the consideration of executive business.



AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the nomination for membership on the Atomic Energy Commission will be stated.

## ATOMIC ENERGY COMMISSION

The Chief Clerk read the nomination of Dr. Mary I. Bunting, of Massachusetts, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1965.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate resumed the consideration of legislative business.

## ORDER FOR A MORNING HOUR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on the same basis as on the preceding days of this week, and after the conclusion of the quorum call, there be a morning hour.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none; and it is so ordered.

## ORDER FOR RECESS TO 10 A.M. ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it stand in recess until 10 o'clock on Monday morning, next.

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

## CALL OF THE ROLL

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

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

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

[No. 169 Leg.]

| | | |
|---|---|---|
| Aiken | Douglas | Keating |
| Allott | Ellender | Kuchel |
| Anderson | Ervin | Lausche |
| Bartlett | Fong | Magnuson |
| Beall | Gore | Mansfield |
| Bennett | Gruening | McCarthy |
| Bible | Hayden | McGee |
| Brewster | Holland | McGovern |
| Carlson | Hruska | McIntyre |
| Case | Humphrey | McNamara |
| Church | Inouye | Metcalf |
| Clark | Jackson | Monroney |
| Cotton | Javits | Morse |
| Curtis | Johnston | Morton |
| Dodd | Jordan, Idaho | Mundt |
| Muskie | Randolph | Smith |
| Neuberger | Ribicoff | Sparkman |
| Pell | Russell | Walters |
| Prouty | Scott | Young, Ohio |
| Proxmire | Simpson | |

Mr. HUMPHREY. I announce that the Senator from Indiana [Mr. BAYH], the Senator from North Dakota [Mr. BURDICK], the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Michigan [Mr. HART], the Senator from Alabama [Mr. HILL], the Senator from Louisiana [Mr. LONG], the Senator from Utah [Mr. MOSS], the Senator from Virginia [Mr. ROBERTSON], the Senator from Mississippi [Mr. STENNIS], and the Senator from South Carolina [Mr. THURMOND] are absent on official business.

I also announce that the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Indiana [Mr. HARTKE], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Wisconsin [Mr. NELSON], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Missouri [Mr. SYMINGTON], the Senator from Georgia [Mr. TALMADGE], the Senator from New Jersey [Mr. WILLIAMS], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that the Senator from California [Mr. ENGLE] and the Senator from Arkansas [Mr. MCCLELLAN] are absent because of illness.

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

The Senators from Delaware [Mr. BOGGS and Mr. WILLIAMS], the Senator from Illinois [Mr. DIRKSEN], the Senator from Colorado [Mr. DOMINICK], the Senator from Arizona [Mr. GOLDWATER], the Senators from Iowa [Mr. HICKENLOOPER and Mr. MILLER], the Senator from New Mexico [Mr. MECHEM], the Senator from Kansas [Mr. PEARSON], the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from Texas [Mr. TOWER], and the Senator from North Dakota [Mr. YOUNG] are necessarily absent.

The PRESIDING OFFICER (Mr. INOUYE in the chair). A quorum is present.

## TRANSACTION OF ROUTINE BUSINESS

The PRESIDING OFFICER. Morning business is in order.

## BILL INTRODUCED

A bill was introduced, read twice by its title, and referred as indicated:

By Mr. JACKSON (for himself, Mr. ANDERSON, Mr. KUCHEL, Mr. MAGNUSON, Mr. BARTLETT, and Mr. GRUENING):

S. 2772. A bill to amend the Alaska Omnibus Act; to the Committee on Interior and Insular Affairs.

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

## AMENDMENT OF ALASKA OMNIBUS ACT

Mr. JACKSON. Mr. President, on behalf of myself, and Senators ANDERSON, KUCHEL, MAGNUSON, BARTLETT, and GRUENING, I introduce, for appropriate reference, a bill submitted and recommended by the President of the United States to amend the Alaska Omnibus Act to authorize $22,500,000 for additional transitional grants to the State of Alaska until June 30, 1966.

The Alaska Omnibus Act, Public Law 86–70, was enacted following Alaska's admission to statehood to assist that State to perform certain functions which had previously been borne by the Federal Government. A total of $28,500,000 of "transitional" grants to Alaska were authorized to help her assume her responsibilities as a State.

The severe earthquake which struck Alaska on March 27 has prompted the President to offer these amendments. The previously authorized transitional grants will expire on June 30, 1964. Until March 27, there appeared to be no need for an extension of those grants, and the Federal Government would not have proposed an extension. In fact, Alaska has been able to take over most normal State and local responsibilities previously administered by the Federal Government during territorial days.

However, the terrible events of March 27 have drastically changed the situation. As a result of the earthquake, the State and local governments in Alaska will temporarily lose sizable portions of their revenues. For example, about 50 percent of the State's population, economic resources and tax base are in the affected area. It is the source of about half the State's $55 million annual revenue from State and local sources.

Any decline in taxes will, in turn, impair Alaska's ability to match certain necessary Federal grant-in-aid funds and to finance capital projects and other programs through the sale of State and local obligations. At the same time, the State and localities are bearing extraordinary expenses in connection with relief and reconstruction.

The earthquake has, in effect, delayed the day when Alaska can be expected to complete an orderly transition to full statehood responsibilities. The disaster will reduce Alaska's revenues below the level required to finance its increased functions as a State.

To fill the gap, section 1 of the proposed bill would provide for a continuation of the transitional grants until June 30, 1966, and an authorization of $22,500,000 for such grants. While the earlier grants were based largely on the amounts the Federal Government would have spent on the programs assumed by Alaska, the proposed grants are based on an estimate of the amounts by which State and local revenues will fall short of expectations because of the earthquake, together with certain funds re-

quired to meet extraordinary operating expenses.

Section 2 of the draft bill would extend for 2 years several other features of the original transition program. The period during which the Governor could request a Federal agency to provide interim services and facilities in Alaska under section 44(b) of the Omnibus Act would be extended to June 30, 1966. It is expected that this authority will continue to be used to provide for Federal Aviation Agency operation of certain intermediate airports in Alaska. That operation would be financed, as it has been in the past, out of the transitional grant funds.

Section 44(c) of the Omnibus Act would be similarly amended to extend the period in which Federal agencies may contract with the State to perform certain services they formerly performed in Alaska. Finally section 45(a) of the act would be amended to extend for 2 years the President's authority to transfer to Alaska the Federal property used in connection with functions assumed by the State under the statehood and omnibus acts.

The sponsors of this bill agree with the President that this legislation is necessary to insure the continuance of effective State and local government in Alaska during the emergency reconstruction period. The Bureau of the Budget urges early and favorable consideration of the proposed bill.

The Senator from New Mexico [Mr. ANDERSON], who is a cosponsor of this bill, has stated to me that he will also consider this legislation in a hearing before the Senate Committee on Interior and Insular Affairs on May 4. He had previously scheduled a meeting for that date for additional hearings on S. 2719, the Alaska earthquake insurance proposal now pending before us.

We are hopeful that this early and forthright action on the part of the President and the Congress will help restore the confidence and courage of the people of our 49th State. Their fellow citizens stand ready to help them help themselves in this dark hour. Their steadfastness in the face of their terrible disaster has been an inspiration to us all.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2772) to amend the Alaska Omnibus Act, introduced by Mr. JACKSON (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

## PRESERVATION AND RESTORATION OF CERTAIN WORKS OF ART—ADDITIONAL COSPONSORS OF BILL

Under authority of the order of the Senate of April 17, 1964, the names of Mr. LONG of Missouri and Mr. MCINTYRE were added as additional cosponsors of the bill (S. 2745) to save historic buildings, sites, and antiquities, to provide a program of preservation and restoration of works of art owned by the United States, and to provide high standards of architectural excellence in design and decoration of Federal public buildings, and for other purposes, introduced by Mr. CLARK on April 17, 1964.

## 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. PROUTY:

Summary memorandum on the pending civil rights bill, prepared by Representative WILLIAM M. MCCULLOCH, of Ohio.

## PRESIDENT LYNDON B. JOHNSON

Mr. MANSFIELD. Mr. President, the history books one day will record the speed and vigor with which Lyndon B. Johnson has put his personal stamp on the Presidency in 1964. With few relaxations, the President is on the job day and night. He has nonstop working habits.

I know that he eats; I have seen him. I know he works; I have watched him. I assume he sleeps; and I assume he has some sort of recreational activity. But certainly he has been able to make a great deal of headway this year with many of the proposals he has advocated. He has used persuasion. He has fallen back on the advice of Isaiah. He has said, in effect, to all segments of the population, when differences have been brought to his attention, "Come, let us reason together." Through persuasion, he has been able to speed the taxcut proposals into law. Through persuasion, I believe he has been able to speed up progress on the civil rights bill. Through persuasion, he has been able to settle the railroad difficulty which has plagued the Nation for the past 4½ years.

I ask unanimous consent that an article from the April 23, 1964, issue of the Christian Science Monitor, under the byline of Mr. William H. Stringer, be printed at this point in the RECORD.

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

THE AUTHENTIC STAMP

(By William H. Stringer)

WASHINGTON.—History books one day will record the speed and vigor with which Lyndon B. Johnson put his personal stamp on the Presidency in 1964.

No longer does Washington speak of the Johnson-Kennedy administration. In a remarkably short time the resourceful, hard-driving, politically conscious Texan has impressed policy, technique, the executive staff, and White House style with his own image. It is a personalized operation, and effective in getting things done.

Editors visiting Washington for a State Department seminar on foreign policy this week had a chance to see this elemental L.B.J. in action. Instead of addressing the visitors in the State Department auditorium, as the late President Kennedy traditionally had done, Mr. Johnson had the editors taken by bus right to the White House and talked to them from a lectern in the rose garden.

Like an eloquent preacher he exhorted them on the Christian values of aid programs to the world's underprivileged and poverty stricken. He compared Americans, with monthly incomes of $200, to the two-thirds of the world's people who receive $8 or under a month. Sometimes he hardly glanced at his script. The editors would not soon forget this performance, though some editors felt they were being talked down to at times.

What distinguishes the Johnson White House is this vigorous activity, around the clock. With few relaxations, the President is on the job day and night. He has nonstop working habits. He pushes his assistants hard, though he can be generous and considerate when he thinks about it.

There are gaps in the President's knowledge, as with any new Chief Executive. There is sometimes an abundance of "corn," and of earthy talk behind the scenes. President Johnson is a politician to his fingertips, and he misses no chance to touch all bases—attempting to impress favorably every segment of opinion.

Are peace and prosperity the winning issues? Then he is able to announce a peace-promoting agreement with Soviet Premier Nikita S. Khrushchev, to cut back the production of military fissionable material. Simultaneously at every press conference, scheduled or impromptu, he stresses the thriving condition of the national economy.

Perhaps what particularly distinguishes President Johnson is his tireless, emphatic skill at persuasion—at persuading Members of Congress, or businessmen, or the railroad unions, or Negro leaders, to do what he thinks should be done.

This persuasion—sometimes it is arm twisting, sometimes eloquence, sometimes an appeal to "let us reason together"—has produced results. Without it, the tax cut would not have happened as quickly as it did. Without it, the civil rights bill would not have the prospects of enactment that it has. Without it, there would be a railroad strike now instead of cliffhanging negotiations.

The President does not use ideology, does not talk in terms of liberal versus conservative. But he talks endlessly, when he is working to promote agreement. He appeals to the strengths, and the weaknesses, and the patriotism, of those he is addressing—be they farm-State Congressmen or railroad officials. He stresses the national interest—the country, beyond party, locality, race, or creed.

If President Johnson's presidential tenure is adjudged a success by the historians, his ability at personal persuasion will be one reason for the verdict. He may well have special opportunity—nay necessity—to use this technique this spring and summer, in the civil rights strife which threatens so widely.

## THE ALASKA EARTHQUAKE DISASTER

Mr. GRUENING. Mr. President, the personal tragedies and suffering of many of the people of Alaska at this time are great. In this connection, I placed in the RECORD the day before yesterday a letter describing her experiences and the aftermath from a mother from the Turnagain-by-the-Sea section of Anchorage, where 75 beautiful homes went over the cliff into the tidal water of Cook Inlet, and many others nearby are destined for destruction, as the slippage of the ground continues, aggravated by continuing tremors.

I think that these personal accounts of brave people, such as these Alaskans are, carry with them a better idea of the impact on human beings than any general description of the intensity of this earthquake—the greatest ever recorded on the North American Continent and the

worst disaster that any State in the history of our Republic has experienced.

I ask unanimous consent that this moving letter by Lois Dafoe, the wife of the able former commissioner of education of Alaska, and now superintendent of schools for the Greater Anchorage area, be printed at this point in my remarks.

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

APRIL 23, 1964.

DEAR ERNEST: I am writing as the wife of a man who is so busy trying to save the schools that he has little time or influence when it comes to saving his own private holdings—which is our home in Turnagain.

We in the Turnagain area who probably gave most to keep the economy going—are in a trap. We are mostly professional people, as you know. Doctors, lawyers, etc., who had put the biggest share of their savings into our homes—prepared to spend the rest of our days there.

Now we can't (the Dafoes, anyway) financially afford to add another $20,000 on to an already shaky $46,000 investment. To have our house moved from this danger zone, which it is in, to a lot and location to come up to FHA, would cost us $20,000. We can't even just give it back to FHA and take the loss of our equity. In fact, as I said before—we are trapped.

Many of the wives are tired of being displaced or "makeshifting" with temporary utilities, and are ready to leave Alaska. Don't ever minimize the strength of a large group of displaced earthquake jittery women.

The retroactive insurance program would appear to be the only complete solution. The second alternative would seem to be for the State or Federal Government to give a piece of land and have the Turnagain residents moved there by the district engineers.

Please help us get this settled. We have had almost a month of uncertainty. This waiting is not only dangerous (if geological reports are true) but very damaging to the morale of the higher income people of this area of Anchorage.

Please give us your all-out assistance toward the passage of the retroactive insurance measure or any specific program which would offer speedy help for the private citizen.

Sincerely, your friend,

LOIS DAFOE.

ANCHORAGE, ALASKA.

P.S.: Don and I are living in a little apartment over the boiler room in West High School (of all places). This end is safe, so the inspectors say.

Mr. GRUENING. The letter is an illustration of the heart-rending difficulties faced by Alaskans on two fronts, the home front and the occupational front. While Superintendent of Schools Don Dafoe was in Washington with Governor Egan to report on and to seek aid to rehabilitate Anchorage's badly damaged schools, Mrs. Dafoe was removing her furniture from their home, which is in imminent danger of destruction. They too have also the grave personal economic problem which nature's convulsion has thrust upon them and on many others.

The Anchorage Times, whose editor and publisher lost his beautiful home and its contents in the Turnagain-by-the-Sea residential development, as well as the lot on which it stood—for both were carried away in the matter of minutes by the March 27 earthquake—has written an excellent editorial pertinent to the current visit to Alaska of our able colleague, the Senator from New Mexico [Mr. ANDERSON], who has been appointed by President Johnson to head up the Alaska Reconstruction Commission, and is working hard at it.

I ask unanimous consent that the editorial entitled "Senator Needs Facts on Damage in Alaska" be printed at this point in my remarks.

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

[From the Anchorage Daily Times, Apr. 23, 1964]

SENATOR NEEDS FACTS ON DAMAGE IN ALASKA

Senator CLINTON ANDERSON is "the man on the spot" in President Johnson's proposal that the U.S. Government should help Alaska overcome the earthquake losses.

Senator ANDERSON, who is due in Anchorage Sunday, must make recommendations. If his proposal is to be adopted as Federal policy, he must provide a strong defense against all onslaughts. That strong defense must come primarily from Senator ANDERSON and his coworkers on the Commission on Alaskan Reconstruction.

Because of this responsibility, it is no wonder that the Senator is proceeding cautiously and is investigating the Alaska problems thoroughly.

Thorough investigations are not strange to any Alaskan whose residency predates statehood. When this place was a territory, investigations seemed to be continuous and most of them were by Congress. Senator ANDERSON has been in Alaska before as an investigator.

Alaskans have also learned that investigators can wear all the badges of mean, heartless, and sometimes sadistic enemies while they are probing.

Some of the most uncomfortable experiences in the memories of Alaskans have been those moments on the witness stand when they were grilled by a visiting investigator who wanted to know why a particular course of action should be taken.

Alaskans also know that it has often developed that the sharpest, most penetrating investigator has subsequently become the strongest and most effective champion of Alaska causes in the Nation's Capital.

Past experiences would indicate that Alaskans may now be confronted with a repetition of that process.

Senator ANDERSON, who has been a champion for Alaska in past causes, is now the investigator. He needs facts and figures, fully and frankly presented without fear or fervor. He already has an adequate background on emotional and patriotic phases of Alaska's problems, and can do sermons well.

To find a constructive program under which the Federal Government can help restore Alaskans to their preearthquake status, Senator ANDERSON needs facts. Facts will be his ammunition in defending the recommendations from all doubters and opponents. He must convince the President of the United States that his recommendation is sound. He may have to stand up to 535 Members of Congress and "sell it."

We think the day is near when Alaskans will see Senator ANDERSON as their champion once more, the same as he was in the battle for statehood.

## THE 80TH ANNIVERSARY OF UNITED HIAS SERVICE

Mr. KEATING. Mr. President, 80 years ago, in 1884, when thousands of destitute Jews were fleeing from the terrible pogroms of Czarist Russia, a group of public-spirited citizens in the Jewish community of New York organized the Hebrew Sheltering House Association. In its first decade, almost 200,000 Jews arrived in this country, and the association played a vital part not only in resettling Jewish refugees here, but also in providing temporary shelter and helping secure employment.

From these beginnings the successor Hebrew Immigrant Aid Society was established in 1902. Following the merger of HIAS in 1954 with the National Refugee Service and the United Service for New Americans, today's organization, the United HIAS Service, continues to pursue on a much larger scale the same humanitarian purposes for which the Hebrew Sheltering House was founded 80 years ago.

During the past 80 years, world Jewry has suffered from repeated, unspeakable horrors. In 1903, a year after the founding of HIAS, the Czarist pogrom in Kishinev shocked an entire world and touched off a mighty wave of Jewish expatriation from Russia; in 6 years, from 1904 to 1910, 683,000 Jews arrived in the United States.

Again, World War I threatened the virtual extinction of hundreds of thousands of European Jews, and in the wake of the main military action came 2 more years of Russian pogroms as well as the brief Russian-Polish War, which also caught Jews in the middle.

During the 1920's, the enactment of the Immigration Act of 1924, which set the pattern of the national quota origins system that still blights our statute books today, left thousands of would-be immigrant Jews stranded in European ports.

The 1930's and 1940's brought the Nazi holocaust, the annihilation of 6 million European Jews, the flight of hundreds of thousands from Nazi tyranny, and the displacement of 200,000 more from their homelands as of the end of World War II.

In the 1950's a series of great emergencies—the Suez crisis, the Hungarian uprising, the Algerian war for independence, the Castro takeover in Cuba, and continued anti-Semitic repression behind the Iron Curtain—each of these has given rise to mass emigrations of Jews, many or most of them shorn of their property, the human victims of a world seething with revolution and strife not of their making.

These 80 years of suffering and hardship for millions of Jews have posed unbelievable challenges to the organizational and financial abilities of United HIAS Service, which is, of course, one of only many great private organizations working in the arena of immigrant aid and resettlement. But United HIAS Service has met these challenges, and has met them brilliantly. It has resettled political and religious refugees in countries around the world. It has directly aided the hungry and the destitute among them. It has furnished new arrivals in America with legal assistance in visa, deportation, and naturalization matters. It has fully cooperated with U.S. and international agencies active in the field of migration and refugee aid. As United HIAS Serv-

ice characterizes its work, it has truly been a bridge to freedom.

The work of United HIAS Service continues. No one should underestimate the huge task of refugee resettlement that remains unfinished. Of 10,000 Jews in Cuba when Castro came to power, 7,500 have since fled, many receiving resettlement aid from United HIAS. Following Algerian independence, 130,000 Algerian Jews fled to France; again, United HIAS has been on the spot, and is still working, in connection with that emergency. With repeated anti-Semitic incidents in the Soviet Union, every indication is that United HIAS faces a future beset with new problems of humanitarian aid and relief to Jews in distress.

On this, the 80th anniversary of United HIAS Service, I offer congratulations for a job well done, and my sincere hope for continued successes in alleviating the plight of unfortunates the world over.

## CAPITAL CLASSROOM

Mr. KEATING. Mr. President, Colgate University in Hamilton, N.Y., is celebrating the 25th anniversary of its Semester-in-Washington program. Colgate's Washington study group has each year since 1935 provided a dozen or so students with a rare and valuable opportunity to study the workings of the Federal Government. It has been an important pioneer program that others have emulated, and it has had a significant influence on the Colgate men who were privileged to participate in it.

The father of the Washington study group, Dr. Paul Jacobsen, deserves special credit for his vision and initiative in undertaking such unique bridge between classroom teaching and practical politics. This year's program leader, Knud Rasmussen, is following with energy and imagination in his footsteps.

I am much pleased that one of the participants in this year's group, Edward M. Zachary, of Queens Village, N.Y., and one member of last year's group, Duncan Kilmartin of Poughkeepsie, N.Y., have worked in my office. They have both done excellent jobs and shown an unusually quick grasp of the issues involved in the legislative process.

Mr. President, I hope the program will be as useful in the future as it has been in its first 25 years. I ask unanimous consent to have printed at this point in the RECORD the text of a descriptive article about the program published in the February 1964, issue of the Colgate Alumni News.

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

### CAPITAL CLASSROOM

On January 31, 1964, 10 undergraduates left the Colgate campus to spend a semester studying Federal Government in Washington, D.C. Led by Colgate instructor Knud Rasmussen, they are the 25th group to take part in this unique educational program.

Like members of the first group which left for Washington in 1935, the 1964 students will conduct interviews with Government leaders, work on a daily basis as "interns" in Government and congressional offices, and hear lectures and discussions by men responsible for the Nation's affairs. At the same time, they will be satisfying the requirements of the planned course of study in political science in which they are enrolled. They will attend seminars, read books and write reports.

Colgate's first Washington Study Group arrived in the Capital in September 1935. Franklin D. Roosevelt was then serving his first term as President. Joseph W. Byrns of Tennessee led the House of Representatives; John Garner of Texas presided over the Senate.

Abroad, the storm clouds were gathering. One month after the Colgate students settled in Washington, Italy invaded Ethiopia. Still, the United States clung to its hope that foreign troubles need not impinge upon domestic concerns. At home the headline news concerned the deaths of Will Rogers and Wiley Post that August, and the assassination of Huey Long early in September.

The members of this year's study group live in a world far removed from that of 1935. They will be studying a different kind of governmental process in a Washington that has changed its character. Essentially, however, their purpose remains the same as their predecessors—to apply their theoretical knowledge of the functions of Government to what they observe firsthand.

In Washington with the 1964 study group are: Robert E. Elder, Jr., Hamilton, N.Y.; Jack F. Fallin, Warren, Pa.; Stephen A. Glasser, Grosse Pointe Woods, Mich.; Philip C. Johnston, Bellaire, Ohio; Farhad Kazemi, Teheran, Iran; Donald H. Messinger, Clyde, N.Y.; Arnold Raphel, Troy, N.Y.; Wayne A. Rich, Charleston, W. Va.; David A. Rosenbloom, Albany, N.Y.; Charles Tantillo, Garfield, N.J.; and Edward M. Zachary, Queens Village, N.Y.

Young Elder is the son of Colgate Prof. Robert E. Elder who followed Professor Jacobsen as director of the Washington study group from 1952 to 1963. Raphel is a student of Hamilton College, and joins the Colgate group as a result of efforts toward increasingly close cooperation between the two colleges. The one foreign student, Farhad Kazemi of Iran, will add a useful perspective to the study sessions.

Kazemi will not be the first foreign student to participate in a study group. In the spring of 1952, 10 German university students accompanied the Colgate group to Washington and returned saying they had learned more about government in the United States than they had ever known about their own country.

"In 1964," says Mr. Rasmussen, "the group will be in Washington at a particularly significant period in the Nation's history. Because of the tragic event of last fall, the students will have an opportunity to see how the orderly transfer of governmental responsibilities is being effected. They will also be on the Capital scene at a time when the struggle for civil rights is reaching a climatic point.

The silver anniversary of the Washington study group is especially significant because it marks the end of the teaching career of Paul Jacobsen, founder of the group, who will retire on July 1, 1964.

Twenty-five successful semesters in Washington have served to effectively demonstrate the value of this particular off-campus study group. Colgate can be proud of Professor Jacobsen and the accomplishments of these 25 groups.

## SECRETARY McNAMARA AGREES TO CALL IT HIS WAR

Mr. MORSE. Mr. President, I ask unanimous consent that there be printed in the RECORD an article, from today's New York Times the headline of which reads as follows:

McNamara Agrees To Call It His War—Secretary, Firm on Vietnam, Accepts MORSE's Label.

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

### MCNAMARA AGREES TO CALL IT HIS WAR—SECRETARY, FIRM ON VIETNAM, ACCEPTS MORSE'S LABEL

WASHINGTON, April 24.—Secretary of Defense Robert S. McNamara said today that he did not mind if the fighting in Vietnam was termed "McNamara's War."

Senator WAYNE MORSE, Democrat, of Oregon, who renewed his attack on U.S. policy in South Vietnam in a Senate speech, has been calling it McNamara's war.

Senator MORSE has objected especially to the U.S. commitment to continue supporting the Vietnamese forces as long as it takes to defeat the Communist Vietcong insurgents.

"I have a high regard for Senator MORSE, but not in this respect," Mr. McNamara said at a news conference. "This is a war of the U.S. Government.

"I am following the President's policy and obviously in close cooperation with the Secretary of State.

"I must say," the Secretary continued, "I don't object to its being called McNamara's war. I think it is a very important war and I am pleased to be identified with it and do whatever I can to win it."

#### MORSE PRESSES ATTACK

In a lengthy floor speech, Senator MORSE charged that the U.S. participation in the war in Vietnam was "illegal and a menace to the American Nation."

He cited the Geneva accords of 1954, which the United States did not sign but agreed to observe. The accords, in addition to other provisions, provided for the partition of Vietnam and limited the amount of outside military assistance that could be brought into the area.

Mr. MORSE said that the United Nations Charter covered threats to the peace and that disputes should be turned over to the world body. The fighting in Vietnam is a "matter for the U.N., not for the U.S. Air Force or the American Secretary of Defense to handle as they see fit," he said.

"Aside from the illegality of our intervention, there is the sheer stupidity of a unilateral American land war in Asia whose only promise is to bog us down there indefinitely," the Senator declared.

Mr. McNamara, at his news conference, conceded that the fighting in South Vietnam had flared considerably since Maj. Gen. Nguyen Khanh took over the Government.

The Secretary attributed it to the many changes that have been made in the regime, not only by General Khanh but by his predecessors who also took power in coups d'état.

"As you can well imagine, this has created disorder," the Secretary said. "There has been a vacuum. Into that vacuum the Vietcong have penetrated. Their rate of activity has increased dramatically, as has their fatality rate.

"If I remember the figures, they lost about 650 men killed or taken prisoner during the past week. That is, I think, the highest total in the last 2 or 3 years.

"The Government forces have been under considerable pressure as a result of the increased level of Vietcong attacks. They have also responded with amazing speed and effectiveness. Their fatalities, however, and their casualties have been high; again, the highest in the last 2 years.

"I think it will be several months before we see any substantial progress."

Mr. McNamara said he still believed in ultimate victory. In response to questions, he repeated the administration's view opposing direct U.S. intervention.

"The situation is one that the South Vietnamese themselves must solve," he said.

Mr. McNamara said the appointment of Maj. Gen. Richard G. Stillwell as Chief of Staff of the Military Assistance Command in South Vietnam was not related to the possible replacement of Gen. Paul D. Harkins, the commander, but was part of a reorganization to increase effectiveness.

FELT VOICES OPTIMISM

On Capitol Hill, Adm. Harry D. Felt, commander of the U.S. forces in the Pacific, expressed optimism on the ultimate outcome of the war in South Vietnam. He testified in behalf of the administration's military assistance program.

Admiral Felt spoke in closed session before the House Foreign Affairs Committee, but some of his observations were made public.

He said it was comforting that the situation in South Vietnam had "not gotten out of hand despite a deterioration during the past year." The South Vietnamese fighting forces are improving in their tactics and effectiveness, he declared.

In previous testimony made public today, William P. Bundy, Assistant Secretary of State for Far Eastern Affairs, assured the committee that the recommendations of Ambassador Henry Cabot Lodge were being carefully heeded.

"I can say there are no recommendations that he has made that are not being carried out fully at the present time," Mr. Bundy said.

At one point in the hearing, which took place April 7, Representative WAYNE HAYS, Democrat, of Ohio, asserted that the U.S. policy in South Vietnam had been a "complete failure."

"I dispute that completely," Mr. Bundy retorted.

Mr. MORSE. Mr. President, let me say good-naturedly that the Secretary let down some of his apologists in the Senate who have objected to my calling the unilateral U.S. military action in South Vietnam what it truly is—McNamara's war. But it has been McNamara's war, because he has prepared the blueprints for this unjustifiable American military action, as I have said over and over again, and I repeat now.

According to the article, the Secretary stated:

I am following the President's policy and obviously in close cooperation with the Secretary of State.

I must say I don't object to its being called "McNamara's war." I think it is a very important war and I am pleased to be identified with it and do whatever I can to win it.

Well, at long last, we have smoked him out. We now have an admission from the Secretary of Defense that this Nation is engaged in war.

I ask the Secretary of Defense, I ask the Secretary of State, I ask the President: When are you going to ask for a declaration of war? I say from the floor of the Senate that the killing of American boys in South Vietnam cannot be justified, except on the basis of a declaration of war. I charge that McNamara's war stands today an unconstitutional war. It is now up to the President, the Secretary of State, and the Secretary of Defense to send to Congress a declaration of war proposal. They should ask for constitutional approval of the killing of American boys in McNamara's war. The American people are overwhelmingly against the war, I am sure. The people are right.

Parenthetically, I have another suggestion to make, I say to the Secretary of State, with regard to the Cuban crisis: I think the way to counteract the Cuban protest to the United Nations on the U–2 crisis is for the United States to serve notice on the Secretary General of the United Nations that we are perfectly willing to meet the Cuban demand to have a full and fair airing in the United Nations of our position on the U–2 flights. If it turns out that we are violating international law by U–2 flights over Cuba, we should be willing to adjust our policy accordingly. Incidentally, Cuba is a sovereign power, because, under international law, that is as true of Communist nations as it is of any other nation. I have no doubt we would adjust our Cuban policies to the findings of the United Nations. I quite agree that there should come through the United Nations a finding as to whether the U.S. U–2 flights over the sovereign nation of Cuba are justified. I have no doubt what would happen if a Cuban U–2-type plane flew over Texas, Florida, or any other part of the United States. It would be shot down, as would a Russian or any other foreign U–2-type plane.

As chairman of the Subcommittee on Latin American Affairs, I state that the probability is that a prima facie case exists against the United States in the flying of U–2 planes over a sovereign territory, even though it is Communist Cuba. I abhor the government of Cuba; but as in South Vietnam, I would have my country stay within the framework of international law. I know it is outside the framework of international law in South Vietnam, and I think a prima facie case exists against us in respect to U–2 flights over Cuba. Furthermore those flights are not necessary to protect the security of the United States. They are undoubtedly a convenient surveillance technique for obtaining spying information quickly. However, we all know that Cuba cannot succeed in building up any aggressive military preparations without our knowing it. Also we all know that any time Cuba crosses the line of justifiable national defense, and enters the area of aggression, we can and will protect our security immediately by an attack so quickly and devastatingly that Cuba will be completely destroyed as a military threat.

Right now we have a great opportunity to demonstrate to all the world that we seek peaceful procedures for the settlement of international disputes by welcoming a United Nations review of the justification, if any, under international law of United States U–2 flights over Cuba.

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## UNEASINESS IN GERMANY

Mr. JAVITS. Mr. President, the people of West Germany are uneasy about the course of U.S. foreign policy in Europe. The Senate speech by the Senator from Arkansas [Mr. FULBRIGHT] and the recent statements by President Johnson and Chairman Khrushchev have caused the people of West Germany to become apprehensive that we may be considering our policy of protecting the integrity and security of West Berlin and our support of their hope for the ultimate reunification of Germany.

They must be reassured that our policy has not changed. President Johnson's speech in New York, last Monday, before the Associated Press, should have given this assurance; but this is a subject of such great concern to West Germany that we must make especially sure that there is no question about our policy toward that nation.

This was made clear last Tuesday—after the President's foreign policy speech had been read by the Germans—when Dr. Heinrich Krone expressed the uneasiness which prevails in West Germany regarding possible United States-Soviet agreements on matters of vital concern to Germany.

Dr. Krone, chairman of the National Defense Council of the West German Cabinet, and an influential member of the Christian Democratic Party said:

The impression should not arise that the defensive strength and will to defense of the West is weakening. This means that the leading power of the West, which alone by virtue of its nuclear weapons can present a completely effective deterrent, must not dismantle its troop presence in Europe rapidly or in a conspicuous way.

This uneasiness, in part, stems from the implications left by Senator FULBRIGHT's now-famous "myths and realities" speech. The principal ideas of that speech were that U.S. diplomacy is, to a large and dangerous degree, based, not on the facts of international life, but on its "myths"; that the United States should recognize that the U.S.S.R. has "ceased to be totally and implacably hostile to the West," and that we must make a distinction between "communism as an ideology and the power and policy of the Soviet state," if we are to deal with the Soviet Union effectively.

The straightforward application of these ideas to the German situation, would require, in my view, the abandonment of the cold realities upon which our policies are, and have been, based, and the substitution of new principles based on a myth. We must remember that if changes within the Soviet bloc call for reconsideration of our European policy, they certainly dictate that our German policy—which is central to our European policy—must be reexamined and adjusted. But there is no evidence whatever that the current thaw in East-West relations has had any impact on the Soviet Union's position on German reunification or related issues. The Soviets consider a weak and neutral Germany essential to their security.

The Soviet formula for reunification, which has been unacceptable to us all along, calls initially for a provisional government for all Germany, composed of representatives of the existing states. This government would set election laws and hold a nationwide election if all parties agree that the new nation would remain neutral. The Soviets have two objectives in adhering to this plan. They want to give the East German government equal status to the freely elected West German Government, and they

want to neutralize Germany permanently.

Other than reunification, their plan for Germany would require West Berlin to become a demilitarized "free city" within East Germany, and would establish the Oder-Neisse line as the permanent border between East Germany and Poland. To this day, this constitutes the official position of the Soviet Government.

In contrast, our policy regarding Germany continues to call for reunification as the result of free elections throughout Germany. We feel that the resulting government should sign a peace treaty and should decide whether to form alliances with any foreign state. We have pledged ourselves to defend Berlin from forcible incorporation into East Germany, and to settle its status peacefully, only as part of an all-German settlement. We have also said that the permanent border between Germany and Poland should be decided by a future peace treaty, and that we would give full support to the political, economic, and military integration of Germany into Western Europe.

It is understandable, then, that the speech of the Senator from Arkansas [Mr. FULBRIGHT], coupled with the statements of President Johnson and Chairman Khrushchev in connection with the reduction of the production of fissionable materials, has caused considerable uneasiness in West Germany. Yet, while the West German Government acknowledged the desirability of the reduction of production of fissionable materials, many West Germans fear that the détente called for by the Senator from Arkansas [Mr. FULBRIGHT] may mean recognition of the status quo in Germany, a willingness on the part of the United States to recognize the East German Government, and the "defusing of the Berlin bomb" at West Germany's expense.

These fears are unjustified. The United States considers its relations to the people and Government of West Germany a key element of our European policy. President Johnson made our position entirely clear on this point, after his meeting with Chancellor Ludwig Erhard last December. In their communiqué, the two leaders agreed that "there should be no arrangement that would serve to perpetuate the status quo of a divided Germany, one part of which is deprived of elementary rights and liberties."

They also reaffirmed the "commitment to the peaceful reunification of the German people in freedom, by self-determination."

The President also reassured the Chancellor that the United States would continue to meet its commitments in Berlin.

In his speech to the Associated Press, the President reaffirmed the continued adherence of the United States to time-tested foreign policy principles which have been upheld under four Presidents because they reflect the realities of our world and the aims of our country. We must be alert to shifting realities, to emerging opportunities, always alert to fresh dangers. But we must not mistake day-to-day changes for fundamental movements in the course of history. It very often requires greater courage and resolution to maintain a policy which time has tested than to change it in the face of the moment's pressures.

Mr. President, if we needed any confirmation of the fact that little openings are seized upon to indicate big weaknesses, it is clear that the present business of overflights over Cuba, to which the Senator from Oregon has just referred, is critically important.

We are overflying Cuba, in the interests of the security of the Americas. We have every right to do it. I support it, as one Senator, as the only feasible alternative to going in there and making inspections by the use of our Marines.

I believe such flights entirely consistent with the law of this particular case, which is based upon agreement and upon the inter-American system, to which Cuba is a party.

All these events—the uneasiness in Germany and Cuba's challenge of the overflights which are made for the security of the Americas—indicate at one and the same time that we should show our desire to negotiate, or as President Eisenhower said—to walk the extra mile. We must always give reassurance that the United States determination to seek agreements with the U.S.S.R. does not shake our determination or cause us to change our fundamental policy; that we will adhere to our commitments; and that we are not afraid. If one Senator affirms a desire to agree, other Senators must affirm the catholicity and the integrity of the agreement and commitments of this country.

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## U.S. DOLLARS NOW HELP NASSER FIGHT OUR ALLY, GREAT BRITAIN

Mr. GRUENING. Mr. President, according to dispatches from the Middle East, President Nasser of Egypt—supported by millions of U.S. taxpayers' dollars—is again—or still—seeking to keep the Middle East in a constant turmoil. He has done this since he seized power in Egypt, almost 12 years ago. He now, more than ever before, needs these outside diversions to keep the Egyptian people from realizing that Nasser's outside adventures have trapped 40,000 Egyptian troops, aided by Russian arms, in a senseless and brutal war of conquest in Yemen.

Last week, President Nasser sent King Hussein of Jordan to the United States, to act as his mouthpiece and the mouthpiece of the other Arab countries. This is the same King Hussein who was vehemently denounced by Nasser's Radio Cairo only a short time ago and whose extermination was urged. Nasser called King Hussein and King Saud of Saudi Arabia:

> Lackeys who have sold their honor and dignity and who cooperate with the archenemies of the Arabs—the English, the Americans, and the Jews.

President Nasser called upon the armies of Jordan and Saudi Arabia to "destroy the hireling traitors."

Today's dispatches report that President Nasser went to the front in Yemen, and there, before his trapped soldiers, denounced our ally, Great Britain. He is reported to have said:

> We swear by God to expel Britain from all parts of the Arab world.

Meaning the British protectorate of Aden. It is particularly distressing that United States AID funds permit Nasser to wage his war in Yemen and to further the interests of Soviet Russia in that part of the world. Nasser has never been content with having satisfied Soviet Russia's age-old desire for a toehold in the Middle East. He has constantly sought every means to enlarge Soviet Russia's presence in that vital area. And he is doing so with our money—AID money—nearly $1 billion to date. How much longer is this folly by the United States to continue?

The time has come for the United States to take a firm stand with President Nasser. Indeed, the time for such forthright action is long past due.

How long shall we continue to permit country after country around the globe take our aid dollars greedily, with one hand, while tweaking our nose with the other?

I ask unanimous consent that the dispatches from the Middle East, published in the Washington Post and Times Herald and the New York Times of April 24, as well as in the New York Times of April 25, describing President Nasser's latest exploits and his verbal declaration of war on Great Britain, be printed in the RECORD.

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

[From the Washington (D.C.) Post, Apr. 23, 1964]

NASSER SEES FRONT IN YEMEN

Egyptian President Nasser made a surprise visit to Yemen yesterday and was mobbed by shouting soldiers and tribesmen who brandished knives and held up Nasser's car while they slaughtered an ox in his honor.

After meeting with Yemeni President Abdullah Al Sallal, who called Nasser "the greatest man in the world," the Egyptian President said in a speech, "We swear by God to expel Britain from all parts of the Arab world. We swear by God we will confront zionism, stooge of imperialism. We tell British imperialism * * * get out of occupied South Yemen," referring to Aden and neighboring British protectorates, "or else fight for your survival."

Nasser's trip was thought to be connected with the upcoming visit of Crown Prince Faisal, of Saudi Arabia, to Cairo. The U.N. has tried for months to disengage thousands of Egyptian troops from Yemen to ease a settlement between republicans and loyalists back by Saudi Arabia.

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[From The New York Times, Apr. 23, 1964]

NASSER FLIES TO YEMEN; WARNS BRITISH IN ADEN

ADEN, April 23.—President Gamal Abdel Nasser of the United Arab Republic flew to Yemen today on a surprise visit.

In a speech to a crowd of thousands President Nasser declared: "We swear by God to expel Britain from all parts of the Arab world." The speech was broadcast by the Yemeni radio.

Authoritative sources said the visit was for the purpose of a firsthand study of the 19-month-old war between the Yemeni revolutionary forces, supported by Egyptians and followers of the deposed Imam of Yemen.

President Nasser, referring in his speech to the "occupied south" (Aden and the neighboring British protectorates) and "British aggression" on Yemeni territory, said:

"Britain, which looks upon your revolution with hatred and disgust, must take up its staff and leave Aden and the south."

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NASSER PRESSES ADEN ISSUE; CHARGES "TYRANNY" BY BRITAIN; CALLS ON YEMENI TRIBESMEN TO ASSIST ARAB BROTHERS IN "OCCUPIED SOUTH"—LONDON SENDS PROTEST TO THANT

ADEN, April 24.—President Gamal Abdel Nasser of the United Arab Republic told thousands of tribesmen in Sana, the capital of Yemen, today that the people in Aden and the neighboring British protectorates were suffering the "harshest form of tyranny, oppression and torture at the hands of British colonialism."

President Nasser's attack on Britain came on the second day of his surprise visit to Yemen. Yesterday he vowed "to expel Britain from all parts of the Arab world."

"We are with you, with our blood, heart and soul," the President declared today. "Britain must quit Arab land, for Arab land belongs to Arabs."

President Nasser also asked the Yemenis to help their brothers in Aden and the "occupied south, suffering in prisons of British colonialism."

PURPOSE OF VISIT UNKNOWN

Although the purpose of the President's visit is still a secret, he has not lost any opportunity of arousing the Yemenis against the British-protected Federation of South Arabia but with a marked difference. While the Yemeni President, Abdullah al-Sallal describes the federation and other protectorates as "occupied south Yemen," President Nasser repeatedly says the "occupied south."

The South Arabian Federation radio promptly criticized President Nasser's statements.

Expressing disappointment over the President's attacks, the radio said:

"But we have been accustomed to such distorted news and falsehood from the Cairo and Sana radios. What is regrettable is that Nasser has failed to understand our political setup. We only hope Nasser will leave us alone in peace so that we could cooperate and work together closely for achieving objectives of Arabism in accordance with the principles of Islam."

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BRITISH TAKE ISSUE TO THANT

LONDON, April 24.—The British Government has directed the attention of U Thant, the United Nations Secretary General, to the terms of the speech made by President Nasser in Yemen yesterday, the Foreign Office said tonight.

"In Her Majesty's Government's view," the statement said, "this speech must make it more difficult for the Secretary General to carry out his task of using his good offices to try to settle outstanding issues between Yemen and the Federation of South Arabia, as provided for in the Security Council resolution of April 9."

A spokesman at the Foreign Office explained that the purpose of the representation to Mr. Thant was to invite his comments on President Nasser's anti-British campaign and the effectiveness of the Security Council resolution.

The resolution deplored a British air attack on a fort in Yemen, condemned reprisals, and asked both Britain and Yemen to exercise maximum restraint.

Britain maintains that the attack on the fort, on March 28, was a defensive reaction to attacks by Yemenis.

TROOP MORALE SAID TO SAG

(By Dana Adams Schmidt)

BEIRUT, LEBANON, April 24.—The purpose of President Nasser's visit to Yemen is to raise the morale of about 30,000 Egyptians in that country, to prepare for a new test of strength with royalist tribesmen, and to give the operation in Yemen a new focus against the British in neighboring Aden.

This is the consensus of diplomats and others who have studied Yemeni affairs. A subsidiary purpose, they believe, is to satisfy President Nasser's personal desire for first-hand information on a country about which he has been frequently misinformed.

The Yemen situation, as these sources understand it, is as follows:

The Egyptian troops' morale is at a low ebb since President Nasser, instead of reducing the garrisons, has sent in more troops. In the course of more than a year, the Egyptians and Yemenis are reported to have developed a mutual detestation.

On the Egyptian side, this is complicated by a real fear of Yemeni ambushes. The Yemeni feeling against the Egyptians is not confined to tribal leaders and the family of the deposed Imam of Yemen. Leaders on the republican side are also bitter against the Egyptians.

MAJOR MILITARY EFFORT

Tribal and royalist forces made a major military effort in February when they cut roads connecting Sana with the main Egyptian supply base at Hodeida, as well as with Sana in the north and Taez to the south.

While the royalists have been fairly inactive since then they believe they have shown they can cut Egyptian communications when they want to.

Military thinking now is that while the royalists will probably never have the strength to defeat the Egyptians in their bases, the royalists might be able to starve the Egyptians out.

There was a basis for speculating on a possible political deal between the United Arab Republic and Saudi Arabia, on the one hand, and the republicans and royalists, on the other, as long as President Nasser showed signs of withdrawing his troops.

Since the beginning of April, however, President Nasser's determination to add rather than subtract troops became clear and most diplomats believe there will have to be another test of strength before negotiations can be useful.

The diplomats expect increasing United Arab Republic use of Yemen as a base for campaigning against the British in Aden. This is a popular Arab cause and increases President Nasser's support throughout the Arab world.

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## CUTBACKS IN OUR POSTAL SERVICE

Mr. BREWSTER. Mr. President, for the past 14 years—ever since April 18, 1950, when an economy-minded Postmaster General eliminated the second delivery of mail to residential areas—we have seen steady and unremitting cutbacks in the U.S. postal service.

Now—beginning on May 4—the present Postmaster General, John A. Gronouski, plans to take such a sharp ax to the postal service that the services provided for our modern society will be entirely inadequate.

I protest against this unnecessarily harmful attack upon one of the most vital and most necessary services which the U.S. Government extends to its citizens.

The postal service is the measure of the economic and cultural progress of a nation. It is the essential element which feeds our huge mercantile complex. It is one of the greatest unifying forces in our entire society—making possible, as it does, the swift and unhampered exchange of news and ideas among all our citizens. When a Postmaster General hurts the postal service, he is hurting the very roots of our civilization.

Mr. President, this serious and devastating curtailment of services comes at a time when the Postmaster General is boasting of the lowest postal deficit since the end of World War II. It comes at a time when the President of the United States is telling us that we are enjoying the greatest degree of economic prosperity in our history. It comes at a time when our gross national product is at an all-time high. The curtailment, in short, is coming at precisely the time when there is the least excuse for it.

Let us see what will happen on Monday, May 4.

In the first place, parcel-post deliveries in our metropolitan areas will be limited to only 5 days a week. This is a 16-percent decrease in service; and, ironically, it follows right after an increase in parcel post rates, effective last April 1, which averages 13 percent.

Parcel post, because of inadequate management by the Post Office Department, has been swiftly decaying over the years. There has been a steady pattern of rising rates and deteriorating service. Right now, because of these policies, private enterprise is taking over from the Post Office all the short-haul, profitable business. More and more, the Post Office is being left with only the costly, wasteful long-haul business, which private enterprise scorns and avoids.

This further reduction in service will make parcel post so unattractive to our citizens that, I feel certain, they will use it only as a last resort, when there is no other possible way to send a package. Certainly, any man or woman would think long and hard before he would send any perishable goods through the mails, when the period of time such goods must lie around a post office, awaiting delivery, is so arbitrarily prolonged. To send perishable goods through the mails will be to court disaster.

But, Mr. President, the reduction in parcel post service is only one part of the massive hatchet job that the Post Office Department intends to perform on the post office on May 4.

Beginning on that date, by order of the Postmaster General, Saturday will become a day of frustration and massive irritation in every post office and on every rural route in the country. On Saturdays, window service will be reduced to just 4 hours; and, in most post offices, only one window will be open for the accommodation of all postal patrons.

The Post Office Department has decreed that no domestic or international money orders will be sold on Saturdays, either in post offices or on rural routes. It has also prohibited issuance of COD money orders payable to mailers on Saturdays; all postal savings transactions; all box rent collections; and a host of other traditional post office services.

No information windows will be open on Saturdays. This means that if we wish to find out a few facts about a mailing problem, we shall have to stand in a long line of patrons wanting to mail packages, buy stamps, pick up packages, or what-have-you. Believe me, Mr. President, with only one window in operation, the line in each post office will be long and slow moving.

Clearly, it will be advisable for our citizens to avoid entering the post office on Saturdays. But millions of working Americans must use the post offices on Saturdays. This is their only day off, except for Sundays, when the post offices are closed to the public. If the Post Office Department persists in this unwise course, tens of thousands of Americans can look forward to spending half a day on Saturdays standing in line, waiting to complete a simple bit of postal business.

From all over the country, reports concerning the drastic reductions in collection services are coming in. In many cities, if a man mails a letter after 6 o'clock in the evening, the letter will remain in the mailbox all night, and will be picked up the next day by the letter carrier on that route. The letter carrier will carry the letter with him as he completes his route, and will bring it back to the post office with him at the end of his day. So, such a letter will at last begin its progress from sender to recipient approximately 20 hours after it has been mailed.

Is this what is called postal service in the United States of America in the year of our Lord 1964? Mr. President, this is not service; it is bureaucratic foolishness.

We are the greatest, the strongest, the wealthiest, and the most industrially advanced nation in the world. We are greatly blessed with mineral reserves, sufficient to make us impregnable against any enemy. The harvests of our fields not only keep our own people nourished, but also are transported—in considerable part—overseas, to sustain life in every corner of the world less fortunate than our country. Never has a nation been so munificently blessed. In view of all this prosperity does the Post Office Department now maintain that we cannot afford to operate a postal service able to compete with those of nations which we complacently consider comparatively backward and underprivileged?

When every other aspect of our national life is moving forward, why should the Post Office Department be the only operation to move backward?

The postal service of the United States must not be allowed to degenerate into a second-class operation. If the Post Office Department persists in its plans to wield this economy hatchet on May 4, overnight our postal service may become a third-class or fourth-class operation.

Economy, Mr. President, is an end greatly to be desired. We are all for reasonable economies. I commend the the President for his great effort to cut spending. In almost every other department and agency of Government, economies can be effected without serious harm to the social and economic fabric of the Nation. Programs can be delayed for a year or 2 years. Nonessential projects can be shelved. Plans can be scrapped.

But this is not so in the Post Office. The Post Office cannot set aside its current workload for a single hour, let alone a year or 2 years. The Post Office has no control over its volume; this is determined by the American people—the citizens who use the mails. The postal volume in this country goes up swiftly and steadily every single hour of every single day. It is the duty of the Post Office Department to accommodate that steadily increasing volume. The Post Office Department is blindly shirking that duty when it arbitrarily reduces service and artificially imposes on the service restrictive rules and regulations which can only make it slower, less convenient, less efficient, and less useful.

Mr. President, I call upon the administration of the Postal Establishment to revoke the order which will wreak such havoc in the postal service on May 4. If this order is not revoked, I strongly suggest that we should seriously consider remedial legislation which will restore service and will return the Postal Establishment to the 20th century.

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## CIVIL RIGHTS LEGISLATION—EDITORIAL PUBLISHED IN THE NASHVILLE BANNER

Mr. WALTERS. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Nashville Banner of April 23, 1964.

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

### ONLY PATH—BILL MUST PROTECT RIGHTS OF ALL—BLACK OR WHITE

The first fact proved by the bloody spectacle in New York yesterday is that the radical and fanatical civil rights leaders do not deserve a civil rights law.

These life-endangering disorders were not sparked by accident of emotion. They were minutely planned in defiance of a court injunction.

The lawless violence was touched off in utter disregard of pleas by the President of the United States and his chief law officer, the Attorney General of the United States.

This anarchy, long in the blueprint stage, and launched to gain world attention, was a slap in the face for the liberal leadership of the Senate, who in plenty of time, warned instigators that serious disregard for legal statutes would be dangerously detrimental to majority efforts for passage of the civil rights measure.

So why have a law—if yesterday's hoodlum performance could not be stopped by court order and the formal requests of the President and Attorney General fell on deaf ears?

Existing legislation meant nothing to those who sought to block the opening of the World's Fair. What reason is there to believe a new law passed next month or next year will be respected?

New York already has fair employment statutes and other regulations now sought in the civil rights bill.

Legislation passed years ago by the Empire State has produced no magic by which all men are made equal in ability and substance.

The Federal Congress can do no more. Nor can it take the rights and the property of one man and give them to another.

There are other questions to be asked, other inescapable deductions to be made about the sad spectacle of yesterday.

The center of the racial storm is in the North and not in the South. Eastern sociometeorologists who have been looking toward Dixie with clinical glee and ideological satisfaction, turned about just in time to receive a hurricane of hate full in the face on their own home ground.

Wednesday's skirmishing ranged from the top of Manhattan to the bottom and spilled over onto Long Island. The area affected was more extensive, the planning more sinister than for any comparable incident below the Mason-Dixon line. And if CORE's James Farmer wanted his image to go down to posterity in the current style—1964 martyred horizontal, coattails dragging, with an officer assigned to each hand and foot, he got it all the way.

Bayard Rustin, who planned the peaceful march on Washington, also was hauled away to the pokey. It was not his first brush with the law, nor with intensive integration. Several years ago he was arrested and served time in California on a charge of perversion—having been caught by police in the act in a car with two white men. This was brought to light by the Banner last summer, along with the information that the rights leader had been a member of the young Communist League, also that he visited Russia at one time.

And speaking of police brutality, it was something fierce the way New York's finest cracked heads with their night sticks. The South was shocked. It's little wonder that Senator DICK RUSSELL called for an investigation. A smaller fracas in Georgia or Mississippi or Alabama would have brought the Attorney General's men swarming over the scene, with Federal troops alerted in the background.

Where was Mr. Kennedy yesterday? Was he at his field headquarters in shirt sleeves and casual hair—talking over three or four open telephone lines at the same time? How strange that no TV cameras were about the Justice Department? The young chief U.S. law officer now is getting what he asked for but from the wrong direction. He received a personal warning in New York nearly a year ago. Why had he not planned for the chaos that came to the fair?

Where to now, the civil rights movement, so-called, that was turned into civil disorder? The nonviolent Mr. Farmer who disowned four CORE chapters for planning the stall-in turned suddenly to civil disobedience and warnings of a national shambles.

To say that the civil rights leadership is split is putting it mildly. Wild Congressman ADAM CLAYTON POWELL, and gruesome Malcolm X, who talks of the disemboweling African Mau Mau technique, have moved into the ascendancy.

Mr. POWELL says the Negroes have been listening to the wrong white people. He's sure right about that. They listened to those who thought it was intellectual and sophisticated to be overly mawkish in the race situation. Where are they now? There is seldom a peep, even beneath the inane hum of the cocktail circuit.

Yes, the Negroes who listened to the wrong white people now find themselves trouble. There is no doubt about that. They turned their ears to the politicians who sought the colored vote by promising more than could be delivered.

The politicians finally have gotten it through their heads that the tough leadership seized by the Harlem huckster, and his like, are demanding more than is in the power of the President of the United States or the Congress to give.

The civil rights movement has turned the corner and a tragic turning it is—to go down the highway of lawlessness to what Mr. Farmer has called a shambles, a scene of wild disorder and destruction. But there is no other route for those who talk of violence

in the name of peace and advocate the breaking of laws not in their liking. That is lawlessness—revolution—chaos.

Where do the responsible citizens of the United States—black or white—fit into this picture? They are on the side of established law and sanity. If Congressmen don't already know from the millions of letters received, they will find out from the locust horde mountain of messages that began piling in on the Capitol today.

And the Negro citizens who believe in going about their business? That's just what they are doing in this part of the country. While pandemonium reigned in New York yesterday, the Negroes of Murfreesboro, Tenn., were celebrating the election of their first city councilman.

Saturday, while defiant CORE leaders in Brooklyn were planning the stall-in, a group of Negroes was meeting in one of Nashville's largest uptown hotels to pay tribute to a Negro lawyer and real estate broker for his constructive civic service. The Governor of Tennessee was a speaker and so was the mayor of Nashville.

A little earlier a statewide Negro political organization, whose president is chairman of the State pardons and parole board, met to lay plans to get out the vote for the upcoming State and national primaries.

Tennessee is in the South. Nashville is in the South. Murfreesboro, personalitywise, is Deep South. Nathan Bedford Forrest rescued it from the Yankees one time.

The Negro violence of the North must not throw the South out of perspective. The turn to lawlessness in New York must not steal the spotlight from those of all races and creeds who believe in law and order and in whose hands rests the ultimate fate of the country.

The peace and industry that now characterizes Tennessee life comes under a system of laws that long has been on the books. There is an atmosphere of good will here that has never been allowed to germinate in the hypocrisy of the North.

It's unfortunate that certain leaders, those who seek to use men for the control of their ballots, cannot get the idea. Or maybe they will begin to tune in on a glimmer of understanding.

There still is a way—under a law reasonably designed—to protect the rights of every man, black or white.

There can be no other route which would be free from continued disorder and ultimate anarchy.

This is the only path for all Americans of good will and understanding.

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## THE COMPUTER REVOLUTION—ADDRESS BY SENATOR HUMPHREY, BEFORE EASTERN SPRING COMPUTER CONFERENCE

Mr. HUMPHREY. Mr. President, on April 23, 1964, it was my privilege to address the spring joint computer conference, a great semiannual assembly of experts and companies who are pacesetters in the amazing world of computer technology.

The conference is held under the auspices of the American Federation of Information Processing Societies. The federation represents the Institute of Electrical and Electronic Engineers, the Association for Computer Machines, and the Simulation Council.

I take this occasion to state that one of the most amazing sagas of American free enterprise is the almost fantastic creativity of the computer industry. Its frontiers are unbounded and its contributions are almost incalculable to the Nation's security, its prosperity, and its health.

The advance of the computer state of the art has long been of deep interest to me personally, to the Senate Committee on Government Operations, and to the Subcommittee on Reorganization and International Organizations, of which I am chairman.

I believe it is only factual to say that no committee of the Congress has devoted longer, more sustained, and, yes, I say in all humility, more fruitful attention to the Nation's computer needs and opportunities than has the Senate Committee on Government Operations, under the chairmanship of the able Senator from Arkansas [Mr. McCLELLAN]. As far back as August 1957 it was he who gave the go-ahead and guidance for the long series of committee ond subcommittee studies, hearings and reports, which have continued with complete unanimity for 6½ years.

So, Mr. President, in meeting with the Nation's computer leaders at the conference, I felt very much at home, based on our long and deep mutual interests.

I commend the distinguished committee of experts in Government and in private industry responsible for the conference.

I ask unanimous consent that the text of my address be printed at this point in the RECORD, preceded by a list of the principal experts who were responsible for the conference.

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

NINETEEN HUNDRED AND SIXTY-FOUR SJCC—"COMPUTERS 1964 PROBLEM-SOLVING IN A CHANGING WORLD," APRIL 21–23, WASHINGTON, D.C.

Herbert R. Koller, U.S. Patent Office, Chairman, 1964 SJCC.

Alexander C. Rosenberg, Vice Chairman, Goddard Space Flight Center.

Joseph O. Harrison, Jr., secretary, Research Analysis Corp.

Richard G. Williams, alternate secretary, Research Analysis Corp.

Technical program: Jack Roseman, chairman, C–E–I–R, Inc., Dominic A. Letit, vice chairman, C–E–I–R, Inc., Bernard Cohen, C–E–I–R, Inc., Howard E. Tompkins, University of Maryland, G. H. Swift, IBM; Arthur I. Rubin, Martin Aircraft Corp., Jack Minker, Auerbach Corp., Elsie M. Mamo, C–E–I–R, Inc.

Exhibits: Solomon Rosenthal, chairman, Headquarters USAF, George Hopping, cochairman, General Services Administration.

Printing and mailing: Mike Healy, chairman, System Development Corp., Louis Elias, cochairman, System Development Corp.

Registration: Joseph H. Easley, chairman, UNIVAC, Norman C. Young, UNIVAC; James Lungwitz, UNIVAC.

Public relations: J. Hugh Nichols, chairman, Dunlap and Associates, Inc., John E. Kumpf, cochairman, UNIVAC, John L. Reynolds, cochairman, International Telephone & Telegraph.

Hotel arrangements: Clark J. Risler, chairman, Litton Industries, Richard H. Smith, Control Data Corp., Pat Doyle, National Bureau of Standards; Mary L. Douglas, Applied Physics Laboratory.

Finance: Richard C. Lemons, chairman, General Electric Co., Nicholas J. Suszynski, Jr., cochairman, General Electric Co.

Field trips: John J. Glynn, Chairman, Defense Documentation Center, Edward J. Cunningham, cochairman, Air Force Systems Command.

Proceedings: Gordon D. Goldstein, Chairman, Office of Naval Research, Margo A. Sass, cochairman, Office of Naval Research.

Ladies Activities: Renee Jasper, chairman, Auerbach Corp.

Consultants: Martin S. Becker, legal counsel, John Hoskins, graphic design; Compton Jones Associates, public relations; John C. Whitlock Associates, exhibits.

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### THE COMPUTER REVOLUTION

(Address by Senator HUMPHREY)

Visiting this remarkable conference is like entering both a World's Fair and a scientific congress of tomorrow's achievements today.

Your semiannual conferences have become fascinating showcases of the best, the latest and the almost incredible shape of things (still) to come. It is almost like seeing Buck Rogers in person.

Your fascinating exhibits cannot help but impress competitors, customers and, yes, visiting legislators.

Just think how a U.S. Senator—"fresh"—or weary from the 39th day of debate on the civil rights bill—views your world—a contrasting world—with pushbutton, command controls, automatic programing and snappy, pert scheduling. Ah, how I long for such conveniences in the Senate.

Maybe, too, before the Senate started the present debate, Senator RICHARD RUSSELL, of Georgia, and I should have borrowed one of the Pentagon's computer "war games" and saved our colleagues a lot of "fighting" oratory. The computer is modern man's answer to the filibuster.

Seriously, this computer conference is not just another meeting; it is a vital "launching pad."

And the greatest thing we can launch is not new models, but new ideas.

It has been said that, in the computer world, hardware is 5 years ahead of software. So, too, the brainpower of computer manpower is 5 years ahead of the will power of some policymakers who are not computer-oriented.

The computer age is young; but already, let us admit, some laymen in policymaking positions have tended to make three types of speeches on the computer. The speeches have begun to sound almost like classics.

The very first type of address on computers tended to be one of sheer awe. It could be summed up in a single breathless word (like a child's reaction in a toy shop), "Oh!"

When the enthusiastic layman first saw a computer, he said, "Goodby to all other gadgets; this is for me."

The second type of computer talk was: "Oh, the millenium has arrived." "Goodby, drudgery; hello, leisure." "Goodby, care; hello, convenience." "Goodby, high costs; hello, savings."

And the third type of speech has been one of moody afterthought: "Oh, the problems this, will cause." "Goodby, jobs; hello breadlines." "Goodby, name; hello, number." "Goodby, individuality; hello, conformity."

In all three speeches there are elements of truth.

My own theme this afternoon is like the opening line from the musical, "Oklahoma." In this computer age: "Oh, what a beautiful morning." But let's get busy, so there is no "morningafter feeling."

Let's face it—the computer brain can be both boon and bane.

The computer will be just as much a boon as we choose to make it and as serious a bane as we might foolishly allow it.

Fortunately, President Lyndon Johnson has already taken the lead to maximize the boon and minimize the bane.

He has proposed—and I have introduced—a bill to establish a high-level Commission

on Automation, Technology, and Enlargement.

This is but the "opening gun" of a broad campaign to realize the greatest possible good from "the second industrial revolution."

It is a revolution which alters the very concept of what a so-called "machine" really is. For machines that read, that remember, that improve their performance, that respond to sound—including human voices—to touch, to scent—machines which incorporate almost every facet of artificial intelligence—are now the machines that "dear old dad" knew.

The computer is the most versatile "tool" in history. As this audience knows better than any other, the computer steers or guides capsules in outerspace and monitors changes inside man himself; it runs assembly lines and mixes as many as 500 chemicals in an automatic fertilizer plant; it translates Bibles and checks the age of brandy; it handles reservations for airline seats, and processes payrolls, inventory, and purchase orders for giant corporations; it predicts elections and weather; the best choice of a mate for marriage; a name for a new product and a new product, itself.

Programed well, its successes are spectacular; programed poorly—mechanically or intellectually—it can misfire a space shot or a new automobile like the Edsel.

The revolutionary "tool" is no cure-all; but neither is it a passing fad.

Viewing it, we can adapt a certain popular magazine's slogan to: "Never underestimate the power of a computer."

The plain fact is that history's most profound revolutions have been underestimated by their contemporaries. All of history is full of the wreckage of nations, societies, and classes—which underestimated the nature and power of revolutions.

This audience will not make an underestimate—for you are in the vanguard of this revolution.

You know, it is 10 revolutions "rolled into one": The computer revolution is economic, sociopsychological, scientific, technological, military, informational, managerial, international, educational, yes—it is all of these—and profound in its impact on public policy.

It is: (1) Economic in its varied effects on business, agriculture, and labor, on small and large enterprises, on offices, factories, and mines; (2) social and psychological in changing the relationship of man-to-man, man-to-machine, man-to-government, man-to-cosmos; (3) scientific in opening up new frontiers of knowledge, in facilitating experiments, involving variables—so numerous, so subtle, so complex—as to defy the human brain, if unassisted; (4) technological in making possible breathtaking advances in engineering achievement, efficiency, and economy; (5) military in making possible worldwide, lightning-fast delivery of offensive and defensive firepower; (6) informational in making possible high-speed storage, manipulation, retrieval, and dissemination of the world's "pool" of knowledge; (7) managerial in making possible supersophisticated decisionmaking on production, distribution, marketing, advertising, and other executive policies; (8) international because it involves the free world's successful competition with the Communist bloc, as well as assistance to the developing countries; (9) educational—because it requires substantial changes in school curricula for the oncoming generation and refresher courses for the current generation; (10) and, finally, the revolution shapes and alters public policy. It requires changes on the part of policymakers in the legislative, executive, and judicial branches of the U.S., State, and local governments. Time will permit elaboration on but 4 of these 10 revolutions. Educationally, the computer is changing the world so rapidly that it requires rededication to a learning process which is lifelong. What you or I learned in college 20 or 10 or even 5 years ago won't suffice in any profession today—not in engineering, not in law, accountancy, medicine, dentistry, nursing, pharmacy, and so forth. Meanwhile, the computer is revolutionizing the university itself, breaking down barriers between what used to be thought of as "separate disciplines."

To meet new challenges, we will have to increase the Nation's investment in education; utilize advanced teaching aids; modernize libraries; reschedule classes during the day and evening and take many other steps.

Internationally, the computer is one of Western capitalism's greatest assets. When the Kremlin thinks of U.S. leadership in computers, the commissars turn even redder in shame and greener in envy.

The politburo may boast that their soft drink, Kvass, is better than Coca-Cola—because who can argue with some people's taste—But I stand forthrightly for that all-American drink, Coca-Cola, or its all-American competition, Pepsi-Cola. But the Kremlin cannot deny that so-called "decadent capitalism" is "batting first in the computer league." And so far as I am concerned, to paraphrase a proverb by Mr. Khrushchev, a Russian shrimp will whistle "Dixie" before we give up our present lead.

Elsewhere in the world, we must keep the lead in effective assistance to the emerging countries. The computer can spell a crucial difference in these countries thirst for know-where, know-what, know-how. If the modern computer seems like a paradox in the feudal Middle East or in the Africa of the "bush," so is the jet, the auto and the nuclear reactor. But no tool can be more helpful—in trained hands—than this most adaptable tool.

Your U.S. Government is aware of these and other arenas of computer progress. An Inter-Agency Committee on Data Processing has been doing what "doesn't always come naturally"—cooperate.

On the research front, the Bureau of the Budget informs me that the Federal Government is providing $48 million a year in support for computer studies. But this is "penny ante" compared to what U.S. agencies will require for their own computer research and development needs in the next decade.

Looking back, the Government has come a long way—but, frankly, not fast enough. The record of the past is in many ways inspiring. But the record in a few agencies proves that the "most underdeveloped space" in all this world is still "between some people's ears."

Neither in Federal agencies—nor in private enterprise—can we be smug with computer progress.

For one thing, we've trained far too little manpower, skilled on an interdisciplinary basis in the basic and superskills needed to accelerate the momentum of this computer revolution.

For another thing, as I indicated earlier, willpower, to change old organization, old procedure, old habits—has too often been lacking.

Almost 6 years ago, recognizing the information explosion, some of us in the Senate Reorganization Subcommittee proposed long-range Federal and national goals which only now are beginning to be realized. We suggested, for example, the equivalent of a national science information network. Only within the past few months have the Federal agencies—the stations of the network—really started to send signals that other stations could even receive and much less retransmit. At long last, the three principal Federal science agencies—the Department of Defense, the National Aeronautics and Space Administration, and the Atomic Energy Commission, together with the U.S. Department of Commerce—have started to think about their common customers and clients through common information service.

The agencies are now getting down to cases, too, in changing the present computer "Tower of Babel" into a reasonably compatible or at least convertible system for Government-wide needs.

"Systems of systems" are what our Senate Reorganization Subcommittee has urged—modular units which fit together to form a harmonious whole, for the use of the entire executive branch.

The legislative branch should, itself, take the lead. Few groups of men and women in the world need more, better or more varied information than the 535 elected Representatives and Senators. Congress' committees, subcommittees and Members need push-button, preferably display-type access, to specialized "banks" of information. Each major "bank" should serve the interested committees—Agriculture, Appropriations, Armed Services, Banking and Currency, Foreign Relations, Interior—and so on, down the alphabetic line.

When Congress has better access to the answers it needs, it will be in a position to ask still better—more useful—questions. Very soundly, a former Librarian of Congress, Mr. Archibald MacLeish, once said, "America is the country which knows all the answers, but none of the questions."

There are many questions about emerging trends—in population, health, industry—which no one has even thought to ask. The computer could help immeasurably to open up new vistas for Congress to explore—in our people's behalf.

Finally, I return to a fourth of the 10 revolutions which the computer makes possible.

It would be a revolution against needless extremes of the business cycle. It is a revolution not against fluctuations in our market economy, for there will always be such.

Rather, it is a revolution against avoidable depression and even, avoidable recession. It is a revolution for permanent prosperity. How?

By using the computer to maximize our knowledge of the economy, particularly of economic danger signals, as fast as they develop, so that remedial steps can be taken—by industry, as well as by Government.

Today, danger signals—rising economic "fevers," invisible unemployment, for example—often escape detection, because of their comparative subtlety.

For years, we have relied on a relatively few inadequate economic indexes like car loadings, auto sales, building starts, and the like. Yet, choking the file cabinets of Federal agencies are masses of information—which your own and other companies have supplied, often at great cost, but which are largely unmanageable except by the most primitive and slow manual methods.

Thus, mountains of largely unused, unsynthesized information exist in the U.S. Treasury Department, the Commerce Department, the Agriculture Department, the Federal Reserve Board, the Securities and Exchange Commission, the House and Home Finance Agency, and so forth.

The computer can put this information to work and make the compilation of some of it unnecessary.

And so I urge a revolution in Government-wide statistic gathering, statistic interpretation and statistic dissemination methods.

The revolution should place at the disposal of the President, the administration, and the free enterprise system infinitely more sensitive, faster, and more complete economic indicators. Today, we are enjoying record prosperity. We must continue to do so.

We must achieve a sustained rate of satisfactory economic growth. The computer can help us to do so. It can help us end the wild pattern of the past, of "boom and bust."

We must make the computer the greatest early warning system in economics, just as it already is in military science.

And we must use the computer as the greatest herald of unmet needs, of untapped markets, unrealized sales, unfulfilled recreational spending.

Computer models can simulate the dynamics of free enterprise in a way which will offer maximum reliability in predicting the economic future.

Heretofore, economic statistics gathering has been segmented and tardy.

A few elementary steps have been taken under the auspices of the U.S. Bureau of the Budget to avoid needless duplication in circulating Federal questionnaires and the like. The emphasis has heretofore been to avoid the negative, to avoid imposing needless requests on the private economy. This is a sound, but a too limited, objective.

The computer enables us to accentuate the positive in the future.

The computer is the key to infinitely sounder private and public decisions in our market economy. There will always be some guesswork, some risk, some unknowns. This is inherent in free enterprise.

But the computer can help us minimize avoidable mistakes.

This need not be at the price of the slightest reduction of our freedom as individuals. On the contrary, we can increase our freedom by liberating ourselves from the "slavery" of economic misfortunes.

Greater freedom for all to enjoy the good life—this can be the computer's ultimate contribution to man.

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## FOREIGN POLICY AND ORGANIZING FOR PEACE

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a provocative and interesting address on the subject "Is National Security Best Served by Present Arms Policy?" delivered by Brig. Gen. J. H. Rothschild, U.S. Army, retired, at a breakfast for Members of Congress sponsored by the United World Federalists, in Washington, D.C., on February 27.

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

### IS NATIONAL SECURITY BEST SERVED BY PRESENT ARMS POLICY?

(By Brig. Gen. J. H. Rothschild, U.S. Army, retired)

After 32 years in the Army, I retired about 6 years ago, and had time to start thinking about the larger picture of national security, rather than just the military side of that picture.

It was obvious, with the weapons we now have, that the use of our military power in an all-out war was unacceptable. The damage which would result would be a complete defeat for us as well as for our enemy.

The next step, then, was to evaluate the possible ways of avoiding war, and the risks associated with each way.

The way we are using at present is deterrence through nuclear strength, combined with a capability for limited war so as to avoid all-out war, if possible. The risks depend on the probability of war through miscalculation, the type that caused the Korean action; through accident; through intent, particularly of the Chinese Communists when they acquire nuclear weapons; and through escalation of a limited war into general war. It is unnecessary to discuss each of these with men of your background, but I would like to mention one other which is often ignored. This is the risk of war as a result of new scientific discoveries allowing the development of new weapons systems as yet unforeseen. It is obvious that if these new weapons could be built without the requirement of a large industrial base, even small, and possibly irresponsible, governments could possess them and threaten the peace of the world.

Without detailed discussion of the risks, let me say that I feel strongly that the probability of avoiding an all-out war, under present conditions, using deterrent power, for a period of more than 20 or 30 years is small.

Momentarily, I will postpone discussing the various partial methods of attempting to turn down the arms race and to ease international tensions.

At the other end of the spectrum from the use of national force for the solution of international problems, is some type of rule of law in the world. Of course, we have international law at present, but it is not capable of doing away with international violence.

Rule of law means world government, and world government can run the gamut from the complete superstate with all the powers of present nations, to a government with powers limited to those necessary for assuring the peace. I will discuss only the most limited type, which would have the power to insure that international wars could not occur, but not the power to interfere in the domestic affairs of nations. Such an international government, logically a revised United Nations, would require the normal branches of government—legislative, judicial and executive.

There is little doubt, given a real desire on the part of the world, that some acceptable type of organization for doing this job could be worked out.

I would like to make it clear that I am not talking about unilateral disarmament, nor am I talking about taking any steps which require trust in the words of the Communists. We must keep our military strength sufficiently high so as to logically deter any nation from challenging us with force until a safeguarded treaty is signed. I said "logically," but you must remember that nations are not necessarily logical. Also, the treaty should not rest on good intentions, but should adequately protect all nations, particularly during the disarming phase.

One of the major difficulties in this kind of step, toward world government, is that it calls for such a sharp departure from tradition. It means the delegation of sufficient power to an international body so that it may insure the peace. This has never been essential in the past, so it is something new. And any new idea appears to be instinctively abhorrent to humans. However, an entirely new set of conditions, which we now have, requires new measures to solve the problem.

Adding to this difficulty is the fact that an entire package must be accepted at one time in this departure from the past. It cannot be approached gradually and cautiously.

In order to have a world under rule of law, a body of law must be available and accepted. In addition to existing international law, it will be necessary to maintain the law abreast of new developments. This means giving a legislature power to make laws, within its charter.

To have such a legislature, it is necessary to have a realistic basis for voting. The one-vote-per-nation system will have to be superseded by a more equitable method, and the veto, both formal and financial, must be eliminated.

The small nations will not give up the present voting arrangement unless they receive sufficient value in return. This quid pro quo will be the assurance of peace, and the elimination of the veto. I might add that it probably includes the expectation of greater economic assistance when the disarmament burden is greatly reduced.

The more powerful nations will not give up the veto, and their military power, without the assurance that they are protected from an unacceptably destructive war, and the establishment of a method of representation which will guard them from possible financially irresponsible acts on the part of the poorer nations.

The world court system is meaningless without enforcement. Furthermore, the presence of an international force which can compel compliance with the edicts of the court will also insure that nations use, to settle their disputes, means other than war, such as mediation, arbitration and the courts.

In order for the international force to be sufficiently strong to accomplish its purpose, and not just set another nuclear military power against those already in existence, it is necessary for all nations to disarm to the minimum level essential to preserve their internal security.

The nuclear nations, however, cannot disarm safely unless the international force is invincible. It is impossible to find all the nuclear weapons in the world by any inspection or verification techniques. This need is circumvented through the international force which is so powerful that there is no purpose in any nation trying to cheat on disarming as nothing could be gained. It could not withstand the force, so the only result would be that eventually the concealed weapons would be discovered, with the resulting tremendous loss of prestige.

So, summing up this part, to have rule of law, a legislature based on an equitable voting system is essential. The voting system cannot be changed without the promise of an assured peace. Peace is not assured unless there is an international force powerful enough to insure that nations settle their disputes by peaceful means. The force cannot be invincible unless nations disarm. Nations cannot disarm safely without an invincible international force. And so we are back on our circle on which nothing comes first. All of these changes must be adopted at one time.

It might be encouraging to point out that this type of change is not without precedent. The U.S. Constitution was a package deal, and it was just as abrupt a departure from history in its day as limited world government is today.

I might point out that among the people who have been engaged in serious study and research in the field of arms control, and of disarmament, there seems to be quite general agreement that limited world government of this type is the only way of insuring peace for the long future. The differences among them appear mostly in the timing which is necessary to get various actions accepted.

If this analysis is logical—that a limited world government is needed to assure peace—then our present path through the disarmament jungle needs a thorough review.

The partial steps which are now being discussed, such as extending the test ban treaty to underground tests; disengagement; inspection to prevent surprise attack; and partial disarmament cannot in all probability, lead to the goal of peace. They can reduce tensions, but tensions rise and fall with world conditions and may go back up at any time. They can also reduce the probability of accidental war. But they do not prepare the world for that great jump in thinking which is required for a limited world government, and therefore, they are not leading in the new direction which must be followed.

We spent 5 years arriving at a partial test ban treaty which does little in the way of preventing war. If we had presented a realistic plan for reaching limited world government and had spent the same time educating our people and the world to its need, and thrashing out compromises on reaching

that goal, think how much further we would be on the path of assuring that the world will not be trapped into an unacceptably destructive war.

The only way we can reach the goal of limited world government to insure a rule of law in the world is to start along the path. Up to this date, we have not yet done so.

## FOREIGN POLICY, DISARMAMENT, AND MEANS TO MAINTAIN INTERNATIONAL PEACE

Mr. JAVITS. Mr. President, the conduct of American foreign policy is now undergoing serious public debate and reexamination. Out of this, it is hoped, will come greater clarification of our situation and perhaps greater progress in our overall objective of achieving peace. The integrity of our alliances and the utilization of international peacekeeping organizations are clearly an essential part of this discussion and debate.

Some pertinent considerations on this subject are provided by John J. McCloy, Chairman of the President's General Advisory Committee on Disarmament and former U.S. High Commissioner in Germany. I ask unanimous consent to have printed in the RECORD excerpts from an address by Mr. McCloy, entitled, "Some Thoughts for 1964," which he gave before the New York Chamber of Commerce January 7 and which appeared in "War and Peace Report," March 1964.

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

SOME THOUGHTS FOR 1964

(By John J. McCloy)

I think the great question of peace or war undoubtedly remains the paramount issue. For a considerable period since the close of the war I have been interested, as you probably know, in attempting to find the answer to the problem of competitive armaments. Recently we have sensed what we hope is some lessening of tensions between us and the Communist world, or at least between us and the Soviet Union. I have no doubt that the Soviets are impressed by the size and extent of our reprisal capacity and I am sure that it does awe them. I do not doubt that they want to avoid a thermonuclear war as do we. I am not so sure of Chinese attitudes, but in spite of our hopes of avoiding war by reason of our military strength, an uncontrolled armaments race in itself creates instability. If we look to history for analogies, it is difficult to find a situation in which great powers, engaged in an arms race, did not end up at war.

The subject of disarmament or arms control is a very difficult one, fraught with many complexities. The test ban treaty, which we concluded last year, was but an initial step, and yet the discussions and negotiations leading up to it took more than 2 years. It was, in my judgment, a good step forward and I think it enhanced rather than diminished the security of the country, but it was not enough to take us beyond the area of an uncertain balance of frightening deterrents. A nice balance of deterrents, even if it ever could be attained, is a rather slender reed on which to rest for long, and I do not feel that full reliance can be placed on it now simply because the armaments we have today are more deadly than any that man has heretofore conceived, much less experienced. Certainly disarmament in itself does not bring peace. Yet, since all rational leaders of nations must realize that nuclear war is not an acceptable instrument of policy (as it may be arguable old types of war sometimes were), it seems incongruous that we are not moving more rapidly toward balanced and enforceable acts of disarmament. Great political issues have to be settled before drastic steps in disarmament can be taken, but I see no reason why they cannot move forward together in some reasonable progression. The periods of tension out of which wars could emerge will be dependent for their solution primarily on the good sense and equable disposition of the individuals who are involved in them. They have, however, a way of gathering momentum about these individuals who then become subject to all the emotional stresses which surround them. If one of those individuals is unbalanced, as Hitler was, or as others have been in history, we could be faced with the catastrophe of nuclear war. It is also quite possible that well-intentioned men could find themselves the center of forces which might transcend their own rationality. I have frequently referred to Mrs. Tuchman's book, "The Guns of August," in which the author very graphically portrayed the events leading up to World War I. The episode at Sarajevo did not of itself rock the world when it occurred—it had much less impact at the time than the assassination of President Kennedy had on today's world, yet it gradually developed into a great crisis. Communication was not as rapid nor as simple as it is now, but one message followed another until the men at the helm became so overwhelmed by their flood that they lost control of events. It seemed that the only thing they could do was to respond to rumors of enemy mobilization by mobilization decrees of their own until they were all over the brink with no ledge on which to find a footing. Many historians now feel that war could have been avoided if there had been some machinery to which these overtaxed individuals could have repaired or if some breathing space within which the crisis could have been moderated had been available.

I recall very vividly my own contact with the Cuban crisis. It was touch and go, but fortunately, in the midst of those tensions, we did have available the institution of the United Nations, and though the staff and members of the United Nations did not have at hand well-tested or efficient machinery to cope with the situation, they did furnish a forum within which facts could be presented and issues debated. It did give us a breathing space in which the major interested parties could find the time and room in which to work out the solution.

Certainly not the least obligation rests on the United Nations (which, of course, in the last analysis means the nations which compose it), for some members of the United Nations have shown tendencies recently to form blocs of special interest whose main effort seems to be to advance what they conceive to be their own preferment in a manner which impairs confidence in the capacity of the United Nations to deal with the world's primary problems with objectivity.

It was only a little over a year ago that we looked down the gun barrel of nuclear war in the Cuban crisis. Recently we have seen the game of Russian roulette played on the autobahn and, though these tensions appear less ominous after they are over, they are dangerous every time they occur. If, while they are on, one is in a position of responsibility in the situation room in West Berlin, it is not difficult to sense their seriousness. Threats of war are thus too recent for us to allow our alliances to erode. But even if the world situation were less dangerous, even if we do have a period of decreasing tensions with the Soviet Union, as we all fervently hope we shall, the need for sustained Allied confidence in each other will be all the greater during a period when so many sensitive issues must be debated and determined.

## CIVIL DISTURBANCES IN CHESTER, PA.

Mr. HOLLAND. Mr. President, in my latest discussion of the civil rights bill, on Thursday evening, in opposition to the bill, I made reference to the fact that the public schools in Chester, Pa., had to be closed, keeping 11,000 students at home, and that general disorder existed in the streets of Chester.

From the AP ticker this morning, I have two items which indicate a continuance and extension of this troublesome situation. The first one reads:

CHESTER, PA.—Civil rights demonstrations flared into violence in this southeastern Pennsylvania city last night, resulting in injury to at least 10 persons and the arrest of at least 28 persons.

The violence erupted when police attempted to disperse demonstrators blocking a street in the Negro section of the city.

Fights broke out when some 150 helmeted State and city policemen, and deputized municipal workers, swinging nightsticks, moved in to make arrests and herded the demonstrators into buses to be taken to the police station.

Rocks, bricks and bottles were hurled at policemen, windows were smashed in police cars and persons at the scene said they heard a shot fired.

A flurry of fighting erupted inside the bus and a second wave of violence flared, as bystanders joined the melee and more police arrived.

Minutes later, some 100 policemen rushed from buses to a nearby tavern where more rioting and rock throwing was met with force by police, carrying riot sticks.

The second item reads:

Police quelled the outbreaks, but described the situation as tense as they patrolled the streets of Chester and followed up reports of vandalism and a rash of false fire alarms.

Among the injured were six policemen and a Negro 21-year-old expectant mother.

Police reported vandals also smashed windows in the home and automobile of Chester Police Capt. Theodore Laws, a Negro.

Among those arrested was a white minister, Rev. Clayton Hewett, 36, rector of Atonement Episcopal Church, Morton, Pa. He was charged with inciting to riot.

There were reports that a warrant had been issued charging Philip H. Savage, tristate secretary of the National Association for the Advancement of Colored People, with inciting to riot, but police officials would neither confirm nor deny this.

Mr. President, all of this is so similar to what is happening in Cyprus, and what will continue to happen in our country, if these foolish demonstrations are not halted, that it must cause the utmost alarm and concern to every American regardless in what part of the Nation he lives.

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

Mr. HOLLAND. I yield.

Mr. RUSSELL. I did not understand where the Senator said these disturbances have been taking place.

Mr. HOLLAND. In Chester, Pa.

Mr. RUSSELL. In Chester, Pa.?

Mr. HOLLAND. Yes. This was the third day of these destructive happenings.

## DISTRICT COURT JURISDICTION IN GOVERNMENT SALARY CASES

Mr. KEATING. Mr. President, in the first session of this Congress, I introduced a bill (S. 1351) to repeal a provision in the Judicial Code which now prevents Government employees and members of the Armed Forces from suing the Government on a salary claim in their own local Federal court.

This existing jurisdiction arrangement is exceedingly unsatisfactory, since it places Government employees and former employees under the burden of having to litigate any salary dispute with the Government in the Court of Claims, here in Washington. Moreover, when an illegal discharge from employment is involved, the former employee may sue for reinstatement in his local Federal court, but may not sue for back pay in the same court. This results in his not being able to gain complete relief in a single proceeding—thus putting both the private litigant and the Government to unnecessary inconvenience and expense.

The measure I am sponsoring would simply permit a past or present Government employee, including an Armed Forces member, to dispose of all of his claims against the Government growing out of his employment, in a single court proceeding in his own Federal judicial district. No change in substantive law governing salary claims is contemplated, nor would there be any new burdens on the Government, inasmuch as it is fully equipped to handle any and all of its litigation locally, through the U.S. attorneys or through Washington, as it sees fit—which is the way the Department of Justice operates now.

Agency reports on this proposed legislation were delayed, pending its consideration by the Judicial Conference of the United States. I am very glad to advise the Senate that the Judicial Conference, at its session of March 16, 1964, voted to approve the bill, and I ask unanimous consent that a letter, to that effect, dated April 8, 1964, from the Director of the Administrative Office of the U.S. Courts to the chairman of the Senate Judiciary Committee, be printed at this point in the RECORD.

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

ADMINISTRATIVE OFFICE
OF THE UNITED STATES COURTS,
SUPREME COURT BUILDING,
*Washington, D.C., April 8, 1964.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,*
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request of April 2, 1963, for the views of the Judicial Conference of the United States on S. 1351, "To repeal subsection (d) of section 1346 of title 28 of the United States Code relating to the jurisdiction of the U.S. district courts."

This section now prohibits a U.S. district court from exercising jurisdiction over any civil action or claim for a pension; and, any civil action or claim to recover fees, salary or compensation for official services of officers or employees of the United States.

By virtue of the act of October 5, 1962 (76 Stat. 744, 28 U.S.C. 1361), it is now possible for Government employees who allege that they have been improperly discharged to sue in their home districts for reinstatement but under the prohibition of subsection (d) of 28 U.S.C., section 1346, the employee's claim for back pay, which very frequently accompanies his claim for reinstatement, must be brought in the Court of Claims. It seems clear that in order to do complete justice as efficiently and inexpensively as possible, the district courts should be given jurisdiction of the compensation claimed as well as the improper discharge in order that they may be disposed of in a single action.

Accordingly, the Judicial Conference at its session on March 16, 1964, voted to approve this legislation.

Sincerely yours,
WARREN OLNEY III,
*Director.*

Mr. KEATING. Mr. President, I also ask unanimous consent that a letter dated April 3, 1964, expressing the approval of the Department of Justice, sent to the chairman of the Senate Judiciary Committee by the Deputy Attorney General, be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY
ATTORNEY GENERAL,
*Washington, D.C., April 3, 1964.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,*
*U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on the bill (S. 1351) "to repeal subsection (d) of section 1346 of title 28 of the United States Code relating to the jurisdiction of the U.S. district courts."

Subsection (a) of section 1346 of title 28, United States Code, gives the district courts jurisdiction, concurrent with the Court of Claims, of (1) any civil action against the United States for recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, and (2) any other civil action or claim against the United States, not exceeding $10,000 in amount, founded upon the Constitution, any act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States. Subsection (d) of section 1346 provides that the district courts shall not have jurisdiction under the section of (1) any civil action or claim for a pension, and (2) any civil action to recover fees, salary, or compensation for official services of officers or employees of the United States. S. 1351 would repeal subsection (d) of section 1346.

With the exception of the amendment proposed below, the Department of Justice has no objection to the enactment of this legislation.

With exceptions not here pertinent, under existing law (38 U.S.C. 211(a)) the decisions of the Administrator of Veterans' Affairs on any question of law or fact concerning a claim for benefits or payments under any law administered by the Veterans' Administration are final and conclusive and are not reviewable by any other official or any court of the United States. Beyond this, section 1501 of title 28 provides that "The Court of Claims shall not have jurisdiction of any claim for a pension." Paragraph (1) of section 1346(d) of title 28 similarly provides that the district courts shall not have jurisdiction with respect to such claims.

Since the objective of this legislation, as announced by its sponsor, is to confer upon the district courts jurisdiction concurrent with the Court of Claims in certain personnel cases, and since the Court of Claims has no jurisdiction in pension cases, it is suggested that the repeal of subsection (d)(1) of section 1346 of title 28, is unintentional. The bill should therefore be amended to refer to "subsection (d)(2)" rather than "subsection (d)".

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,
NICHOLAS DEB. KATZENBACH,
*Deputy Attorney General.*

Mr. KEATING. Mr. President, there is no reason to continue the anomalous quirk in district court jurisdiction to which this bill is directed. I am hopeful that with the approval by the Department of Justice and the Judicial Conference, the way is now clear for Senate passage of this bill as soon as parliamentary circumstances permit. Its final enactment, in my judgement, would be of great benefit, and would provide fairer treatment to the hundreds of thousands of Government men and women who are potentially affected by the mechanisms for adjudicating salary claims against their employer.

## DEATH OF BRIGADIER GENERAL DELAFIELD

Mr. KEATING. Mr. President, just a few days ago, Brig. Gen. John Ross Delafield passed away at his home in Fieldston, the Bronx.

General Delafield was one of my State's distinguished senior citizens. He was one of the founders of the Reserve Officers Association of the United States; and from 1923 to 1926 he served as the R.O.A.'s national president. He was the R.O.A.'s second national president.

General Delafield never lost his interest in the citizen-soldiers of this Nation. While pursuing his career as a member of one of New York's outstanding law firms, he always had time to support R.O.A. and to lend encouragement to those who served in the military, either as professional members or as part-time reservists.

Many Americans were affected by General Delafield's career as a patriot. We mourn his passing. We refer with pride to the life which he devoted to the betterment of his country; and we extend our sympathy to his loved ones.

I ask unanimous consent that a brief outline of his life, as published in the April 9 issue of the New York Times, be printed in the RECORD.

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

[From the New York Times, Apr. 9, 1964]

BRIG. GEN. JOHN A. DELAFIELD DIES; ARMY RESERVIST AND LAWYER, 89—EX-CHIEF OF ORDNANCE DISTRICT HERE WAS ALSO A GENEALOGIST AND A CONSERVATIONIST

Brig. Gen. John Ross Delafield, (retired Army reservist and senior partner of the law firm of Delafield, Hope, Linker & Blanc, died yesterday at his home in Fieldston, the Bronx. He was 89 years old.

General Delafield was active in Reserve circles throughout his adult life and was a

leading advocate of adequate national defense during the interwar period. He also was active in conservation of scenic and historic sites.

He was born in Fieldston, then an unincorporated suburb, the son of Maturin Livingston and Mary Coleman Livingston Delafield. He was a descendant of the John Delafield who came to New York from London in 1783 and also of the Livingston family.

General Delafield was graduated from Princeton University in 1896 and from the Harvard Law School in 1899. He served for a time in the law firm of Strong & Cadwalader and then started his own practice.

As a member of the legal subcommittee of the old Merchants Association's committee on transportation, he took part in the investigation of the management and financing of the elevated and surface transit lines and in efforts to eliminate abuses. The city eventually was obliged to take them over.

He was active in good-government groups before World War I and was commandant of the Veterans Corps of Artillery of the National Guard. In 1917 he organized and trained a corps of 1,400 men for the defense of the city.

General Delafield was commissioned a colonel and later brigadier general in the Ordnance Department of the Army and served as chairman of the War Department's Board of Contract Adjustment and as chief of the New York Ordnance District.

From 1923 to 1926 he was president of the Reserve Officers Association of the United States. He was commander in chief of the Military Order of the World War from 1930 to 1933 and served on its executive and other committees for many years.

General Delafield was also interested in genealogy. He wrote a two-volume history of the Delafield family and was a fellow of the American Society of Genealogy.

He had a summer residence at Annandale-on-Hudson in Dutchess County. The house, Montgomery Place, was built in 1791 by Janet Montgomery, widow of Gen. Richard Montgomery, who fell in the battle of Quebec.

General Delafield held the Distinguished Service Medal and decorations from several foreign governments.

## CIVIL DISTURBANCES IN CHESTER, PA.

Mr. RUSSELL. Mr. President, I wish to speak very briefly on the series of riots and the outbreak of violence which have afflicted the city of Chester, Pa.

It is deplorable that several thousand schoolchildren are unable to attend school because of racial strife in that city.

The report I heard broadcast on the radio, this morning, was to the effect that the demonstrators had assembled in a church, before they went to the heart of the town, where they blocked traffic.

The other day, the distinguished Senator from New York referred to the fact that people in my State had assembled in a church and suggested that that fact had exonerated them from any wrongdoing thereafter. As a matter of fact, they had done practically the same thing that the demonstrators in Chester had done. They went to the main street, lay prostrate in the street, and stopped all traffic. Of course, that is contrary to municipal ordinances in most of the cities in my State, and has been from the very beginning.

I do not know how long the situation in Chester will last. A number of people were hospitalized, last evening. I believe six of them were policemen, who were sent to the hospital for treatment.

I am sure this very tragic event has fallen under the eagle eye of the Attorney General of the United States, and that he has members of the FBI on hand, to make notations and to report to him on the extent of any violations of civil rights of the demonstrators, as was done in all the cities of the South. I also hope the Civil Rights Commission will be able to call a few of its representatives out of the Southern States, and send them to Chester, Pa., in order that the Commission may be able to incorporate in its next report a statement on how seriously the civil rights of the demonstrators had been violated by the police.

I say that, not with tongue in cheek—because I hope it will be done—but also not with any faith that it will be done, because of the double standard that has been applied by those in highest office in this land, particularly those who control the media of communication and dissemination of news in this land, who attempt to apply one standard to the demonstrations in the South and another standard to those that occur outside the South.

Mr. HOLLAND. Mr. President, will the Senator from Georgia yield?

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

## DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

Mr. TALMADGE. Mr. President, many Members of the Senate, including the junior Senator from Georgia, have pointed out repeatedly how cunningly and craftily drawn much of the language in the alleged civil rights bill is. Many of us have contended that under certain conditions so-called private clubs could be opened under the public accommodations section, title II of the bill, which provides injunctive relief against discrimination in places of public accommodations. That has been denied by other Senators.

I point out that on page 8, paragraph (e), beginning on line 18, the language purports to exempt private clubs, but makes an exception if they come within the scope of subsection (b).

Subsection (b) would open such private clubs if they maintained "any inn, hotel, motel, or other establishment which provides lodging to transient guests"; so would paragraph (2) thereof, "any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises," and so forth.

Mr. President, virtually every private club of which I know in the United States opens its facilities, at one time or another, to the public. Recently, I have received, through the mail, a letter from the Harvard Club of New York City, 27 West 44th Street. The letter, dated March 12, 1964, is addressed "To Our Members." It states, in part:

In line with the policy of the better clubs across the Nation, the Harvard Club of New York City does not solicit business from outside groups. Along the same lines, however, the various function rooms of the Harvard Club are available to members and their guests.

In other words, the letter is a notice to the members of the Harvard Club that its facilities are available, not only to the members, but also to their guests.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the letter from the Harvard Club of New York City and the menu of the Harvard Club, which sets forth the dinner menus and buffet dinner menus, the prices, a diagram of facilities, and the charges in that connection.

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

HARVARD CLUB OF NEW YORK CITY,
*March 12, 1964.*

TO OUR MEMBERS: In line with the policy of the better clubs across the Nation, the Harvard Club of New York City does not solicit business from outside groups. Along the same lines, however, the various function rooms of the Harvard Club are available to members and their guests. Constant efforts are being made to insure that these facilities are among the finest available in the clublike tradition.

Since the publication last fall of the booklet entitled "Facilities of the Harvard Club" and completion of the installation of our new culinary equipment, we have had many requests for more information concerning our facilities for private parties and banquets.

Meetings and studies have been scheduled between Chef Rollet, John Gerecter, food director; Frank Caceres, banquet manager; Bernard Minnax, resident manager; and the writer. Menus have been greatly revised and expanded and as a result the enclosed information is being sent you to assist in your planning.

Mr. Frank Caceres, our banquet manager, may be reached here at the club for any additional help needed in planning these functions. Phone: MUrray Hill 2-4600—extension 124.

Sincerely yours,

JOHN PAUL STACK,
*General Manager.*

HARVARD CLUB OF NEW YORK—FACILITIES FOR PRIVATE LUNCHEONS, DINNERS, MEETINGS, AND RECEPTIONS

John Paul Stack, general manager; Herbert Miller, comptroller; Bernard L. Minnax, resident manager; John M. Gerecter, food director; Charles Rollet, executive chef; Frank Caceres, banquet manager.

LUNCHEON MENU

Choice: Fresh fruit cocktail, chilled tomato or V-8 cocktail, melon in season, chilled grapefruit maraschino, guava or mango nectar or consommé du jour, potage du jour, chilled vichyssoise, cream of lobster, jellied madrilène sherried black bean, green split pea, cream of tomato. Extras: Shrimp cocktail, $1; lump crabmeat cocktail, $1; cherrystone clams, 75 cents; Cape Cod oysters, $1; blue point oysters, $1; little neck clams, 75 cents; green turtle soup amontillado, 50 cents; cold cream of curry indienne, 50 cents.

*Entrees*

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| Chicken à la king in patty shell | $4.50 |
| Broiled spring chicken (half) au cresson | 4.50 |
| Broiled breast of chicken with sliced ham and mushrooms | 4.50 |
| Broiled chopped sirloin steak with mushroom sauce | 4.50 |
| Breaded veal cutlet with tomato sauce | 4.50 |
| Baked sugar cured Plymouth Rock ham with raisin sauce | 4.50 |

*Entrees*—Continued

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|---|---|
| Broiled swordfish steak, maitre d'Hôtel | $4.50 |
| Broiled filet of Boston flounder, lemon butter | 4.50 |
| Harvard club chef's salad bowl | 4.50 |
| Roast Maryland turkey with dressing and cranberry sauce | 4.50 |
| Veal cordon bleu | 4.50 |
| A variety of cold cuts with potato salad and cole slaw | 4.50 |
| Stuffed leg of cornish game hen parisienne (boneless) | 4.50 |
| Broiled striped bass with lemon butter | 4.50 |
| Beef à la mode, jardinière | 4.75 |
| Hawaiian ham steak with grilled pineapple ring | 4.75 |
| Stuffed breast of cornish game hen gourmet | 5.25 |
| Seafood Newburg on rice pilaf | 5.25 |
| Breast of cornish game hen à la kiev | 5.50 |
| Broiled lamb chops (2) | 5.75 |
| Broiled minute steak | 6.00 |
| Petit filet mignon | 6.50 |
| Broiled sirloin steak | 7.50 |
| Broiled sliced tenderloin of prime beef | 7.75 |
| Broiled prime filet mignon with mushrooms | 8.00 |

Choice: New peas, baby lima beans, broccoli, hollandaise, string beans, corn sauté, broiled tomato, asparagus, hollandaise, cauliflower au gratin, mixed peas and carrots.

Choice: Potatoes—whipped, au gratin, hashed brown, roast, delmonico, parisienne.

Choice: Apple pie, cheese cake, frozen chocolate eclair, chocolate sundae, fruit jello, whipped cream, biscuit tortoni, choice of assorted familiar ice creams or sherbets, coconut snowball.

Extra: Baked Alaska, $1; cherries jubilée, $1; peach melba, 75 cents.

Rolls and butter, coffee, tea, or milk.

Selections should be limited for the entire group to one choice in each section.

Price of entree is price per cover.

For information concerning: Cocktails, highballs, wines, after-dinner drinks, hors d'oeuvre, special bar arrangements, room rentals, usage and tax charges, flowers, decorations, minimum guarantees, etc., please consult sheet listing "Banquet Department Tariffs."

BUFFET LUNCHEON MENUS

Choice: Consomme du jour, potage du jour, sherried black bean soup, jellied madrilène, cream of tomato, green split pea.

Choice of entree: Creamed chicken a la king, $5; old fashioned beef stew, $5; curry of spring lamb, $5.25; Swedish meat balls with Lingonberry sauce, $5.50; shrimp creole with rice, $5.75; seafood a la Newburg, $6.

Potato salad, Harvard beet salad, cole slaw, sliced eggs and tomatoes, assorted dressing and pickles.

Cold cut trays: Ham, turkey, tongue.

Assorted rolls and butter.

Assorted pastry selection.

Coffee, tea, milk.

It is requested that selections be limited to one item in each of the choice sections for the entire group. Price of entree is the price per cover.

For information concerning cocktails, highballs, wines, afterdinner drinks, hors d'oeuvre, special bar arrangements, room rentals, usage and tax charges, flowers, decorations, minimum guarantees, etc., please consult sheet listing banquet department tariffs.

DINNER MENUS

Choice: Fresh Fruit Cocktail, Chilled Tomato or V-8 Cocktail, Melon in Season, Chilled Grapefruit Maraschino, Guava or Mango Nectar, or Consommé du Jour, Potage du Jour, Sherried Black Bean Soup, Vichyssoise, Cream of Lobster, Green Split Pea, Cream of Tomato, Jellied Madrilène.

Extras: Shrimp Cocktail, $1; Lump Crabmeat Cocktail, $1; Cherrystone Clams, 75 cents; Cape Cod Oysters, $1; Blue Point Oysters, $1; Little Neck Clams, 75 cents; Green Turtle Soup Amontillado, 50 cents; Cold Cream of Curry Indienne, 50 cents.

*Entrees*

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| Broiled Breast of Chicken with Sliced Ham and Mushrooms | $6.00 |
| Broiled Chopped Sirloin Steak with Mushroom Sauce | 6.00 |
| Broiled Spring Chicken (Half) au Cresson | 6.00 |
| Baked Sugar Cured Plymouth Rock Ham with Raisin Sauce | 6.00 |
| Breaded Veal Cutlet with Tomato Sauce | 6.00 |
| Broiled Filet of Boston Flounder, Lemon Butter | 6.00 |
| Roast Maryland Turkey with Dressing and Cranberry Sauce | 6.00 |
| Broiled Swordfish Steak, Maitre d'Hôtel | 6.00 |
| Hawaiian Ham Steak with Grilled Pineapple Ring | 6.00 |
| Stuffed Breast of Cornish Game Hen, Gourmet | 6.25 |
| Roast Whole Cornish Game Hen on Wild Rice | 6.50 |
| Broiled Lamb Chops (2) | 6.75 |
| Roast Leg of Spring Lamb, Mint Jelly | 6.75 |
| Seafood Newburg on Rice Pilaf | 6.75 |
| Roast Prime Rib of Beef, au Jus | 7.50 |
| Roast Sirloin of Beef | 7.50 |
| Broiled Minute Steak | 7.50 |
| Roast Stuffed Cornish Game Hen (Partially Boned) | 7.50 |
| Roast Tenderloin of Prime Beef with Mushroom Sauce | 8.75 |
| Broiled Sirloin Steak | 8.75 |
| Broiled Prime Filet Mignon | 9.00 |

Choice: New Peas, Baby Lima Beans, Broccoli, Hollandaise, String Beans, Corn Sauté, Broiled Tomato, Asparagus, Hollandaise, Cauliflower au Gratin, Mixed Peas and Carrots.

Choice: Potatos—Whipped, au Gratin, Hashed Brown, Delmonico, Roast, Baked, Parisienne.

Choice: Salad—Tossed Garden Greens, Mixed Green and Tomato Slices, Chiffonade, Sliced Tomatoes, Vinaigrette, Celery, Olives, and Radishes.

Choice: Choice of Ice Cream, Chocolate Sauce, Petit Fours, Apple Pie, Biscuit Tortoni, Cheese Cake, Frozen Chocolate Eclair, Cocoanut Snowball, Ice Cream with Crushed Strawberries, Choice of Assorted Sherbets.

Extra: Cherries Jubilé, $1; Baked Alaska Flambé, $1; Peach Melba, 75 cents.

Selections should be limited for the entire group to one choice in each section. Price of entree is price per cover.

For information concerning: Cocktails, Highballs, Wines, After Dinner Drinks, Hors d'Oeuvre, Special Bar Arrangements, Room Rentals, Usage and Tax Charges, Flowers, Decorations, Minimum Guarantees, and etc., please consult sheet listing "Banquet Department Tariffs."

BUFFET DINNER MENUS

Choice: Chilled Half Maine Lobster or Cold Maryland Crabmeat Salad.

Cold Cut Trays: Ham, Roast Beef, Turkey, Tongue.

Roast Long Island Duckling, Roast Jersey Chicken.

Potato Salad, Harvard Beet Salad, Cole Slaw, Sliced Eggs and Tomatoes, Assorted Dressings and Pickles.

Choice: Creamed Chicken à la King, $7.50; Old Fashioned Beef Stew, $7.50; Shrimp Creole with Rice, $7.50; Curry of Spring Lamb or Scallops, $7.50; Swedish Meatballs with Lingonberry Sauce, $7.50; Sliced Roast Turkey (Carved at Buffet), Giblet Gravey $8; Sliced Plymouth Rock Baked Ham (Carved at Buffet), Madeira Sauce, $8; Sliced Beef Tenderloin (Carved at Buffet), Mushroom Sauce, $8.75.

Assorted Rolls and Butter.

Assorted Pastries, Apple Pie, Cheese Cake, Chocolate Custard, Fruit Jello, Rice Pudding.

Coffee, Tea, Milk.

It is requested that selections be limited to one item in each of the choice selections for the entire group. Price of entree is the price per cover.

For information concerning: Cocktails, Highballs, Wines, After Dinner Drinks, Hors d'Oeuvre, Special Bar Arrangements, Room Rentals, Usage and Tax Charges, Flowers, Decorations, Minimum Guarantees, etc., please consult sheet listing "Banquet Department Tariffs."

BUFFETS FOR COCKTAIL PARTIES AND RECEPTIONS

Hot Hors d'Oeuvre, large tray, 3 dozen pieces, $8.50.

Assorted Cold Canapés, large tray, 3 dozen pieces, $7.50.

Shrimp Bowls, $3 per dozen, large bowl, 5 dozen, $15.

Assorted Canapés and Shrimp Bowl (3 dozen Canapés, 2 dozen Shrimp), $13.50.

Baked Oysters or Clams Casino, 3 dozen, $10.

Large Silver Relish Bowl including Green and Ripe Olives, $6.50.

Stuffed Celery with Roquefort Cheese, large tray, $6.50.

Assorted Finger Sandwiches, large tray, 3 dozen pieces, $8.

Barbecued Spare Rib Tidbits, 50 pieces, $15.

Barbecued Baby Chicken Legs, 50 pieces, $15.

Cocktail Frankfurters, 20 orders, $6.75.

Roast Whole Maryland Turkey, $35.

Baked Smoked Plymouth Rock Ham, $35.

For information concerning: Cocktails, Highballs, Wines, After Dinner Drinks, Hors d'Oeuvre, Special Bar Arrangements, Room Rentals, Usage and Tax Charges, Flowers, Decorations, Minimum Guarantees, etc., please consult sheet listing "Banquet Department Tariffs."

The Club's banquet facilities can accommodate parties of up to 180 individuals.

BANQUET DEPARTMENT TARIFFS

Beverages: Cocktails and Rye Highballs from $0.90 to $1.25. Scotch and Bourbons from $1.05 to $1.25. Imported and Domestic Wines—as selected from our Wine List. Cordials and After Dinner Drinks from $1.10 to $1.25.

Bar Arrangements: A number of styles of Bar service are available to suit individual function requirements. Our Special Harvard Club Cheese Spread with Crackers is served at no extra charge.

Wine Service: Our Wine cellar is stocked with excellent imported and domestic Wines to make luncheon or dinner complete.

Canape Service: Hot or Cold Canapés from $7.50 per Tray.

Guarantees: Minimum guarantee must be established 24 hours prior to function. All prices subject to change without notice.

Room Rental: Room Rental charge is based on room selected.

Usage and Tax Charges: Add 10 percent for Usage Charges and 5 percent New York City Sales Tax on Food and Beverage.

Flowers, etc.: Special arrangements can be made for flowers and other decorations.

Cigars, Cigarettes: Popular brands of cigarettes 40 cents per pack; Imported and Domestic cigars from 40 cents each plus City Sales Tax.

Special Receptions: Wedding receptions can be arranged.

Ladies' Dining Room: Available for intimate luncheons and dinners with Pre-Theater dinners a feature.

*Room rental charges*

Mahogany, East, Weld, Slocum, North, Ladies' Lunch, $7.35; Dinner, $14.70; Meeting, $15.75 until 4 p.m., $31.50 after 4 p.m.

President's Room, Lunch, $12.60; Dinner, $14.70; Meeting, $15.75 until 4 p.m., $31.50 after 4 p.m.

Biddle (No City Rooms Tax), Lunch, $15; Dinner, $25; Meeting, $50 until 4 p.m., $65 after 4 p.m.

Biddle & North (No City Rooms Tax), Lunch, $22.50; Dinner, $37.50; Meeting, $75 until 4 p.m., $100 after 4 p.m.

Above Rental prices include New York City Room Tax of 5 percent (Where Applicable).

Mr. TALMADGE. Mr. President, I believe it is clear from the solicitation of patronage and business that the bill would bring the Harvard Club of New York City within the coverage provided by title II of the civil rights bill.

That title would include not only the Harvard Club but virtually every other private club in the United States. This clearly demonstrates how far reaching is the language of the bill.

Mr. HUMPHREY. Mr. President, if the Harvard Club chooses to lose its exclusive nature, and to become a so-called common people's club, and if it opens its doors to one and all, then, indeed, it will come within the purview and the enforcement provisions of the bill.

But if the Harvard Club is as exclusive as its name sounds, and if it limits the use of its facilities to its members and their guests, it will not come within the purview of the bill—all the talk and discussion to the contrary, notwithstanding.

I also wish to make perfectly clear, as one Senator who supports the bill, that I believe the Department of Justice has a responsibility to investigate any infringement of the law or any alleged violation of the law or the Constitution, such as has been suggested by those who are in opposition to the bill. There is no double standard, and there must not be a double standard. The standard of justice must apply with equal force and with equal treatment to all persons, in all sections of the country.

I deplore what has happened in Chester, Pa., I deplore police brutality in New York City, in Birmingham, in Montgomery, in Jacksonville, or anywhere else, just as I would deplore it if it happened in my own city of Minneapolis.

It should be made crystal clear that a mere assertion of a double standard does not necessarily make it the case. I am happy to note, though, that the police of the city of New York, acting within their authority, conducted themselves with care and restraint, as regards the use of physical force. They are to be commended for doing so.

Mr. JAVITS. Mr. President, I join in the statement just made by the Senator from Minnesota. There is no double standard; there should be no double standard.

To those of our friends who claim there is a double standard, we say the bill will apply across the board to all—including New York. We want it to apply that way. We want the Attorney General and the U.S. Civil Rights Commission to take action in regard to New York as much as in regard to Georgia, Alabama, and Mississippi. There is only one standard. We want it enforced across the board, everywhere in America. That is why we are in favor of the bill.

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

Mr. ERVIN. Mr. President, I suggest that the able and distinguished Senator from Minnesota and the able and distinguished Senator from New York read the bill with more care. If they will read the bill with more care, they will find that under title VII, the FEPC title, there are provisions that the Commission to be created by such title may exempt States which have FEPC laws from the application of the Federal law. But States which do not have FEPC laws would have the Federal law "put to" them. These provisions are designed to exempt many Northern States from the coverage of the bill.

If Senators will read the provisions of the bill dealing with desegregation of schools, they will find that those provisions are designed to provide for the compulsory desegregation of the public schools in the South, but to exempt from compulsory desegregation the public schools in the North located in racially segregated residential districts.

An amendment has been offered by the minority leader and the majority leader to provide a substitute for the jury trial amendment offered by Senator TALMADGE. While the bill purports to be against segregation and discrimination, the amendment in the nature of a substitute would segregate litigants in civil rights cases from all other litigants in the United States.

After segregating these litigants from all other litigants, the amendment in the nature of a substitute proceeds to discriminate against them by denying them rights which the Constitution itself as well as all Senators, would extend to all the Al Capones in this country.

So we have before us an alleged jury trial amendment in the nature of a substitute which segregates litigants in civil rights cases, and then discriminates against them by denying them rights that the most reprehensive criminals in the United States would receive by the common consent of every Member of the Senate.

Mr. SPARKMAN. Mr. President, I fully agree with the statement made by the distinguished Senator from North Carolina. It was my purpose to invite attention to the fact that under the section relating to desegregation of schools, the schools of Harlem would remain segregated, just as they are today. Actually, the bill contains a clause that guarantees that the segregation in the five schools in the segregated areas of Cleveland will continue as it now exists. So will it in the other ghetto areas of the North.

Mention was made of Birmingham. If there is any city in the world that has been libeled far beyond its due, it is the city of Birmingham. Whereas the troubles and demonstrations in Birmingham lasted for several weeks, only 69 persons were injured. Twenty-two of them were Negroes; 47 were whites, primarily police who were under instructions to stand and "take it"; and they did. More people were arrested and stockaded within an hour's time in the New York demonstrations the other day, I dare say, than the total number during the weeks in which the demonstrations went on in Birmingham.

I call to the attention of those who may want to look it up in the current issue of Newsweek, an article by Raymond Foley, in which he takes up this question. He states that Birmingham has been terribly libeled and slandered. That is true—and simply because Birmingham happened to be the first place where the demonstrations started. References to Birmingham and to police brutality there have become almost slang terms.

No police action in Birmingham exceeded the brutality which took place the other day in New York, when the police took charge of those who were trying to stop the subways from running.

I believe we certainly should look at this situation without a prejudiced eye. If—as the proponents of this bill insist—such a bill is to be passed, I believe it ought to apply with equal force throughout the country.

I submit that the present provisions of this bill would not apply equally throughout the country.

The PRESIDING OFFICER. The Senator's time has expired. Is there further morning business?

Mr. HOLLAND. Mr. President, I want to call attention to two facts with reference to the current disorders in Chester, Pa., and in New York City. First, with reference to the disorders at the World's Fair 3 days ago, the police of the city of New York and the police of the World's Fair stood by helplessly while the Governor of Florida was excluded by 20 young white hoodlums from entrance to the Florida pavilion, for which our State had paid on the invitation of the State of New York, the city of New York, and the Fair authority. The only way the Governor of the State of Florida was able to get in the pavilion was through the assistance of four Florida patrolmen who were along with him. The Florida patrolmen finally had to drag the obstructionists away from the door. They were keeping the doors closed so that the Governor could not go in to dedicate that pavilion, erected with our own money in order, in part, to add to the attractiveness of the fair.

Second, with reference to the Chester, Pa., disturbances of last night, the AP dispatch, which I have already placed in the RECORD, shows that not content with beating up six of the policemen, when the demonstrators discovered that the police were being led by a captain of the police who was a Negro, they proceeded to go to his home and to violate the privacy of his home. They broke his windows and broke his door down.

What is the country coming to when people in so many areas of the Nation are not willing to support lawful efforts to maintain law and order, but instead they create this unlawful, dangerous situation?

Mr. JAVITS. I wish to answer the statement of the Senator. We have adopted a policy of nailing these points down as they are raised.

I shall not sit by and allow the bill to be destroyed, if I can avoid it. We are told, first, that if a certain State does not have a Fair Employment Practices Commission, that that State is discriminated against. But what is not said is that under the bill, a State need only enact an effective FEPC law which covers situations of the type covered by title VII of the bill. If it has such a law, then under the usual practice of comity and State administration, the Commission would give the State an opportunity to enforce it. If it does not have such a law, then the Federal law would be operative.

There would be one standard, one law. If a State did not have such a law, then the Federal law would control, and the State could not complain. There would be a single standard—the same standard for the State as for the Federal Government.

As for the provision for a jury trial in contempt cases, I point out that we have the Landrum-Griffin Act, which has been mentioned, and the Civil Rights Act of 1957, which the opponents of the pending bill have acknowledged very graciously and very happily. Another act likewise contains such a provision. So there is ample precedent for Congress' doing what it believes ought to be done with respect to contempt proceedings.

That does not reflect prejudice against the South, any more than it does against the North. The same judges would apply the same standard.

Finally, as to the provision dealing with racial imbalance, I shall not sit by and permit it to be distorted. Racial imbalance is not segregation within the meaning of the equal protection clause of the 14th amendment to the Constitution. If segregation can be proven, then the exemption in the bill with reference to racial imbalance will not be applicable. And if racial imbalance, rather than segregation, can be proven in any State in the South, whether it is the State of the Senator who has spoken, or any other State, the same standard will apply. The exception will obtain just the same. Racial imbalance is not encompassed within the word "segregation." This will apply to the North the same as the South.

Mr. ERVIN. Let me see if I understand the Senator from New York correctly. When the Senator says that racial imbalance has nothing to do with segregation, is it the position of the Senator from New York that where there are schools in New York which are all white or all Negro because of the manner in which district lines have been drawn by the New York Board of Education, and because of the residential patterns, that that is not segregation, but that when there are schools in the South having all white or all Negro students, for any reason, that that is segregation?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I ask for 1 additional minute, so that I may answer the question of the Senator from North Carolina.

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

Mr. JAVITS. I am delighted the Senator has asked that question, because he has always contended that the only thing which can be regulated by law is opportunity. He has contended that we cannot tell schools how they should be run, that we cannot tell schools the class of students that should be in them, but that opportunity should be protected by the law.

It is segregation when a white child who applies to a Negro school, or a Negro child who applies to a white school, cannot gain admission, on racial grounds. That is not true in New York. It has never been true in New York. It is not true now in New York. But it is true in States all over the South. This bill is intended to correct that situation. That is the difference which exists.

Mr. ERVIN. There are residential districts in New York City which are entirely white, and there are some which are entirely Negro. As a consequence, there are schools in New York which the children of only one race attend.

The people in the South do not have racially segregated residential patterns like the people in New York.

Title IV of the bill is drawn so that it will apply to the South, and so that it will not apply in any substantial degree to New York City. This is made obvious by section 401, subsection (b), on pages 13 and 14, which reads as follows:

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

The first clause of this subsection is applicable to conditions in the South, and the second clause is applicable to conditions in Northern States like New York where de facto segregation exists as a result of residential patterns.

While its proponents claim the bill to be impartial, it is so drawn that its words will apply to the South in one way, and to Northern States like New York, in another. I charge that this is done deliberately and on purpose. The original bill which was submitted by the administration in June 1963, and for which this bill was substituted, had five or six pages providing that Congress thereby authorized appropriations of Federal money for busing schoolchildren from one district to another in order to overcome racial imbalance.

The words "racial imbalance" was used eight times in the original administration bill, which was laid aside for this bill. The words are used only once in the pending bill and that is to outlaw the racial imbalance theory which otherwise might require New York to desegregate its schools.

The PRESIDING OFFICER. Is there further morning business?

Mr. HUMPHREY. Mr. President, I rise for one purpose.

I thought that I was being fair and considerate when I deplored violence on the part of police or lawlessness on the part of citizens in any section of the United States. I am disturbed when I hear a response which suggests that somehow or other we are picking on someone if we try to be fair.

I wish to make it crystal clear that I, as a citizen and a Senator, do not condone or support brutality toward any of our citizens, wherever they may be.

There is no doubt in my mind that many of the incidents which have been taking place in all parts of the United States have been highly dramatized. At times, perhaps, they have been exaggerated. But it seems to me that what Senators ought to be doing is literally hanging their heads in shame that the United States of America, which claims that it is a nation based upon a constitution, has been exhibiting a pattern of violence in connection with race relations problems.

What we ought to be doing is finding out how, through law, we might better be able to strengthen the pattern of social conduct in our country.

I am of the opinion that we are now passing through a period somewhat similar to that at the time labor tried to organize.

There was a time when Congress refused to recognize collective bargaining. There was a time when Congress looked upon a trade union as a conspiracy. What did union members do? They fought that attitude. They started all sorts of trouble. They were willing to go to jail. They fought in the streets. There was bloodshed and violence.

Finally, the Congress of the United States recognized how wrong it had been, and passed laws that recognized collective bargaining, protected the right to organize, recognized the legitimacy of the trade union, and accepted the idea that labor was not a commodity.

Mr. President, from that time on there was less bloodshed and better labor-management relationships. I am happy to say that in recent years the United States has had the finest pattern of labor-management relationships of any industrial country in the world.

Instead of pointing to what has taken place in Chester, Pa., Birmingham, Ala., New York, N.Y., Jacksonville, Fla., San Francisco, Calif., or Cleveland, Ohio, the Congress of the United States ought to be saying, "What a tragedy. What an unbelievable tragedy that in America, citizens of the United States find themselves battling in the streets."

We must deplore such conduct whenever and wherever it occurs. We must enact laws which will take such violence from the streets and direct it into the courts. The Senate must set an example of forbearance, understanding, tolerance, and unity rather than debating this bill in a fashion which sets one American against another. And, above all, we must proceed to enact this legislation without further delay.

The PRESIDING OFFICER. Is there further morning business? If not, the morning hour is closed.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accom-

modations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 516, proposed by the Senator from Illinois [Mr. DIRKSEN], for himself and the Senator from Montana [Mr. MANSFIELD], as a substitute for amendment No. 513, proposed by the Senator from Georgia [Mr. TALMADGE], for himself and other Senators, relating to criminal contempt.

The Chair recognizes the Senator from Tennessee [Mr. GORE].

Mr. GORE. Mr. President, as I understand it, the purpose of the pending bill is to assure to all citizens of this country the full rights of citizenship. This is a laudable objective.

All citizens, whatever their race, their creed, their color, their religion, or their station in life, are entitled to equal treatment at the hands of their Government. As I see it, this proposition cannot be validly questioned.

From the standpoint of moral and social justice, it would be very desirable if each citizen also received equal treatment at the hands of all his fellow citizens. It is surely unrealistic, however, to hope that all bias, preference, and prejudice can be eliminated from our private lives. And it would be contrary to generally accepted principles of individual freedom for government to attempt to compel it.

It is easy to pronounce cliches like "discrimination is bad" or "civil rights must be assured," but while there may be general agreement on such phraseology, each individual is inclined to hold fast to his own interpretation of "discrimination" or of "civil rights," particularly as applied to his own life, and there are all sorts and shades of opinion about the proper role of government in balancing and implementing the rights and freedoms which are guaranteed by the Constitution.

No right is, or in an organized society can be, absolute. The exercise of any particular freedom by one individual is limited in its application by the effect of any particular act upon the rights of others. If individual freedom were interpreted as absolute freedom to act as one chooses, we would have no society at all. Each of us would have to spend all of his time defending himself from the depredations of others bent upon the full exercise of their freedom of speech, their freedom of movement, or their freedom in general.

One of the functions of government is to preserve and assure the individual freedoms guaranteed by the Constitution to the maximum degree possible consistent with the requirement of an orderly society. Thus, there is, I believe, a proper role for the Federal Government to play in the field of civil rights. The difficulty arises in properly defining this role, in applying it within the framework of the powers conferred upon the Federal Government by the Constitution, and in implementing Federal action with proper regard for the rights and responsibilities of the States, for the rights of all citizens.

It seems to me that there are two aspects of our national life with which the Federal Government ought to be particularly concerned in what has come to be known as the civil rights area. I should add that in so stating I do not seek to set forth a complete definition of the term "civil rights". If it were possible to reach general agreement on a definition of terms, we would not have nearly so much trouble with civil rights legislation.

First, in my opinion, the Federal Government should take reasonable but determined action, with proper regard for the constitutional rights of State and local governments, to assure to all citizens their political rights. The right of all qualified citizens to participate in the selection of public officials, to an equal voice in determination of issues at referendum, to seek public office, and to seek redress or to exercise initiative by petition is a right which must be zealously preserved and assured. In 1957 and again in 1960 I supported legislation which had as its principal purpose further protection of the right of franchise. I felt then, and I feel now, that these were reasonable measures and I believe that enactment of those laws has contributed to progress toward the objective of the elimination of discrimination in the exercise of voting franchise.

Secondly, it seems to me incontrovertible that all citizens, whatever their race, their religion, their color, or their national origin, ought to receive nondiscriminatory treatment in the collection of taxes and in the expenditure of funds derived from taxation. A Federal tax dollar must be impartially levied, collected, and disbursed—imposed according to ability to pay and distributed in accordance with entitlement pursuant to law. These are my firm beliefs which I have supported and which I am anxious to continue to support.

In this light, I am now constrained to state my very serious reservations about the provisions of title VI of the pending bill.

The stated objective of title VI is perhaps more meritorious than that of any of the bill's 11 titles. Nevertheless, I consider the provisions of this title, as now drafted, to be seriously defective and potentially dangerous. My objections to the title rest, in part, upon the lack of preciseness and the ambiguity of the language used. Moreover, I question the wisdom of legislation as proposed in this title from the standpoint of its effect upon the principle of separation of powers. In these remarks, I shall undertake to set forth in some detail the basis of my reservations.

Before proceeding to an analysis of the provisions of title VI, I observe that difficulties with the language used might, in large measure, have been obviated had we the benefit of a comprehensive committee report. The fact is, however, that the only committee report we have is the report of the House Judiciary Committee. Yet, the majority report of the House Committee is a bare-bones report. In most instances it merely paraphrases the language contained in the bill. It does not, by elaboration or example, clarify the intent of the committee. Moreover, this report does not deal at all with a number of amendments adopted on the floor of the House, some of which are contained in title VI, and the effect of which is quite uncertain, to say the least. Each Senator, under these circumstances, must resort to his own interpretation of the provisions. Already during the debate various sections of the bill have received varying interpretations by almost every Senator who has discussed them. How the courts would resolve these conflicting interpretations is surely subject to conjecture.

Under the circumstances, and in the light of the legislative history of the bill in the House, Senate committee consideration of the bill would have been highly desirable. The Senate has already decided this issue, and there is no point in raising that question again. I do take this opportunity to state that I feel very strongly that the Senate made a profound mistake in rejecting the motion of the senior Senator from Oregon [Mr. MORSE] to refer the bill to committee for a limited period of time.

I supported this motion and expressed the view then that a few days of careful committee consideration and definition of terms might save weeks on the floor of the Senate.

Section 601 of the bill provides as follows:

> Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Only a few would quarrel with the above language of the bill, as a general statement. An analysis of the language, however, reveals, first of all, that there is no definition of the word "discrimination." What is "discrimination," Mr. President, as used in the proposed bill? There is no definition of that word anywhere in the bill or anywhere in the report. In title I, pertaining to voting, the prohibitions referred to are specifically stated, but there is nothing in the bill or in the committee report that indicates what acts or omissions would constitute the "discrimination" that is sought to be eliminated by title VI. I draw your attention to the use of the conjunction "or" in section 601. This, it appears to me, indicates that "subjected to discrimination under" means something different from or in addition to what is meant by the phrases "excluded from participation in" or "denied the benefits of." I repeat, however, that the word "discrimination" is not defined in title VI or any place else in the bill, nor are any standards prescribed to guide those who would administer the law or the courts which might be called upon to interpret it. It is now apparent from the debate on the floor of the Senate that there is no agreement among Senators about what acts or omissions constitute discrimination. It is quite possible, if not likely, that

there would be a similar lack of unanimity among those who would administer the law, or even among judges who might be called upon to interpret it.

Under these circumstances, should the bill be enacted in its present form, we would be leaving to those who administer title VI the authority to prescribe the acts that would be prohibited. In effect, the Congress would be delegating to the Executive broad authority to determine just how the objective of eliminating discrimination in the expenditure of Federal funds would be achieved.

Moreover, in this section the phrase "receiving financial assistance" is similarly undefined and unlimited. Presumably any program, whether Federal, State, local, or even private, would be included if the program received Federal financial assistance, directly or indirectly. It is rather difficult to conceive of any activity at all that does not receive some kind of benefit, direct or indirect, from the expenditure of Federal funds.

There is one additional point about the language of section 601 that deserves comment. The authors eliminated from the types of discrimination to be prohibited discrimination because of religious beliefs. Religious discrimination is covered in the other titles to the bill. It is not included in title VI. No construction is possible, it seems to me, other than that if this bill should be passed in its present form this Congress will, insofar as this act is concerned, have sanctioned religious discrimination in the expenditure of tax funds. Does this really mean that it would be legally possible to exclude citizens, perhaps children, with certain religious affiliations, from participation in any Federal program? As far as the pending bill is concerned, such a contention could be made. I do not suggest that such action would be taken. I here question the broad scope of the language that is proposed to be written into law.

Mr. President, in this country we revere the constitutional guarantee of religious freedom. We hold fast to the concept of separation of church and state, and I believe it is well that we do so. The language in title VI, however, illustrates the unhappy facility with which some would bend constitutional principles in order to achieve a practical objective. This Congress passed a bill providing for the extension of Federal financial assistance to institutions of higher education, including church-affiliated schools.

Notwithstanding the constitutional provision pertaining to separation of church and state, the Government does, in its education programs, provide assistance to institutions which openly discriminate against persons of other faiths. I can only assume that religious discrimination was omitted from title VI for a purpose. For what purpose? Was it to permit continuation of this education program that religious discrimination was not included in the prohibitions of title VI? If so, the authors of the bill, in my opinion, may have proposed considerably more than intended. They may have opened the door to legal sanction of religious discrimination in other programs involving Federal financial aid.

This illustrates the dangers, Mr. President, of trying to legislate general principles or slogans.

Mr. CLARK. Mr. President, would the Senator from Tennessee prefer not to yield at this point until he has finished his speech, or would he yield to me now?

The PRESIDING OFFICER (Mr. SPARKMAN in the chair). Does the Senator from Tennessee yield to the Senator from Pennsylvania?

Mr. GORE. I am glad to yield to the Senator from Pennsylvania at this point.

Mr. CLARK. I came into the Chamber when the Senator was commenting on religious discrimination, and I wonder whether the Senator would mind explaining to me what I do not understand—how he could read section 601 as a possibility for the authorization of religious discrimination?

Mr. GORE. I did not undertake to say that it specifically authorized religious discrimination. Other titles in the bill contain references to discrimination on the basis of religion. Such a reference is omitted from title VI. The omission must have a purpose, and surely the omission would be interpreted as having some effect.

Mr. CLARK. Will the Senator from Tennessee yield further?

Mr. GORE. I yield.

Mr. CLARK. It occurs to me that the reason for the elimination is that title VI deals only with programs receiving Federal financial assistance, and that religious programs are not permitted to receive Federal financial assistance under the Bill of Rights, which requires separation of church and state.

Mr. GORE. I pointed out a few moments ago that the present Congress did enact a bill which specifically provides Federal aid to church-affiliated schools which openly—and I do not say wrongfully—discriminate against prospective students of other faiths.

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

Mr. GORE. I yield.

Mr. CLARK. It is my understanding that all religious institutions which receive Federal aid are open to individuals of all faiths, regardless of whether they choose to attend or not. I believe it would be quite improper, under the Constitution to give aid to a religious institution which deliberately excluded anyone from any other faith. As the Senator knows, there are a few—but not many—Protestants attending Catholic schools, and on occasion Catholics attend church schools of other denominations. I believe there is no prohibition.

Mr. GORE. I am not sure that the general statement which the Senator from Pennsylvania has just made is a completely accurate one.

Mr. CLARK. In any event, if the Senator will yield to me for the last time——

Mr. GORE. I am glad to yield.

Mr. CLARK. Does the Senator seriously believe that title VI of the bill has anything whatever to do with religion?

Mr. GORE. Well, religious discrimination was omitted for some purpose.

Mr. CLARK. I have tried to state what, in my opinion, the omission was.

Mr. GORE. Would the Senator kindly restate it.

Mr. CLARK. That one reason why—probably among several— religion is not included in the prohibition against discrimination in section 601, is that the federally assisted programs, in which it is the aim of title VI to prevent discrimination, deal not at all with religion and the evil which is sought to be expunged, but has to do with discrimination in federally assisted programs on the ground of race, creed, or color—I beg the Senator's pardon, let me read the exact words: "race, color, or national origin"—not religion.

Mr. GORE. Then why is religious discrimination included in other sections? It was my understanding that the overall purpose of the bill was to assure all citizens of this country the full and equal right of citizenship, and to eliminate discrimination because of race, color, religion, or national origin.

Mr. CLARK. Will the Senator from Tennessee yield further?

Mr. GORE. I yield.

Mr. CLARK. It is not my purpose to debate with the Senator at this point why something was included in other titles of the bill. It is merely my purpose to point out to the Senator that in my judgment there can be no possible suggestion that title VI has any bearing whatever on religious discrimination.

Mr. ERVIN. Mr. President, will the Senator from Tennessee yield to the Senator from North Carolina for some questions along the line of this discussion?

Mr. GORE. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to title II of the bill. Does not section 201, subsection (a), which appears on page 6, state:

> All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

Mr. GORE. That is section 201 subsection (a) on page 6 which the Senator has read.

Mr. ERVIN. Yes. Does that not indicate a purpose to require operators of places of public accommodation not to discriminate against people in the selection of their customers on the basis of their religion?

Mr. GORE. I believe that would be a reasonable interpretation.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to page 11 of the bill which deals with desegregation of public facilities. I particularly invite his attention to the portion of section 301, subsection (a) on the bottom of page 11. Does not this portion provide that the Attorney General can bring an action for any person being denied access to public facilities on account of his race, color, religion, or national origin?

Mr. GORE. The Senator is correct.

Mr. ERVIN. Does not the Senator from Tennessee interpret that to mean that this section is designed to prevent any discrimination in places of public facilities on the basis of religion?

Mr. GORE. Discrimination because of religion is certainly specified as a type of discrimination to be prohibited under that section.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to page 13, which has reference to title IV, relating to the desegregation of public education. I invite his attention specifically to these words of section 401, subsection (b):

"Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin.

Does not the Senator from Tennessee infer that this provision in the title was designed to prevent any discrimination against students in public schools on account of their religion?

Mr. GORE. The Senator has just read it. I would agree.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to the provisions of what is popularly called the FEPC section, title VII.

Mr. GORE. What is the page?

Mr. ERVIN. Page 32.

I invite the Senator's attention to section 704(a)(1), which appears in lines 21, 22, 23, 24, and 25, on page 32 and lines 1 and 2 on page 33. I ask the Senator from Tennessee if the provision reads as follows:

SEC. 704. (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;

Mr. GORE. It so provides.

Mr. ERVIN. I ask the Senator from Tennessee if that does not indicate the purpose of title VII to forbid discrimination against persons in employment on account of their religion.

Mr. GORE. In answer to the Senator from North Carolina, I should like to read the headline over section 704: "Discrimination Because of Race, Color, Religion, or National Origin."

Mr. ERVIN. I ask the Senator from Tennessee if there is a title in this bill which extends the life of the Civil Rights Commission?

Mr. GORE. Yes.

Mr. ERVIN. Does not the Senator recall that the Civil Rights Act of 1957, which created the Commission, empowered it to investigate the deniel of the equal protection of law on the basis of race, color, religion, or national origin?

Mr. GORE. I do not recall specifically, but I believe it is customary, in legislative drafts, speeches, and committee reports dealing with civil rights, and dealing with types of discrimination to be proscribed and prohibited, to include religion. Although I do not specifically recall it, I am sure such a term was used in the 1957 act.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that it was?

Mr. GORE. I will.

Mr. ERVIN. I invite the attention of the Senator from Tennessee to a provision in the bill to which the Senator from Tennessee has already called the attention of the Senate. I refer to section 601 of title VI, on lines 20, 21, 22, 23, 24, and 25 on page 25 of the bill.

I ask the Senator from Tennessee if that provision reads as follows:

SEC. 601. Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Mr. GORE. The Senator is correct.

Mr. ERVIN. Mr President, as a lawyer, must not the Senator from Tennessee inevitably reach the conclusion, inasmuch as the other provisions of the bill to which I have referred specify that there shall be no discrimination on the ground of religion, and this provision, relating to title VI, fails to so specify, that the courts will hold that title VI contains no provision with respect to discrimination on the basis of religion?

Mr. GORE. Section 6 does not contain any prohibition against discrimination on the basis of religion; therefore, I do not know how the courts could conclude that it does.

Mr. ERVIN. Will not the Senator from Tennessee agree with the Senator from North Carolina that we must assume that the drafters of the bill and the proponents of the bill are intelligent men, who had something in mind when they presented a bill prohibiting discrimination in virtually all the other titles on the basis of religion and omitted that requirement from title VI?

Mr. GORE. I have considered long and diligently the whole proposition of using the threat of denial of Federal aid as a means of bringing about an end to discrimination, whatever that term means, and I noticed the omission of religion as a kind of discrimination which would be prohibited in title VI. As I examined the other sections, I wondered why it was omitted in title VI, as the Senator has so well pointed out by his questions.

I found it was included in other sections. Therefore, I asked myself, and then I began to ask others, why the omission was made. There must have been a purpose. I should like to ask the Senators a question. I know it is not permissible under strict application of parliamentary rules, for a Senator having the floor to interrogate other Senators; but unless there is objection, I should like to ask the same question of both the distinguished senior Senator from North Carolina and the distinguished senior Senator from Pennsylvania.

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

Mr. GORE. I should like to ask this question of both Senators. It relates to title VI. If a citizen should, in fact, be discriminated against because of his religion in any program of Federal aid, is there any authority in title VI to require a discontinuance of such discrimination?

Mr. CLARK. I believe the answer is quite clearly "no." If I may elaborate a bit I should like to say that I was somewhat taken aback by what I heard when I came into the Chamber. I heard the discussion by the Senator from Tennessee as it applied to title VI, and also the discussion of the title by the Senator from North Carolina, in his Socratic approach, with which we are all familiar, and for which I honor him as one of the great cross-examiners in the Senate. Hearing the discussions caused me a little concern, and I wondered if the answer I had given the Senator from Tennessee was correct.

I went to my office to get what we sometimes call the bible of the proponents of the bill, which is a very carefully prepared compendium dealing with all the matters on which some questions might be raised during the debate. I should now like to read into the RECORD—I am sure my two friends will be interested in this—this question and answer. Why does not title VI?

Mr. GORE. Would the Senator from Pennsylvania mind identifying the so-called "bible?" I have a copy, but there is no indication as to who prepared it or its source.

Mr. CASE. This is the unexpurgated version.

Mr. GORE. It is not the "King James" version.

Mr. ERVIN. The Senator said it was a "bible." It does not look like the Bible I know.

Mr. GORE. I do not wish to promote a religious argument.

Mr. CLARK. Mr. President, to whom does the Senator yield?

Mr. GORE. I yield to the Senator from Pennsylvania.

Mr. CLARK. In the famous words of a famous Senator now dead, I hold in my hand a semiofficial, unexpurgated, two-volume, loose-leaf notebook compendium, in green covers—and there is nothing sinister about green covers—entitled "H.R. 7152." The first volume contains titles I through V. The second volume is entitled "Titles VI Through IX."

Mr. GORE. I may have suffered discrimination. I have one volume with a blue binding. [Laughter in the galleries.]

The PRESIDING OFFICER. The Chair wishes to remind the visitors in the galleries that laughter or any other demonstration is not permitted.

Mr. CLARK. I should like to explain why the Senator from Tennessee appears, ostensibly, to have been discriminated against. It is because his zeal for the passage of the bill has not, on the record at least, been as great as that of the Senator from New Jersey [Mr. CASE] or mine, but I am sure that if the Senator from Tennessee were to request a copy of the so-called unexpurgated "bible," the Senator from New Jersey

and I would be happy to make arrangements for him to receive one. May I now read the answer?

Mr. ERVIN. The Senator from Pennsylvania has not told us what inspired men wrote that "bible."

Mr. CLARK. Mr. President, to whom does the Senator from Tennessee yield?

Mr. GORE. I yield to the Senator from Pennsylvania.

Mr. CLARK. I shall be glad to answer the Senator from North Carolina in a moment; but since the Senator from Tennessee has yielded to me, I should like to maintain the continuity of discussion without the irritation—I say this in all good humor—of somewhat immaterial interjections.

Mr. ERVIN. May I answer the Senator from Pennsylvania?

Mr. CLARK. No; I have the floor.

Mr. GORE. I yield to the Senator from Pennsylvania.

Mr. CLARK. As I understand, the question was: Why does not title VI apply to religious discrimination? The answer, as contained in the book, is as follows:

> Religious discrimination does not appear to have been a significant problem in connection with Federal-aid programs. The inclusion of a reference to religion would have caused unnecessary concern on the part of religiously affiliated institutions which, for example, receive school lunches or participate in State welfare programs, assisted by the Social Security Administration.

In other words, title VI was directed at the evil—the very real evil—which presently exists under the Hill-Burton Act and under a number of other Federal programs in which Federal money is being used, day after day and month after month, to aid in the continuation of the programs of institutions—usually, but not always, supported by States, where discrimination on account of race or color is clear and established and, in my judgment, is unethical, immoral, and unconstitutional.

The evils sought to be remedied had nothing to do with discrimination on the basis of religion for federally supported programs, as referred to in the answer I have just read to the Senator from Tennessee.

Mr. GORE. The language that the Senator from Pennsylvania read from the as yet unidentified "bible"——

Mr. CLARK. If the Senator will yield, I shall be happy to identify the source of the "bible."

Mr. GORE. I yield for that purpose.

Mr. CLARK. I think I am correct in saying that at the request of the proponents of the bill—the sponsors and cosponsors—this elaborate compendium was prepared by the Attorney General of the United States.

Mr. GORE. Does the Senator state that as a fact?

Mr. CLARK. This is so to the best of my knowledge. I believe the Senator from North Carolina will agree with me that that is as far as we can go, not having personal knowledge.

Mr. GORE. I really doubt whether authorship of the document is a matter of great importance. To say the least, however, it is a little unusual that some of us are using a voluminous document which contains no identification whatsoever as to its source or as to who prepared it. It is not listed as an opinion of the Attorney General, or even of an assistant or a subassistant. It may have been prepared under the direction of the Attorney General, and I would not be critical of that fact if it was.

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

Mr. ERVIN. I believe the Senator said he would yield first to me.

Mr. GORE. I do not yield to anyone for the moment. I wish to pursue the answer of the distinguished Senator from Pennsylvania. He read from the document as follows:

> Religious discrimination does not appear to have been a significant problem in connection with Federal-aid programs.

It might be very significant to a citizen who was discriminated against because of religion.

Mr. CLARK. But if nobody has complained, why should we legislate?

Mr. GORE. I ask the Senator from Pennsylvania whether discrimination because of national origin has been "a significant problem in connection with Federal-aid programs."

Mr. CLARK. I think it has.

Mr. GORE. Where?

Mr. CLARK. Certainly a broad definition of "national origin" would include individuals of Jewish origin or race; and there are, I am sorry to say, a good many institutions which are sufficiently anti-Semitic, as to which we are dealing with that problem.

Mr. GORE. That would be religious discrimination, and would not be prohibited by title VI. It is not national origin. It is religious discrimination.

Mr. CLARK. I should like to differ, in all good, friendly feeling, with my friend from Tennessee, because, in my opinion, anti-Semitism is racial, rather than religious.

Mr. GORE. But it is not related to national origin. Many of our friends of the Jewish faith are as old in their American ancestry as are the distinguished Senator from Pennsylvania and I.

Mr. CLARK. Let us say it is mixed.

I happen to be a Unitarian, and we are happy to have a number of members of the Jewish race or national origin in our faith. Yet I know they are being discriminated against just as much as if they were attending a synagogue or a temple.

Mr. GORE. That still does not answer the question. That is a fact which the Senator states. The Unitarian faith is a very appealing one. It is not surprising that many people of the Jewish faith can also endorse the faith of Unitarianism.

Mr. CLARK. It is not the faith; it is the race or national origin, whichever the case may be.

Mr. GORE. The Senator from Pennsylvania has read from this document and said that the reason why a provision on religious discrimination was omitted from title VI was that it had not been a significant problem in connection with Federal aid programs. Has it been a significant problem in voting?

Mr. CLARK. Yes.

Mr. GORE. Religion?

Mr. CLARK. Oh, religion; I beg the Senator's pardon. No. I thought he meant racial discrimination.

Mr. GORE. Why is religion included in the title pertaining to voting?

Mr. CLARK. I cannot tell the Senator. All I can say is that my purpose in starting the colloquy was to make clear that the word "religion" was not in title VI. I think I have done so. I have not the slightest intention of engaging the Senator in debate with respect to the other titles of the bill. I quite agree with the Senator from North Carolina in his very emphatic, socratic bringing out of the fact that the other titles of the bill do include religion.

I see no reason to include religion in title VI. I think the exclusion was wise, for the reasons I have given. If the doubts of the Senator as to the validity of the bill would be in any way dissolved by including religion in title VI, I would be happy to take up an amendment which would have that effect, if the Senator would assure me that if we would include religion in title VI, the Senator would vote for the bill.

Mr. GORE. It would improve title VI. And I would support such an amendment.

Mr. CLARK. I do not think it would improve it. But I am happy to have the Senator's view to the contrary.

Mr. GORE. The able Senator has said that he has explained why religion was omitted from title VI. I respectfully suggest that he has not. He has only read from this document a statement that it was not included because it did not appear to be a significant problem.

It did not so appear to whom?

Mr. CLARK. The House of Representatives.

Mr. GORE. The House of Representatives did not draft the bill.

Mr. CLARK. The House of Representatives debated and passed the bill. So did several committees, and I have no doubt this provision was carefully debated and considered on the floor. But I do not happen to know that it was.

Mr. GORE. That is the view of the Senator, that religious discrimination does not appear to have been a significant problem with respect to Federal aid programs. I have suggested to the Senator that national origin does not appear to have been a significant problem with respect to Federal aid. Yet national origin is included in title VI. This is a far more serious question in the opinion of the senior Senator from Tennessee than the Senator from Pennsylvania seems to think. Title VI deals not only with Federal aid to education, but it also deals with all Federal aid—direct or indirect—by grant, contract, or loan. So the draftsmen in their zeal may have done something quite material, which may have been unintended.

I yield now to the Senator from North Carolina, and then I will yield to the Senator from New Jersey.

Mr. ERVIN. I do not know whether I heard correctly the material which the

Senator from Pennsylvania read. But if I did hear it correctly, he read something which stated in substance that one reason they did not include religion in title VI was because they wanted to allay the fear of religious schools that they would have school lunch programs cut off. Did not the Senator from Tennessee understand the statement which was read by the Senator from Pennsylvania to make some reference to school lunch programs?

Mr. GORE. I understand the reference. But I would prefer to have the Senator from Pennsylvania state it.

Mr. CLARK. I would be happy to state it. The two Senators are quite correct. One of the purposes in excluding religion from the provisions of title VI was to be sure we did not kill the school-lunch program as it extends to religious-controlled institutions.

Mr. ERVIN. I ask the Senator from Tennessee if exclusion of discrimination from the bill for religion on that ground does not assert by implication that some of the schools were discriminating against students on account of religion, or that there was at least a fear that they would discriminate against students on account of religion. Otherwise, why should the bill permit discrimination on the ground of religion?

Mr. GORE. Discrimination can be for as well as against. It is discrimination that is to be prohibited in this bill, but there is no definition of discrimination. Would one be forbidden to discriminate in favor of someone?

Mr. ERVIN. Yes. The word discriminate as such means to treat one man differently from another. And when it is on the basis of religion, it means to treat one man differently than another because of his religion. And when you prefer a man on account of his religion, you are discriminating in his favor, because you are treating him differently from people of other religions. If I may make some observations without the Senator from Tennessee having his right to the floor endangered, I would like to say——

Mr. CLARK. Mr. President, reserving the right to object, I assume that the Senator from North Carolina would not wish his remarks, which may be extensive, to be counted as an additional speech. Therefore, I join in excluding that somewhat natural conclusion from the unanimous-consent request which the Senator has just made.

Mr. CASE. Further reserving the right to object, as I understand——

Mr. ERVIN. Mr. President——

Mr. GORE. Mr. President, I ask unanimous consent that I may yield to the senior Senator from North Carolina without prejudicing my own rights to the floor, and without the colloquy which will ensue being counted as an additional speech by the Senator from North Carolina within the legislative day.

Mr. CASE. Reserving the right to object, could the Senator give us some idea as to the length of time this will require?

Mr. GORE. I shall give an estimate of the time required. I shall not yield more than 10 minutes.

Mr. CASE. Under this particular consent?

Mr. GORE. Under this particular consent.

Mr. CASE. I withdraw my reservation.

The PRESIDING OFFICER (Mr. McGOVERN in the chair). The Chair hears no objection. It is so ordered.

Mr. ERVIN. Does not the Senator from Tennessee know as a lawyer that when the courts undertake to ascertain the intent of a legislative body from the language of an act, one of the chief rules they rely upon is that the expression of one thing is the exclusion of another?

Mr. GORE. That is one of the rules of construction, as I understand it.

Mr. ERVIN. Does not the Senator from Tennessee agree with the Senator from North Carolina that inasmuch as title VI of this bill prohibits discrimination on the basis of race, color, and national origin, and does not include discrimination on the basis of religion, that therefore discrimination on the basis of religion is permitted under the rule that the inclusion of one thing is the exclusion of another.

Mr. GORE. Mr. President, the distinguished senior Senator from North Carolina is a far abler lawyer than I. He has a great deal of experience, both in the practice of law and as a member of the Supreme Court of North Carolina. I would not be in a position, therefore, to match knowledge or wits with him with respect to rules of construction.

It is my general view and recollection that one of the rules of construction with respect to legislative intent is that the inclusion of one to the exclusion of the other is for a purpose, and that the exclusion is given due weight in undertaking to reach the intent and purpose of the act.

Mr. ERVIN. I construe the unanimous-consent agreement which was reached a moment ago as permitting me to say that I can understand why the Department of Justice did not furnish the Senator from Tennessee with a copy of what the Senator from Pennsylvania so erroneously calls the "bible." It was because the Department of Justice knows that the Senator from Tennessee uses his own head and comes to his own conclusions.

Mr. CASE. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CASE. Under the rules of the Senate, it seems to me this is an undeserved and unjustified reflection upon the Senator from Pennsylvania.

Mr. ERVIN. I have not mentioned the Senator from Pennsylvania. I have not mentioned the Senator from New Jersey. I have mentioned only one Senator—the Senator from Tennessee, and I think I have paid him a compliment, which is certainly not disapproved by rule XIX.

Mr. CASE. Mr. President, I suggest to the contrary. Mention of a Senator's name is not necessary if, by direct exclusion, applying the rule of expressio unius est exclusio alterius, a Senator is obviously talking about another particular Senator, to wit, the Senator from Pennsylvania, who, though he needs no defense at my hands, nevertheless is entitled to the benefit of the rules of the Senate.

Mr. ERVIN. Mr. President, how much of the 10 minutes allotted to me has been consumed?

Mr. CLARK. Mr. President, I rise to a point of personal privilege, and ask unanimous consent that the time necessary for me to make the point be not taken from the 10 minutes allotted to the Senator from North Carolina.

The PRESIDING OFFICER. Does the Senator from Tennessee yield for that purpose?

Mr. GORE. I yield for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will state his point.

Mr. CLARK. Mr. President, I thank my friend from New Jersey for rising to my defense, though I wish to point out that since I am a Pennsylvania politician, my skin is pretty thick. I take no affront at what I am sure was an unintentional slur on the part of the Senator from North Carolina.

I wish to add only the comment that while we have had some rather silly colloquies on the floor of the Senate during the course of the civil rights debate, I believe the efforts of my friends the Senator from North Carolina and the Senator from Tennessee—and I hope my statement is not a violation of rule XIX, section 2—to make something out of nothing in connection with the elimination of religion from title VI do, for me at least, result in a raised eyebrow.

Mr. CASE. Mr. President, my point of order cannot be waived by any other Senator but myself. The Senator from Pennsylvania is a generous man, and may not desire my assistance. But the question is one of principle, and arises under the rules of the Senate. The entire Senate is interested. I do not believe any reflection upon any Member of this body, such as that we have heard made by the Senator from North Carolina, should be made concerning—though not named specifically, but obviously intended to be—the Senator from Pennsylvania.

The PRESIDING OFFICER. The Chair would ask that the Senator from North Carolina proceed in the regular order.

Mr. GORE. Mr. President, before yielding again, I wish to point out to the senior Senator from Pennsylvania that I am not in any sense dealing lightly with the title to which reference is made or with this particular subject. I am deadly serious. Religion was omitted from title VI and omitted only from title VI. There must have been a purpose. Title VI deals with Federal aid for many purposes other than the school lunch program, to which the Senator has referred.

Title VI applies to every Federal-aid program of the U.S. Government. If I had a list of all the acts which provide Federal aid in its variant forms, it would perhaps require a considerable number of minutes merely to read them. To list the titles of all of the acts would perhaps

require a whole page of the CONGRESSIONAL RECORD. Title VI deals with each and every one of them.

Surely there is a reason for omitting religion. Indeed, the Senator has read from the so-called "bible" an explanation by someone of why religion was omitted. That explanation would indicate that there was a reason for the omission. It was not merely a happenstance. I think it was a significant omission—and I speak as sincerely as I know how—and has implications of far greater importance than the senior Senator from Pennsylvania attaches to it. I am not speaking facetiously or lightly in so stating.

Mr. CLARK. Mr. President, since the Senator has referred to me, will he yield briefly?

Mr. GORE. I yield.

Mr. CLARK. I hope than when the present colloquy is concluded, we can perhaps all recover our sense of humor.

Mr. GORE. I have not lost mine.

Mr. CLARK. I am afraid that is quite obvious.

Mr. GORE. I hope the Senator from Pennsylvania will recover his.

Mr. CLARK. I never lost mine.

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

Mr. GORE. I yield to the Senator from North Carolina.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that I am still in full possession of my sense of humor?

Mr. GORE. I accept the Senator's assurance.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that I have a high admiration and affection for the Senator from Pennsylvania?

Mr. GORE. I shall do so, but I wish the RECORD to show that I am not speaking humorously, lightly, or facetiously on the subject of the discussion. This is a serious omission.

Mr. ERVIN. Does not the Senator from Tennessee know that the Department of Health, Education, and Welfare annually makes many grants for the purpose of encouraging the conduct of medical research in medical schools belonging to religious institutions which exercise preference in the selection of their students from members of the religious denominations which operate the schools?

Mr. GORE. I believe that to be true.

Mr. ERVIN. Does not the Senator from Tennessee know that under the provisions of the National Defense Act Congress makes grants to persons who spend those grants to pay tuition to schools conducted by religious denominations?

Mr. GORE. I believe that is correct.

Mr. ERVIN. Does not the Senator from Tennessee know that during the past year Congress passed a bill which provided grants and loans to institutions of higher learning, and included within its beneficiaries institutions of higher learning operated by religious institutions?

Mr. GORE. That is correct. I have previously referred to that act.

Mr. ERVIN. Does not the Senator from Tennessee also recall that the National Defense Act contains specific provisions under which the Federal Government supplies to institutions of higher learning, and even to institutions at the high school level, regardless of whether they are conducted by the public or by private or religious organizations, such things as laboratory facilities?

Mr. GORE. The Senator is correct.

Mr. ERVIN. Under the provisions of the bill, excluding as it does discrimination on the basis of religion, does not the Senator from Tennessee agree with the Senator from North Carolina that that provision to which I have referred would permit the Government to continue to make grants and loans for such purposes even to institutions which practice discrimination on the basis of religion, either by preferring persons of one religion, or by excluding persons of another religion?

Mr. GORE. Insofar as the title to which the Senator has referred is concerned, he is correct.

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

Mr. ERVIN. I should like to ask the Senator another question and then I shall subside, at least temporarily.

Mr. President, will the Senator yield?

Mr. GORE. I yield to the Senator from North Carolina.

Mr. ERVIN. Will the Senator from Tennessee agree that a man is not required by principles of law, religion, or commonsense to accept as a bible a document in which he finds incorrect statements?

Mr. GORE. I believe the answer to that question is obvious.

Mr. ERVIN. Will the Senator from Tennessee permit the Senator from North Carolina to express the hope that those who wrote the so-called bible had sounder views on questions of theology than they do on questions of law?

Mr. GORE. The Senator has my permission to indulge in such hope.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that I honestly believe that the writers of this "bible" made four incorrect statements concerning the Constitution and the decisions of the court construing the Constitution on only two pages; namely, a statement that title II of the bill is appropriate proposed legislation to enforce the 13th amendment of the Constitution—a statement contrary to the decisions of the Supreme Court of the United States in United States against Harris and the civil rights cases of 1883. That is incorrect statement No. 1.

The next incorrect statement is that title II is appropriate legislation to enforce the 14th amendment. That statement is contrary to every decision of the Supreme Court from the time of the civil rights cases of 1883 down through the sit-in cases of last May, notably the case of Peterson against the City of Greenville.

The third incorrect statement is that in the enactment of the Civil Rights Act of 1875, the Congress made the mistake of tying it exclusively to the 14th amendment. This statement is incorrect because the Court in that case passed expressly upon the act's constitutionality from the standpoint of the interstate commerce clause, from the standpoint of the 13th amendment, and from the standpoint of the 14th amendment, and held that it was not valid legislation on any of those grounds. Moreover, the constitutionality of an act is determined on the basis of the entire Constitution rather than a single provision.

Then it was stated that title II is valid legislation under the commerce clause, although such statement is contrary to every decision handed down up to this date.

Mr. GORE. I am perfectly willing to concede that the statements are subject to differing opinions.

Mr. ERVIN. Can the Senator from Tennessee, on the basis of these assertions by the Senator from North Carolina, understand why the Senator from North Carolina is unable to accept this book as a bible either on theology or on law?

Mr. GORE. I am perfectly willing for the distinguished and able Senator from North Carolina to reject or accept any of the statements in the so-called bible. I would call to his attention, however, that he was reading from one volume bound in blue, while the distinguished senior Senator from Pennsylvania [Mr. CLARK] was reading from one of the two volumes bound in green. So I am somewhat at a loss to resolve all the differences or to give any testimony as to the accuracy and probity of the statements in either.

Mr. ERVIN. Will the Senator from Tennessee accept my assurance that the Department of Justice discriminated against me, as it did against the Senator from Tennessee, in that it did not furnish me with a looseleaf copy, or even a bound copy, of what the Senator from Pennsylvania called a bible?

Mr. CASE. Mr. President, I ask unanimous consent that the Senator from Tennessee may do me the courtesy of yielding to me, for a brief statement and comment on several different matters, without his losing the floor, and without its being counted as another speech.

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

Mr. CASE. Mr. President, I think it is important to make one point clear, that, so far as the Senator from New Jersey is concerned, he does not regard in any sense the omission of reference to religion in this title as intended to have, or as actually having, the effect of permitting discrimination on the ground of religion.

The suggestion was made, with respect to the proposal mentioned, that there was an intention to exclude such persons. This may be so, and it is so, for the purpose of this bill and title only; but that this bill or title would have any effect whatsoever upon constitutional provisions is obviously impossible, because the constitutional mandate with regard to separation of church and State, and all that flows from it, could not be changed by a piece of legislation. I am sure the courts would not construe the legislation to have any such effect as

that. I want to make it clear that if the Senator from New Jersey thought there was any intention to permit discrimination on account of religion, he would not vote for this title or for the bill having this title. I want the record to show the state of mind, so far as one Senator is concerned, in which he will vote for this particular bill.

If I may say in amplification, before I yield back to the Senator who has the floor and who has indulged me for this statement, this is not the only place where the question comes up. For example, in regard to the matter of housing, the title is not intended, by its exclusion of insured housing from its operation, for example, to have any effect whatsoever upon the President's power or the power of the Government of the United States in the matter of withholding funds for housing purposes under housing guarantees or anything else. It merely says "this bill does not do that."

So the effect of the omission of reference to religious activities from this particular title means that the bill does not deal with it, but does not make legal what, under other law or under the Constitution, would, of course, be illegal.

Mr. GORE. I appreciate the contribution of the distinguished senior Senator from New Jersey. I do not know by what authority he assures the Senate of the legislative intent of the proposed draft. He is neither an author of the bill nor a member of the Judiciary Committee, I believe——

Mr. CASE. I am not a member of the Judiciary Committee, but I am a Member of the Senate, and my vote is one vote. I am talking only for myself and to the extent that the argument may have validity on its own merits.

Mr. GORE. I am not disparaging the Senator. I appreciate his concern about the legislation. I am concerned, too. He and I have similar voting records, insofar as final passage is concerned, on the civil rights bills of 1957 and 1960.

Mr. CASE. And in many other matters.

Mr. GORE. And in many other matters. But the Senator from New Jersey proposes to tell us now that it is not intended to do thus and so by the bill. I was going to point out that the Senator from New Jersey, like the Senator from Tennessee, is neither an author of the bill nor a member of the Judiciary Committee, nor a member of any committee which has considered this section or title. It is a little difficult to know by what authority the Senator can assure us as to what was intended.

Mr. CASE. If I say so, the Senator from New Jersey had no intention to speak for anyone but himself and the state of mind with which he approaches this question and the frame of mind in which he will vote for or against it.

Mr. GORE. I was not criticizing the Senator.

Mr. CASE. The argument of the Senator is valid.

Mr. GORE. I served with the Senator from New Jersey in the House of Representatives. I have high regard for him.

Mr. CASE. Which is reciprocated.

Mr. GORE. I thank the Senator.

This illustrates the legislative jungle in which we find ourselves. Here is a bill dealing with a vexatious issue, the text of which has not been considered by a legislative committee of either the House or the Senate, a bill upon an issue filled with emotion and concern. Yet we have no report from the Senate as to its legislative intent, as to the definition of terms in it. It is little short of a tragedy that we must deal with an issue so important, with a bill of such vast import and scope, in such a haphazard way, without being certain of what is intended.

I did not intend to say, with respect to the omission of reference to religion from title VI, that the omission should be equated with a specific authorization of discrimination. Title VI does not prohibit discrimination against redheads.

It does not prohibit discrimination against short men. Yet every title of the bill includes religion, except title VI. It is title VI which deals with all Federal aid programs—Federal aid programs to airports, shipping lines, agriculture, mining, the blind, the old, school lunch programs. I could not begin to name them all. Its omission was for some purpose, and I have been trying to find out what the purpose was. I have been trying to indicate my own view that the purpose may have been an important one, but, more importantly, more may be accomplished by its omission than the authors of the bill—whoever they are—may have intended.

Mr. CASE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I am glad to yield.

Mr. CASE. I appreciate very much the statement of the Senator. Of course, I had no thought as to his motive or purpose other than that which he has expressed.

Mr. GORE. I thank the Senator.

Mr. CASE. I believe it is right to raise the question of why this was left out in title VI, and why it is included in the other operating titles of the bill.

Mr. GORE. I thank the Senator. I believe the Senator and I can agree on one further point. The Senator knows that this is the first time I have asked the Senate to indulge me in a speech upon this important legislation. Therefore, I do not believe that I can be charged with filibustering, or otherwise.

Mr. CASE. I have no such thought in mind.

Mr. GORE. I understand the point to which the Senator was coming. I believe it illustrates the necessity for a line by line and almost word for word consideration of the bill; first, because of its importance, and second, because of the limitation and handicaps under which we labor without having had the benefit of committee consideration or committee reports.

Mr. CASE. It is unfortunate that we have not had that consideration, and I regret the necessity for its having been dispensed with in the Senate. However, I do point out, as the Senator of course knows, that many of these provisions have been heard and discussed in committees in many Congresses; and, of course, to a large extent, they were heard and discussed in the House Judiciary Committee, in connection with the development of the present bill—although that bill, of course, was prepared by the committee after its hearings, rather than before.

In regard to the substantive part to which the Senator from Tennessee is directing his attention, so far as I am concerned, I believe it deals with a matter not without significance to individuals, perhaps, but one in connection with which there has not been a great amount of discrimination on the grounds of religion. I believe that is the reason why this has been left out.

Mr. GORE. The Senator can say the same thing about national origin.

Mr. CASE. Let me add one point. It must be weighed against the concerns that parochial schools would have, for example, in regard to eliminating the school-lunch program, or a bus program, or that sort of thing—programs which have been held to be entitled to Federal subvention, even in the case of religious schools or parochial schools—although I believe a balance is required in the preparation of such legislation.

Even though I believe the pure view of the situation would perhaps suggest inclusion of the word "religion," we do not legislate on the basis of such considerations. We try to legislate without violation of deep principle, of course. We try to make legislation accommodate the decent or practical necessities of the situation in which we find ourselves. I believe, therefore, this is not an unreasonable thing to do. I certainly would join the Senator from Tennessee, and even the Senator from North Carolina, and of course the Senator from Pennsylvania, in agreeing that no great significance of that sort should be read into this provision. There is no intention to permit discrimination which is not otherwise authorized.

Personally, I do not feel that this matter is important enough, on the basis of known discrimination which may have existed in the past, with which we are attempting by this legislation to deal, to warrant a change in the bill as drafted. However, I am subject to persuasion on that point, and would consider any amendment the Senator from Tennessee may feel moved to offer.

I thank the Senator from Tennessee very much for his thoughtfulness.

Mr. GORE. I thank the Senator. His comments bring to mind the question of what is justified discrimination and what is unjustified discrimination. The distinguished senior Senator from Pennsylvania suggested that one way to remedy my concern would be to insert the word "religion" in title VI. I believe that would be an improvement. I would not wish to say at this time that I would offer such an amendment, but I shall certainly consider doing so. I am confident I would support such an amendment if the distinguished Senator from Pennsylvania were to offer it.

Mr. CLARK. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. CLARK. I do believe, with all deference to the Senator from Tennessee,

that possibly the Senator from New Jersey [Mr. CASE] and I have taken this colloquy in somewhat lighter vein than perhaps we should—certainly in a good deal lighter vein than either the Senator from Tennessee or the Senator from North Carolina.

When I suggested that we might amend title VI to include the word, "religion," I was being facetious, because I was quite sure the Senator from Tennessee would not wish to knock out the school-lunch program in his own State, which would be accomplished if the word "religion," were included.

Mr. GORE. Mr. President, I did not detect any humor or facetiousness in the Senator's words or demeanor at the time, but I accept his interpretation of it. He has referred to my concern for the possible elimination of the school lunch program in Tennessee. A provision is contained in the bill which would authorize a Federal official to withhold Federal funds for the school lunch program for an entire State, if one county or township within a State was in violation or allegedly in violation of the terms of the bill.

Mr. CASE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. In just a moment I shall be glad to yield. I intend to come back, and to deal with——

Mr. CASE. We can discuss it later, I wish to enter a caveat or a demurrer at this point.

Mr. GORE. I yield to the Senator from New Jersey.

Mr. CASE. I reserve the right to discuss the point later.

Mr. GORE. Yes.

This colloquy illustrates the difficulty of drafting legislation which would accomplish a worthy objective without working other practical results which even the authors of the bill might consider undesirable. This illustrates the need for line-by-line, word-by-word consideration of the provisions of this bill.

Section 601, to which I have been referring, sets forth the objective of title VI—that of eliminating discrimination in programs involving Federal financial assistance. I now wish to draw attention to the succeeding section of the same title. Section 602 deals with the manner in which the objective of section 601 would be accomplished. There are many uncertainties and ambiguities in the language of section 602. Moreover, the relationship between section 601 and 602 is subject to question and doubt.

For instance, there is a very real question as to whether the authority conferred upon departments and agencies of the Federal Government by section 602 limits the application of section 601. Section 602 provides:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, shall take action to effectuate the provisions of section 601 with respect to such program or activity.

An amendment adopted during debate on the floor of the House has a bearing upon the meaning of the first sentence of section 602, as quoted above. The House amendment added the words "other than a contract of insurance or guaranty." While the meaning of the words added by the amendment appears clear enough, their inclusion in turn raises a number of questions. Among other things, the added words clearly remove from coverage of section 602 the Federal Housing Administration program of insured home loans and the Veterans' Administration program of guaranteed loans, as well as provision of insurance for deposits in banks and savings and loan associations.

I had thought these are clearly excluded, but it has been suggested to me that even this may not be so clear.

What is not at all clear, however, is the effect of this amendment on Presidential Executive Order No. 11063, which already undertakes to prohibit discrimination in the FHA and VA programs in certain respects. The question is whether these programs are excluded only from section 602 or whether they are excluded from the entire bill and, if the latter interpretation be correct, what would be the status of the Executive order?

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

Mr. GORE. I yield.

Mr. CLARK. I suspect the answers to the Senator's questions are fairly clear, but I would state them as follows: The exclusion beginning with the word "other" on page 26, at line 3 is confined to section 602 in title VI. I do not see how any legal interpretation which would give the exclusion any wider scope could be suggested. That exclusion, in my judgment, has no bearing whatever on the inherent powers of the executive, who drafts an Executive order to require the executive agency—which is under his general supervision and control, subject, of course, to specific congressional direction—to carry out the prohibition of discrimination in that field.

Finally, it is my view—speaking only for myself—that the exclusion was written in on the floor of the House because of the very powerful homebuilders' lobby and veterans' lobby, which wanted to be sure that, so far as Congress was concerned, it would not interfere with the present widespread discrimination through the medium of using FHA and VA insurance and guarantee contracts in areas where discrimination in housing on the the basis is widespread.

Mr. GORE. I am grateful for the contribution of the able and distinguished Senator from Pennsylvania.

Mr. CLARK. The Senator understands that I am speaking only for myself.

Mr. GORE. I did so understand. He speaks ably.

Mr. CLARK. I thank the Senator.

Mr. GORE. He is one of the ablest lawyers in the Senate. He is a man of learning and wisdom. As I understand his statement, he has said that the exclusion in section 602 is independent of section 601.

Mr. CLARK. Perhaps I had better limit what I intended to say. I am not sure what I actually did say. What I meant to say was that the exclusion applied only to title VI, not to the remainder of the bill, as I understood the Senator from Tennessee to suggest it might.

Mr. GORE. Mr. President, with the Senators' indulgence, I should like to discuss this point in a little more detail, because I believe it is important. It is important not only with respect to the housing field, but also with respect to other areas of Federal aid. I am grateful for the Senator's contribution.

During the debate in the House of Representatives when the amendment was adopted, the chairman of the House Judiciary Committee stated as follows:

> In other words, we nail down the prohibition. We allay all fears that, for example, actions under the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Housing Administration insurance programs, or any other Federal insurance and guarantee programs are included in the bill. They are excluded because they involve guarantees and insurance.

Subsequently, however, during the debate Mr. O'HARA of Michigan asked the chairman of the committee the following question:

> Would the gentleman please make it clear as to whether or not the amendment he offers, if adopted, will in any way affect the authority now being undertaken under President Kennedy's housing order affecting the operations of the FHA?

Mr. CELLER'S answer was:

> No, sir. It has nothing to do with it.

The two statements by the chairman of the House Judiciary Committee on the amendment which was subsequently adopted appear to me somewhat inconsistent. Similar inconsistencies appear in the statements made by the senior Senator from Minnesota, the manager of the bill in the Senate [Mr. HUMPHREY].

Mr. CLARK. Mr. President, will the Senator yield to me before he leaves the statements by Representative CELLER?

Mr. GORE. I should like to read these quotations before I yield.

The Senator from Minnesota, at one point during the debate, stated:

> Title VI will have little or no effect on federally assisted housing. This is so for two reasons: First, much Federal housing assistance is given by way of insurance or guarantee, such as FHA and VA mortgages, insurance, and guarantee. Programs of assistance by way of insurance or guarantee are expressly excluded from title VI.

In addition, however, a little later, the Senator from Minnesota stated as follows:

> On the other hand, it will not impair in any way the existing authority of the President and the agencies administering those programs to deal with problems of discrimination in them.

Having read what to me appeared to be inconsistent statements by the chairman of the committee in the House and the manager of the bill in the Senate, I am happy to yield to the distinguished Senator from Pennsylvania.

Mr. CLARK. Mr. President, I thank my friend for his courtesy. As a lawyer, I say the statements by Representative CELLER and the Senator from Minnesota [Mr. HUMPHREY] are not inconsistent at

all. They are both in accord with my own view, which is that by adopting the amendment, the House turned its back on any effort to include in title VI a legislative prohibition against discrimination in the area of insurance or guarantee.

Therefore, that placed at least the House and Senator HUMPHREY, and also places the Senate, in a position where we turn our backs in an effort to prohibit that discrimination. But under our Government of separate powers, this exclusion in the bill, as I think it was correctly stated by both Representative CELLER and Senator HUMPHREY, is intended to have no effect whatever on the inherent power of the President under his Executive order to prevent the discrimination on which Congress has, as a legislative matter, turned its back.

Mr. CASE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. CASE. I concur utterly that this particular title is not in any way intended to, nor could it, affect the President's power with regard to discrimination in housing or in programs currently operated under the President's power in this connection, or existing orders of the President, specifically the Executive Order of November 20, 1962, No. 11063.

Mr. GORE. Once again, this illustrates the divergence of views of Members of the Senate.

Mr. CASE. I am not aware that anyone differs with my view. I agree with the Senator from Pennsylvania that the Senator from Minnesota [Mr. HUMPHREY] and Representative CELLER do not disagree with that interpretation of this matter.

Mr. GORE. I should like to cite the chairman of the Senate Housing Subcommittee. On April 10 he made an extended speech expressing views sharply in difference with those expressed by the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Pennsylvania [Mr. CLARK]. He cited a rather impressive array of legal authorities. I am not sure that I agree in all respects with the junior Senator from Alabama, but there is certainly widespread disagreement as to the effect of the title on housing programs.

Mr. CASE. Mr. President, will the Senator yield on this point?

Mr. GORE. I yield.

Mr. CASE. Representative CELLER's speech on this point made very clear the position of the Senator from Pennsylvania and the Senator from New Jersey, as we have endeavored to make it. He said:

First. That the enactment of title VI was proposed in order to "override specific provisions of law, which contemplate Federal assistance to racially segregated institutions."

The Hill-Burton Act contains provisions of that sort.

Second. It was proposed to "clarify and confirm" the authority already possessed by most Federal agencies to preclude discrimination or segregation in their programs; third, to "insure that the policy of nondiscrimination would be continued in future years as a permanent part of our national policy"; and fourth, to "avoid legislative debate over the so-called Powell amendment."

Mr. CELLER said that "the executive branch is believed in most cases to have adequate authority to preclude discrimination or segregation by recipients of Federal assistance," but that clarification and confirmation of this authority were desirable.

I do not, if I may say so with great respect and affection for the Senator from Tennessee, find anything in his speech—and I have read the entire text—which gives support to the idea that this language is intended in any way—by omitting to deal with or by expressly excluding from the effect of this title any particular form of discrimination in programs financed or helped by the Federal Government—to authorize the validation of discrimination which otherwise would be lawful under the Constitution.

Mr. GORE. I have not undertaken to express agreement or disagreement with the interpretation of the junior Senator from Alabama [Mr. SPARKMAN], but it seems to me that the Executive order of the President either is affected or is not affected. I invite the attention of my distinguished lawyer friends to a rather well-known principle which holds that when Congress has seized itself of a subject and has legislated upon it, the remedies provided in such legislation are exclusive.

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

Mr. GORE. I will yield in a moment. The bill provides specific procedures and proposes that Congress seize itself of the subject and legislate upon it. Does that have some meaning, or does it not have some meaning?

Furthermore, the title begins with the words, "Notwithstanding any inconsistent provision of any other law." I am not here undertaking to say that this would invalidate the President's Executive order or that it would not. But I do say we ought to know what we are doing, and there are a number of differing opinions about that.

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

Mr. GORE. I yield.

Mr. CLARK. First, the distinguished and able junior Senator from Alabama [Mr. SPARKMAN], who is the chairman of the Subcommittee on Housing of the Committee on Banking and Currency, on which I serve, is one of the ablest and most articulate opponents of the bill. It is, therefore, not particularly surprising to find him raising the same question that the Senator from Tennessee raises, and with respect to which he says a categorical answer is needed.

Speaking for myself and, I believe, for the overwhelming preponderance of the lawyers in this country who have undertaken to analyze the bill, I can only say that, in my judgment, the Senator from Alabama is profoundly wrong, and that I suspect he would have great difficulty in finding competent legal opinion, north or west of the Mason-Dixon line, which would concur in the view he has expressed, and from which my friend from Tennessee explicitly divorces himself.

Furthermore, in my judgment—and this may well be cold comfort to the Senator from Tennessee—there is not a shadow of a doubt in any unprejudiced and objective legal mind that the opinion expressed by Representative CELLER and Senator HUMPHREY is completely correct. There is simply no doubt about it. The fact that Congress has undertaken to seize itself of a portion of its clear and legitimate jurisdiction over the subject could not possibly validly, legally be construed as vesting it with jurisdiction over a part of the subject which they expressly exclude, to the extent of nullifying the President's clear constitutional right to issue and enforce an Executive order.

Mr. GORE. The Senator is, of course, aware that there are a number of decisions by the Supreme Court of the United States bearing upon this point. Although I am not prepared to agree with the position of the junior Senator from Alabama, I do suggest to the Senator from Pennsylvania that I believe there is a shadow of a doubt, although he has indicated that he does not believe there is a shadow of a doubt.

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

Mr. GORE. I yield.

Mr. CASE. At this point, when we are considering the question of the effect of the adoption of this title on such matters as the power of the President in regard to housing and the orders which he has issued, I should like to insert two brief questions which were asked and answered in the House debate, involving the chairman of the House Committee on the Judiciary.

Mr. CELLER stated: "The purport of the amendment is to eliminate all guarantees programs of the Federal Government, all insurance programs of the Federal Government. In other words, title VI would have no effect, if you accept this amendment, on guarantees or insurance" (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2500).

Parenthetically, the amendment to which he was referring, as the Senator knows, excluded the insurance program. In addition to being chairman of the committee, Mr. CELLER was the proponent of the particular amendment.

Then this colloquy occurred in the House debate:

Mr. O'HARA of Michigan. Would the gentleman make it clear as to whether or not the amendment he offers, if adopted, will in any way affect the authority now being undertaken under President Kennedy's housing order affecting the operations of the FHA?

Mr. CELLER. No, sir. It has nothing to do with it. (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2500.)

Mr. CORMAN, a member of the House Judiciary Committee and one of the floor managers of the bill then stated:

Mr. Chairman, I rise in support of the pending amendment. The amendment would make absolutely clear the intention of the Congress that the authority conferred by title VI and the actions required by title VI, do not apply to programs of insurance and guarantee. Title VI will not affect such programs. It will leave the situation as to them just as it is now. In the field of housing, the President, by Executive order,

has already acted to require that racial discrimination be eliminated. That action rests on authority other than title VI, and that action will not be affected by the adoption of title VI as amended by this amendment. (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2501.)

The following colloquy then occurred:

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

I wish to ask a question of the chairman, if I may, to be sure of some things. The housing order of the Chief Executive of November 1962 is still in effect. That will not be affected by this amendment? Is that correct?

Mr. CELLER. Yes. Title VI has no effect over Presidential orders. (CONGRESSIONAL RECORD, Feb. 7, 1964, p. 2501.)

That completes the quotation from that part of the debate on Mr. CELLER's amendment.

I am most grateful to the Senator from Tennessee for permitting me to enter this material during the course of his speech.

Mr. GORE. I appreciate the contribution of the Senator.

Unless section 601 is limited by section 602, then the scope is broad indeed. If section 601 is limited by section 602, then clearly the FHA insurance program and the VA guarantee programs are excluded from the bill. There would then surely be serious question about the legal status of the Exective order.

Although I do not express agreement with all the conclusions of the junior Senator from Alabama, I must confess that I do not know what decision would be reached by the courts on the question. Under the circumstances, it seems to me appropriate to consider the alternatives. And if there is doubt, then the Senate, it seems to me, has an obligation to clarify it. We should know what we are doing. We should act with certainty insofar as we can do so.

If the theory advanced by the junior Senator from Alabama is correct, then Executive Order No. 11063, insofar as it pertains to the FHA and VA home loan programs, is nullified. It is clear, in any event, that no action could be taken by the Federal Housing Administration or the Veterans' Administration under authority of title VI to eliminate discrimination in these programs. And if the theory of the Senator from Alabama is correct, no action could be taken in the future by either the President of the United States, by way of Executive order, or by the agency concerned, pursuant to regulation, to achieve that objective. In other words, if the theory of the Senator from Alabama is correct, there could be no Federal action to enforce nondiscrimination in either of these programs, unless additional legislation should be passed.

On the other hand, if the interpretation of the junior Senator from Alabama is not correct then, first of all, Executive Order No. 11063 would remain in full force and effect. This result cannot be reached unless title VI should be construed to the effect that section 601 itself confers authority and direction to eliminate discrimination, with section 602 conferring an alternate means of achieving the same objective. Under this construction there would be a statutory basis for Executive Order No. 11063 if title VI should be enacted into law. Moreover, there would then exist a statutory basis for a broader Executive order in the area of housing—one which might reach the disposition of an individually-owned home by the owner thereof. This could conceivably be construed as constituting a statutory basis for a Federal fair housing law promulgated by Executive order. I wonder, Mr. President, if the Senate now wishes to do this, or if it wishes to take the chance of doing so unknowingly by enacting into law uncertain and ambiguous language.

Now, if the language of section 602 does not limit the language of 601 with respect to the words added by the House amendment as they apply to the FHA and VA programs, then it does not limit section 601 at all. Under that construction, action might be taken under the authority of section 601 to reach the operation of banks, savings and loan associations, and similar agencies whose protest, so I understand, led to adoption of the House amendment. If, in fact, action can be taken under section 601 outside the limitations of section 602, there would be no practical limit on the areas of our national life which might be reached by Executive order promulgated under section 601 as so construed.

Obviously, Mr. President, both these conflicting interpretations cannot be correct.

As I stated earlier, we should clarify and resolve the doubts. We should know the meaning of the language which we write into law. In the absence of clarifying amendments, each Senator must necessarily reach his own conclusions without any certainty as to the scope of the powers conveyed, and an authoritative interpretation from the courts would have to be left for the future.

Now I turn to some of the ambiguities which are found in the language of section 602 itself.

When I first read this section my attention was attracted to an apparent inconsistency in the choice of words in the first and second sentences of the section. The first sentence provides:

Each Federal department and agency * * * shall take action to effectuate the provisions of section 601.

This, let me point out, is positive, mandatory language. The succeeding sentence states:

Such action may be taken by or pursuant to rule, regulation, or order of general applicability.

There follow a number of provisions which apply to any action taken pursuant to rule, regulation, or order. These are the so-called safeguard provisions which have been referred to many times during the debate. When an action is taken to withhold or terminate aid under this procedure there must first be a rule or regulation approved by the President. There must be an express finding of discrimination. There must be a hearing. The person or persons whose actions are found to have constituted discrimination must be so advised. There must be a determination that compliance cannot be secured by voluntary means. Committees of the Congress must be informed of the intention to terminate aid. Finally, if aid is terminated, the agency decision is subject to judicial review under the Administrative Procedure Act.

Both those who drafted the bill and those who supported amendment of the original language of this section in the House sought, I am sure, to surround these procedures with safeguards that would fully protect the public interest. It is an impressive list of procedural steps. With respect to the adequacy of the safeguards, I now limit myself to the statement that it seems to me that judicial review under the Administrative Procedure Act affords judicial review more in form than in substance.

But the adequacy or inadequacy of the procedural safeguards is not what gives me the greatest concern.

Mr. METCALF. Mr. President, will the Senator from Tennessee yield at that point?

Mr. GORE. I yield.

Mr. METCALF. I have long been concerned about the adequacy of the review safeguards under the Administrative Procedure Act. I wonder whether it would be better for us to provide that the first review of a case under the bill would take place in the district court in the district in which the judicial officers would be familiar with the situation, rather than to include a provision relative to the Administrative Procedure Act, with review in the circuit court of appeals.

Mr. GORE. The Senator has raised a very interesting point. I take it he means that a citizen or an agency of local government who is charged with the commission of some crime or discriminatory practice should be permitted to go into the district court for a de novo determination of the issue.

Mr. METCALF. I am not necessarily saying the case would have to be tried de novo, but at least the first review should be in the district court. Why should it be necessary for litigants to travel all over the United States to have their cases heard? The distance from the State capitol in my State to the seat of the Circuit Court of Appeals for the Ninth Circuit is 1,500 miles. Under the Administrative Procedure Act, our State Governor, superintendent of public instruction, the head of the housing agency, or some other official would have to trot down to San Francisco.

Mr. GORE. Under the Administrative Procedure Act the cards would be definitely stacked against the citizen.

Mr. METCALF. That is correct. It would seem to me wiser to have the first decision in such a case made by a judge whom we have helped select, and who would be familiar with the State laws involved.

Mr. GORE. I should like to clarify my statement. I may have misspoken myself. I did not mean to imply that in San Francisco there would be a Federal judge who himself would have an attitude of a stacked deck.

Mr. METCALF. Of course not.

Mr. GORE. I say that if the bill becomes law, the judge would make a deci-

sion under the Administrative Procedure Act, if that were the only judicial review provided in the pending bill. As the Senator knows, under the Administrative Procedure Act the Government would be given a preferential position in the contest or issue, because if the Government can show that there is any substantial justification for its action, then the action must stand under the Administrative Procedure Act.

Mr. METCALF. The so-called substantial evidence rule operates with presumptions in favor of the Government at all times.

Mr. GORE. Yes. I agree. That is certainly one of the shortcomings of the bill.

Mr. METCALF. I thank the Senator from Tennessee.

Mr. GORE. But I wished to emphasize a point that concerns me even more. In my opinion, there is a serious question as to whether these procedures which I have named seriatim would have to be followed at all. The Senator will probably recall that early in the debate I raised the question as to whether the use of the word "may" in section 602 would not in fact indicate that the procedures which could be followed would constitute merely an alternative means of action under section 602.

Will the able Senator refer to section 602 on page 26? I should like to read the first sentence of section 602, which is as follows:

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract, other than a contract of insurance or guarantee, shall take action to effectuate the provisions of section 601 with respect to such program or activity.

I now read the second sentence:

Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

It seems to me that use of the word "may" indicated that action might be taken to terminate aid without following a "rule, regulation, or order of general applicability" at all.

When I raised this question it elicited conflicting responses. The senior Senator from New York [Mr. JAVITS], whom I engaged in colloquy on the question, appeared to agree with me. He indicated that, in his view, regulations might be adopted and approved by the President and followed by the agency. He stated, however, that in his view, action might also be taken by the Secretary of the department concerned on an ad hoc, or case-by-case basis.

Other Senators have stated their views that the procedures specifically outlined in section 602 are mandatory and that if any action were taken to terminate or withhold aid it would have to be taken in full compliance with the procedural safeguards to which I have referred. The senior Senator from Rhode Island stated his view as follows:

However, any additional or new action will have to be pursuant to a rule, regulation, or order of general applicability. In this context the word "may" imports a choice only among these three methods. It does not confer freedom to effectuate section 602 in any other way.

Shortly before debate in the Senate began, my office was visited by a representative of the Department of Justice, who graciously offered to provide information should I have any questions about the bill. Subsequently, a member of my staff called him and inquired about the reasons for use of the word "may" in the second sentence of section 602, which I read. Shortly thereafter there was delivered to my office a memorandum on the question. There is no indication on the memorandum as to its authorship, nor is there any indication that its contents were approved by any official of the Department of Justice, or any other official of the Government. In any event, the memorandum was delivered to my office in response to an inquiry made by a member of my staff of an official of the Department of Justice. At this point, I wish to read to the Senate this paper entitled "Memorandum on the Use of 'May' in the Second Sentence of Section 602":

The second sentence of section 602 of H.R. 7152 (p. 26, l. 6) provides that action to effectuate the provisions of section 601 "may be taken by or pursuant to rule, regulation, or order of general applicability." The question has been raised why "may" is used rather than "shall."

The intention in title VI was to impose a mandatory requirement that the policy declared in section 601 must be effectuated as to each program and activity subject to title VI, but to avoid the implication that the Federal departments or agencies would be required in all cases to take action in addition to action taken in the past. Consistently with this intention, "shall" is used in line 4, and "may" in line 6.

It is not intended that each Federal department or agency subject to title VI must issue rules, regulations, or orders implementing section 601. If an agency's existing regulations are adequate to carry out the policy of section 601—as appears to be the case with a number of agencies—there would be no need to issue new regulations. Similarly, in the case of direct Federal programs such as social security, there would be no purpose in issuing regulations, since title VI would not authorize imposition of any requirements on recipients of social security payments.

In such cases, the actions required by title VI to effectuate the policy of section 601 would consist simply in continuing to pursue the agency's existing policies and procedures and to enforce requirements already in existence, by the use of powers conferred under existing laws. Use of "may," in line 6, indicates that issuance of new rules and regulations is not required where an agency's existing regulations, procedures and policies are adequate to effectuate section 601.

If an agency does impose any new requirement on recipients of Federal assistance, or on public or private agencies which participate in administering an assistance program, it is clear that it must embody such requirement in a rule, a regulation or an order which must (a) be of general applicability, (b) be consistent with achievement of the objectives of the assistance statute, and (c) be approved by the President. This intention was made explicit in statements by Congressmen RODINO and LINDSAY, CONGRESSIONAL RECORD, February 7, 1964, page 2467. There would be no objection to making a like intention explicit in the Senate.

I call to the attention of the Senate in particular the first sentence of the third paragraph of the memorandum. It states:

It is not intended that each Federal department or agency subject to title VI must issue rules, regulations, or orders implementing section 601.

Thus, according to this memorandum, it is intended that action or actions may be taken in some manner that does not conform to the safeguard provisions set forth in section 602.

I particularly call this matter to the attention of the able junior Senator from Montana [Mr. METCALF], because the document delivered to me by the Department of Justice seems to me to make perfectly plain that the actions may be taken in some manner other than in conformity with the so-called safeguard provisions.

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

Mr. GORE. I yield.

Mr. METCALF. So far as legislative intent is concerned there must be a rule or regulation of general application; but, as the distinguished Senator from Tennessee has pointed out, the use of the word "may" makes the general legislative intent ambiguous. Perhaps the word should be "must," or some other word of general application.

Mr. GORE. If I may use nonlegal language, the first rule of construction of legislative intent is that Congress intended to do what it did. And the word "may" does not mean "must"; does it?

Mr. METCALF. No. I am in accord with the distinguished Senator from Tennessee that the word "may" in legislative phraseology has become a word of art and has a special meaning.

Mr. GORE. And connotes discretion.

Mr. METCALF. It would seem to me that we should try to avoid the case-by-case approach, or, as the Senator has pointed out, the ad hoc approach to the establishment of general rules and regulations.

Mr. GORE. I agree. I thank the Senator for his contribution.

The memorandum which I read states that action might be taken under existing authority found in the statutes authorizing some Federal programs, and a footnote to the memorandum cites among other things, Executive Order No. 11063, the President's Executive order on housing.

The fifth paragraph of the memorandum states:

If an agency does impose any new requirement on recipients of Federal assistance, or on public or private agencies which participate in administering an assistance program, it is clear that it must embody such requirement in a rule, a regulation or an order—

The memorandum thus asserts that "it is clear" that the procedural safeguards must be followed with respect to any "new requirement." This is not at all clear to me, Mr. President.

As I understood, those were essentially the views the senior Senator from Pennsylvania [Mr. CLARK] and the senior Senator from New Jersey [Mr. CASE] were expressing.

The intent of those who drafted the language of the proposed bill may have been clear to themselves. The word "may" however, clearly denotes the alternative. If the procedures provided for action under a "rule, regulation, or order of general applicability" are to be mandatory for any action taken pursuant to the authority of this bill, the word "shall" or "must" should be used.

As the Senator from Montana [Mr. METCALF] has stated so well, the word "may" has a legislative history with which all of us are are familiar. I think we must be advised that many Federal agencies have taken wide latitude in the interpretation of the word "may."

It is my conclusion, Mr. President, that the meaning of the language is reasonably clear. According to that language, Federal aid may be terminated by action under the procedures set forth in title VI, or it may be taken pursuant to some other, unspecified procedure, perhaps on a case-by-case basis, as indicated by the senior Senator from New York, perhaps by Executive order under the broad authority of section 601, or perhaps in some other manner not yet decided upon by those who, under the broad authority of the bill, would administratively determine the law, choose the course or courses of action, and administer the law, if the proposed bill is enacted in its present form.

If some means is available by which Federal aid may be terminated other than by following the procedures outlined in section 602, it ought to be spelled out in detail. If such vast and potentially oppressive power is to be conferred upon the executive branch of the Federal Government, then it should be done in specific terms, with both the scope and limitations of the power precisely understood.

If we assume that the interpretation of the language as contained in the memorandum is correct, what is included in the term "agency"? Is the President of the United States an "agency" under terms of the proposed bill?

To go back to the first sentence of section 602, it provides that each "Federal department and agency" shall take action.

There is no discretion there. The word "may" is not used. It is positive.

Is the President of the United States included in that phrase? I do not know. If the President of the United States, however, may take action by Executive order under the broad language of section 601, without regard to section 602, then the so-called safeguard procedures outlined in section 602 could be almost meaningless. Moreover the House amendment adding the words "except a contract of guaranty or insurance" would likewise be meaningless.

I do not have the answer to these questions, Mr. President. However, I would say to those who would rely upon the safeguard provisions of section 602 that a word of caution is in order.

I would also say to those who believe that Executive Order No. 11063 would continue in effect after passage of the bill, and especially to those who think it should continue and should be broadened, that they should take a long look at the authorities cited by the junior Senator from Alabama.

Finally, I say to those who believe that the House amendment excluding contracts of insurance or guaranty would preclude any action being taken with reference to such programs, that they had best take another look at the bill.

My own conclusion is that there is no certainty at all about limits on the coverage of title VI and there is no certainty at all about the means by which its purpose might be implemented.

There is another aspect of the language of section 602 about which I am very much concerned. This section authorizes, upon a finding of discrimination, "the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding."

Neither the bill nor the report defines the word "recipient." In the absence of any language defining or limiting the word, I assume that it refers to any person, agency, or governmental unit that receives financial assistance from the Federal Government. In the absence of definition, this would appear to be a reasonable interpretation, if not an obvious one.

Not all our Federal programs operate the same way—as all Senators know. In fact, I do not know of any two which are identical. In programs of direct financial assistance to a person, such as social security and Veterans' Administration pensions, the relationship is between the Government and the individual. In these programs the individual is the recipient. I do not know how there can be a question about that.

I do not understand that these programs are covered by the bill, but even here one cannot be absolutely certain about it. Conceivably, they would be covered under a construction of the bill by which section 601 is not limited by section 602.

Mr. SPARKMAN. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I am glad to yield.

Mr. SPARKMAN. I commend the Senator from Tennessee for bringing up the serious and detailed discussion of title VI, particularly of sections 601 and 602 and their uncertainties, as he terms them, as well as the lack of certainty in other provisions. He has amply demonstrated that there is much to be desired in clarification—which applies not only to title VI, but also to other provisions in the bill. I heartily join the Senator in his comments on the fact that the civil rights bill did not go to committee, where these uncertainties could be studied carefully, discussed, and straightened out. However, as he said, it is too late for that now.

The Senator apparently did me the honor to read the remarks I made with reference to sections 601 and 602, particularly with reference to the Celler amendment.

Mr. GORE. I heard the Senator's speech.

Mr. SPARKMAN. The Senator has done me an even greater honor to listen through——

Mr. GORE. I did not hear it all. Do not push me too far.

Mr. SPARKMAN. I did not say all the way through. I said "through." I was referring to the part to which he did listen.

The Senator knows about the questions which were put to Representative CELLER on the floor of the House at the time when the Representative offered his amendment. The comments made by other Representatives showed clearly that there was no common agreement among the Members of the House when the amendment was put in. I noted at the time that Representative CELLER stated the amendment was offered because so many protests had been made against it.

Did the Senator read the article in the Cornell Law Review—I believe that is the name—written by Professor Bickel, of Yale University? I believe he quoted from it.

Mr. GORE. The Senator is correct; I did refer to authorities cited by the Senator from Alabama.

Mr. SPARKMAN. This distinguished professor of law at Yale University said when the statement was made, that the addition of the amendment did not in any way affect the President's Executive order. The professor said it was not a clarification of the record, but was a statement of an opinion of the law, and it was wrong. He said:

> If these statements express anything, it is a wistful desire on the part of Messrs. CELLER and CORMAN to have their cake and eat it, too.

Mr. CORMAN thought he could have it both ways, because the Executive order rests on authority other than title VI of the bill. But now Mr. Bickel goes on to say—I shall not read it in detail—that it was simply a wrong conclusion of the law; that Congress, having moved into the field with this provision, preempted the field, not only so far as the Executive order pertains now, but even that it would prevent the President from having the authority to move in, in the future, because the field would have been preempted by Congress.

I have maintained that all along. The Senator may recall that shortly after the President issued his Executive order, I placed in the RECORD a brief to the effect that the Executvie order was not valid in the beginning.

Mr. Bickel, by the way, is in favor of this proposed legislation; but I believe he is like the Senator from Tennessee—he believes that any word used in the bill should be such that people would know what it meant. But I submitted a brief, at the time, to show that the President—at least, to my satisfaction—did not have authority to issue the Executive order. If I correctly construe Mr. Bickel's statement, he arrived at the same conclusion, because he calls attention to the fact—I believe he does in the article—that on six different occasions Congress had had an opportunity to vote the substance of the President's Executive order, but voted the other way—in short, turned it down on six occasions.

Therefore, it could show the congressional intent. However, even if it

did not show the congressional intent, certainly the writing of this provision into law shows the congressional intent and, according to Mr. Bickel, preempts the field. I personally believe Mr. Bickel is right. I was impressed by his writings.

Mr. GORE. Mr. President, first I thank my distinguished friend from Alabama, my neighbor, for his generous references to me. Next, I thank him for his contribution to the debate on the bill, particularly his contribution to the development of my thoughts.

I am not necessarily persuaded to his point of view. I find his arguments and the authorities he cites quite interesting. However, I should like to ask the question: Unless the Executive order is affected, what is the result of section 602? It seems to me, unless it is affected, a much broader authority would, by section 601, be conferred upon the President, an authority which might affect the disposition of an individual home by the owner thereof.

What I am trying to say is that here is an area of great doubt.

Able Senators say that the Executive order of the President will be invalidated by the passage of title VI. Other Senators say it would be unaffected. I say if it is unaffected, there is a grant of power in title VI which is considerably broader than the Executive order on housing. I ask the Senate if it wishes thus blindly to legislate?

We ought to understand what we are doing, as the distinguished Senator from Montana said in better language than I have used.

Mr. SPARKMAN. Mr. President, I certainly believe the Senator is right, that there should be written into the bill language which can be read and understood, and which will point out plainly and clearly what is intended.

However, with reference to what would be the effect on the President's Executive order, I remind the Senator that the President's Executive order covers contracts of insurance and guarantees.

Those are specifically excluded; and Representative CELLER, who offered the amendment and managed the bill on the floor of the House, said contracts of that type would not come under the provisions of the bill.

He seemed to feel, however, that other types of housing which the President's order affected would come under the provisions of the bill. The President's order affected not only FHA and VA housing, but also affected public housing, direct loans, and all types of subsidized housing. Frankly, it was my understanding that what started the amendment on its way was the desire to make certain that banks and savings and loan institutions would not be covered. The amendment that was written into the bill in the House makes no reference to banks and savings and loan institutions. They were not covered by the President's Executive order. The language which went into the bill limited itself to two types, and those are contracts of insurance and guarantees. Those are plainly FHA insurance contract and VA guarantees of GI loans.

It seems to me that Professor Bickel is correct in his statement when he uses that good, old, timeworn phrase of someone "trying to have his cake and eat it too." It cannot be done. I believe it is an inescapable conclusion that if the bill becomes law, the Executive order will go out, and will not be capable of coming back in.

Mr. GORE. I find a great deal of merit in the Senator's presentation. I have reviewed the authorities he has cited. I have not read all the Supreme Court decisions, but I have read some of the citations. The fact stands that there are many Senators who hold divergent views.

Mr. SPARKMAN. Sometimes, one view one day, and another view a subsequent day.

Mr. GORE. That is permissible in this body. I am trying, in my efforts today, to point out the uncertainties in the language of title VI, and to indicate to the Senate my strong feeling that we should be more precise and more specific in dealing with programs of Federal assistance. It is a very serious matter for Congress to authorize the denial of Federal assistance, or the threat of denial of Federal assistance, as a means of forcing and compelling compliance with some Federal official's definition of discrimination. This is a very broad grant of power, which, in the wrong hands, might become oppressive. It is a power which I would grant with great reluctance, and only if I understood precisely what power was being granted.

Mr. SPARKMAN. I agree completely with the distinguished Senator from Tennessee. He is making a great contribution in pointing out the uncertainties and ambiguities and weaknesses. As I have said, the language seems to be the product of very bad legislative drafting.

The Senator refers to discrimination. Of course he has heard that term used many times. I have said something about it on several occasions. However, nowhere—and the Senator has made this point—in this great omnibus bill is the term "discrimination" defined. Does not the Senator agree with me?

Mr. GORE. I agree.

Mr. SPARKMAN. The Senator was a practicing attorney.

Mr. GORE. Not much.

Mr. SPARKMAN. He is a skilled lawyer. He does not practice now, of course, because I know he cannot practice very much now.

Mr. GORE. My wife is in the gallery. She was a much better lawyer than I was.

Mr. SPARKMAN. Perhaps the Senator should get her opinion on it. How in the world could an indictment which would be upheld in a case of discrimination be drawn? No definition, no standard, no guideline whatever is set forth in the bill itself. How would a judge charge a jury? Perhaps that is the reason why a trial by jury is proposed to be denied in some of these cases. The judge would be relieved of the duty of charging the jury. How could he charge the jury as to what discrimination is, when no guidelines, no standards, no definitions are laid down in the bill?

Mr. GORE. I thank the Senator from Alabama. Many Federal-aid programs bring about a direct relationship between a Federal Government agency and a citizen of the country, such as the Veterans' Administration pension program, which I have cited.

Other programs are administered by the several States. In those programs the contractual relationship is between the Federal Government and the State.

In still other programs, there is a direct relationship between the Federal Government and a local subdivision, such as a school district or a city. In still others, the relationship may be between the Federal Government and a private organization. Thus, the identity of the "recipient" of assistance may vary from program to program. In the case of those programs which are administered by the State and in which the contractual relationship is between the Federal Government and the State, the State is the recipient rather than the individual who may ultimately receive financial benefit. The bill would authorize the termination of Federal aid to an entire State for such programs even though the allegation of discrimination pertains to only one county or township within a State.

Earlier when I made this statement, the Senator from New Jersey [Mr. CASE] entered a demurrer. I shall now proceed to demonstrate, I think beyond a peradventure of doubt, that this is true. I see no justification for vesting in a Federal official the power to withhold Federal aid to the school lunch program for the children of an entire State who are wholly without responsibility for or means of correction of alleged wrongs, because some local official has practiced or has allegedly practiced discrimination. Oh, I have been assured over and over that this would not be done. But as a legislator, I am concerned with what could legally be done by terms of a bill if enacted, rather than what would probably be done.

Mr. President, the State of Tennessee, which I have the honor, in part, to represent, is a State of great diversity in its geography, its economy, and in its population. There are counties in Tennessee which have not a single Negro resident. There are other counties in Tennessee in which a majority of the residents are Negroes. There are counties which have a substantial Negro population but which have entire communities in which there are no Negro residents.

It would seem to me wholly unwise to penalize citizens of one section of a State because of some alleged discriminatory action by a local official in another section of the State, a State 600 miles long and so diversified. Yet such action is authorized by title VI. I propose to demonstrate that.

I have also raised this question earlier during the debate. Those with whom I have engaged in colloquy agree that the bill confers authority to terminate aid on a statewide basis. It is asserted, however, that such action would be taken only in the most drastic of circumstances and only if all other means of eliminating

discrimination should fail. The Department of Justice or its representatives appear to hold the same view.

The representative of the Department who visited my office left there certain materials which included, among other things, a series of hypothetical questions and answers about various provisions of the bill. I invite the attention of the Senate to certain questions and answers as they appeared in the document which was left in my office:

Question. Suppose a State or locality, in administering unemployment compensation, requires its offices to maintain separate waiting lines for white and Negro recipients. Would all workmen's compensation payments to the State or locality be terminated?

Answer. Such separate lines would clearly be inconsistent with title VI. Hence the Federal agency would have authority to cut off all unemployment assistance until this form of segregation was ended. However, it is not expected that such a drastic step would be taken. Title VI is not intended to be punitive; to deprive all recipients of aid could result in great harm to many innocent individuals who desperately require assistance. Thus, for example, the agency might provide that certain administrative costs would be disallowed if such a segregation practice were followed. Or it might obtain contractual agreements from the States not to engage in such segregation, and bring suit to enforce the contract. In general, it is expected that Federal agencies would not cut off assistance where other means of enforcing nondiscrimination requirements could be found. Before taking any compliance action the agency would have to (1) try to obtain compliance by voluntary means; (2) afford the State agency a hearing; and (3) if funds are to be cut off file a written report with the appropriate congressional committees.

Question. If a number of localities in a State discriminate in connection with a program receiving Federal financial assistance, could all assistance to the State under the program be cut off? Would the same result follow if only one city or town in the State practiced such discrimination?

Answer. It would depend on the circumstances and the way in which the Federal assistance is administered.

I digress to invite the attention of Senators, who say that this could not be done, to this specific question, hypothetically placed and hypothetically answered by, I take it, the Department of Justice in a document delivered to my office by an officer of the Department of Justice. I continue to read:

Under section 602 assistance could be terminated or refused only to a "recipient as to whom there has been an express finding of failure to comply" with a nondiscrimination requirement adopted pursuant to that section. If under a particular program, the State is the recipient, then action could be taken with respect to the State on a finding of failure by the State to comply with such a requirement.

I digress to say that unless a State complies fully, then it is not in compliance. Unless every county conforms, the State is not fully complying. I continue to read the answer:

If the discrimination were required by State law, or by a plan approved by the State, a Federal agency might be justified in concluding that all recipients of aid in the State would discriminate, without having to make separate investigations and findings as to each locality receiving aid. In most cases, however, a separate finding and order as to each particular locality would probably be necessary. Thus, absent some basis for finding that the State were responsible for the discrimination, it would be expected that action would be taken only with respect to the local unit or units (e.g., the cities, towns, or counties actually involved).

Mr. ERVIN. Mr. President, will the Senator from Tennessee yield for two questions which I think are relevant to the subject he is now discussing?

Mr. GORE. I yield.

Mr. ERVIN. Does not the Senator from Tennessee know that the President, whoever he might be, would depend upon the Department of Justice to interpret the meaning of this act for his guidance?

Mr. GORE. The Department of Justice, or some other agency.

Mr. ERVIN. Does not the Senator from Tennessee know that the Department of Justice is involved now in litigation which involves the closing of the public schools of Prince Edward County, Va., and that the Department of Justice has taken the position in that particular case that the State of Virginia must deny the use of the public schools to all the schoolchildren in all other areas of Virginia unless they open the schools of Prince Edward County?

Mr. GORE. I was not aware of that contention.

Mr. ERVIN. Would the Senator from Tennessee accept my assurance that that is the position of the Department of Justice in that case, and that the Department of Justice bases its contention upon the theory that if public education is denied to the schoolchildren in one county and granted to the children of another county in the State, that that constitutes a denial of equal protection of the laws?

Mr. GORE. I thank the Senator for giving me that information.

I continue to read:

Question. Would assistance be cut off to a private institution which engaged in segregation, where the segregation is required by the State?

Answer. The requirements of title VI apply "notwithstanding any inconsistent provision of any other law." Moreover, any State law or policy requiring segregation would clearly be unconstitutional. Hence no such law or policy would excuse a failure to comply with a nondiscrimination requirement imposed pursuant to section 602. Whether aid would be cut off, or the nondiscrimination requirement would be enforced in some other way, would depend on the circumstances.

Question. If an agency administers two aid programs, and a person who received assistance under both engages in discrimination in connection with one and not the other, could assistance be cut off as to both programs?

Answer. No. There would have to be a finding of discrimination in connection with each program for which aid is terminated or refused.

Question. Would Federal milk or school lunch programs be terminated because a school was segregated?

Answer. The Federal agency could require that the school distributing milk and lunches refrain from segregation. It would have legal authority to enforce that requirement by terminating or refusing assistance. But it is not expected that such programs would be terminated so long as milk and food were made equally available to white and Negro children alike. Such termination would be inappropriate in view of the fact that other means of ending segregation were available which did not involve denying needed food to growing children. It would be more appropriate, and more consistent with the objectives of the milk and school lunch programs, for example, to rely on suits by parents or by the Attorney General under title IV of H.R. 7152, as the method of bringing an end to segregation.

Again, it should be emphasized that before any funds could be refused or terminated there would have to be (1) an effort to obtain compliance by voluntary means, (2) or hearing, and (3) a full report to the appropriate committees of Congress.

I am struck, Mr. President, by the repeated use in these answers of such phrases as "in general," "it is expected," "dependent upon the circumstances," "in most cases," "probably."

I do not question in any way the good faith of those who drafted title VI nor do I in any way question the good faith of those who predict the manner in which it would be administered.

I do not question the good faith of the President of the United States or of any person now holding office in the executive branch. I am confident that this administration would not withhold aid unless the circumstances were deemed by them to require it. I accept the statements made on the floor of the Senate that it is not intended that the provisions of this section be used for punitive or vindictive reasons.

But, Mr. President, Congress should not enact a law in reliance upon the good intentions of those who, now, or in the indefinite future, will administer it. We do not know who those persons will be. If this bill should be enacted into law, it will be on the statute books permanently unless repealed. And repeal of a law, the retention of which is favored by the Chief Executive, requires a two-thirds vote of both Houses of Congress. So, let us not deal lightly with the law we seek to enact here.

In my opinion, the only safe manner in which to proceed is to assume that power which is granted will be used. Let us suppose that at some time in the indefinite future this country might find itself with an administration that might withhold Federal aid, or threaten to withhold Federal aid for political purposes.

I do not think this is likely to occur. I surely would hope it does not occur. But the fact remains that title VI confers authority to withhold or to threaten to withhold aid from States, or from a geographical area of the country. No standards are set forth to guide those who administer the law in reaching their determination as to what constitutes discrimination. By and large, the decisions would be made on subjective factors. To me, it is not inconceivable that Federal aid to some area might be terminated at some time in the future as a form of political reprisal or that termination of aid might be threatened to bring about political action.

In enacting legislation, the only safe course is to consider what is possible rather than merely what is probable. I would point out again that whenever a decision is made to terminate aid, even if made under the so-called safeguard procedures of section 602, that decision

can be overturned only if the aggrieved party is able to demonstrate in court that there was no substantial evidence at all to constitute a basis of the administrative action. This, as the junior Senator from Montana [Mr. METCALF] and I are agreed, is insufficient.

Here again, the difficulty arises, in large measure, because of the effort to enact a law in general that almost defies the art of legislative draftsmanship. Federal programs involving financial assistance are numerous. They are specific. They are enacted for different purposes and they operate in accordance with different procedures. Title VI would have the effect of amending all of these laws. I do not know that any comprehensive list has even been compiled of all of the laws that would be affected by title VI. Title VI itself is only slightly more than two pages long. A mere listing of the aid laws by title that the pending bill would affect would probably occupy much more space.

If Congress intends to provide for the termination, or the threat of termination, of Federal aid as a means of eliminating discrimination, it ought to do so by amendment of the specific acts concerned. How else will we know exactly what we are doing?

There are simply too many uncertainties in the language of title VI as it is now drafted. Even if these uncertainties are resolved by amendment, however, there would still be a serious question about the wisdom of authorizing or directing the termination, or threat of termination, of Federal aid under the approach followed by title VI of the pending bill. Federal aid programs, as I have said, are myriad. In some instances aid goes to those who are affluent, but let us not forget that aid goes, too, to many who have not reached the age of accountability and, also, to many who have long passed it.

I have already adverted to the fact that title VI would, in practical terms, amend numerous statutes authorizing various types of Government programs. In effect, should title VI be enacted into law, the terms and conditions upon which Federal aid would be extended for a variety of purposes would be subjected to new requirements.

There is no question but that the Congress has full authority to impose conditions upon the extension of Federal aid. Congress has always done so. Only those who meet whatever conditions are specified in the statute authorizing the program are entitled to receive aid under it.

As I have said, Congress has always imposed such conditions. Only Congress should do so. We should not delegate the authority to determine the conditions of eligibility for aid. This is a legislative responsibility, one of the responsibilities which our constituents chose us to exercise.

Our Government is one in which the authority is divided between three coordinate branches. The powers granted to the legislative branch, the judicial branch, and the executive branch by the Constitution are such as to provide a system of checks and balances. Of all the power granted to Congress, the power of the purse is by far the most important. It is the power that has been most zealously and jealously guarded by Congress down through the years.

In recent years Presidents have requested that Congress give to the Executive what has been called the item veto, authority which would permit the President to veto one part of an appropriation bill without destroying the validity of other items in it. Congress has never even come close to granting such authority to the President. It has refused to do so out of a realization that such action would constitute a serious diminution of congressional power over the expenditure of funds.

The authority which would be conveyed by title VI is in some respects more far reaching than would be an item veto. If enacted into law, title VI could be so administered as to constitute a geographic veto, with the executive department making the determination as to those geographic areas in which money would be spent and those in which it would not.

I emphasize again that title VI sets forth no standards at all as to what constitutes discrimination. It does not undertake to specify the acts which would be prohibited, nor does it set forth the conditions which would have to be met to make a recipient eligible to continue receiving Federal aid. There are no indexes either for those who would administer the law or for the courts.

Under title VI, as now drafted, the standards and the guidelines would be developed by the executive department. Should title VI be enacted, the Congress will have delegated to the Executive a significant measure of congressional control over the expenditure of funds. There are those who assert that in recent years there has been a trend toward a shift of power from the Congress to the Executive. There is some basis for such an assertion. If Congress should now delegate to the Executive the authority to specify the conditions upon which Federal funds would be expended, the trend will be accelerated. If we take such action in the name of civil rights, for what other purposes will we be called upon to do it again?

I am not here undertaking to raise a constitutional question. Other Senators have suggested that title VI constitutes an attempt at an unconstitutional delegation of the power to legislate. Whether the delegation of authority is so extensive as to contravene the Constitution is open to question. There is no question in my mind, however, that to delegate such authority to the President, as contemplated in title VI of the pending bill, would be most unwise.

I hope that the remarks that I have made today will not be interpreted as indicating hostility to a reasonable civil rights bill. On the contrary, I supported the civil rights bills of 1957 and 1960. I hope the pending bill will be so modified that I can conscientiously support it. I cannot do so in its present form.

Mr. ERVIN. Mr. President, will the Senator yield to me for a question?

Mr. GORE. I yield.

Mr. ERVIN. I should like to say that the Senator from Tennessee has made the most accurate analysis of title VI which could possibly be made.

Mr. GORE. I am very grateful for that generous statement.

Mr. METCALF. Mr. President, will the Senator from Tennessee yield to me for a moment?

Mr. GORE. I yield.

Mr. METCALF. The Senator from Tennessee has made a contribution to the debate in laying before the Senate the questions he has raised as to the legislative language and the legislative intent of title VI. I compliment the Senator from Tennessee for the very able statement he has made.

Mr. GORE. I thank my friend very sincerely.

Mr. ERVIN. Mr. President, I rise in opposition to the substitute amendment offered by the majority leader, the Senator from Montana [Mr. MANSFIELD], and the minority leader, the Senator from Illinois [Mr. DIRKSEN], to the amendment proposed by the able and distinguished junior Senator from Georgia [Mr. TALMADGE], on behalf of himself, the able and distinguished junior Senator from Virginia [Mr. ROBERTSON], the able and distinguished junior Senator from South Carolina [Mr. THURMOND], and myself.

The proposed substitute amendment is a very queer amendment. It would be rather peculiar in its contents and implications if it were offered as a separate piece of proposed legislation or as an amendment to any bill other than the pending bill. But its peculiarity is very much multiplied when it is offered as an amendment to a bill which professes to be opposed to segregation and discrimination. The substitute amendment would engage in segregation itself. I make that statement because it would first place all people accused in cases charging criminal contempt into one class by themselves, and by so doing it would segregate them from all other litigants in the courts of the United States. I am fundamentally opposed to segregation of that class or kind because I believe that any system of law which makes any pretense to be an instrument for the administration of justice would have as its most basic requirement that all laws should apply alike to all men in like circumstances.

The pending bill not only takes a certain group or certain category of litigants and segregates them from all other litigants in the courts of the United States, but it also practices discrimination against them after it has segregated them.

It discriminates against the accused charged with criminal contempt in civil rights cases by denying them a right—and a most substantial right—which the Constitution of the United States gives, and which all of the Members of the Senate would be willing to give, by common consent, to persons charged with the most reprehensible crimes known to the law.

I have to confess that I am unable to understand why there should be any reluctance on the part of any Senator of the United States to give to people a right which belongs to murderers,

burglars, rapists, counterfeiters, narcotic peddlers, persons charged with treason against their country, and common thieves, simply because those persons happen to be charged with criminal contempt in civil rights cases.

However, the amendment in the nature of a substitute is in complete harmony with the other provisions of the bill, which contains 55 pages, and constitutes the most monstrous blueprint for governmental tyranny ever presented to a Congress of the United States.

However, the proposed amendment, in the nature of a substitute, is in complete harmony with the other provisions of the pending bill. The bill is based upon the strange thesis that the best way to promote the civil rights of some Americans is to rob all Americans of civil rights equally as precious, and to reduce the supposedly sovereign States to meaningless zeros upon the Nation's map. That is the way in which the pending bill would operate.

It has been the boast of Americans in all their generations that this country believes in freedom of the individual. The bill is designed to rob all Americans of some of their most precious economic, legal, personal, and property rights.

It is a part of an intemperate movement backed by some people who are sincere but misguided, and by others who are merely exploiting the supposed beneficiaries of the bill.

It is a movement in entire harmony with the regulations recently adopted by the Commissioners of the District of Columbia, regulations which undertake to rob all residents of the District of Columbia of the legal right to select the persons to whom they shall sell their property or the persons to whom they shall rent their property.

Under those regulations of the District of Columbia, which represent a part of the movement which backs this bill, a person in the District of Columbia is actually robbed to a very substantial degree of the right of freedom of speech in racial matters, notwithstanding the fact that the provisions of the first amendment apply to the District of Columbia just as much as they apply to all other places under the American flag.

Under the existing regulations of the District of Columbia, an individual can actually be placed in jail and fined if he goes to his neighbor in a residential section inhabited by members of his neighbor's race and attempts to persuade his neighbor to sell his property to a member of his neighbor's race in preference to a member of some other race.

We have reached a tragic day in the history of the Nation—whose National Anthem calls it "The land of the free and the home of the brave"—when a man can be sent to jail and fined as a criminal in the Capital of that Nation, merely because he exercises freedom of speech.

## ORDER OF BUSINESS

Mr. ERVIN. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. ERVIN. I should like to make a unanimous-consent request for the purpose of conveniencing the able and distinguished senior Senator from California [Mr. KUCHEL]. He was going to speak after the last speaker had finished, and it was my purpose to postpone my remarks until the Senator from California had completed his.

Unfortunately, the Senator from California was called away from the Chamber just before the time the floor became vacant, by a delegation of constituents on a matter affecting his State. I should like to carry out the agreement, provided that in so doing I am not prejudiced in my rights to the floor.

For this reason, I ask unanimous consent that I may yield to the Senator from California to enable him to make his address at this time, and that what I have said thus far shall not count as a speech on the pending business, but that I may have the privilege of resuming it at a later time and completing what I have so far embarked upon.

Mr. KUCHEL. Mr. President, so that there may be no misunderstanding, first of all let me say I am grateful to the Senator from North Carolina for his courtesy to me. When he says, "at a later time," he means when I have finished my comments this afternoon; does he?

Mr. ERVIN. I did not understand the Senator.

Mr. KUCHEL. Will the Senator continue his remarks when I conclude?

Mr. ERVIN. I shall continue my speech, of which I have uttered only a few paragraphs, either today or at a later day. If I am not reached in time today, I would wish to continue at a later time.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Senator from California is recognized.

Mr. KUCHEL. Mr. President, I am very grateful to the Senator from North Carolina for yielding to me.

Mr. ERVIN. I am glad to accommodate the Senator from California.

## PROTECTING THE PRESENT USERS OF LOWER COLORADO RIVER WATER

Mr. KUCHEL. Mr. President, the Nation as a whole is well aware of the attributes of climate, open space and beauty which make the Pacific Southwest area one of the most attractive regions of our country. But this vast area, otherwise so richly endowed by nature, suffers one shortcoming which has troubled the people living there as they have tried to provide for the additional millions who choose to live there with the passing of each succeeding year.

Today, I wish to discuss that shortcoming and to urge the reaffirmation by Congress of one basic historic principle, upon which must be based all future progress in meeting the challenge of tomorrow, for my State, and for our immediate neighbors.

### PACIFIC SOUTHWEST WATER SHORTAGE

The Pacific Southwest includes the lower Colorado River drainage basin and the area served from it—altogether a great deal of Arizona, southern Nevada, southern California, southern Utah, and western New Mexico.

The problem of which I speak is the shortage of water within that region. The geographic scope of the problem really encompasses States to the north and also Mexico. But pressing on us now is the near crisis in the Pacific Southwest itself. The only present significant source of surface water in the region is the Colorado River system—mainstream and tributaries. The underground water is quite limited and the mining of water in the entire area has resulted in an overdraft of that supply already.

It has long been recognized that the Colorado River system, which drains and serves parts of seven States, could not adequately meet all the ultimate needs of the Pacific Southwest. The States lower on the river have had to reckon with the understandable claim on the river made by the upstream States. Utah, Colorado, Wyoming, and New Mexico are known as the Upper Colorado River Basin States, though Arizona does have a small area in the Upper Basin also. The States of Arizona, California, and Nevada constitute the Lower Colorado River Basin States, though Utah and New Mexico also have small areas in the Lower Basin.

### EARLY HISTORY OF DEVELOPMENT

Although diversions from the Colorado River had been undertaken by aborigine Indians, and then by original settlers throughout the area, the first substantial use of the Colorado River in modern times was proposed and effected by forward-looking Californians. The first irrigation system on the river was that in the Palo Verde Valley in 1877. Later in the 19th century, the industrious people of the Imperial Valley of southern California took upon themselves the task of establishing diversion works on the river and a canal running partly through Mexico to deliver water to their rich valley. Their diversion began in 1901.

But the Imperial Valley was below sea level. In 1905 the river broke into the valley. Herculean efforts were required to seal the breach. From this time forward, the people of the Nation were increasingly conscious of the necessity for a flood control dam on the Colorado.

Another problem was that the international route of the Imperial Valley canal subjected the water supply of this area to the jurisdiction of our sister nation, Mexico.

### PROPOSAL FOR BOULDER DAM AND ALL-AMERICAN CANAL

The concept arose for a great dam on the Colorado to control floods and conserve water for use in the United States—water otherwise wasting to the Gulf of California—and, as part of the same project, the construction of an all-American canal to serve the Imperial and Coachella Valleys of California.

In recognition of the interstate and national scope of the problem, the U.S. Department of the Interior, under a 1920 direction of the Congress, studied the matter. The conclusion reached in 1922 was that the U.S. Government should construct the proposed canal and dam,

the latter to be at Boulder Canyon upstream from California on the border between the States of Arizona and Nevada. The Boulder Canyon site was selected as the best storage and control point to regulate the river for diversions below that point in Arizona and California.

About 2 years later, the city of Los Angeles made appropriations of Colorado River water and began to spend millions of dollars on surveys and plans for a new aqueduct to take water from below Boulder Dam to the coastal plain of California. It is this Colorado River aqueduct that is now operated by the Metropolitan Water District of Southern California.

EARLY PROBLEMS

At this point in time, a long history of regrettable controversy over the Colorado River began. It was composed of several issues, many of which have now been resolved. The principle of law for which I argue today should help to minimize the remaining difficulties.

The proposal to build a great dam in the Lower Basin raised concern among the upper Colorado River States. This was because all seven Colorado River States recognize the time-proven and well-established principle of Western water law that he who first appropriates water to a beneficial use thereby acquires a right to continue that appropriation as against others who would seek to make competing uses later. Not only does this principle of "first in time, first in right" apply to intrastate waters, but is was clearly established, by a 1922 decision of the U.S. Supreme Court, in *Wyoming* v. *Colorado*, 259 U.S. 419, to apply to interstate waters of the Colorado River.

The four Upper Basin States were united in their fear of how that rule of law and the Lower Basin's more favorable topography, longer growing seasons and, particularly, California's great growth, would result in the rapid appropriation, by those below the dam, of the additional Colorado River water made usable by the dam's conservation of flood waters. Such development might have prevented the upper States from later being able to store and divert water for needs they saw farther in the future. But most people also saw the evil which would result from neglecting flood control and equitable development of the river.

THE COLORADO RIVER COMPACT

The solution was believed to lie in the provision of the Federal Constitution which authorizes compacts among States. In 1921 the Colorado River Basin States secured congressional approval to negotiate a compact which would apportion the Colorado River water among those several States, subject to ratification by Congress.

However, no agreement among the seven States could be reached as to the respective allocation to each. The best which could be achieved was an agreement, signed by the representatives of all States, to divide the entire basin into the upper and lower basins and apportion water between the two basins only. The division line runs across the drainage area roughly from above Gallup, N. Mex., in a northwesterly direction across the southwestern corner of Utah and into Nevada, traversing the main stream of the Colorado River at a point immediately within Arizona just south of the Utah border at what is known as Lee Ferry.

That Colorado River compact of 1922 apportioned to each basin in perpetuity the beneficial consumptive use of 7.5 million acre-feet of the water of the Colorado River system, which the compact defined as the Colorado River and its tributaries.

The compact further gave the lower basin, as a whole, the right to increase its beneficial consumptive use of Colorado River system waters by an additional 1 million acre-feet per annum.

It also provided that deliveries of water to Mexico under any obligation later recognized by the United States would be supplied first out of water above the first 16 million acre-feet divided between the upper and lower basins, and that if there was not sufficient water above that amount in order to meet the Mexican rights then the deficiency was to be borne equally by the two basins.

Further, in order to help assure that there would be sufficient water within the whole system of the lower basin to meet usage rights there, and perhaps part of the Mexican burden, the upper basin agreed that it would cause to deliver in the mainstream at Lee Ferry no less than 75 million acre-feet over each 10-year period. This upper basin obligation does not satisfy the lower basin's compact right to 7.5 million acre-feet per year in usage because more than 75 million acre-feet per 10 years must be let down at Lee Ferry in order to cover evaporation, seepage and other losses and the Mexican obligation. It had been thought that lower basin tributaries would contribute to the difference.

PROBLEMS RAISED BY ARIZONA'S REJECTING THE COMPACT

The Arizona State Legislature rejected the compact her negotiator had signed. Arizona objected to the inclusion in the compact of the Colorado River tributaries, primarily because she did not wish her principal tributary, the Gila—which supplies nearly 2 million acre-feet to water users in central Arizona—to be included when counting water charged against the lower basin's share of the water of the Colorado River system allocated under the compact.

Rejection by Arizona, combined with failure of the compact to determine each State's individual share of the water, created a great obstacle to authorization of the proposed Boulder Canyon Dam and All-American Canal. The upper-basin States feared, since Arizona indicated she would not become a party to the compact, that any interbasin division the other States agreed upon would be nullified. This fear was because Arizona's uses would not be charged against the lower basin's apportionment and California and Nevada would, therefore, be free to exhaust the total lower basin apportionment, while Arizona, free of the compact, would appropriate additional water resulting in less for the upper basin under the law of prior appropriation.

Further efforts were made to seek agreement which would permit ratification of the compact by all seven States. Since the upper basin was not yet ready for development and California was, attention was directed to apportionment of the lower basin share among the three States of Arizona, California, and Nevada. Agreement was never reached. Even today there is no compact dividing the lower basin's share of water under the 1922 compact among the three States of Arizona, California, and Nevada.

THE PROJECT ACT

Meanwhile, Californians were urging the Congress to follow through on the Department of the Interior's 1922 report and authorize the dam and All-American Canal together as the Boulder Canyon project. In 1928, following failure of the lower-basin States to agree in conferences held in 1925 and 1927, the Congress, under the leadership of one of the greatest Americans of all, my late, great, courageous, magnificent predecessor in the Senate, Hiram W. Johnson, passed a Boulder Canyon Project Act.

The Supreme Court of the United States recently interpreted that act, together with a California statute upon which Congress conditioned the project, plus water delivery contracts entered into by the Secretary of the Interior, to effect an apportionment of the mainstream water of the Colorado River, at and above 7.5 million acre-feet per year of beneficial consumptive use, among the States of Arizona, California, and Nevada. The Court excluded tributaries in the water accounting under the act—avoiding a decision on that point as to the compact.

As a condition to a Boulder Canyon project, the upper basin States had insisted upon protection against the risks raised by Arizona's refusal to ratify the 1922 compact. To effect this protection for the upper basin, the 1928 act provided that, if Arizona should not ratify the compact within 6 months, the act would not take effect unless all the other Colorado River Basin States did ratify and California agreed to limit its annual consumption of Colorado River water to 4.4 million acre-feet per year of the first 7.5 million in the lower basin plus one-half of any excess or surplus water over and above that amount.

Arizona did not ratify the compact within the time stipulated. California and the five other States did ratify, waiving seven-State ratification. California did accede to the dictates of Congress—by a 1929 act of her legislature self-imposing the limitation. Then the President proclaimed the effectiveness of the December 21, 1928, Boulder Canyon Project Act on June 25, 1929.

My good and dear friend, the dean of the Senate, Senator CARL HAYDEN, of Arizona, was on the scene at the time of consideration of the project act. In the 1928 debates he made explicit what everyone thought the act would assure to California. He said:

> The bill itself provides that a million acre-feet may be used in the vicinity of Los Angeles, and some 3½ million feet through the All-American Canal to irrigate the Imperial Valley. Then there is another half-million

which may be used in the vicinity of Yuma and the Paloverde [sic] Valley.

Senator HAYDEN went further to describe what the project meant to California in permanent benefits:

It means that there will be assured for all time to come an ample water supply for irrigation of the land in the Imperial Valley. It means that additional areas almost as large will be brought under cultivation in the State of California. On top of that it means that there will be a certain water supply in the Colorado River for use in the city of Los Angeles.

Then, the great Hiram Johnson replied for California:

The desideratum that ought to be a desideratum of everybody connected with this bill * * * should be entirely the ratification of the Colorado River compact.

Senator Johnson acknowledged that under the act there would be "put upon California the burden of enacting legislation by which it may never be permitted in the future to utilize more than 4,400,000 acre-feet of water for its people, no matter how great a space of time may elapse."

But, Senator Johnson also objected to any scheme which would increase that burden by resulting in cutting California's share below 4,400,000 acre-feet, down to 3,400,000 acre-feet, saying to Senator HAYDEN:

Now the Senator knows, and he knows just as well as I do, that not only are there perfected water rights exceeding that, but it would be an utter, absolute impossibility for us to go on with the plan that is ours in relation to the Imperial Valley and in relation to water for domestic purposes for the coastal cities with that quantity of water.

Mr. President, I continue now the honest cause so eloquently asserted by my illustrious predecessor; the cause of protecting California's users to the full extent of the 4.4 million acre-feet limitation. He did not lose this issue in the Congress. California has not been precluded on this issue by the Supreme Court decision. Anyone who says otherwise is wrong. The Court has done nothing more, on the precise issue now before us, than say that Congress did not make a decision in 1928 on what should be done if less than 7.5 million acre-feet is available for use from the mainstream in the lower basin. The Court simply referred the matter back to its original forum, the Congress, and I do not propose to abandon the cause now.

After the Project Act became effective, the Secretary of the Interior, in accordance with authority given him under the 1928 Project Act, entered into negotiations for contracts for the delivery of water to users in the lower basin. Before entering into contracts with any user in California, the Secretary insisted that the seven entities within California—two have combined so now there are six—who were to use California's share of the Colorado River, agree among themselves as to a proper division of that share. The so-called seven-party agreement of the California entities entitled to Colorado River water was thus entered into in 1931. It provides that the first 3.85 million acre-feet of California's share is to go to certain users, primarily agricultural, adjacent to or near the river, who had established early rights to the water. The next 1,212,000 acre-feet go to people on the coastal plain of southern California, primarily municipal and industrial users who acquire their water from the Metropolitan Water District Colorado River aqueduct. Under the intra-California agreement, a last priority of another 300,000 acre-feet per annum goes to supplement the supply of users having rights within the first 3.85 million acre-feet.

The Secretary then made U.S. contracts with the Californians totaling the 5,362,000 acre-feet, including water for rights which were "presently perfected" June 25, 1929. Eventually he was also to contract with Nevada for 300,000 acre-feet and with Arizona for 2,800,000 acre-feet of Colorado River water, all per annum.

ARIZONA'S RECOGNITION OF PROTECTION OF EXISTING USES

Even after congressional authorization of the project, Arizona continued to fight efforts to put California's share of the water to work. Senator HAYDEN testified against funding of the project because California would be enabled to put her water to use and thus assure her share, then and for the future, as against later conflicting uses which might be desired by Arizona. In testifying in 1930, Senator HAYDEN again made it clear that Congress was doing. He said.

What will happen is that the water of the Colorado River will be impounded in the Boulder Canyon Reservoir and made available for use; large quantities of water will be taken out of the Colorado River into the great All-American Canal, over 1 million acre-feet will be further taken out of the river by a pumping plant and taken over to the coastal plain of California in the vicinity of Los Angeles; they will be put to beneficial use; and, once having acquired a prior right to its use, no other State can obtain the use of those waters.

However, the money was made available and the project was built to the great benefit of the entire Nation. The decision supposedly made by the Boulder Canyon Project Act was, therefore, carried out by funding, by contracts for delivery, and by construction, in spite of Arizona's opposition. California water and power users underwrote the cost of construction of the dam, later named Hoover Dam, and All-American Canal.

Further steps were taken by Arizona to halt the project. Three lawsuits were brought by Arizona in the Supreme Court against other Colorado River Basin States. The first, decided in 1931, was an attempt to have both the Project Act and the compact declared unconstitutional. The Court held against Arizona. The other two later cases she brought were also decided against her.

Arizona's efforts to prevent California's establishment of prior uses took an even more strenuous expression in 1935. When the Government was building Parker Dam, below Hoover, to divert the water for the coastal plain of California—just as Senator HAYDEN predicted in 1928 and 1930—Arizona's Governor called out her militia to intervene with force of arms. The United States sued to enjoin that interference but lost because the Court found the Secretary of the Interior's authority was defective. But Congress then again indicated its intent and cured the defect in a 1935 statute which cleared the way for Parker Dam and the metropolitan water district aqueduct.

PERIOD OF PROGRESS

Further progress and steps toward resolving remaining controversies on the lower Colorado then followed. In 1941, the delivery of water through the All-American Canal and through the metropolitan water district's aqueduct began.

The period 1944–52 was marked by completion of the Coachella branch of the All-American Canal and the progressive development of other existing projects.

In 1944, the United States and Mexico entered into a treaty obligating the United States to deliver 1.5 million acre-feet of Colorado River water annually to Mexico.

When Arizona saw an advantage in signing a water delivery contract with the United States, she ratified the 1922 Colorado River Compact in 1944. In doing so, Arizona's Governor clearly indicated that his State recognized California's prior uses were valid and subsisting, and would prevail over any subsequent uses anyone would make of the river's waters.

When he proposed that Arizona become a party to the compact and sign a water delivery contract, Arizona's then Governor, Sidney Osborne, said:

Now, of course, we would like to take from California some of that 4,400,000 acre-feet of water, but neither unrecognized filings against it, nor wishful thinking on our part can accomplish that. The Federal Government, having expended tens of millions of dollars of the people's money to provide irrigation and power facilities for the use of this water in one State, will not wipe out that investment and divert that water to another State. Arizona cannot compel that any more than we can turn back the pages of history. The time has long since passed when Arizona could obtain the water which California has already put to beneficial use.

Mr. President, I point out this course of history on the Colorado River not to shame Arizona but to demonstrate that at all times all the States in a position to utilize Colorado River water, and specifically Arizona, recognized that establishment of beneficial use, including by California within her limitation, would give rise to a legal right to continue that use as against all later developments. That was the very meaning of the quantitative limit of 4.4 million placed on California's priorities. Thus, when Arizona finally ratified the compact and signed her water delivery contract with the United States in 1944, she knew that the most she could expect for her new uses was such water as California's prior uses did not require, subject to the overriding limitation on California.

The point is that the significance of the California limitation, like the significance of a boundary, is the recognition of the right to enjoy the water or property up to that limit. California gave up the significant right to establish legal priorities above the limitation. No basis for reducing her share below

4.4 million was agreed to by California in her Limitation Act of 1929, or in any other way, and she should not now agree to any such change in the solemn pact she made with Congress. And even if it might, Congress should not now attempt to recast that pact in such a way as to do violence to that reasonable expectation. For it would not be just hopes denied, but people—people now using the water.

NEW USES WOULD RAISE PROBLEMS

However, shortly after her ratification of the compact, Arizona began laying plans for new substantial diversions of the waters of the mainstream Colorado River below Boulder Canyon. One, the Gila project, which, despite its being named for a tributary, uses mainstream water exclusively, was authorized by the Congress in 1947. Arizona was warned that this was the last water available from the mainstream without a controversy with California—because of danger to the latter's prior existing uses.

But at that time Arizona launched her campaign for the so-called central Arizona project. When the House of Representatives refused to authorize it until the water availability question was determined, Arizona, in 1952, began the suit that the Supreme Court decided on June 3, 1963.

Two main problems gave rise to the controversy when Arizona proposed this new diversion of 1.2 million acre-feet per year.

First. Experience as to the total Colorado River runoff, since 1930, especially in the lower basin, made it apparent that the water supply might not be great enough to meet the project's demand.

Second. Arizona made a startling contention as to the method of computing the allocation of waters under the compact and the Boulder Canyon Project Act. Though her original theory was somewhat different, what she ultimately contended was that she should not be charged at all with her diversion of water from Colorado River tributaries within her borders.

Although both the compact and the project act referred to allocation of waters of the "Colorado River System," defined to include the mainstream and tributaries, Arizona maintained that she was entitled to 2.8 million acre-feet per annum from the Colorado mainstream in addition to all other uses she made from tributaries of the mainstream.

As I have indicated, the upper basin States are obligated not to deplete the mainstream below an aggregate of 75 million acre-feet of water in each 10-year period at Lee Ferry. This 10-year delivery obligation must not be confused with the per annum usage rights—it is only coincidence that the former is evenly divisible by the latter. Seepage and evaporation in the long route of the river to the points of diversions from it, plus the requirements of the Mexican treaty, all make it clear that unless one includes lower basin tributary water there just would not be enough water to meet all the annual use apportioned to the lower basin States by the compact. There would be enough water to meet all the 2.8, 4.4, and .3 million acre-feet per year in usage rights claimed by Arizona, California, and Nevada, respectively, under the project act—let alone any surplus upon which California had always relied—if tributaries are excluded from the water accounting and can be freely diverted.

California, having no tributaries and having existing uses already far in excess of 4.4 million acre-feet from the Colorado River mainstream, vigorously objected to any such interpretation of the law as Arizona urged. Indeed, this issue of water rights, when coupled with the realities of available water supply, made the central Arizona project's claims questionable to all clear-thinking Members of Congress. That was why in 1951 a resolution was introduced by a Representative from the State of Pennsylvania and passed by the House Committee on Interior and Insular Affairs, directing that the central Arizona project authorization legislation be held in abeyance pending a determination of the water rights question.

THE SUPREME COURT CASE

The U.S. Supreme Court was apparently the forum in which to resolve the controversy. The Court referred the case to a special master to hear the evidence and to recommend the content of a decision. Eventually, all five of the States having area in the Lower Colorado River Basin, plus the United States, became parties to the litigation.

The master's report was filed December 5, 1960, after a draft thereof had been previously circulated and after California's and New Mexico's requests to reopen the trial and take additional evidence had been denied.

The master resolved three crucial questions against California's interests.

First. He held that an allocation of water was made by the Boulder Canyon Project Act and the contracts entered into by the Secretary of the Interior. This was, he held, as to water of the Boulder Canyon reservoir and the main stream below the dam only. He thereby ruled with Arizona in her contention that she would be entitled to divert the water of any of the tributaries within her borders without having that water charged against the 2.8 million acre-feet allocated to her. Although the compact and the project act approving and, supposedly, implementing it each talked of the Colorado River system including tributaries, the master found that Arizona was entitled to 2.8 million acre-feet of the first 7.5 available from and below the Boulder Canyon reservoir.

Second. The master held that the mainstream of the Colorado River above the Boulder Canyon reservoir, Lake Mead, and below Lee Ferry was a tributary for the purposes at hand. This stretch of the mainstream lies entirely within Arizona and runs for some 275 miles. The master would have made it possible for Arizona to divert from the mainstream above Lake Mead without having such a diversion charged against her 2.8 million acre-feet share otherwise allocated to her.

Third. The master devised a formula as to the allocation of mainstream water when less than 7.5 million acre-feet total was available for use. Neither the compact nor the Project Act prescribes a formula in time of shortage. The formula the master devised was a proration formula, calling for the division of available water not on the widely accepted basis of satisfying existing prior uses first, but on the basis of giving to each State that portion of the available water equal in percentage to the portion to which it would be entitled if 7.5 million acre-feet were available. Under the master's formula for dividing the water when less than 7.5 million acre-feet is available, California, with contracts for 5,362 million acre-feet and 1963–64 existing uses of some 5.1 would be entitled not to 5.362 million, not to 5.1 million, not even to 4.4 million, but only to forty-four seventy-fifths of available water; Arizona, with 1963–64 existing projects capable of using some 1–1.2 million acre-feet from the mainstream, would be entitled to twenty-eight seventy-fifths of the supply; and Nevada, with minimal existing mainstream projects, would be entitled to three seventy-fifths. The master, without any basis in statute or legislative intent, would have overriden the prevailing principle of "first in time, first in right" which the Supreme Court, Arizona, California, and all other of the Colorado River Basin States had always applied to western water law, in general, and to the Colorado River, in specific. Congress has always followed that principle, too. It was widely thought that the Boulder Canyon Project Act implemented it also. Witness the earlier statements of Senator HAYDEN and Governor Osborne, which I have quoted.

But the master's report was subject to review by the full Supreme Court, absent Chief Justice Warren, who, because of his prior service as Governor of California, disqualified himself from participation.

On June 3, 1963, the Supreme Court announced its opinion in Arizona against California. The Court overturned some of the master's conclusions and adopted others. Some issues it saw fit not to decide. On the issue of whether diversions from tributaries were to be included in computing Arizona's 2.8 million acre-feet, the Court adopted the master's determination that the Boulder Canyon Project Act and the Secretary's contracts thereunder allocated Arizona that much water out of the mainstream. However, that holds, the Court said, only if there is at least 7.5 million acre-feet total available. More about this below.

As to the second issue, the Court rejected the master's characterization of the mainstream between Lake Mead and Lee Ferry as being a tributary and held that any diversions made by Arizona from that stretch of the river would be charged against her 2.8 million acre-feet per annum.

As to the third crucial issue, of what rule applies when less than 7.5 million acre-feet is available for use from the mainstream by the three Lower Basin States, the Court unanimously refused to adopt the master's pro ration formula.

The majority of five Justices held that no particular rule as to apportionment in

time of shortage was established by the act. The other three Justices would have upheld, as existing law, the application of the traditional protection of existing uses as against newly proposed ones. But the majority said that the matter was not for the Court to determine, in view of the present state of the statutory law. They found an interstice within the Project Act, as to this shortage issue, which they said it was the duty of the Secretary of the Interior, under existing law, to fill by administrative action in the first instance with judicial review to follow later unless Congress in the meantime itself filled the interstice.

On this latter crucial point of apportionment in time of shortage, I think it is important to quote here from the opinion of the Supreme Court. The majority opinion states as follows:

> While pro rata sharing of water shortages seems equitable on its face, more considered judgment may demonstrate quite the contrary. Certainly we should not bind the Secretary to this formula. We have held that the Secretary is vested with considerable control over the apportionment of Colorado River water. And neither the Project Act nor the water contracts require the use of any particular formula for apportioning shortages. While the Secretary must follow the standards set out in the act, he nevertheless is free to choose among the recognized methods of apportionment or to devise reasonable methods of his own. This choice, as we see it, is primarily his, not the master's or even ours. And the Secretary may or may not conclude that a pro rata division is the best solution.

The same five Justices went on to state that neither was the California-supported rule of protection of prior uses "binding upon the Secretary" under the Project Act. That is why I am now asking the Congress to make our historic rule binding on the Secretary in the administration of this project, too.

Making it clear that it was not interpreting the project act to require or deny any particular method of allocation in the time of shortage, the Court said:

> It will be time enough for the Court to intervene when and if the Secretary, in making apportionments or contracts, deviates from the standards Congress has set for him to follow, including his obligation to respect "present perfected rights" as of the date the act was passed. At this time the Secretary has made no decision at all based on an actual or anticipated shortage of water, and so there is no action of his in this respect for us to review. Finally, as the master pointed out, Congress still has broad powers over this navigable international stream. Congress can undoubtedly reduce or enlarge the Secretary's power if it wishes.

DUTY OF CONGRESS TO ACT

By not deciding the issue, and by explicit statement in its opinion, the Court left the matter of what to do in times of shortage within the power of Congress to decide, subject, only if we should default, to the prima facie determination of the issue by the Secretary of the Interior, who would, under the present state of things, have to act in the absence of any helpful criteria from Congress.

In the absence of congressional action setting forth directions for the Secretary, it is quite likely that we would only face more long litigation whenever a Secretary does have to meet the issue. Litigation does not produce more water. Nor does robbing Peter to pay Paul constitute progress. The law should be made clear beyond a peradventure of a doubt so neither litigation nor further reduction of existing uses will occur.

Mr. President, it is the duty of Congress, our imperative duty, to face up to this problem and to resolve it.

The gap in the law which the opinion of the majority in Arizona against California creates remains unfilled by the Court's decree which has now been entered. The particular provision important here, and which was agreed upon by all the parties, is as follows—article II(B)(3) of decree of March 9, 1964:

> If insufficient mainstream water is available for release, as determined by the Secretary of the Interior, to satisfy the annual consumptive use of 7,500,000 acre-feet in the aforesaid three States (Arizona, California, and Nevada), then the Secretary of the Interior, after providing for satisfaction of present (1929) perfected rights in the order of their priority dates without regard to State lines and after consultation with the parties to major delivery contracts and such representatives as the respective States may designate, may apportion the amount remaining available for consumptive use in such manner as is consistent with the Boulder Canyon Project Act as interpreted by the opinion of this Court herein, and with other applicable Federal statutes, but in no event shall more than 4,400,000 acre-feet be apportioned for use in California including all present (1929) perfected rights.

As the Boulder Canyon Project Act affords no controlling guidelines, the allocation under the decree need only be "consistent with" the act, and since there is no other presently applicable Federal statute, it is clear that Congress must act to provide the standard. Otherwise, in the words of one of the dissenting justices in Arizona against California:

> The Secretary of the Interior is given the right to determine the priorities by administrative fiat. Now one can receive his priority because he is the most worthy Democrat or Republican, as the case may be.

I do not believe Congress wishes to tolerate the existence of such an awesome power in any one man, no matter who or how well intentioned he might be. Nor do we wish to ignore the good faith and reasonable reliance of those who expended great efforts and sums to provide beneficial waterworks now in use. Most important, we should not take water, below the California limitation, away from people on the west side of the river to give it to people on the east side.

THE ISSUE IS PRESSING

Mr. President, the issue is very much before us now. On the next day after the Supreme Court announced its opinion in Arizona against California, and even though the actual decree was yet to be entered, and although the case will not solve one of the primary issues which caused Congress to put a moratorium on the central Arizona project over a decade ago, Senators HAYDEN and GOLDWATER introduced S. 1658 to authorize the expenditure of $1 billion of Federal money to divert 1.2 million acre-feet of Colorado River water away from present uses in California—yes, and also from the present uses in Arizona—to new uses in central Arizona.

I vigorously, and properly, objected to taking up the Hayden-Goldwater bill in advance of the required comments by the Department of the Interior and the States involved. But the hearings, nevertheless, proceeded. We have now held three sets of hearings before my Reclamation Subcommittee this Congress, the most recent just completed this past week.

If the central Arizona project is authorized, the issue left unresolved by the Supreme Court in Arizona against California—the lack of an allocation by law of Colorado River mainstream water in the lower basin when beneficial consumptive use cannot attain 7.5 million acre-feet per annum—would then present the deadly serious problem of whether California's, and also Arizona's, and even Nevada's, historic uses would be destroyed in favor of Arizona's new uses.

It is only right that the new uses of the central Arizona project be made junior, in period of water shortage, to existing uses in Arizona, California, and Nevada, subject to California's special limitation. Notice that I treat Arizona, Nevada, and California precisely alike—I ask no favored treatment for my State. The issue involves people and properly should not concern on which side of the river they live.

This has been my position ever since the announcement of the Supreme Court decision of June 3, 1963. I made it clear when, during our second set of hearings on the Hayden-Goldwater bill, held last October, I asked the Governor of Arizona and other Arizona witnesses whether they would agree to guarantee California her existing uses up to 4.4 million acre-feet as against the proposed central Arizona project. The Arizona witnesses neither refused nor agreed to give California that assurance.

Here is what I asked of Arizona's Governor Fannin on this point at open hearings last October:

> Senator KUCHEL. And what I am trying to get you to comment on is the fact that those contracts for delivery of water from the Colorado River, whether those contracts are in Arizona or in California, ought first to be satisfied before any other available waters are utilized for beneficial purposes. * * * Suppose there is a shortage of water? Suppose there is not enough water to fulfill the allocation to Arizona and not enough water to fulfill the allocation to California? Would it not be fair first to consider existing contracts for water in both States on the same basis?
>
> Governor FANNIN. Well, that is a matter of law and I would not be in a position to speak upon that subject at this time.
>
> Senator KUCHEL. At least, from the standpoint of the people of Arizona, the legislature has made it clear that existing water contracts shall first be satisfied. Is that not true?
>
> Governor FANNIN. The existing contracts must first be satisfied; that is true.

Of Arizona State Engineer William S. Gookin I inquired, as follows:

> Senator KUCHEL. Do you propose to recognize all existing uses in Arizona and to protect them?

Mr. GOOKIN. To the extent that the State law embraces them we, of course, expect to abide by the State law.

Senator KUCHEL. * * * anyone who is legally an entity, a district or city, and is legally and properly using Colorado River water today and has been doing so, will that entity be protected? Will it continue to be protected in its use to the amount of water which it has been using legally and properly?

Mr. GOOKIN. To the extent that it has legal rights, it will be protected; yes, sir. That would be my understanding.

That is the simple assurance I am asking for on behalf of California, the same assurance that was given to my State by representatives of Arizona on this floor, and elsewhere, over a third of a century ago. But I was unable to elicit any agreement from Mr. Gookin that the rule between citizens of Arizona should also apply between our two neighboring States. I inquired further of him at that time:

Senator KUCHEL. Well, in time of drought or water shortage how do you understand the waters to be allocated to your State and to mine?

Mr. GOOKIN. * * * you are talking about the possibility of shortage, which, of course, we don't anticipate will ever arise.

Senator KUCHEL. But if you were wrong, Mr. Gookin, how do you understand that the problem would be solved between the States in the lower basin?

Mr. GOOKIN. Again, sir, it is an engineer giving a legal opinion, which, of course, the engineers are accused of doing. I understand that the Secretary would decide how that shortage would be shared.

So I say to the distinguished Senator from Pennsylvania [Mr. CLARK], who is sitting on the Democratic side of the aisle, that the Legislature of Arizona passed a statute in which it provided that if the Federal Government subsequently built the new central Arizona project, and if there should be a water shortage, the existing uses in Arizona would get priority, as they should.

But when I asked the Governor of Arizona, "Why should not the same rule be applied to the people in the neighboring State of California?" we did not get a good answer. What is sauce for the goose ought to be sauce for the gander.

I say to the able Senator from Kansas [Mr. CARLSON], whom I see on the Republican side of the aisle, that all I am asking in the debate with respect to the proposed legislation is that the same protection that will be given to prior uses in Arizona, by Arizona law, be given to prior uses in Arizona and California by Federal law. That is what I am seeking to do. I hope it may be appealing to my able friends.

Thus, Mr. President, a reassurance in the law is needed.

CALIFORNIA MUST INSIST ON THIS PRINCIPLE

Mr. President, the principle I urge here today is one upon which California ought not, must not, and cannot yield. Ever since the gold rush days of over a century ago, my State has faced and has overcome with vision and fortitude the successively more complex problems raised by a burgeoning population. Not the least of these problems has been that of assuring an adequate water supply for all our people. Probably the most vexing aspect of that problem has been meeting the needs of southern California, both more arid and more populous than the North. But we have met them, with significant help from Congress, for which we are eternally grateful.

The very lifeline of southern California is the Colorado River and the vast complex of Federal and non-Federal works which provide water from it to people—to people to drink, to people to produce manufactured goods and crops enjoyed by the entire Nation, to people who play an immensely crucial role in the defense of the whole free world, to people who cannot do all these things if the Colorado River water upon which they are presently dependent is diverted to other people who are not presently dependent upon it.

The Governor of California, Edmund G. Brown, in writing to me on June 21, 1963, in relation to the impact on our State of the decision in Arizona against California, and specifically discussing the power of the Secretary of the Interior to determine whether California should receive less than 4,400,000 if the main river supplies less than 7,500,000, stated:

It is essential that the priorities of California's existing projects, up to 4,400,000 acre-feet, be respected as against any new lower basin project.

And he said that California expects 4,400,000 acre-feet of water from the Colorado River. I am pleased that at our most recent hearings his spokesman ultimately endorsed my view that legal protection for Californa to that extent ought to be written into the Hayden-Goldwater bill.

My colleague, Senator CLAIR ENGLE—for whom we voice our prayers—said on June 23, 1963, in discussing the Supreme Court decision and the power given by it to the Secretary of the Interior:

I do not believe that any single man should hold that much authority.

In a letter of July 9, 1963, to Governor Brown, Senator ENGLE stressed the continued validity of the western water law principle of "first in time, first in right," unequivocally stated his insistence upon legal protection for California's existing Colorado River uses of 4.4 million acre-feet as against any new projects, and said:

It is my view that the guideline for allocation of water in times of shortage should be first priority to those projects that are first in time and first in use. This has been the traditional rule in the West. If adopted here it would safeguard those projects now in existence in all the Lower Basin States. It would require any new projects to be second in priority. It would preclude the possibility of building a new project and in times of shortage drying up one already built and in operation.

The chief legal officer of the State of California, Attorney General Stanley Mosk, has made his position on this point quite clear. In communicating his views on the August 1963 version of the Pacific Southwest water plan, which has now been revised, but which still would include the same facilities now before us in the Hayden-Goldwater bill, Attorney General Mosk wrote on October 28, 1963:

In my view, the Secretary should unequivocally assure California's right to 4.4 million acre-feet per year from the Colorado River for California's existing projects, and this should be affirmed by Congress.

He offered testimony to the same effect in the most recent hearings on this subject before our Reclamation Subcommittee. Attorney General Mosk then said:

To build a vast new project now, leaving undecided whether that new project or existing projects will suffer if water is short, would be an unprecedented folly.

To those who say my proposal for filling the gap left by the Supreme Court decision is novel, the chief legal officer of California replies:

We have a century of modern history to help fill the gap. In 1855 the mining camps of the Sierra Nevadas were also, and in every sense, close to a state of nature. In that year the California Supreme Court decided the first prior appropriation case, aided by little more than judicial "notice of the political and social condition of the country" and the erudition of a Latin maxim (Qui prior est in tempore potior est in jure.). From that humble beginning the law of prior appropriation has spread throughout the West. Courts and legislatures have been impelled by imperative necessity. If our problem were internal to any State in the West, the answer would be clear: Existing projects would be protected as against a future project.

To those who say the present situation is different because more than one State is involved, Attorney General Mosk points out:

Prior appropriation is applicable in the West without regard to State lines. The Supreme Court first so held in *Bean* v. *Morris*, 221 U.S. 485 (1911), a suit between prior appropriators. It later so held in *Wyoming* v. *Colorado*, 259 U.S. 419 (1922), a suit for an equitable apportionment between States representing their respective water users. In the latter case, the Court gave two mutually reenforcing reasons: (1) In both States, the rule of appropriation alone is adapted to conditions of their civilization, (2) neither State in justice can complain of the application, between them, of the rule which both States apply internally.

The position of the Colorado River Board of California, the State agency composed of the entities using Colorado River water, was made clear in letters to Governor Brown dated December 24, 1963, and January 10, 1964, copies of which the board sent to me. On December 24, the board, through its chairman, wrote the Governor telling of its unanimous resolution adopted December 11, 1963, by which, in the words of their letter:

The board urged the Governor to continue as the position of the State of California the protection of the rights of existing projects, as against the claims of the central Arizona project, California's priority to be limited in accordance with the Supreme Court decision to 4.4 million acre-feet per year. We would ask for this protection not only in the pending legislation, which is the Hayden-Goldwater bill (S. 1658), but in any other legislation such as a regional plan in which the central Arizona project would be a component.

This was in reiteration of the board's resolution of July 13, 1963, when it stated:

The interstate priorities of the existing California projects must be protected against any future Arizona projects to the extent of

4.4 million acre-feet annually from the Colorado River, and in all further proceedings before the Secretary of the Interior, the Congress, and the Supreme Court. No compromise is possible on the issue of protection of existing projects against future ones, except with respect to Nevada's relatively small allocation. There appears to be a reasonable prospect of supplying Nevada's 300,000 acre-feet, California's 4.4 million acre-feet, and Arizona's presently existing projects without shortage. The priorities of Arizona's existing projects should be given the same protection as California's.

A SOLUTION CONSISTENT WITH THE DECREE

With its letter of January 10, 1964, to Governor Brown, the Colorado River Board of California submitted the text of proposed language which was prepared at their request by Attorney General Mosk and which it was suggested should be included in the pending legislation on the central Arizona project, thus assuring the protection which I and other Californians have insisted on.

This proposed statutory provision was made available to me by the board. I reviewed the proposed language and found it to be an accurate and fair way, if there is to be a central Arizona project, in which to achieve the end of protecting existing users of mainstream Colorado River water in Arizona, California, and Nevada against the proposed new diversions from the mainstream. It fails to assure protection for California's existing uses of some 700,000 acre-feet and existing capacity of some 262,000 acre-feet more, but this is because such has been precluded already by the Congress, the State Legislature of California, by nature and by the Supreme Court's recent decision. I do not propose that we upset any of those things. The provision simply would do what has not yet been done by anyone or anything.

Mr. President, I believe that this provision should commend itself to all men of good will who desire, as do I, to see California and Arizona overcome some of the differences which have plagued their houses for too long.

There are no loopholes in this proposal. It takes nothing away from the State of Arizona which it has been assured by virtue of the Supreme Court decision. As stated by the Colorado River Board in its letter to Governor Brown, explaining the amendment:

> This provision, as it makes expressly clear, would not amend any provision of the then proposed decree in *Arizona* v. *California*. Article II(B)(1) of that proposed decree assures to California 4.4 million acre-feet, to Arizona 2.8 million acre-feet, and to Nevada 300,000 acre-feet in the event 7.5 million acre-feet is available from the main river; article II(B)(2) assures to California one-half of the excess or surplus above 7.5 million acre-feet per year. This amendment implements proposed article II(B)(3), under which the Secretary of the Interior or the Congress is to allocate shortages if there is less than 7.5 million acre-feet available from the main river.

PROTECTION OF EXISTING USES IRREFUTABLY CORRECT

As indicated in my references to the hearings already held on S. 1658, Arizona itself has heretofore recognized this principle as the only fair one to apply when there is to be competition between existing uses and ones yet to be authorized. By the act of its legislature, approved by Governor Fannin on March 17, 1961, the State of Arizona appropriated money to be used for the investigation of works relating to the central Arizona project as now proposed in S. 1658. However, in making that appropriation, the State of Arizona made clear its own public policy by providing in the same act:

> That the contract with the Bureau of Reclamation shall provide that the investigations and studies shall be restricted to only that quantity of water which may be available for use in Arizona after the satisfaction of all existing water delivery contracts between the Secretary of Interior and users in Arizona for delivery of mainstream water, and that nothing shall be done thereunder which shall impair existing rights in Arizona for the diversion and use of Colorado River water.

In other words, "first in time, first in right" applies, by Arizona law, among Arizona citizens. Why should not the same rule apply between two neighboring States?

The Colorado River Board of California made irrefutable the validity of the principle of protecting existing uses when it stated in its letter of December 24 to Governor Brown:

> Legally, the Court has declared that California is entitled to 4.4 million acre-feet of the first 7.5 million acre-feet available from the Colorado River. It has said that Congress may decide how shortages shall be borne in the event that less than 7.5 million acre-feet is available.
>
> Equitably, California's claim is proper because it is based on principles of protection of existing projects as against new projects which California and Arizona both recognize. In 1961, the Arizona Legislature expressly declared the principle applicable to the proposed central Arizona project, which should be junior in right to existing Arizona projects.
>
> Economically there can be no justification for depriving existing California projects of any part of their 4.4 million acre-feet for the benefit of a proposed project in Arizona. California will be heavily burdened by giving up the 700,000 acre-feet of Colorado River water which it is now using in addition to its 4.4 million acre-feet. That burden should not be increased.
>
> Morally, Arizona's consistent and repeated recognition of California's right to 4.4 million acre-feet justified California's reliance on receiving no less than that quantity.

In support of that moral justification, the board offered the same quotations from Senator HAYDEN and Governor Osborne which I offered earlier in these remarks.

EXISTING ECONOMIES OR NEW ECONOMIES?

The question is: Which water needs will be met first and which should bear the risk of shortage? The question is tough, but it is with us. We must face up to it. Though we should always strive for a solution which prevents such a black day arriving, we must deal with the very real prospect of the available supply dropping considerably below the 7.5 million figure. The Secretary of the Interior has warned that such a situation may arise as early as in 1974. We must not deal in fuzzy speculation over pie-in-the-sky hopes. We must do what is right, now, and then also work for a solution which will meet all demands, perhaps even above 7.5 million acre-feet.

No one can justify authorizing 1.2 million acre-feet of new diversions to compete with people already relying on the river and who would be hurt substantially by any formula which gives new uses equal or higher priority. That is why I have already introduced the protection of existing projects amendment to S. 1658. That is why I have included it in my Pacific Southwest project bill, S. 2760.

My provision would only assure that the proposed new users who are not yet relying on the river will take the risk of water shortage rather than foist such a burden on those who have already been asked to give up too much of what they rightfully expected to have. Certainly, if Arizona and California were one State, and there was nothing preventing us focusing on the crucial issue, well being of people, no one would even suggest a different course.

California has three Colorado River projects. It seeks no new ones. From north to south, they are: The Colorado River Aqueduct of the Metropolitan Water District of southern California; the Palo Verde Irrigation District; and the All-American Canal. The oldest, Palo Verde and its predecessors, has been using Colorado River water since 1877. The youngest, the metropolitan water district, began construction 30 years ago and has been serving water to the coastal plain of southern California for more than 20 years. The All-American Canal has served water for more than 20 years to Imperial Irrigation District, Coachella Valley County Water District, and the Yuma Indian Reservation. But the water rights of Imperial Valley date back more than 60 years.

Together these California works cost more than a half-billion dollars, paid for by the people of California, and supply water to more than 8 million people and to some 700,000 acres of irrigated land. The economy of southern California is largely dependent upon the waters of the Colorado. These projects were designed and built to use 5,362,000 acre-feet of water annually. Last year they used 5,100,000. With new projects coming on the river, the Supreme Court decision would ultimately reduce California to 4,400,000 acre-feet per year, even if my protective provision is adopted.

The proration formula recommended by the master—but not adopted by the Supreme Court—could have reduced the supply for these existing uses even below 4.4. This is the shortage formula which the sponsors of the central Arizona project would no doubt urge the Secretary to resuscitate and adopt when their purposes would be served by it. This is the result that my provision would prevent. This is the subject which the Supreme Court remitted to Congress for solution.

REAFFIRMATION OF HISTORIC PRINCIPLE

I think Congress is better qualified to make policy than is a single Cabinet officer. That is the rule underlying our entire form of representative government.

I ask Congress, if S. 1658 or any regional plan including the central Arizona project, is to become law, to first

reaffirm 60 years of its consistent legislative policy.

On this occasion, as in many previous pieces of legislation, the Congress should set guidelines for the Secretary of the Interior which compel obedience to the law of priority of appropriation, of protection of existing uses, that prevails in the arid Western States.

Congress, as a matter of Federal statutory law has consistently adopted as basic the principle which all of the arid States have stated in their own jurisprudence: the law of prior appropriation. Both section 8 of the basic reclamation act, under which the Secretary is supposed to be administering the Boulder project, and section 18 of the project act are part of an unbroken series of Federal statutes in which Congress has affirmed that, as a matter of Federal law, the distribution of waters from federally constructed and operated projects by Federal officials should conform to the appropriative principles of State law, denying to such officials power to substitute their own discretion to allocate water. The Court has now found Congress did not say that clearly enough in 1928, as to this specific Boulder project. So we should do so now.

A PRINCIPLE IN THE NATIONAL AS WELL AS ALL CALIFORNIA'S INTEREST

This is not a matter of provincialism or of pride. What I suggest makes sense, not only for the benefits of all parts of my State but for the Nation as a whole. There is presently in existence and use a huge aqueduct running from the Colorado River westward to the coastal plain of southern California, where it serves over 8 million people through assisting over 100 cities, including Los Angeles and San Diego, in meeting the water needs of those people.

Even if California is cut back to 4.4, that facility will run at only one-half capacity. If California's Colorado River diversions are not protected to 4.4, that facility could become totally useless. What the central Arizona project, as supported by Senators HAYDEN and GOLDWATER, proposes is just such a dire consequence of rendering useless this great public facility already at work for the benefit of millions of people. The irrigation uses in California would be in jeopardy, too.

After all, people are people, whether they be in Arizona or in California or elsewhere. It is not ignoble for California people to stand up and fight for reasonable requests. This is not a matter of concern simply to southern California. The future of the entire State is involved. I am a U.S. Senator representing all of California. The northern part of my State, including many vast existing and prospective metropolitan areas and the great inland valleys empire—itself as populous and as important as many whole States—has needs for water development. Some are pressing needs now. Others—probably even more extensive than we now imagine—are further away in time. But for every drop of water which is denied to southern California from the Colorado River the possibility is that we will be urged to tap even further northern California's water hope chest which that area has already so generously opened to a significant degree. Also, even though Arizona would actually be the beneficiary, and thus this should not be a problem, every dollar which would be needed to make southern California whole against reduction below 4,400,000 acre-feet of water from her historic Colorado River source might be placed by some people in competition with dollars needed for northern California water development. We do not want to have to ask the Federal Government for one dime more than is necessary to meet our already staggering needs.

The California State water project, already being constructed to import 1.5-plus million acre-feet into southern California, represents a maximum effort by the State of California to meet its water problems as they were assumed under that plan. The State has bonded itself in the sum of $1.75 billion on a self-help program based on the assumption that California would have 5.362 million acre-feet from the Colorado River. Nature and the Court have now reduced that to 4.4 million acre-feet. We will need help to make up that difference. California cannot, must not, lose any more of its historic Colorado River supply. I do not believe that the Congress will ask her to do so. It is inconceivable, as Governor Osborne and Senator HAYDEN conceded, that the Congress would deprive existing projects in California of their Colorado River supply in order to build new projects in Arizona.

Mr. President, I will have more to say later about my regional, truly regional, project bill, S. 2760, and why it is preferable to Secretary Udall's current Pacific Southwest water plan, upon which no bill has yet been introduced, as well as to the separate central Arizona project as put forth in S. 1658. But I do hope that my discussion today will help Senators understand why assured protection for existing projects is a necessary precedent to a new project which might otherwise significantly compete for a presently very limited water supply.

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## CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorze the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent dscrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. CLARK. Mr. President, I ask unanimous consent that the Senator from North Carolina [Mr. ERVIN] may be permitted to yield to me briefly, without his losing any of the rights which he has heretofore acquired by unanimous-consent agreement.

Mr. ERVIN. I join in that unanimous-consent request of the able and distinguished Senator from Pennsylvania and ask that I may be permitted to yield the floor temporarily to him, under the same conditions under which I yielded to the able and distinguished senior Senator from California.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Chair recognizes the Senator from Pennsylvania.

BIPARTISAN CIVIL RIGHTS NEWSLETTER

Mr. CLARK. Mr. President, the demand for our Bipartisan Civil Rights Newsletter is so great that we are unable to accommodate all the people who would like to have back copies. Therefore, we have decided to insert in the RECORD each Saturday the newsletters that have appeared during that week.

Mr. President, I ask unanimous consent to have numbers 34 through 39 of the Bipartisan Civil Rights Newsletter printed at this point in the RECORD.

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

BIPARTISAN CIVIL RIGHTS NEWSLETTER No. 34, APRIL 20, 1964

(The 18th day of debate on H.R. 7152; 35th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant—daily, if necessary.)

1. Quorum scoreboard: There was only one quorum call on Saturday. It was made in the customary daylight time of 20 minutes.

2. Monday's schedule: The Senate will convene at 10 a.m. and will stay in session at least 12 hours. This bill's opponents will have the floor again.

Procedural rules will be enforced somewhat more strictly this week. It is anticipated that some voting on amendments will take place "deep in the week."

Floor captains for Monday: RIBICOFF (10–1); BURDICK (1–4); WILLIAMS of New Jersey (4–7); MUSKIE (7–close).

3. News items:

(a) "In Canton, Miss., a crowd of 260 Negroes waited in line all day to register to vote. Only seven of them managed to get inside the resigtrar's office to take the literacy test."

(b) "Mr. STENNIS. * * * Anyone who is qualified and is legally entitled to vote and has met the requirements of the law * * * should be entitled to vote. * * * I know, too, that there must be some legal machinery to enforce vested rights. * * * The Government may be charged with some responsibility in the voting field." (CONGRESSIONAL RECORD, Apr. 17, 1964, p. 8296.)

4. Quote without comment: "Mr. LONG of Louisiana. Is the Senator familiar with the fact that the prod sticks have been described as cattle prodders because they have been used on cattle? Is the Senator further familiar with the fact that the prod sticks are not designed for cattle but are designed for exactly the kind of 'animals' that they are touching; namely, reluctant human beings who insist on getting in the way of a policeman?

"Mr. THURMOND. * * * It seems to me that a stick of that kind might be appropriately used. There is not very much electricity in one. I remember once going through a secret organization ceremonial—a fraternal organization. There was a man after me with one of those sticks, and I ran for about 100 yards. I had to run fast to

keep ahead of that stick because while it mostly tickled, it tickled pretty much. It would force one to move—it does not hurt anyone—but it is a practical means of getting people to move on." (CONGRESSIONAL RECORD, Apr. 14, 1964, p. 7901.)

BIPARTISAN CIVIL RIGHTS NEWSLETTER, No. 35, APRIL 21, 1964

(The 19th day of debate on H.R. 7152; 36th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant—daily, if necessary.)

1. Quorum scoreboard: We did well yesterday, making three quorums in 20 minutes each.

2. Tuesday's schedule: The Senate will convene at 10 a.m. and will stay in session until at least 10:30 p.m. Live quorums should be expected at any time. The bill's opponents will have the floor again. Floor captains for Tuesday:

Democrats: MAGNUSON (10–1); MCCARTHY (1–4); MCGOVERN (4–7); BAYH (7–close).

Republicans: KEATING (all day); BOGGS (all day).

3. Another concession:

"Mr. PROXMIRE. Does the Senator from Mississippi deny that the overwhelming majority of whites in Mississippi can register and probably do register, and that the overwhelming majority of Negroes are not registered?

"Mr. EASTLAND. Would I deny it?

"Mr. PROXMIRE. Yes; would the Senator deny it?

"Mr. EASTLAND. No; I would not deny it." (CONGRESSIONAL RECORD, April 18, 1964, p. 8348.)

4. True crime stories:

(a) "Mr. EASTLAND. * * * Washington, from the standpoint of crime, is the worst city in the world.

"Mr. ELLENDER. The worst in the world. That is correct." (CONGRESSIONAL RECORD, April 18, 1964, p. 8355.)

(b) The following data are from the "FBI Uniform Crime Reports, 1962," the latest available data on crime rates in American cities. These figures show the crime rate per 100,000 inhabitants for all criminal offenses and for various crimes.

| | Total offenses | Murder [1] | Forcible rape | Burglary |
|---|---|---|---|---|
| Atlanta | 1,796.3 | 10.3 | 16.2 | 692.3 |
| Charleston, S.C. | 1,891.2 | 8.4 | 11.1 | 873.6 |
| Charlotte, N.C. | 1,592.9 | 11.9 | 7.5 | 736.8 |
| Jackson, Miss. | 997.1 | 8.0 | .5 | 550.2 |
| New Orleans | 1,417.4 | 9.1 | 10.9 | 480.2 |
| Richmond | 1,593.0 | 10.7 | 10.5 | 791.6 |
| Washington, D.C. | 1,384.0 | 6.0 | 9.9 | 502.7 |

[1] Includes nonnegligent manslaughter.

BIPARTISAN CIVIL RIGHTS NEWSLETTER No. 36, APRIL 22, 1964

(The 20th day of debate on H.R. 7152; 37th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Quorum scoreboard: We're doing well: Three calls; average time, 23 minutes.

2. Wednesday's schedule: The Senate will begin at 10 this morning and will stay in session until at least 10 p.m. The leadership will propound a unanimous consent for a 1-hour morning hour. The bill's opponents will have the floor again. Floor captains for Wednesday:

Democrats: DODD (10–1); NELSON (1–4); METCALF (7–4); MOSS (7–close).

Republicans: COOPER (all day); MORTON (all day).

A SHORT COURSE ON TITLE V

A. The need for title V: Information is always necessary for legislation; the more controversial the field, the more important reliable information becomes. This need was recognized and met in the 20th century's first civil rights legislation, the Civil Rights Act of 1957. This bill established the Civil Rights Commission, which has provided an enormous amount of useful intelligence about the many-sided evil of racial discrimination. For the first time Government officials and interested citizens had access to authoritative and comprehensive studies of prejudice in all parts of the country. The civil rights bill of 1960, H.R. 7152, and many policies made by executive action have been based on data supplied by the Commission. The need for such information has not diminished, and experience and changing conditions have suggested new ways in which it can be met.

B. The major provisions of title V: The title recognizes the value of the Civil Rights Commission by extending it for 4 more years. Since many private and public agencies are now collecting material on civil rights, the Commission is also authorized to act as a clearinghouse for information, in order to facilitate the most widespread dissemination and use of such knowledge.

The Commission is also authorized to investigate charges of denial of voting rights, when such charges are made in writing under oath.

The Commission is a bipartisan, independent agency. Far from being a bureaucratic octopus, it has only 76 employees and its 1964 budget amounts to less than a million dollars. There are State advisory committees in every State and the District of Columbia. In addition to its own research activities, the Commission has held a number of hearings for the purpose of gathering opinions, facts, and recommendations from interested parties. It has also sponsored several conferences on problems related to civil rights. Its recommendations have been reflected in legislative and executive action.

C. Objections to title V: The chief objection to this title seems to be that the Commission is unnecessary. But as even a casual observer of the civil rights debate can testify, there is a continuing need for information in this field, and it is reasonable and logical that a government agency should do this job.

Opponents of civil rights also criticize the Commission's authority to subpoena witnesses and records. Considering the fact that many State and local officials have refused to appear before the Commission voluntarily, there is no other way to obtain their testimony than by subpoena. This is hardly unusual in American law.

Finally, the Commission's authority to testimony in executive sessions is attacked as a "star chamber proceeding." Closed sessions may be held when it is determined that testimony "may tend to defame, degrade, or incriminate any person." Once again, this is the reasonable and customary procedure, designed to give every protection to individual reputations. One can imagine the outrage of this bill's opponents if the Commission were to hear potentially incriminating testimony in public; the cries of outrage could be heard all the way from Yazoo City.

BIPARTISAN CIVIL RIGHTS NEWSLETTER No. 37, APRIL 23, 1964

(The 21st day of debate on H.R. 7152; 38th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Quorum scoreboard: The civil rights express is really going strong. We made four quorums in an average time of 22 minutes.

2. Thursday's schedule: The Senate will convene at 10 this morning and will stay at work until at least 10 p.m. The leadership will propound a unanimous-consent agreement for a 1-hour morning hour. Once again the bill's opponents will have the floor. Floor captains for Thursday:

Democrats: HART (10–1); CHURCH (1–4); RIBICOFF (4–7); BREWSTER (7–close).

Republicans: JAVITS (all day); PEARSON (all day).

3. A case study of voluntary desegregation: Some of the more moderate opponents of the civil rights bill admit that racial discrimination exists and is an evil, but claim that efforts are being made to eliminate discrimination by means of voluntary action at the local level. Such community action, they say, will quickly put an end to the problem and bring about racial equality, if only no trouble is caused by "Federal interference." Proponents of this point of view have been vague in their remarks; specific examples of this commendable approach are not often given.

Now, however, this lack of evidence is at an end. James V. Prothro, a nationally known professor of political science at the University of North Carolina, has written a scholarly and detailed study of the remarkable efforts of voluntary desegregation made in Chapel Hill, N.C. Here at last is a chance to judge the success of the voluntary method and to see whether legislation is necessary.

It would be difficult to find a town in which there were more favorable conditions for community action than there are in Chapel Hill. It has a population of 17,000, most of whom are students and faculty members at the University of North Carolina, an institution with a national reputation. If the voluntary approach would work anywhere, it would be in Chapel Hill.

There has been a civic group actively promoting integration in Chapel Hill since 1954, and it is composed mostly of whites. Every important leadership group in the city has taken a firm public stand in favor of integration, including the mayor, board of aldermen, school board, ministerial association, newspaper and merchants association. There is an official mayor's committee on integration, and local governmental agencies practice racial equality.

Some of the first sit-ins occurred in Chapel Hill in 1960. These activities have resulted in the integration of movie theaters, lunch counters, and other facilities. The local newspaper supported and encouraged such peaceful demonstrations, and the police department had been scrupulously fair about the demonstrators' rights. In short, here was a community where everything was conducive to successful voluntary action. Prothro tells what happened next:

"The mayor's committee on integration recognized the impossibility of achieving an

open city without a law requiring the few segregated establishments to comply with the generally endorsed policy. It accordingly recommended passage of a public accommodations ordinance by the board of aldermen. The State attorney general issued an advisory opinion, however, that the town probably did not have the authority to enact such an ordinance * * * the board of aldermen voted (4 to 2) to postpone action on an ordinance. Larger and more frequent protest marches followed this action.

"From the date of this failure of the aldermen, by virtue of legal uncertainty, to enact an ordinance requiring the few noncompliers to adopt the community's policy of nondiscrimination, race relations in Chapel Hill have deteriorated.

* * * * *

"Having failed to achieve their goals through the established leadership structure, leaders for civil rights shifted to new and more aggressive organizations.

* * * * *

"Chapel Hill has done almost everything that could be expected in an effort to solve its own racial problems.

* * * * *

"The principal lesson to be learned from Chapel Hill is that, even with a maximum of good will on all sides, a real solution to the problem of civil rights is possible only with the help of a Federal statute."

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BIPARTISAN CIVIL RIGHTS NEWSLETTER No. 38, APRIL 24, 1964

(The 22d day of debate on H.R. 7152; 39th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Quorum scoreboard: The record continues well, with three quorum calls met in an average time of 23 minutes.

2. Friday's schedule: The Senate will convene at 10 this morning and will stay in session until at least 10 p.m. The leadership will propound a unanimous-consent agreement for a 1-hour morning hour. Once again the bill's opponents will have the floor. Floor captains for Friday:

Democrats: DODD (10–1); MCINTYRE (1–4); MCGOVERN (4–7); BAYH (7-close).

Republicans: HRUSKA and CURTIS.

3. Some fundamental differences about the judicial system: Following citation of the Supreme Court's decision in the Barnett case, holding that there is no constitutional right to trial by jury in criminal contempt cases, the following colloquy took place:

Opponent: "There was a 5–4 decision. The Senator knows well that one case decided by a 5-to-4 decision determines nothing."

Proponent: "It does; a majority decision does represent the law of the land."

Opponent: "No. It does not." (CONGRESSIONAL RECORD, Apr. 22, 1964, p. 8704.)

* * * * *

Opponent: "* * * I know of many men who, the very moment that they are appointed to one office, are candidates for promotion. They will decide any case in the way that the U.S. Government wishes it decided in order to gain promotion. * * * That is the trouble with Federal judgeships. That is one of the troubles in having trials by a judge. The average man does not get a square deal when his rights conflict with the ambition of a particular judge. I could name them by the dozen."

Proponent: "Is the Senator convinced that Federal judges, whose nominations the Senator * * * has helped to confirm, are as venal as he would indicate?"

Opponent: "I say that the Senator can find anything he wishes in the Federal judiciary." (CONGRESSIONAL RECORD, Apr. 22, 1964, p. 8756.)

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BIPARTISAN CIVIL RIGHTS NEWSLETTER No. 39, APRIL 25, 1964

(The 23d day of debate on H.R. 7152; 40th day of debate on civil rights)

(The bipartisan Senate leadership supporting the civil rights bill, H.R. 7152, headed by Senator HUBERT H. HUMPHREY and Senator THOMAS KUCHEL, will distribute this newsletter to the offices of the Senators who support the legislation. This newsletter will help to keep Senators and their staffs fully informed on the civil rights bill. It will be distributed whenever circumstances warrant, daily, if necessary.)

1. Saturday's schedule: The Senate will convene at 10 this morning and will stay in session through the afternoon. The leadership will propound a unanimous-consent agreement for a 1-hour morning hour. There will be at least one live quorum. Floor captains for Saturday:

Democrats: CLARK (10–1); METCALF (1–4); WILLIAMS of New Jersey (4–7); MCCARTHY (7–close).

Republicans: CASE and CARLSON.

2. The parliamentary situation: The pending business of the Senate is the Mansfield-Dirksen substitute for the Talmadge jury trial amendment. The bipartisan leaders supporting the civil rights bill hope for a vote early next week.

3. Employment tests under title VII—Fears raised by the Motorola case are groundless.

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APRIL 21, 1964.

The EDITOR, THE WALL STREET JOURNAL,
*Washington, D.C.*

DEAR SIR: I note with some regret that the generally thorough and thoughtful discussion of the Motorola case in Todd E. Fandell's article, "Testing and Discrimination," in the Wall Street Journal of April 21, 1964, is marred by the failure of the author to explain that the issues involved are plainly not within the scope of the pending civil rights bill.

As one of the two bipartisan floor managers charged with special responsibility for title VII of the bill, I feel that I can speak with some authority as to what the title does and does not do.

The civil rights bill would not make unlawful the use of tests such as those used in the Motorola case, unless it could be demonstrated that such tests were used for the purpose of discriminating against an individual because of his race, color, religion, sex, or national origin. In other words, it is not enough that the effect of using a particular test is to favor one group above another, to produce a violation of the act; an act of discrimination must be taken with regard to an individual, "because of such individual's race, color, religion, or national origin," to quote from the language of the bill.

By contrast, the Senate's own FEP bill, S. 1937, which was the subject of extensive hearings in the Senate Employment and Manpower Subcommittee, which I chair, would cover the substance of the Motorola's case. The Senate's bill expressly provides that discrimination "shall include any act or practice which, because of an individual's race, color, religion, or national origin, results or tends to result in material disadvantage, or impediment to any individual in obtaining employment or the incidents of employment for which he is otherwise qualified." Unlike title VII of the pending civil rights bill, this language would reach the situation where an ostensibly nondiscriminatory test did in fact place at a disadvantage members of culturally deprived minority groups.

The opponents of the pending civil rights bill have had striking success in stirring confusion about what the bill would or would not do, and the Motorola case has been a favorite hobby horse. Frankly, I prefer the Senate bill to title VII, and so, I believe, do the 12 members of the Senate Labor and Public Welfare Committee who voted to report it favorably to the floor. I believe that the situation presented in the Motorola case should be covered by Federal law.

But whatever my preferences, and those of my colleagues may be, the fact remains that the issues raised by the Motorola case have nothing to do with title VII of the pending civil rights bill, and are plainly beyond its scope.

Sincerely,

JOSEPH S. CLARK.

THE BILL NOT A LEGISLATIVE JUNGLE, BUT A CAREFULLY DRAFTED BILL

Mr. CLARK. Mr. President, earlier today, a colloquy took place between the Senator from Tennessee [Mr. GORE], who was criticizing title VI of the pending civil rights bill, and me. The Senator from New Jersey [Mr. CASE] intervened, as did also the Senator from North Carolina [Mr. ERVIN]. In the course of his remarks, the Senator from Tennessee referred to the bill in general, and to title VI in particular, as a "legislative jungle." At that time, I was unable to make any comment on his remark, as it was necessary for me to leave the Chamber. But I should like the record to show my strong view that the civil rights bill in general, and title VI in particular, is not a legislative jungle, but is a carefully drafted bill which has stood the test of rigorous debate in the Senate continuously since March 9, 1964, without its opponents' making as much as a dent in its provisions or in the logical order in which they are arranged. It has already received a line-by-line and section-by-section examination. Nothing worth serious consideration in the way of revision or amendment has been developed in that meticulous examination by the opponents of the bill, at least so far as the judgment of this Senator is concerned.

CIVIL DISTURBANCES IN CHESTER, PA.

Mr. CLARK subsequently said: Mr. President, earlier today the able senior Senator from Florida [Mr. HOLLAND] introduced into the RECORD, under the title "Civil Disturbance in Chester, Pa.," two Associated Press news releases. Those releases reported the unfortunate breaking out of violence in civil rights demonstrations in the city of Chester, Pa., which, of course, is part of the Commonwealth which I have the honor to represent.

The Senator from Florida, in what I can only describe as a flight of fancy, referred to the analogy between what was happening in Chester, Pa., and happenings between the Greeks and the Turks in Cyprus.

In defense of my Commonwealth and the good people of Chester, I feel impelled to make the following comment. I believe there are no other citizens in this country who deplore as much as do the fine citizens of Chester, Pa., the unfortunate racial violence which has broken out as a result of what I believe to be the unwise efforts of demonstrators

who are attempting to break up the de facto segregation, as they call it, of the schools in Chester. That de facto segregation arises from the fact that the housing pattern in that city does largely separate the white and the Negro races. Suggestions were made that by the transportation of school children to areas far removed from their homes, the de facto segregation could be broken up and the schools could be more or less integrated.

The business of transporting schoolchildren to areas well removed from their parents' homes has caused a good deal of disturbance, not only in Chester, but also in other parts of the country. It is a very controversial question. I regret very much that it became so controversial that violence broke out. I suggest that the people of Pennsylvania, including the people of Chester, are anxious and willing to do everything they can to mitigate tension between the races, and to assure to all citizens, regardless of their race, creed, or color, the equal protection of the laws which for almost 100 years has been guaranteed to them by the 14th amendment to the Constitution of the United States.

I must say that I rather deeply resent—and I am sure the citizens of my Commonwealth do, too—the reference to the unfortunate happenings in Chester in connection with the analogy sought to be drawn between the situation in Chester, Pa., and that in Cyprus. If an invidious comparison is to be made—and I would not do so had not my friend from Florida started the ball rolling—I would say the correct analogy is—not to Cyprus—but to Jacksonville, Fla.; or to Montgomery, Ala.; or to Birmingham, Ala.; or to a number of communities in Louisiana; or to practically the whole State of Mississippi.

We deplore racial disturbances in the North more than I can say. We are trying to stop them by the constitutional method of granting to our Negro citizens rights guaranteed to them under the Constitution of the United States. I regret to state that the opponents of the bill are taking exactly the opposite action in doing everything in their power on the floor of the Senate to prevent American citizens from achieving the rights guaranteed to them under the Constitution.

I honor my friends from the South for their opposition to the bill, but I suggest that they remove from their own eye the beam with respect to racial violence in their own States, resulting from their failure for almost 100 years to grant rights to which all American citizens are entitled, before they look across the Mason-Dixon line and undertake to criticize those of us in Pennsylvania who are doing our level best to get the bill passed, so that it can be of some help in preventing these deplorable conditions from continuing, and so that peace and good will will develop among all Americans, regardless of race, creed, or color, and to the entire United States of Amercia.

Mr. HOLLAND. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina [Mr. ERVIN] be permitted to yield briefly to me, to enable me to reply to the distinguished Senator from Pennsylvania, with the understanding that the Senator from North Carolina will not lose any rights whatsoever that have already accrued to him, and that he will again obtain the floor when I complete my remarks.

Mr. ERVIN. I shall be happy to yield on the conditions stated, and on the further condition that the resumption of my remarks later today or on a later occasion on this subject will not count as a second speech by me on the subject, and that I shall have the right to complete my speech.

The ACTING PRESIDENT pro tempore. Without objection, and with that understanding the Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I can understand the annoyance of my good friend, the Senator from Pennsylvania, because some of the Senators from the South have had the effrontery to mention the fact that throughout the North the number of racial troubles now taking place is greater than those in the South. I regret, with him, that that is the case. I certainly regret the fact that in my own State some troubles have taken place in Jacksonville. I am certainly conscious of that situation; and we are doing all we can to remedy it. We have had very few incidents of that sort.

Florida has seemed to have a great appeal to our Negro citizens, because in the years covered by the period from the Census of 1950 to the Census of 1960, my State gained in Negro population 46 percent, indicating anything but a hostile attitude towards our State and the opportunities it afford our Negro citizens.

In the State of Florida, there are many fine Negro citizens. I am sure no one deplores the acts of a very few of our Negroes in Jacksonville more than do the great majority of the Negro people there, who are more than 100,000 in number.

Mr. President, I should like to take up several of the points which were made by my distinguished friend, the Senator from Pennsylvania.

First, as I understand, he felt that we had been wasting time, and that this bill had not been "budged" in any particular in the several weeks of debate, and that we were merely trying to fend off a vote on the bill.

I dislike to express a view which differs so greatly from that of my distinguished friend; but I wish him to remember that only yesterday the two leaders—the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN]—by their action in offering jointly the amendment on the jury trial provisions of the bill, an amendment which would affect all titles of the bill, showed that we are getting somewhere on the bill, and that some of those who had thought the bill was as nearly perfect as it was possible for it to be, and were proposing from the beginning to ram the bill through the Senate in exactly the same form as that in which it came from the House, have in that one particular, come to a completely different conclusion.

That is as evident as it is that the sky is above us.

Mr. CLARK. Mr. President, will the Senator yield at that point?

Mr. HOLLAND. I did not interfere with the remarks of my friend. I shall be glad to yield after I get through presenting this point, and then at the end of the other points.

I was getting to the point that the action yesterday of the two leaders showed rather conclusively that the debate has been meaningful and has brought out a very great failure on the part of the bill in the exclusion of trial by jury in connection with the many injunctive provisions contained in the bill, except in titles I and II, where there is a limited requirement for jury trial.

The second point I wanted to make, as I listened today to the able discussion of title VI of the bill, was that it would apply not only on a widespread, nationwide basis, but also would extend to more than the States represented by the Members of the Senate and the other House; it would also extend to Guam, the Canal Zone, and Puerto Rico. Field agents, after the laying down by the Chief Executive of a method of handling such disqualification, would be able to withdraw and, in effect, cancel appropriations made by the Congress of Federal funds to be spent in various parts of the Nation.

From what I heard from various Senators who are supporting, in the main, the bill, I am very sure that leading up to the speech made by the Senator from Tennessee, the groundwork was laid for the making of very substantial clarifications in the bill as to title VI.

I am sure there will be others, because our process of educating others as to the effect of the bill seems to be slow and painful. Members on both sides of this question seem to have fixed ideas, and therefore the customary process of enlightenment in connection with this educational debate, seems to be somewhat delayed. But we are making progress.

Now I am glad to yield to the Senator from Pennsylvania.

Mr. CLARK. I thank my friend; but I have concluded that no useful purpose can be gained by engaging in a colloquy.

Mr. HOLLAND. I am sorry my friend has reached that decision. I was going to yield to him; and I shall still be glad to yield to him, either now or at the conclusion of the several points I shall make.

The second point I wish to make has to do with the closing of schools, whereby for 3 days—as I understood from the AP and UPI dispatches—11,000 children, both colored children and white children, have been, in effect, locked out of the schools, and their education has been hampered and delayed, by the actions of certain persons in the good city of Chester. I am sure my friend deplores that situation as much as I do.

I know of no instance, in the case of a white school in any portion of the State of Florida, in which there has been a delay of even an hour. I know of very few delays in the case of Negro schools there. Never have I known of an instance in which schools in Florida have

been closed by an official body, as a result of disturbances similar to those recently occurring in the North. I recall that in the city of Jacksonville, a good many colored children took "French leave," in order to participate in some demonstration; but there has been no disturbance so severe as to require the closing of schools.

So, although I equally deplore such happenings in my State and those in the good Commonwealth of Pennsylvania, I must say that those in Florida have had nothing of the severity of the ones which seem to be taking place in connection with fair Chester.

The third point I wish to make is in regard to the insensate way the demonstrators in Chester acted. From an AP dispatch, I learned that when the police there were being led by a captain of their own race—the Negro race—some of the demonstrators, no doubt inflamed by professional agitators, went to his home and proceeded to do very serious injury there, by breaking windows and bashing in the doors. Again, I am simply quoting the press dispatches. It would seem, therefore—since he was a member of their own race—that they were not in a mood to have the law enforced against them in such a way that their deliberate blocking of the streets would be ended by the lawful act of the police officers, even though the great city of Chester has given recognition to its Negro citizens by having policemen of that race on the force—one of whom, at least, has attained the rank of captain, and suffered serious mistreatment from people of his own race.

In my State, there are many Negro policemen and Negro deputy sheriffs; but, so far as I know, nothing of that nature has occurred in Florida.

The third point I wish to make is the one I stressed this morning. I am glad I see in the Chamber the distinguished Senator from New York [Mr. KEATING], because the statement to which I now refer was made both with reference to the good Commonwealth of Pennsylvania and the good State of New York. At that time I said that it seemed to me that their States had employed every civil rights legislative and legal maneuver and protection of which it was possible for one's mind to conceive, including measures provided for in the pending bill; and certainly including for many years school desegregation, which for decades has been a part of the laws of their States—I do not know the exact period; and also including the use of an FEPC law, which has greater coverage in both of those States than the coverage presently proposed in the pending bill; and also including provisions with reference to housing and the like, which are not included in this bill. Nevertheless, even with all those attempts by way of the enactment of laws and the abortive attempts to enforce such laws—because they have not been able to enforce them—they have made a dismal failure of their attempts to solve those problems.

My point then was, and is now, that it seems to me the present determined efforts by Members from those States to have the Federal Government force similar laws and measures upon other States, do not come with very good grace from Members who represent a part of the country which, after making all these legal maneuvers, has found them to be futile in that area. Of course they are bound to be futile, because no amount of laws or court mandates will solve these problems. They must be solved in the hearts and minds of men and in their attitudes toward each other. If two people do not love each other, the passage of a law will not make them change their attitude. Such a change requires much more patience, much more time, much more sympathy, much more mutual understanding and tolerance, and much more persuasion than could ever be expected to develop as the result of the mere passage of a law intended to bring about so great a change.

This morning, I commented on the disorders which took place on the opening day of the World's Fair. It became apparent that considerable numbers of demonstrators were involved. The press dispatches published in the New York Times and New York Herald-Tribune stated that more than 1,000 demonstrators were within the fairgrounds.

The dispatches stated the nature of what had occurred there, such as the drowning out of the words of our President by the singing, screaming, and bizarre tactics of the demonstrators; also the attempted exclusion of the Governor of the State of Florida from the Florida pavilion, which had been built with the use of the money of Florida taxpayers, at the invitation of the State and city of New York and the New York World's Fair authority, both in an effort to be of benefit to Florida and to increase the attractiveness of the fair.

Not one New York policeman raised his hand to help the Governor of Florida get into the pavilion. He and his party were going there to dedicate it; but 20 young hoodlums sat with their backs to the 6 glass doors. With 5,000 New York police either on the grounds or in the area—and again I am giving the figures as reported by the New York Times and the New York Herald-Tribune—apparently no one there would lift a hand to assist the Governor of Florida and the group accompanying him, nor did the fair police lift a hand. On the contrary, our Governor could not have gained entrance to our own pavilion, built with our own money, had it not been for the fact that four troopers from the State of Florida were there with him; and, after they tried to open the doors which were being obstructed by those 20 youngsters—all of whom were white, the troopers had to throw 2 of them out, and then hold the doors open, so that the Governor and his party of some 20 persons could enter the pavilion—a pavilion, built with our own money, to welcome all from America and all from other lands who might wish to visit it, to learn for themselves something of the beauty, the great resources, and the promising future of the great State of Florida, which I have the honor to represent in part. Furthermore, the Governor of Florida was there as a distinguished guest of the people of the State of New York.

The point I am making is that in that great State and in that good city, apparently something very dear has been lost—that is, a willingness to make a serious effort to enforce the law before serious trouble develops.

In reading these same articles I noticed that the Ford industrial exhibit—a very expensive one—had to be closed because the fair police and the other police who were there stated they would not lift their hands against demonstrating hoodlums, unless someone first signed a complaint against them. Under those conditions, the representatives of the Ford Co. simply closed the doors of that exhibit, and went home for the day.

The sole point I am making is that apparently there is no willingness on the part of the States which have tried the legal approach, and have failed, to realize that such an approach is bound to fail, and that if there is to be any hope of success, a much sounder approach must be made. When, in addition, there is a lack of willingness to enforce the law and to keep the peace, the situation, of course, degenerates into a deplorable one.

Those were the statements I made this morning, I say to the distinguished Senator from Pennsylvania that I have no regrets at having made them. Perhaps I did overstate the case in likening the streets of Chester, Pa., to those of Cyprus. I have not been to either; but the impression I gained from the newspaper reports from Chester was quite similar to the one I received from the reports on Cyprus. The fact remains, however, that if the AP and the UPI dispatches are correct, all last night there was a complete lack of law and order in the streets of Chester.

I believe this is the third day of the disorders in Chester. I deplore all such disorders—whether in New York, Chester, Jacksonville, or elsewhere.

I should like to say to all Senators that so far as the State of Florida is concerned, the people of Florida are not disposed to wink at such violations of law. They insist upon observance of the law. In Florida, there is, and has been, relatively great obedience to law. There has been very little trouble of any kind. Of course, the people of Florida are not perfect, but at least they are determined to maintain the progress they have made and to improve on it. At the same time, they will insist on enforcement of the law. I wish I could believe that a similar disposition and determination prevailed in the State and city of New York, for example. I noticed that conditions similar to those in Chester and in New York prevailed recently in Chicago, in connection with some of the disorders there.

Mr. President, we live in a time of serious and difficult problems. Unless the people of both races make up their minds to substitute a good will approach and to find out what each race can tolerate in the field of closer and more intimate racial relations, and unless they discard the idea of doing everything by

compulsion and coercion, we are in for worse times—particularly when there is no disposition to obey the law.

That is all I have to say. I thank my distinguished friend for bringing up the point I made this morning. It is a real privilege to have an opportunity to discuss it again. But let it be distinctly understood that I know that all States have these problems although in varying degree. I have done my best to help solve them. In 1937, on the floor of the Florida State Senate, I supported elimination of the State poll tax, for all purposes. The next day, in one of our State newspapers, it was announced that that was tantamount to my stating that I would never again run for election on a States rights platform—which shows how popular it was to take that position at that time.

The Senator from Pennsylvania knows what I have done in this body in connection with elimination of the poll tax in all Federal elections, nationwide. I am willing to do many other things.

The pending bill has many provisions which I can support. But I am convinced, based primarily on a study of the bill, that at least four of its provisions will lead to greater and greater centralization of government. Our Government is already far too greatly centralized, and it is doing poorly many of the things it should be doing well, and is doing uneconomically many of the things it should be doing economically. Proposals to add to the powers of the Federal Government by means of the FEPC provision and the public facilities provision, which would require the services of thousands of field agents, and the proposed cancellation of appropriations already made, and proposed surveillance of all the activities within each State, to ascertain whether Federal appropriations voted by Congress should be stayed by the decisions of inferior executives all the way down in the "boondocks" are far from sound.

The Senate is already at the point of giving recognition to the unsoundness of a major part of title IV, which has to do with compulsory segregation in schools, by requiring a much more effective jury-trial provision in the case of the use of criminal contempt proceedings following an injunction, if the Attorney General, in the exercise of his sole discretion, were to decide—as the bill would permit; and under the provisions of the bill, there would not be a right of review by any court or any person that, in his opinion, an injunction suit should be brought.

Where are we going? What are we doing? What kind of supercentralized Federal Government are Senators trying to create? How much concern do they have for the freedom of the individual? How much concern do they have for the preservation of private enterprise? Under title II, how could a hotelkeeper, a restaurant keeper, or those in charge of any of the other businesses which would be affected maintain their right to control their business, if Uncle Sam were to intrude as their senior partner, with a veto power, and with the right to look over their shoulder every minute, in an attempt to discern whether, on the grounds of race, or color, or religion, or sex, there has been a hiring or a firing or a promotion or a demotion, that, in the opinion of some factotum in the Federal Government, the employer should not have made?

Mr. President, recent events, such as those of yesterday and the day before in New York, and those of yesterday in Chester, demonstrate the futility of the bill. I am not trying to throw brickbats at anyone or at any State. I am willing to concede that all States have some serious faults. However, I wish I could discern a disposition to enforce the law. I wish I could observe some disposition to abandon attempts to apply coercive measures of the kind which have not achieved results. I wish I could believe that the proponents of the bill are learning by experience that that is not the way to get the desired results. Yet, instead, they propose to force FEPC provisions down the throats of the people of States in which the employment of Negro citizens is much greater, in proportion, than it is in either Pennsylvania or New York.

I referred to the unemployment figures. The distinguished Senator from Louisiana [Mr. ELLENDER] has already had printed in the RECORD of April 8, figures from the U.S. Department of Labor which show—although I shall not now read all of them, of course—that in the State of Pennsylvania, 11.3 percent of the nonwhite working force was unemployed, as compared with an unemployment rate of only 5.8 percent for the white working force in that State. Has the Pennsylvania FEPC law done anything worthwhile about remedying the imbalance in unemployment there? In the State of New York the disparity is not so great. The figures show 4.9 percent unemployment for the whites and 7.4 percent for the nonwhites.

Many other States show much greater disparity. For instance, in the State of Michigan, 6 percent of the white workmen are unemployed, whereas 16.3 percent of the nonwhite workers are unemployed. Yet each of these three States has an FEPC program; but it has proven unable to solve that particular problem.

I apologize for having taken so much time of the distinguished Senator from North Carolina. I appreciate his courtesy, and I also appreciate the courtesy of other Senators, in permitting me to obtain unanimous consent for this purpose. I now yield the floor back to the Senator from North Carolina.

Mr. CLARK. Mr. President, will the Senator from North Carolina yield me 1 minute?

Mr. ERVIN. I yield to the Senator under the same conditions under which I yielded to the Senator from Pennsylvania, to the Senator from California, and to the Senator from Florida.

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

Mr. CLARK. Mr. President, I merely wish the RECORD to show that I have sat through the quite extensive remarks of my good friend from Florida. I reiterate what I said a few minutes ago—that I believe no useful purpose could be served by answering what the Senator has said. Everything he said has been answered again and again and again in the course of this almost interminable debate. I do not wish to detain the Senate any further. I thank my friend from North Carolina for yielding to me.

Mr. KEATING. Mr. President, will the Senator yield to me?

Mr. ERVIN. Mr. President, I should like to make another unanimous-consent request. I ask unanimous consent that I may yield to the Senator from Washington, and then to the Senator from New York. I ask unanimous consent that I be permitted to yield to the able and distinguished junior Senator from New York, on exactly the same terms on which I have heretofore yielded to other Senators, particularly the Senator from California.

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

Mr. KEATING. Mr. President, I agree with the Senator from Pennsylvania [Mr. CLARK] that there is little to be gained by taking issue with the distinguished but mistaken Senator from Florida. We have been all over this ground before.

However, I believe this much should be said, because we all know that the Senator from Florida is a man of great good will. In his heart he always believes he is doing the right thing. Of that, I am convinced.

We all regret any acts of violence or any untoward events which have occurred in New York, Pennsylvania, Florida, or any other State. I regret deeply that the distinguished mother of my distinguished constituent, our representative on a United Nations Commission, the mother of the Honorable Marietta P. Tree, Mrs. Peabody, was arrested in Florida. That is most regrettable. I would not have mentioned it, were it not for insistence of the Senator from Florida in calling attention to the fact that the junior Senator from New York is on the floor, as he has done before.

But it is my considered judgment that we may—although I hope and pray that we shall not—experience other incidents similar to those that have occurred up to now, unless we come to grips with the proposed legislation with which we are dealing.

I propose to the Senator from Florida [Mr. HOLLAND] that if he and his colleagues who are opposing the bill would permit us to start voting on the merits of amendments on Monday morning, that would be an important factor in putting an end to the incidents that are taking place all across the Nation. The longer we are thwarted by a minority in the Senate in our efforts to act on the bill, the more and more danger there is that additional incidents will occur throughout the Nation. I am sure that is something which the Senator from Florida would regret as much as any other Member of the Senate would. Certainly it is something which all of us would deeply regret.

I believe the way to prevent such incidents in the future is to start voting now on the bill, which is designed to place in the hands of the courts the resolution of unfortunate racial difficulties and in-

cidents, so as to take them out of the streets and off the streets, where they have no place, and where only harm can ensue from a continuation of them.

UNMASKING "UNMASKING THE CIVIL RIGHTS BILL"

Mr. President, 6 weeks ago, in a speech on the Senate floor, I exposed the so-called Committee for Fundamental American Freedoms as an organization financed by the State of Mississippi and dedicated to the defeat of this civil rights bill. In my earlier statements I pointed out that a large portion of the funds which support the coordinating committee are appropriated by the Legislature of the State of Mississippi. Lobbying reports for the first quarter of 1964 have now been filed, and they indicate that of $192,500 spent by the committee during the first 3 months of the year, $142,500 came from the Mississippi State Sovereignty Commission. Some of this is appropriated by the legislature; additional money is contributed to the Mississippi commission by private individuals in the belief that the contributions are tax deductible as contributed to a division of the State government for a public purpose. Organizations which enjoy tax deductions are listed by the Internal Revenue Service. I called the Internal Revenue Service. They had assured me that the coordinating committee is not entitled to claim such tax exemption. I think the people who are contributing to this are, so far as their contributions are concerned, entitled to know that fact.

The lobbying effort has taken many forms. Citizens have been induced to write to the wives of Members of Congress urging them to induce their husbands to oppose the bill. Civic groups have been persuaded to write to their Congressmen charging that the bill will destroy businesses, banks, and unions. Full-page ads have been taken in many newspapers outside the South, and two pamphlets which distort the meaning of the bill have been printed and circulated.

While I have repeatedly denied the truth of their allegations, and other Senators have dealt in detail with advertisements placed by the committee, I speak specifically this morning on the pamphlet "Unmasking the Civil Rights Bill" which appears to be the single piece of literature most widely circulated by the committee. I want to unmask the "unmasking."

It is evident that hundreds of thousands of these pamphlets have been distributed throughout the country and scores have been sent to me by irate constituents who have been taken in by the misrepresentations which it contains.

At this point I emphasize most sincerely that I do not object to receiving mail from New Yorkers who disagree with my stand on civil rights, or any other subject, so long as their opinions are based on fact. But since it is apparent that even the most fairminded Americans have been misled and frightened by reading this material—or by talking to friends who have read it—I believe it is time to unmask this fraud and challenge the committee to prove its case.

Two basic techniques are used by the coordinating committee to induce opposition to the civil rights bill.

One technique is to interpret the bill's provisions in a strained manner. Words and phrases are stretched to imaginative lengths. Each title has attributed to it untenable applications. They use what lawyers call a "slippery slope" argument.

Second, scare tactics are employed. Statements are made that the Federal Government is going to interfere with social security and veteran pensions of the needy; that conduct of education on the local level is to be threatened; that seniority rights of union members and job opportunities of white citizens are to be placed in jeopardy; that the Attorney General, in particular, and the Federal Government, in general, are to be handed dictatorial powers.

The pamphlet starts off with the bald and incredible assertion that the bill "will destroy the civil rights of all citizens of the United States who fall within its scope." It then goes on to list 15 civil rights which would be abridged by the passage of this bill. I will deal with these charges in detail later in this speech, but at this point I would like to point out a major discrepancy which appears throughout the pamphlet: The citation of section numbers to substantiate charges about the bill are completely inaccurate. For example:

The committee, on page 4 of its pamphlet, charges that the bill will destroy the right of freedom of speech and freedom of the press concerning "discrimination or segregation of any kind" "at any establishment or place," as delineated in the bill. Sections 202 and 203 are cited as authority for this statement and yet, they do not contain the quoted language, nor do they concern the right to free speech and free press.

Similarly, the committee cites section 711(a) as authority for the statement that seniority rights under Federal civil service will be destroyed; it cites section 711(b) as authority for the statement that the seniority rights of labor union members will be destroyed. These sections actually read as follows:

NOTICES TO BE POSTED

SEC. 711(a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

So that there is no relationship between the statement contained in the pamphlet and what is contained in those sections.

CUTOFF OF FEDERAL FUNDS

The coordinating committee's major attack is directed at title VI of the bill and it is to that attack that I shall direct my remarks.

Title VI provides for the cutoff of Federal financial assistance where such assistance is used in a racially discriminatory manner. Tax moneys of all Americans go to provide the funds for financial assistance. Therefore, it necessarily follows logically and morally that such assistance should be distributed without discrimination among all Americans.

The pamphlet, at page 6, asserts that title VI "vests almost unlimited authority by the President and his appointees to do whatever they desire." Obviously, the inference to be drawn by the reader is that each Federal department or agency is to become a law and master unto itself with the power to trample the rights of citizens underfoot.

The fact is that the House bill surrounds title VI with many safeguards and limitations.

In the first place, it must be recognized that action may only be taken under title VI if a recipient of Federal financial assistance is engaging in the discriminatory application of such assistance. Generally, a recipient will be a State or political subdivision. Thus, title VI is directed towards assuring that a school district, for example, which receives impacted school funds will operate its schools on a desegregated basis. An entire State is not to be made to suffer for the illegal and improper practices of one school district. And, a school district will have no reason to suffer if it merely follows the dictates of the Constitution; namely, that all persons shall be treated equally.

Where a department or agency does find a need to become involved in a case of suspected discrimination, action may only be taken pursuant to regulations approved by the President—not merely by the department or agency alone. Equally important, every effort must be made to secure compliance by voluntary means. If that fails, a formal hearing must be conducted where the recipient may demonstrate an absence of discrimination. Only where it has been shown that a person has been "excluded from participation in, denied the benefits of, or subjected to discrimination under" a program of financial assistance, may funds be denied or terminated. Even there, however, Congress must be notified 30 days in advance of any action to cut off funds and a party aggrieved by the action has the right to seek judicial redress in a Federal court.

Thus, a department or agency may not take irrational and misguided action. Ultimately, the President, the Congress, the judiciary, and the people will oversee responsibility for the action.

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

Mr. KEATING. I yield.

Mr. ERVIN. Did the Senator from North Carolina understand the Senator from New York to say that title VI applied only to a State or a subdivision of a State?

Mr. KEATING. No, I said that most cases would involve States or political subdivisions of States. But under the Hill-Burton Act, for example, it could involve Federal assistance to private organizations.

Mr. ERVIN. I desire to ask the Senator from New York if it is not a fact that the bill would apply to any program or

activity receiving Federal financial assistance, regardless of whether the program is being administered by a State or the subdivision of a State or whether it would affect individuals?

Mr. KEATING. That is correct. It would apply to any municipality or subdivision or State which is receiving Federal assistance.

Mr. ERVIN. Would it not apply to all farmers who would receive loans from the Farmers Home Loan Administration? In other words, if a farmer should apply for a loan to make a repair to his house or his barn, he would be subject to that provision?

Mr. KEATING. Under the bill a Negro farmer could not be excluded from aid on account of his race. The bill would apply to farmers to the extent that if they were receiving Federal aid, they could not be excluded on the ground of race, color, or creed.

Mr. ERVIN. Under the bill, could not the Federal Government step in and dictate to all farmers who are involved in the growing of tobacco, which has price supports, or in the growing of cotton, which has price supports, or in the growing of any other crop, which has price supports—that they must hire particular individuals instead of the men they select, if the Federal Government finds that they selected those hired by them on account of their race?

Mr. KEATING. No; that statement is not correct. That is one of the distortions that has been particularly bruited about in respect to the bill. I shall deal with the case of farmers in a minute, and show that in most Federal programs to aid farmers, aid is given directly from the Government to the individual farmer and no discrimination occurs.

Mr. ERVIN. I shall not interrupt the Senator long. But I should like to give the Senator from New York my assurance that that is the way in which I interpret the bill. In my opinion there is no distortion whatsoever in my interpretation of title VI, which has an inescapably plain meaning insofar as it converts executive departments and agencies into legislative bodies with virtually unlimited powers. I thank the Senator from New York for yielding.

Mr. KEATING. That is not the way in which the Federal Government interprets it. The Federal agencies are the ones who would administer the measure. I believe their interpretation is correct.

Mr. ERVIN. I should like to ask the Senator from New York if up to the present moment any agency of the Federal Government has the power to make any interpretation of the bill. No agency of the Federal Government has any power to make an interpretation of the bill until it is enacted into law, and then that power would be in the courts.

Mr. KEATING. Whether or not the agencies have the power, they are interpreting existing programs in that way. They have rendered legal opinions with regard to the proposed legislation which is to the same effect, and those opinions are directly at variance with the views expressed by my friend, the Senator from North Carolina.

Mr. ERVIN. Will the Senator permit me to make one observation? I believe that the booklet to which the Senator has made reference refers to the bill in its original form before it was amended slightly in the House. It is my honest opinion that everything in the bill is susceptible to the interpretation which the booklet has placed upon it with the possible exception of the exceeding slight changes made in the House. I disagree with the Senator from New York in respect to his comments on the booklet. I concede his right to make his own interpretation, but I say that my interpretation of the bill coincides pretty much with the interpretation in the booklet.

The people who issued the booklet have the same right to place an interpretation on the bill as has the Senator from New York and the Senator from North Carolina. I thank the Senator. I shall not disturb him any longer.

Mr. KEATING. That is all right. I am always glad to be disturbed by the Senator from North Carolina. Since we are on the subject, I understood the Senator from North Carolina to say that the book "Unmasking the Civil Rights Bill" does not apply to the bill that is now before the Senate.

Mr. ERVIN. I did not make that concession. I said that one or two of the statements in the booklet related to the original bill. Section 203, to which the Senator referred, was drastically changed in the House by striking out some of the provisions which were interpreted there to forbid freedom of speech. The most objectionable provision of section 201 was stricken from the bill in the House. There were slight changes in the bill. With these exceptions, I deem the interpretation of the booklet justifiable.

Mr. KEATING. The major revision of the bill occurred in the House Judiciary Committee 6 months ago. The bill was again substantially revised in the House in February and yet the pamphlet directed at the old subcommittee bill is still being distributed all over the country at a cost of thousands and thousands of dollars as propaganda against the bill that we are now considering. That action brings into focus one of the fundamental criticisms that I make about the action of the Coordinating Committee for Fundamental American Freedoms. The American people have also a right to get the facts on the bill that is before us and not to be misled by being told that we are considering a bill which we are not considering at all, and being given a pamphlet relating to a bill which was scrapped last October.

I hope that the Senator can prevail on those people to spend some of the money that they have in such abundance to print retractions or corrections of the great mass of material in the pamphlet which does not apply to the bill which is now before the Senate.

HOUSING

It is alleged on page 7 of the pamphlet that the "right of homeowners in the United States to freely build, occupy, rent, lease, and sell their homes will be destroyed by this bill." This charge is completely without foundation.

While some States and municipalities have "fair housing laws" regulating the sale of private housing, no such provision exists in this bill. Private homes are mentioned nowhere in the bill; Government contracts of insurance and guarantee are specifically excluded from coverage under title VI, so FHA and VA mortgages are not involved in any way whatever.

BANKS AND LENDING INSTITUTIONS

The same may also be said of the operations of banks and other lending institutions. The primary way the Federal Government could allege control over the operations of these institutions is through Government insurance or guarantee programs, such as FDIC. These programs have been exempted from title VI. Therefore, it is impossible to understand how the coordinating committee can charge that the civil rights bill controls the approval and foreclosure of loans by these institutions. And yet the pamphlet categorically states that "no bank could operate under the bill's provisions without undue hardship"—page 8. Another complete, utter distortion and misrepresentation.

EDUCATION

The coordinating committee, in its pamphlet, also relies upon title VI when it charges that the civil rights bill will permit the Federal Government to interfere with students and teaching staffs in public and private schools and colleges. The basis for this charge is apparently grounded in that phrase of title VI which states that "no person shall be subjected to discrimination under any program receiving Federal financial assistance."

The argument is made that where a school receives assistance through the school lunch program, impacted area funds, or the Defense Education Act, the Federal Government may, pursuant to title VI, take action to assure that the teachers employed by or students admitted to such school are also subjected to governmental control.

The fact is, though, that title VI is limited in its operation to the grant or withholding of funds. No accompanying dictation or supervision is authorized. Thus, if a school district or school board is ultimately found to have committed racial discrimination, then the Federal Government may elect to withhold or refuse to grant additional Federal funds until such practice is discontinued. No additional action may be taken.

In title IV the Attorney General is empowered to implement the Supreme Court decision—now 10 years old—striking down segregation in public schools by instituting civil actions to desegregate public schools. The Commissioner of Education is also authorized, under the title, to dispense technical and financial assistance to aid local governments, school boards, and school personnel in coping with problems of desegregation, but only if the school board or other unit of government requests such assistance. Nothing in the title permits the Federal Government to interfere with educational instruction, the employment of school personnel, or the admission of students. Perhaps, even more important, the House specifically provided

that the title did not authorize the Attorney General or Commissioner of Education to transfer students outside their school districts to rectify "racial imbalance." And yet the pamphlet charges that "the President and his appointees in Federal agencies would have the right to dictate pupil assignments in local schools." That is found on page 13. The implication of course—which is designed to frighten and enrage white parents in northern cities—is that this bill will force bussing of schoolchildren from one part of the city to another to overcome racial imbalance. The very language of the bill itself is conclusive proof that this simply is not true.

SOCIAL SECURITY AND VETERANS BENEFITS

The coordinating committee, on page 14 of the pamphlet, has also indicated that title VI would enable the Federal Government to gain control over the lives of individuals through the manipulation of social security and veteran's benefit programs. This could not occur.

Programs of this nature involve the direct transmission of financial assistance from the Federal Government to the individual recipient. Objective standards have been incorporated into the statutes authorizing these financial benefits. An individual would or would not qualify for the benefits on the basis of concise facts which could have no relation to race. An agency of the Federal Government, therefore, would have no basis for practicing racial discrimination among recipients even if it so wanted to. Similarly, no intervening State or local agency of government or private entity lies between the Federal Government and the financial recipient. So, again, there would be no means of practicing discrimination. Under these conditions, title VI would not afford any means for manipulating this assistance, as the coordinating committee charges.

It seems unusually cruel deliberately to frighten those individuals who depend upon social security and veterans benefits by indicating that the civil rights bill will threaten the distribution of this assistance. It is one thing to challenge the civil rights bill in those areas where it would affect existing operations or programs. How much more dishonest it is to generate fear and false impressions in areas completely unaffected in any way by the bill.

FARMERS

In the same manner, the coordinating committee indicates that title VI will directly interfere with the operations of farmers. That is found on page 6.

Basically, title VI is dedicated to guaranteeing fair treatment to farmers in the receipt of Federal financial assistance—not the subjugation of farmers under the iron hand of dictatorship. In those programs where a farmer is qualified under the law to receive financial assistance, the title provides that he shall receive his proportionate share irrespective of his race or color.

All farm programs are not covered, as the coordinating committee implies, because many do not involve financial assistance or involve insurance or guarantees which are exempt under the bill. And, to those that do apply, many involve direct assistance between the Federal Government and the farmer where discrimination could not conceivably occur. Only where an intervening State or local governmental agency exists could the misapplication of assistance even potentially occur. If it does, and if voluntary corrective action fails, then funds to that State or local agency of government would be terminated until distribution is conducted without regard to race or color.

It is correct that, under title VII, a farmer with 25 or more employees may not refuse to hire or proceed to discharge an employee solely because of his race, sex, or religion. But nothing in the title would permit the Federal Government to dictate preferences or quotas to a farmer or interfere in any of his employment practices not associated with the above categories of discrimination.

EMPLOYMENT AND LABOR UNIONS

The coordinating committee has charged—as found on pages 9 to 11—that title VII would enable the Federal Government to dictate to businessmen, schools, farmers, other employers, and labor organizations, whom they must hire or accept for membership, and also permit the Government to impose quotas and preferences upon employers and labor organizations in favor of minority groups. The coordinating committee also maintains that title VII will authorize the Federal Government to interfere with the seniority rights of employees and union members.

Title VII does not grant this authority to the Federal Government. To make such assertions, as the coordinating committee does, is not only an unfortunate misinterpretation of the title's operation but is a cruel hoax because it generates unwarranted fear among those individuals who must rely upon their job or union membership to maintain their existence. A particularly vicious implication in the pamphlet leads white workers to believe they will be fired in order to make jobs for Negroes.

An employer or labor organization must first be found to have practiced discrimination before a court can issue an order to prohibit further acts of discrimination in the first instance. Adequate administrative and judicial procedures have been provided in the title to assure that an order of court is only founded upon clear and conclusive evidence of discrimination. For the Commission to request or a court to order preferential treatment to a particular minority group would clearly be inconsistent with the guarantees of the Constitution.

Twenty-five States have enacted fair employment legislation which is as broad or broader than that proposed in title VII. Most of these States authorize a commission to issue and enforce its own orders against employers and labor organizations which have been found to discriminate. In contrast, as described above, a Federal court is the only governmental organ authorized to enforce the provisions of title VII and, then, it may only do so pursuant to a trial where the Federal Government has the burden of proving discrimination by a preponderance of the evidence.

Finally, title VII provides that the Federal Equal Employment Commission is to turn over complaints it receives to State commissions where State laws are effective and the State commissions are effectively administering those laws. This means that in many States where effective enforcement is possible, title VII need not even apply.

VOTING

Contrary to committee claims that the bill will destroy the right of States to determine the qualifications of voters in all Federal elections—found at page 5—title I only provides that when a State or local government conducts an election, it must do so fairly so that a citizen will not be denied the right to vote because of his race, color, religion, or national origin. Title I also establishes certain procedural safeguards to assure that, when a State or local government administers its voter qualifications, it does so without discrimination.

One of these safeguards involve the requirement that literacy tests be in writing, since overwhelming evidence exists that registrars in certain Southern States have used oral literacy tests as a means to disqualify Negro voters. Similarly, the title provides that where an applicant for registration has taken a State literacy test and has been rejected for illiteracy, the Attorney General, if he subsequently brings a suit charging discrimination by the registrar shall have the procedural right to a presumption in the court that the rejected applicant is literate to vote if he has completed the sixth grade of school. This provision in no way restricts the State's right to require voter applicants to take literacy tests and grants the State the right to prove in court that the applicant was rejected because of illiteracy and not because of the color of his skin. Finally, the title provides that an applicant shall not be denied the right to vote merely because he has committed a minor error or omission on an application form where such error or omission is not material to the applicant's having met the State's qualification requirements. This provision will not permit an individual to vote if he does not otherwise meet the State's qualifications for voting such as age or residency requirements.

In those States where election laws are administered without racial or religious discrimination, there will be no cause for the Federal Government to file a voter discrimination case or to apply the procedural safeguards established in title I

Multiple administrative and judicial safeguards surround each title of the bill in order to protect individual and property rights. The great majority of the States have enacted legislation which is generally more sweeping in nature.

The fact is that the coordinating committee represents a minority interest which is preventing any form of civil rights legislation. Under the American system, it has the right if it relies on true facts to present its position. But, also under the American system, it has long been accepted that every citizen,

regardless of race, color, religion, or national origin shall be treated as an equal. This is the extent of the purpose and intent of the civil rights bill. Rights are to be provided equally to all Americans. Rights are not granted to a few at the expense of many. Totalitarianism is not bred when a nation's government and its people are dedicated to respecting and protecting the inherent equality of the individual. Only when a government or a people consider one race or one class of persons superior to another is there sown the seed of dictatorship and moral decay. When every American is accurately informed of the scope and operation of the bill, and the mask is taken off literature such as this, which is being disseminated through the country, there is no question that the passage and enforcement of the bill will be assured.

## RECESS TO 10 A.M. ON MONDAY

Mr. ERVIN. Mr. President, the hour for the recess, as fixed by the leadership of the Senate, having been passed, I move that the Senate do stand in recess until 10 o'clock on Monday morning, in conformity with the order previously entered.

The motion was agreed to; and (at 4 o'clock and 35 minutes p.m.) the Senate took a recess, under the order previously entered, until Monday, April 27, 1964, at 10 o'clock a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate April 25 (legislative day of March 30), 1964:

ATOMIC ENERGY COMMISSION

Dr. Mary I. Bunting, of Massachusetts, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1965, vice Robert E. Wilson, resigned.

# EXTENSIONS OF REMARKS

## An Answer to Misleading Charges About the Civil Rights Bill

EXTENSION OF REMARKS

OF

### HON. WINSTON L. PROUTY

OF VERMONT

IN THE SENATE OF THE UNITED STATES

*Saturday, April 25, 1964*

Mr. PROUTY. Mr. President, Representative WILLIAM M. MCCULLOCH, the ranking Republican member of the House Committee on the Judiciary, is more familiar with the provisions of the civil rights bill than are most Members of Congress, because he guided the measure through the House of Representatives.

The Representative from Ohio had a summary prepared at his request, and under his supervision. It answers very thoroughly many of the misleading charges which have been hurled at the civil rights bill.

I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the memorandum submitted by the distinguished Congressman from Ohio.

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

THE TRUTH ABOUT THE CIVIL RIGHTS BILL (H.R. 7152), A SUMMARY PREPARED AT THE REQUEST AND UNDER THE SUPERVISION OF WILLIAM M. MCCULLOCH, REPRESENTATIVE TO CONGRESS, FOURTH DISTRICT, OHIO, APRIL 23, 1964

False and misleading charges are being directed at the civil rights bill now in the Senate.

To those people who believe in equality under the law, who support the Constitution, and who love liberty for themselves and for others, the civil rights bill is moderate in scope, and in accordance with the best traditions of America.

Here is what the civil rights bill does and does not do.

EDUCATION

The bill does not permit the Federal Government to transfer students among schools to create racial balancing.

The bill does not permit the Federal Government to dictate to schools or teachers as to what they must teach.

The bill does not permit the Federal Government to force religious schools to hire teachers they do not want.

The bill does not permit the Federal Government to interfere with the course content or day-to-day operations of public or private schools.

The bill does not permit the Federal Government to interfere with the job or seniority rights of schoolteachers.

The bill does authorize the Attorney General to bring civil suits to desegregate public schools where individual citizens are too poor or are afraid to bring their own suits.

Only at and after the request of a school board, the bill would authorize the Commissioner of Education to furnish limited technical and financial assistance to those public schools which need assistance in desegregating.

HOUSING

The bill does not permit the Federal Government to tell any home or apartment owner or real estate operator to whom he must sell, rent, lease, or otherwise use his real estate.

BANK LOANS

The bill does not permit the Federal Government to tell a bank, savings and loan company, or other such financial institution to whom it may or may not make a loan.

EMPLOYMENT AND UNIONS

The bill does not permit the Federal Government to interfere with the day-to-day operations of a business or labor organization.

The bill does not permit the Federal Government to require an employer or union to hire or accept for membership a quota of employees from any particular minority group.

The bill does not permit the Federal Government to destroy the job seniority rights of either union or nonunion employees.

The bill does authorize a bipartisan commission to investigate charges that an employer has refused to hire or that a union has refused to accept for membership an individual solely because of his race, sex, color, religion, or national origin. If the Commission cannot dispose of the charge through the voluntary cooperation of the employer or union, the Commission must either drop the charge or bring a civil suit in a U.S. district court. In court the Commission must prove its charge by a preponderance of the evidence.

This authority is weaker than that granted to 25 State commissions under State law. And, where a State commission is doing its job, the Federal Commission may not interfere.

FARMERS

The bill does not permit the Federal Government to interfere with a farmer's operation of his farm.

The bill does not permit the Federal Government to impose minority quotas upon a farmer's farmhands or tenants.

The bill does not permit the Federal Government to interfere with membership in farm organizations.

The bill only requires that a farmer, having 25 or more employees, may not refuse to hire an employee solely because of the color of his skin or his religion.

SOCIAL SECURITY AND VETERAN'S BENEFITS

The bill does not permit the Federal Government to deny or interfere with an individual's right to receive social security or veteran's benefits.

VOTING

The bill neither authorizes nor permits the Federal Government to interfere in a State's right to fix voter qualifications.

The bill does not permit the Federal Government to practice "judge shopping," or otherwise interfere with the local Federal judiciary.

The bill does provide limited procedural safeguards to assure that citizens are not denied the right to vote because of their race, color, religion, or national origin.

HOTELS AND RESTAURANTS

The bill does not permit the Federal Government to tell general retail establishments, bars, private clubs, country clubs, or service establishments whom they must serve.

The bill does not permit the Federal Government to interfere with or destroy the private property rights of individual businessmen.

The bill does not permit the Federal Government to tell a lawyer, doctor, banker, or other professional man whom he must serve.

The bill does not permit the Federal Government to tell a barbershop or beauty shop owner whom he must serve, except that such establishment, if located in a hotel, must serve all patrons of that hotel.

All the bill does is to require that the owners of places of lodging (having five or more rooms for rent), eating establishments, gasoline stations, and places of entertainment are to serve all customers who are well-behaved and who are able to pay.

This requirement is weaker than the public accommodation laws of 32 States. And, where these States properly enforce their laws, there is no reason for the Federal Government to interfere.

RIGHT TO JURY TRIAL

The civil rights bill contains no primary criminal penalties. Only civil actions are