has worked, and today there are more birds than ever.

Within the past few months, local officials and members of the States' congressional delegation have met with the Secretary of the Interior and the Attorney General in an attempt to expedite the long-needed relief.

Progress on this count has been made, but time is of the essence if relief is to be forthcoming before next year. The means of relief which we are proposing can only be applied in wet and freezing weather, and in Kentucky such conditions rarely occur beyond March.

Let me reiterate what my colleagues have noted, that the relief we are seeking through this legislation is only temporary. Long-term solutions are being developed which could provide permanent answers.

I urge my colleagues to join in supporting this measure.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2873) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds that in Kentucky and Tennessee large concentrations of starlings, grackles, blackbirds and other birds found in "blackbird roosts" pose a hazard to human health and safety, livestock and agriculture, that the roosts are reestablished each winter, that dispersal techniques have been unsuccessful, that control is most effective when birds are concentrated in winter roosts, and that an emergency does exist which requires immediate action with insufficient time to comply with the National Environmental Policy Act.

SEC. 2. (a) Upon certification by the Governor of Kentucky and/or Tennessee to the Secretary of the Interior that "blackbird roosts" are a significant hazard to human health, safety or property in his state, the Secretary of the Interior shall provide for roosts determined through normal survey practices of the Department of the Interior to contain in excess of 500 thousand birds to be treated with chemicals registered for bird control purposes, unless the Secretary determines that treatment of a particular roost would pose a hazard to human health, safety or property.

(b) The provisions of the National Environmental Policy Act of 1969 (83 Stat. 852), the Federal Environmental Pesticide Control Act (86 Stat. 975), or any other provision of law shall not apply to any such blackbird control activities undertaken, on or before April 15, 1976, by the States of Kentucky or Tennessee or the Federal Government within the States of Kentucky or Tennessee.

Mr. HUDDLESTON. Mr. President, I move that the vote by which the preceding bill was passed be reconsidered.

Mr. FORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum, with no time to be charged.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I yield myself 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized for 1 minute.

S. 1—RECODIFICATION OF THE FEDERAL CRIMINAL LAWS

Mr. MANSFIELD. Mr. President, the Senate Judiciary Committee is presently considering S. 1—a most significant legislative reform that will recodify the Federal criminal laws. In its present form, I could not vote in favor of S. 1. I am confident, however, that the Judiciary Committee and ultimately the full Senate will perfect the recommendations contained in the present version of S. 1 so that I can enthusiastically support it.

In today's New York Times an excellent letter from former Gov. Pat Brown of California addresses this subject. I agree with the recommendations and conclusions of Governor Brown's letter. He chaired the Presidential Commission on the Reform of the Federal Criminal Laws whose recommendations have formed the bases of this major effort to update the Federal criminal laws. An excellent article appears as well in the current issue of Judicature dealing with the provisions of S. 1.

I ask unanimous consent that both articles be printed in the RECORD.

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

U.S. CRIMINAL CODE: THE IMPORTANCE OF S. 1

To the EDITOR:

As chairman of the National Commission for Reform of Federal Criminal Laws, I have watched with deep concern the efforts of some civil libertarians and representatives of the press to kill S.1, the pending bill to recodify Title 18 of the U.S. Code. That bill incorporates a very substantial portion of the recommendations of our commission, and 95 percent of its provisions constitute a major improvement over existing Federal criminal law. Those provisions have been found acceptable by all who have studied the legislation and they are really beyond the realm of serious controversy.

I, of course, agree with some of the bill's critics that there are a few sections of S.1 which may be characterized as repressive, but these are limited to a small number and in all likelihood will be taken care of in the Senate Judiciary Committee or by amendment on the Senate floor. The contention that the whole bill must be defeated because of these few sections is, in my opinion, without semblance of validity.

Recognizing the urgency of criminal code revision at this session of Congress, Senators McClellan and Hruska, the sponsors of S.1, have informed me of their willingness to accept some modifications which would meet the objections of the press and other critics. With a similar sense of responsibility, Senators Kennedy and Hart are working toward securing the amendments necessary to make this bill perfectly acceptable to their liberal constituencies.

There are some areas of the criminal law which presently pose serious problems for the sponsors of code revision. The most obvious examples are national security, wire tapping, gun control, traffic in drugs and capital punishment. While Congress must eventually resolve these issues, it is certainly unnecessary for the whole code to be held up until total agreement can be reached. They might more properly be left to separate legislation to be introduced, debated and enacted at a later date.

A great deal of misinformation has been spread about S.1. As the members of the Senate Judiciary Committee have studied this comprehensive and important legislation, the chances of its passage in somewhat modified form have been greatly enhanced. Defeat would be a severe blow to criminal law reform in this country.

EDMUND G. BROWN,

BEVERLY HILLS, CALIF., *January 20, 1976.*

P.S.—The writer is former Governor of California.

S. 1 seeks to restore capital punishment and make it mandatory in a narrow group of homicides. It is silent on any form of gun control but adds additional years of imprisonment to already heavy maxima when guns are used in connection with an offense or when organized crime is involved. It retains a prison penalty for non-commercial private possession of marijauna but reduces the present heavy punishment considerably. It provides severe penalties for traffic in hard drugs. It narrows the defense of insanity.

The foes of the Senate bill have concentrated much of their fire on provisions which have been interpreted as curtailing First Amendment rights. They foresee wiretapping on an expanded scale and protest the excuse of national security as its justification. The bill has met intensive opposition from the political left, to whom demonstration has become a right valued above almost all others. The liberal opponents of S. 1 have overlooked two factors of great importance. First, mere defeat of S. 1 would leave intact many of the provisions to which they are opposed since they are carry-overs from existing law. Second, and more important, the critics have been ignorant of, or have ignored, the fact that at least ninety percent of the provisions of the bill constitute law reform that is virtually beyond the realm of serious controversy. In consequence, while amendment may be essential, total rejection would be tragic. To vote S. 1 down would doom the country to a continuation of totally unsatisfactory criminal law at the federal level and a dearth of reform in many state and local jurisdictions.

It has taken a full decade from the launching of the effort to secure revision during the administration of President Johnson to bring the matter to a congressional vote. If a revised code goes down to defeat, it is highly unlikely that a new effort at revision can be consummated in less than another decade. Meanwhile, crime marches on, and civil liberties suffer as much under the present chaotic system as they would, in all likelihood, under the most extreme provision of S. 1.

THE KILLING OF S. 1

The Wall Street Journal editorialized on August 22, 1975, on the subject of S. 1 and condemned it roundly. In calling for the rejection of the bill, it stated, among other things, that "[t]he entire bill in its present form goes well beyond present law in restricting First Amendment rights, reducing public access to knowledge of the workings of government and revising civil rights precedents."

The following comment was offered in reply by Professor Louis B. Schwartz, Benjamin Franklin Professor of Law at the University of Pennsylvania and director of the National Commission on Reform of Federal Criminal Laws:

"On the other hand, 95 percent of S. 1 is a competent non-controversial ordering and

Ky., farmers have lost $2.5 million in crops and livestock over the last 9 months.

In addition to consuming wheat and corn crops, the blackbirds spread parasites which destroy soybeans, strip acres of pine forests, and spread diseases fatal to livestock.

The most serious result of the area's infestation of blackbirds, however, has been the rapidly increasing incidence of histoplasmosis, a disease spread through a fungus associated with bird droppings, which can cause irreparable damage to the lungs and which afflicts most severely children and the elderly. Montgomery County, Tenn., has reported 41 cases of histoplasmosis in the last 2 years, and an even larger number of cases has been reported in the affected counties in Kentucky. The Tennessee Department of Public Health has certified that the situation represents an emergency health threat, and the only way in which this threat can be removed is by controlling the bird population.

Unfortunately, all nonlethal means of ridding the area of blackbirds have proven ineffective. The best method of destroying the birds currently available involves use of the chemical Tergitol. After filing an environmental impact statement and receiving the approval of a Federal district court, the Department of the Army last year used Tergitol to help in controlling a large blackbird population at Fort Campbell, Ky.

This year, efforts by local authorities to use Tergitol to control birds throughout the area have been stalled by a lawsuit filed by the Society for Animal Rights, an animal protective organization headquartered in New York. As a result of the suit, the Department of the Interior has agreed not to use the chemical until a national environmental impact statement has been completed or unless an emergency health threat is found to exist. While the Secretary of the Interior is expected to make an emergency determination on an area-by-area basis, that determination is also subject to challenge in the courts, creating further delays. The impact statement, which has been under preparation for several years, is not expected to be issued in final form until April of this year, too late for any action which will resolve the difficulties now facing the people of affected Tennessee and Kentucky.

The bill which we introduce today was drafted to meet a narrowly defined, emergency situation. It provides an exemption from the National Environmental Policy Act and the Federal Environmental Pesticide Control Act for blackbird control activities undertaken by the States of Tennessee and Kentucky until April 15 of this year. In order to qualify for the exemption, the Governors of the two States must certify to the Secretary of the Interior that the blackbird roosts are a significant hazard to human health, safety or property. If the Secretary determines that treating certain roosts with chemicals registered for bird control purposes would pose a hazard to human health, safety, or property, he may block use of the chemical in those areas.

Mr. President, I have been a staunch supporter of the National Environmental Policy Act and its provisions for some time; and I would oppose legislation which would weaken the intent of the law or provide broad exemptions from it for activities of a questionable environmental impact. The situation which confronts the States of Tennessee and Kentucky, however, is one in which an imminent health hazard exists. The chemical which would be used in controlling the birds has been used in the area before with no harmful environmental effects, and an environmental impact statement on that use was filed last year. The delay which has been caused already by litigation in this case has resulted in an increase in the number of victims of histoplasmosis, and every day those birds are permitted to roost in the area increases the danger to residents of all ages. I urge the Senate to act promptly on this emergency measure so that steps can be taken now to control the situation. The legislation will in no way affect the requirement that a national environmental impact statement be filed by the Department of the Interior as soon as possible, nor will the 3-month exemption from NEPA provided by this bill lessen the commitment which has been made by the Congress to insure an adequate review of the environmental effects of Federal actions.

Mr. BROCK. Mr. President, I rise in support of the bill and to express my gratitude to my colleagues from Kentucky and Tennessee for introducing this much-needed piece of emergency legislation.

We have children in the hospital today because the Government has not come to grips with a fundamental problem that affects life and property in our two States.

This bill will give us a very short period of time to deal with the problem in an environmentally safe and sound fashion.

I am hopeful that the House will accept the Senate bill and that we can proceed to the passage and enactment into law.

Mr. President, this is indeed an emergency piece of legislation devised to deal with a problem that has lingered unattended for years in Tennessee and Kentucky. I have seen the horrendous physical damage being wrought on the farmlands of Tennessee and Kentucky by severe concentration of millions and millions of birds. I have received shocking testimony from health and agricultural officials of both States attesting to the serious economic losses being incurred to the farmers, and documenting the severely increased health hazards being faced by the children who live in areas affected by the birds.

Mr. President, the shameful aspect of this situation is the foot dragging which has occurred over the past few years. It has come to the point that the people are crying out for help from their Government but are not confident that their Government can or will provide any help. Unfortunately, after trying to deal with this problem for many, many months now, I almost have to agree.

Incidence of the disease histoplasmosis is increasing greatly. There is no logical reason that it should, had the Government not delayed and delayed. Prior to 1974, in Montgomery County, Tenn., for example, the histoplasmosis was identified in two to four children per year. For the years 1974–75, the incidence increased to more than 25 cases per year. On the basis of such health findings, I can only lend my strongest support to this emergency bill.

Mr. President, it is incredible that we even have to come to Congress in this fashion. Our Government cannot have grown to the point of insensitivity, yet in the face of mounting evidence, we see no alternative to this legislation. This measure is necessary, and I hope that it will provide a short-term solution so that we may seriously look toward final and lasting solutions. The people of Tennessee and Kentucky have suffered long enough.

Mr. FORD. Mr. President, today I am joining with my distinguished colleagues from Kentucky and Tennessee in introducing legislation to provide relief to communities in the two-State area suffering from an infestation of blackbirds, starlings, and grackles.

We offer this legislation for one purpose—to protect the health and well being of those who live there.

For more than 6 years, these people have patiently tolerated the serious health, agricultural and economic problems which have developed as a result of the presence of these birds. They have seen their feed and grain crops destroyed. They have borne the loss of livestock due to the disease carried by these birds. And they have watched helplessly as this disease spread to their family and friends.

I have worked with them, first in the statehouse and now in the Senate, to resolve this serious situation. As Governor of Kentucky, I acted twice in 1974 to declare that states of emergency existed in one of the affected counties and appealed for Federal assistance. Since that time, the roosts have multiplied manyfold. No longer are we dealing with one county, but an entire region encompassing two States, and now it is estimated that the population of the birds numbers more than 77 million.

Farm losses are estimated to total $1 million a day in the area. Confirmed cases of histoplasmosis are skyrocketing. In one community alone the number of diagnosed cases of this disease rose by 200 percent. In another city, 6 percent of all schoolage children tested out positive for this disease last year.

What we are dealing with here is more than people's livelihoods; rather it is people's lives and the lives of their children.

Alternate means of controlling the bird populations have been tried in recent years, all to no avail. Portions of some of the roosts have been relocated through the use of recorded distress calls and pyrotechnics. Forests were thinned to discourage roosting in critical areas. And Kentucky State government has invested thousands of dollars in efforts to set up bird-control programs. Nothing

modernizing of the antiquated arbitrary hodge-podge that is our present criminal justice system. If there ever was a counsel of despair, of throwing out the baby with the bath water, it is the suggestion in your editorial that S. 1 be abandoned rather than amended, as it easily can be to remedy its defects."

Is prison forever to be the only method of punishing crime?

He than gave a sampling of the numerous improvements incorporated in S. 1 which would be jettisoned if the Journal's counsel were followed:

"A rational scale of penalties under which like offenses are subject to like sentences;

"Systematic distinction between first offenders and multiple or professional criminals;

"Appellate review of abuse of discretion in sentencing;

"An improved basis for extraditing criminals who flee the country;

A system of compensation for victims of violent crime;

"The first democratically adopted statement of the aims of the criminal justice system for the guidance of courts, enforcement officials and correctional agencies."

Professor Schwartz concluded:

"In short, although there are a dozen specific amendments required to make S. 1 acceptable, the overall aim and substantial accomplishment of the bill is to promote respect for the law by making the law respectable. The reform of the federal criminal code should be rescued, not killed."

H.R. 10850

Belatedly, on November 20, 1975, Representatives Kastenmeier (D. Wisc.), Mikva (D. Ill.) and Edwards (D. Cal.) introduced H.R. 10850, a new bill to revise Title 18 which was prepared in large part by the American Civil Liberties Union. It tracks S. 1 closely, and departs materially from the bill only in the relatively few areas where major disagreement by the ACLU with the Senate bill was only to be expected. The provisions in question deal with: the insanity defense, treatment of classified material, marijuana, the sentencing structure, death sentence, obscenity and the like. It may be anticipated that the liberal view of the framers of H.R. 10850 may incite as violent opposition from conservative elements inside and outside of Congress as some of the repressive measures of S. 1 did from the liberals.

The introduction of the ACLU legislation is bound to increase the polarization among members of Congress and hurt the cause of revision, yet two points may be made in its favor. The bill follows the provision numbering of S. 1 and consequently makes easy an examination of the sections in which the sponsors of the two bills run at cross purposes. More importantly, a comparison should bring out forcefully how much agreement resides on each side with respect to the vast majority of the provisions of both bills. Only on a limited number of highly controversial issues does significant disagreement exist.

THE ABA CONTRIBUTION

At the 1975 annual meeting of the American Bar Association, the Section of Criminal Justice secured virtually unanimous approval by the House of Delegates of a resolution endorsing S. 1 in principle, subject to a series of thirty-eight suggested amendments. In a few instances the Section preferred the counterpart section of H.R. 333; in several it disapproved of the S. 1 provision in its entirety (treatment of the insanity defense, control of prostitution, crime in federal enclaves); but in most the S. 1 approach was approved, subject to amendments to make it conform to the Standards Relating to the Administration of Criminal Justice. Very few of the proposed amendments could be characterized as sweeping.

The Section of Criminal Justice studied the Brown Report and S. 1 over a period of four years. It is certainly to be commended for its recognition of the importance of pursuing federal criminal law revision, and unquestionably its proposed amendments would strengthen and improve the Senate bill. Yet its recommendations and the action of the House of Delegates are disappointing in several important respects.

The subject matter of S. 1 deserved something more than a mere legalistic analysis of the language of a complex bill. One may well wonder how helpful anyone could find the main paragraph of the long resolution of the House of Delegates. It reads in part as follows:

"Be it resolved . . . . that the American Bar Association endorses in principle the provisions of S. 1 and its counterpart H.R. 3907, now pending in the 94th Congress, 1st Session, as a desirable basis for the reform of the federal criminal laws; noting however that the Commission on Correctional Facilities and Services urges the particular importance of amendments to reflect the general principles set out in Recommendations 28, 31, 33 and 34 in Appendix A hereto and the relevant sections of the ABA Standards Relating to the Administration of Criminal Justice. . . ."

Furthemore, the most critized ommissions or inclusions of S. 1 are almost ignored. The ABA takes no position on the absence of provision for gun control; it has ducked the question of capital punishment, taking refuge in the fact that it is *sub judice* in the Supreme Court; it has withheld recommendations on the S. 1 handling of the drug problem, pending a study by the association "in depth." In addition, the Section report, and consequently the House of Delegates' action, fails to call attention to the important fact that the vast majority of the bill provisions constitute law reform that is virtually beyond controversy. The ABA criticism and simultaneous support of S. 1 cannot be dismissed as unhelpful, but the Association has done considerably less than sound a tocsin summoning Congress to get on with essential legislation without further delay.

THE BAR'S RESPONSIBILITY

In light of the wreckage that crime is causing throughout the country (one family out of every four victimized); of the financial burden that crime and its prevention imposes upon us annually (around $100 billion, or a tenth of the gross national product); and of the unique capability of lawyers to provide leadership in a field in which they have more expertise than almost all others, the apparent lack of concern of the profession is difficult to explain.

We are apparently ready to stand by and allow Congress to resolve some of the most important criminal law issues of our times with scarcely a word of advice, support, or even opposition, from the organized bar. Within the framework of revision of Title 18 as a whole, rest among others the following great questions of the day:

Are sentences of imprisonment to be left, as heretofore, to the whim of a judge who may be guided entirely by the theory that only severity of punishment will block crime, or should sentencing be placed on a more uniform, scientific basis conforming to modern principles of penology?

Should we continue to fight drug abuse only with the savagery of heavy punishment, or with up-to-date principles of crime prevention and control?

Do victimless crimes and minor infractions of law deserve the inordinate share of police time and effort now devoted to them at the cost of serious diminution of the protection of society from crimes of violence?

Must we continue to suffer the present annual slaughter by homicide rather than give up the absolute right of everyone to bear all kinds of arms for whatever purpose?

Is prison forever to be the only method of punishing crime, or might a modern scientific effort be made to utilize probation as a supplementary method?

Must we accept recidivism as unconquerable rather than try to arrest it by a wholehearted system of rehabilitation?

The mere delineation of those issues should make clear how hopeless it would be to expect a single piece of legislation to resolve every one of them satisfactorily. It seems obvious that several of the questions demand separate legislation carefully drafted and followed by time for what may be prolonged debate. To attempt to package all the solutions in an omnibus treatment, as have the framers of S. 1 and H.R. 10850, simply invites the possible rejection by Congress of any revision whatever.

It is here that one might have expected the leadership of the profession to offer guidance to the Congress. Instead of being content to stand by and witness the crushing to death of this important legislation between the extremists of the right and those of the left, the American Bar Association might well have called for the elimination of the controversial provisions and the enactment of the portions of S. 1 on which nearly everyone can agree.

That is not to say that the provisions of the code governing wiretapping, drug abuse, capital punishment, obscenity and gun control should be ignored. Obviously, they are in great need of reexamination and revision. The bar should call for new legislation in those areas without delay. There is no persuasive reason, however, why the other portions of Title 18 should be hung up until agreement on the controversial portions is reached.

MAGNUSON FISHERIES MANAGEMENT AND CONSERVATION ACT OF 1976

The Senate continued with the consideration of the bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum without the time being taken from either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time? We are under controlled time.

Under the previous consent agreement, debate on any amendment, except an amendment based on article VII of the Conservation Treaty of 1958, on which there shall be 3 hours of debate, with only 1½ hours of that time to be utilized today, shall be limited to 1 hour with 10 minutes on any debatable motion or appeal.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 12:45 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:45 p.m. today.

There being no objection, the Senate, at 11:18 a.m., recessed until 12:45 p.m.; whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. FORD).

QUORUM CALL

The PRESIDING OFFICER. The Chair suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF TIME FOR FILING REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services and the Committee on Foreign Relations may have until midnight tonight to file a report on House Joint Resolution 549, dealing with the covenant with the Northern Mariana Islands.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION—NOMINATION OF GEORGE BUSH TO BE DIRECTOR OF CENTRAL INTELLIGENCE

The PRESIDING OFFICER. Under the previous order, the hour of 1 o'clock having arrived, the Senate will now go into executive session to consider the nomination of Mr. George Bush to be Director of Central Intelligence.

The clerk will state the nomination.

The assistant legislative clerk read as follows:

Nomination, Central Intelligence, George Bush of Texas, to be the Director.

The PRESIDING OFFICER. Debate on this nomination is limited to 2 hours to be equally divided and controlled by the Senator from South Carolina (Mr. THURMOND) and the Senator from New Hampshire (Mr. McINTYRE) with the vote thereon to occur at 3 p.m.

The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I ask unanimous consent that two members of my staff, Mrs. Elizabeth Webber and David LaRoche be granted the privileges of the floor during this debate.

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

Mr. McINTYRE. Mr. President, I yield myself 5 minutes.

Mr. President, yesterday in this Chamber I expressed my reasons for opposing the confirmation of Mr. George H. Bush as Director of the Central Intelligence Agency.

I said that the appointment of so clearly perceived a political figure to direct the rebuilding of this Agency would undercut two self-evident priorities:

First. The need to restore CIA probity by insuring the Agency's future adherence to its statutory purpose and by insulating the Agency from political corruption of that purpose.

Second. And, equally important, the need to convince the American people that the restoration effort is sincere and that the end result can be trusted.

We are about to vote on this matter, Mr. President, but I would like to take a few minutes to emphasize those fundamental considerations.

The majority report on the nomination makes two important points:

First. That whoever is named to this post must be insulated from political considerations if he or she is to be effective and objective in intelligence gathering, and that he or she must use the substantial and secret power of the office scrupuously within the law, even when political or personal interests may pressure otherwise.

Second. That the intelligence community, the Congress, and the American people must always have full confidence in the character of the Director of Central Intelligence.

Can anyone in this Chamber question those objectives? They are from the majority report on this nomination.

If the answer is "no," as it ought to be, then why, I ask, did the President choose this particular moment in the CIA history to nominate an individual so certain to inspire skepticism?

Why now, of all times, does he ask us to break the 27-year history precedent of nonpolitical Directors of the CIA?

This is not a routine Executive appointment wherein the President's desire for a "team player" has some legitimacy.

This is not a Cabinet appointment wherein the nominee is expected to serve his President as an instrument of Executive policy and power.

This is not even comparable to the nomination of a Supreme Court Justice, wherein the President's desire for an appointee who shares his court philosophy is understandable and precedented, and where the ultimate independence of the justice is carefully insulated by tradition and the Constitution.

No, my colleagues, this nomination is for the directorship of an agency whose functions are vital, yet difficult to reconcile with the values of a free people under the best of circumstances. And with all the evidence of abuses by and of the agency, these are surely not the best of circumstances.

To confirm any nominee to this post at any time requires an act of faith on the part of each Member of this body, acting in behalf of the public at large.

To confirm this nominee, at this time, under these circumstances demands more than an act of faith, it requires an insensitivity to public skepticism over the prudence and propriety of the nomination itself.

In short, Mr. President, the nomination of a clearly perceived political personage to insure the purpose and protect the integrity of an agency so recently vulnerable to political subornation does not inspire public confidence. It simply raises suspicion, doubts, and cynicism at a time when the CIA desperately needs trust, faith, and confidence.

One more point, Mr. President.

Should he be confirmed, Mr. Bush will be the fourth CIA Director in only 3 years.

When it considered the nomination, the committee addressed the important question of tenure, and properly stressed the need for continuity of leadership at this critical stage in the life of the agency.

The majority of the committee was satisfied on this point when the President took Mr. Bush off the list of Vice Presidential possibilities, ostensibly assuring us that the nominee would occupy the post at least through the upcoming campaign.

But if extended tenure is a real consideration, as I believe it is, how is that concept served by confirming a political person in that post during a Presidential election year?

Where is the guaranty of tenure beyond January 20, 1977, if anyone other than Mr. Ford is sworn in as President? Where is the guaranty of tenure there?

And where does this leave the CIA? Can the prospect of a political appointee as Director, and all that this portends, improve morale within a demoralized Agency any more than it can inspire public confidence outside the Agency?

I fear not, Mr. President. I fear not.

In conclusion, then, I urge my colleagues to weigh very carefully the precedent we are being asked to set today and to ask themselves whether this nomination is, in fact, in the best interests of the CIA or will in any way enhance public confidence in the Agency . . . or, for that matter, in the Senate of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, will the the Senator yield me 6 minutes? I understand the Senator from South Carolina has control of the time.

Mr. THURMOND. I yield 6 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, this nomination before the Senate, for Director of Central Intelligence is, of course, one of overwhelming importance. The nominee is Mr. George Bush, as is well known.

After hearings in December last the Committee on Armed Services voted 12 to 4 to favorably report this nomination.