Because of the unique status of newspapers, the bill is designed specifically to reverse the Supreme Court in the Citizen Publishing Co. case and apply a more realistic test. Some of the factors a court of law would consider in determining whether a newspaper was failing are: First, net loss or declining net income; second, whether accounting ratios showing instability, including net income as a percentage of invested capital, net income as a percentage of gross revenue, gross income as a percentage of invested capital, current assets to current liability, long term indebtedness, and so forth.

In other words, the court should be able to recognize the trend toward failure and not be required to wait until it is irreversible. Third, declining circulation trends; fourth, increasing cost trends, including operational costs, circulation and subscription costs and solicitation costs; fifth, increasing advertising rates without corresponding increases in income; sixth, declining trends in the percentage of newspaper columns used for advertising purposes; seventh, factors showing strengthening of a competitor, including his increased circulation and advertising trends; eighth, price war conditions, promotional activities and premiums used as a means to maintain circulation or advertising, demonstrating inherent instability; ninth, instability and insecurity of personnel, including rapid increased employee turnover, loss of key personnel, and so forth; tenth, the extent of investments required in fixed assets, equipment, and machinery; eleventh, demands on capital apart from newspaper operations; twelfth, adverse legal developments; and thirteenth, basic instability shown by the necessity of reliance upon the financial strength of stockholders or the financial capacity and operations of parent companies or other related newspaper publications rather than on the inherent strength of the paper itself.

With respect to the last factor mentioned, the availability of capital from shareholders would not show that a newspaper was not failing. Rather, the fact that it had been necessary for shareholders to make additional capital available to a failing newspaper would indicate basic instability, in that the newspaper had to rely upon the financial strength of shareholders rather than upon the newspaper's own viability. In short, under the pending bill the court would consider those factors which would determine whether a newspaper could remain or become viable.

Thus, the Newspaper Preservation Act provides a realistic and practical test of failing—if you will, a businessman's test—because it is necessarily on business considerations that a publisher makes a decision as to the continuation of publication when the newspaper is no longer profitable.

Mr. President, the hearings on this bill fully document the need for the limited relief provided. The Senate should recognize the economic facts of newspaper publication and enact this legislation.

I represent the people of Utah in the Senate. Salt Lake City, which is Utah's capital, is vitally interested in this legislation because we have in Salt Lake City one of the 22 situations to which this law would apply and for which it is very greatly needed.

If the pending bill passes, it will be assurance to the people of Salt Lake City, and to the people served from Salt Lake City, of the continuation of our two daily newspapers, the Salt Lake Tribune and the Deseret News, both excellent newspapers. They compete effectively in news and editorial opinion. It will, therefore, provide the readers with the needed difference of opinion, difference of information, and difference of point of view which is necessary to maintain a choice.

It is this competition in ideas, so precious to this democracy, which will be preserved by the enactment of the pending bill.

And in my opinion this competition of ideas is so vital that it is worth reapplying.

The principle that underlies our antitrust laws is that for the newspaper industry this principle can be beneficial in the case of the situation where one newspaper is not as strong as the other, rather than have the effect which the application of the decision in the Citizens Publishing Co. case inevitably would have of speeding the day when the second editorial voice would have to disappear.

Mr. FONG. Mr. President, as a cosponsor of the pending bill, S. 1520, the Newspaper Preservation Act, I rise to urge passage of this measure on the ground it is essential to the preservation of an enlightened citizenry and our form of government.

It will help keep alive distinctive and differing editorial and news reporting competition in newspapers serving millions of Americans in at least 22 major metropolitan areas. Included in these areas are such State capitals as Honolulu, Hawaii; Madison, Wis.; Nashville, Tenn.; Columbus, Ohio; Salt Lake City, Utah; Lincoln, Nebr.; and Charleston, W. Va.

Indispensable to our democracy are the fullest possible reporting of news events and the widest possible dissemination of these reports, together with editorial comment and analyses. No industry is more important in these functions than the newspaper industry. Within our system of competitive enterprise, the newspaper's ability to perform these essential roles in our society depends not only on its journalistic excellence, but also on its ability to succeed as a commercial venture.

To assure the free flow of information and to assure public access to a variety of editorial voices, we must see to it that first amendment principles are rigorously adhered to. But, just as important, we must foster editorial competition and diversity as much as possible in every community.

NEWSPAPER FINANCIAL WOES LED TO JOINT OPERATIONS

For more than 3 decades, many metropolitan daily newspapers with fiercely competing newspapers have had financial difficulty. Many newspapers folded; others merged. Still others developed a plan whereby separate news and editorial staffs were maintained, while other operations, such as printing, advertising, and circulation—commercial operations—were performed jointly.

In January 1965, however, the Department of Justice sued publishers of two daily newspapers in Tucson, Ariz., for violations of section 1 of the Sherman Antitrust Act and for monopoly in violation of section 2. The district court in April that year ruled the joint agreement under which the two papers were operated constituted a per se violation of section 1.

In 1967, the Department of Justice interpreted Federal antitrust laws in such a way that where two or more newspapers are merged—and one of these newspapers is a failing newspaper—such mergers are clearly consistent with the antitrust laws and will be judged on their individual merit, on a case by case basis. But if two newspapers, one of which is failing, engage in a joint operating arrangement to preserve competing editorial voices, such an arrangement may be subject to prosecution under the antitrust laws.

Those of us supporting the Newspaper Preservation Act believe newspapers with joint operating arrangements that preserve competing editorial voices should be given the same consideration as newspapers which merge.

LEGALITY OF JOINT OPERATIONS QUESTIONED; LEGISLATION PROPOSAL

The Department of Justice position and the district court rulings raised serious questions of legality about joint operating agreements between newspaper publishers throughout the Nation.

As a result, on March 16, 1967, a remedial bill, S. 1312, was introduced by former Senator Hayden of Arizona and 14 other Senators, including myself. Actually, this was more than remedial legislation. It was survival legislation for newspapers which otherwise faced the grim alternatives of inevitable death or being swallowed up by a stronger newspaper.

Lengthy hearings were held by the Antitrust and Monopoly Subcommittee and in October 1968, the subcommittee amended and reported S. 1312 favorably to the full Judiciary Committee. Congress adjourned before the full committee could act.

In January 1968, in the Tucson case, the district court in its judgment and decree found violations of section 2 of the Sherman Antitrust Act and section 7 of the Clayton Act. On March 10, 1969, the Supreme Court affirmed the district court judgment and decree.

S. 1312 was reintroduced 2 days later as S. 1520, with 34 sponsors in the Senate including myself. Companion bills were sponsored by more than 100 Members of the House of Representatives. Additional hearings were held, as a result of which S. 1520 was amended as it is now pending before the Senate.

Bearing in mind that the purpose of this legislation is to keep alive differing editorial views and ideas for our major urban communities, the provisions of S. 1520 are understandable and reasonable. The very limited exemption from certain features of our antitrust laws is carefully circumscribed and restricted.

PROVISIONS OF S. 1520

In summary, S. 1520 provides as follows:

Section 2 sets forth a congressional declaration of policy:

In the public interest of maintaining the historic independence of the newspaper press in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been or may be entered into because of economic distress.

Section 3(1) defines "antitrust law."

Section 3(2) defines "joint newspaper operating arrangement" and states explicitly just what lawful conduct parties to a joint arrangement may engage in. The definition makes the creation of a valid joint operating arrangement dependent on establishing "joint or common production facilities." Establishment of a common plant is prerequisite to all other permissible action.

The limitation is to insure that this bill applies only to newspapers serving the same market area which are attempting to save money through combined facilities. The exemption from antitrust laws would not be available to two publishers who use different plants and seek only a price-fixing agreement.

Under the arrangements contemplated, publishers might be expected to print a morning paper, an evening paper, and either one or two Sunday papers. If the agreement between the publishers includes complete elimination of either the morning or afternoon newspaper when daily papers are involved, or all but one weekly paper in the case of weeklies, the bill would provide no exemption because the resulting arrangement could not preserve established editorial voices under separate corporate control.

Section 3(4) defines "newspaper publication" so as to exclude magazines and other "slick paper" publications as well as free circulation "shopping newspapers," and advertising circulars. Unless a reasonable portion of the publication eligible for exemption is devoted to news dissemination, the intent of the bill—to give financial stability to editorial voices—cannot be served.

Section 3(5) defines "failing newspaper" more broadly than the Supreme Court has defined failing business. As the committee report states:

In the International Shoe case, the (Supreme) Court reasoned that a merger between two competitors, one of which is failing, cannot have an adverse effect on competition because whether or not the merger occurred the failing company would disappear as a competitive factor. It is the committee's view that the reasoning of the Court is sound, but that the economics of the newspaper industry make it more likely for newspapers to fail when faced with competition than other businesses; that when a newspaper is failing it is harder to reverse the process and it is almost impossible to find an outside buyer. The Committee wishes to establish a less stringent test than that applied in the case of *Citizen Publishing Company* v. *U.S.* (394 U.S. 131 (1969)).

In applying this definition the Court should consider the impact of competition on newspapers as it determines whether a paper is likely to disappear as a competitive factor.

In determining whether a newspaper publication is "likely to remain or become financially sound" the Court may consider the operating results of the newspaper and other relevant factors such as return on invested capital, cost and income trends, circulation trends, advertising-news ratios and trends, competitive factors in the relevant market area, availability of personnel, availability of capital from shareholders, investments in fixed assets, population of the relevant market area, the population trends, and all other relevant economic evidence.

The bill also contains language intended to preclude artificial creation of "failing" newspapers by fancy bookkeeping devices.

Section 4(a) describes the antitrust exemption allowed under the bill. Under this section, one or more failing newspapers may enter an agreement with each other or with a financially sound newspaper. The agreement may only include a single successful newspaper. If the agreement would result in the suspension of the only morning or afternoon newspaper, then it is not exempted.

The purpose of this section is to provide that joint operating arrangements permitted by the bill shall not constitute a violation of the antitrust laws. This section would prevent the Department of Justice or any private party from suing under the antitrust laws. It would prohibit any department or regulatory agency of the U.S. Government from imposing sanctions or taking any other action on the ground that such a joint operating arrangement violates or is inconsistent with the antitrust laws or contrary to the public interest.

Section 4(c) is to protect the competitive position of newspapers which share the market with a joint operating arrangement. It provides that nothing in the bill should be construed to exempt any predatory pricing or any other predatory practice of conduct.

This section also provides that nothing in the bill should be construed to exempt any person or joint newspaper operating arrangement from the monopolize or attempt to monopolize prohibitions of section 2 of the Sherman Antitrust Act. It is the intention of this section that the antitrust exemption in no way changes the liability of the jointly operating parties—considered a single entity—for conduct affecting others under the antitrust laws.

HEARINGS DEVELOPED NEED FOR REMEDIAL LEGISLATION

Mr. President, these provisions evolved from a series of hearings on S. 1312 and S. 1520 in the 90th and 91st Congresses, conducted very ably by the distinguished Senator from Michigan (Mr. HART), as chairman of the Subcommittee on Antitrust and Monopoly. The hearings were thoroughgoing in the investigation of this very complex problem. Considerable evidence was presented showing that, although the total number of newspapers in operation has not changed radically over the years, nevertheless, economic conditions have created a situation in which a very large majority of American communities have already become one-newspaper communities.

In 1910, there were 2,202 English language dailies in the United States, an all-time high. By 1968, while the population more than doubled only 1,753 daily newspapers remained.

The number of one-newspaper towns had risen sharply by then, reflecting an important change in competitive conditions. Of the 1,500 cities served by a daily newspaper, 85.6 percent were one-newspaper towns. Although another 150 communities were served by two dailies, these dailies were under single ownership. Thus, in total, over 95 percent of the communities of the country at the beginning of 1968 had newspapers that were controlled by a single owner.

As of early 1968, only 45 of the 1,500 daily newspaper cities had two or more competing dailies. Editorial competition between different publishers has been maintained in 22 cities only by resort to joint operating arrangements. Thus, only by resort to these joint arrangements have separate editorial voices been preserved in the 22 communities, including Honolulu in my State.

The subcommittee hearings also revealed that this startling trend away from multiple-newspaper cities and the trend toward centralization of control of the printed news media have been produced by economic conditions which have made it increasingly difficult for many newspapers to coexist in the same community under conditions of all-out economic competition.

ECONOMIC PLIGHT OF NEWSPAPERS

One of the witnesses before the Senate Antitrust and Monopoly Subcommittee, on which I serve, described the plight of newspapers, which is peculiarly different from most other businesses. Mr. Thurston Twigg-Smith, publisher of the Honolulu Advertiser, told me in the 1967 hearings:

A newspaper's economic strength depends largely on its advertising revenues, which in turn depend on readership. Since readership depends on content, which includes advertising as well as news matter, the process is almost a vicious cycle; a drop in advertising dollars means a drop in money that can be spent for promotion and editorial content, which leads in turn to a drop in circulation, which leads to a further drop in advertising and so forth. Thus, if you examine the trend lines for an otherwise well-managed newspaper and find it to be on a descending curve in the key indicator areas of percentage of the field for advertising and circulation, you know it is going to be only a matter of time before the death knell sounds, unless of course the situation can be corrected with massive and continuing infusion of capital.

* * * * *

A newspaper, once dead, is really dead. There is nothing to revive, as you can easily see among the ashes in New York.

NEWSPAPER EFFORTS TO OVERCOME COST-PRICE SQUEEZE

In response to these economic pressures, the newspaper industry developed the joint newspaper operating arrangement in order to achieve two goals—one, to reduce costs and thus eliminate potential losses, and, two, to maintain editorial independence. In this way two newspapers, one of which was in a threatened economic condition, combined their production and business operations, thereby reducing expenses, yet maintained their editorial independence.

The joint arrangement permitted a substantial reduction in costs by eliminating duplicate equipment and manpower and especially by allowing more efficient use of expensive printing plant facilities.

Mr. President, the then dean of the U.S. Senate, Carl Hayden, the original sponsor of S. 1312, testified as the first witness on July 12, 1967. This excerpt is most pertinent at this point:

It should be made clear that for a quarter of a century these two newspapers (Tucson, Arizona) have published through a joint printing and business operation. It should be made equally clear that these two newspapers have remained editorially separate and distinct. Mr. Chairman, joint newspaper operations similar to that in Tucson exist in more than 20 cities and presumably the Department of Justice has long been aware of this fact. . . .

No reason has been given why the Department decided that the Tucson newspapers in particular were in violation of the antitrust laws.

I do not believe this is a healthy situation in our competitive society. It is the purpose of the antitrust laws to foster competition rather than stifle it.

Mr. President, I agree that the action of the Department of Justice stifles competition. I echo Senator Hayden's words and his statement that this bill is needed to remove the legal cloud that hangs over these 22 cities having joint newspaper agreements, especially since they have been permitted by our Government to so operate since 1933.

Many publishers relied on such precedents, one of which was Mr. Thurston Twigg-Smith, whose testimony is a perfect and succinct example of what causes a newspaper publisher to consider a joint operating agreement, not only in 1933, but as late as the 1960's. He told the subcommittee candidly that he had three choices: First, liquidation; second, sale to his competitor, the Star-Bulletin; or third, the formation of a joint operating arrangement.

In the 5 years prior to this decision he showed losses of $47,500 in 1957; $110,615 in 1960; and $72,395 in 1961. He stated that in 1958, a profit of $191,927 was due entirely to a drastic cutback in expenditures in view of the loss suffered in 1957, which, however, caused substantial deterioration in the advertising and circulation position of the Advertiser newspaper. He also noted that there was a profit of $56,981 in 1959, which was due almost entirely to the $56,171 profit made from a special statehood edition that year. He further noted that both advertising and circulation were on a down spiral—68 percent Star-Bulletin to 32 percent Honolulu Advertiser; that the Advertiser bank loans were on short term and that it was almost impossible to obtain a long-term loan. On top of this the Advertiser's equipment was antiquated and required a minimum of $1.5 million for replacement costs.

It should be noted that this same type of story was told by the publishers of the Tucson, Ariz., and Tulsa, Okla., newspapers in the early 1940's. There are 22 cities in the United States who have had two papers that have entered into joint arrangements. If this bill is not enacted or if the Justice Department does not change its position, which was upheld by the Federal Court in Tucson and the U.S. Supreme Court, these joint arrangements would be declared illegal and divestiture ordered, and at least one of the two papers would have to return to the precarious position that Mr. Twigg-Smith related in his testimony.

PRIOR EXEMPTIONS FROM ANTITRUST LAWS ENACTED BY CONGRESS

Mr. President, the Congress does not consider lightly exemptions from the antitrust laws. However, the Congress has, in the past, granted exemptions from the antitrust laws when it recognized a countervailing economic, political, or social value which justified the relaxation of certain antitrust prohibitions. We Senators and Congressmen who sponsor the Newspaper Preservation Act recognize such countervailing values, especially since the relief—that of continuing joint operating agreements—had been considered as legal and proper from 1933 to 1967.

Here are examples of previous exemptions granted by Congress:

First, Sherman Act exemption for vertical minimum resale price maintenance agreements covering brand names;

Second, section 7 of the Clayton Act covering mergers which exempts acquisitions of stock solely for investment, etc.;

Third, certain activities of labor organizations;

Fourth, agricultural cooperatives are exempted in supplemental Federal antitrust statutes;

Fifth, the Webb-Pomerene Export Trade Act grants exemptions under stated circumstances for associations engaged in export (foreign) trade;

Sixth, exemptions in the Small Business Acts of 1953 and 1958;

Seventh, exemptions in the Bank Merger Act of 1966;

Eighth, exemptions granted to professional baseball, football, basketball, and hockey leagues which pool their separate rights in TV sponsorship;

Ninth, exemption from antitrust laws permitting the American Football League and the National Football League to merge into one league; and

Tenth, exemptions under the Defense Production Act of 1950.

Mr. President, certainly the preservation of nepspapers in S. 1520 which would otherwise fail and cease publication is of as great, if not greater, economic, and social value as the exemptions above noted, thus requiring Congress to grant similar relief.

Having discussed other exemptions from the antitrust laws enacted by Congress, I should reemphasize that the exemption requested in S. 1520 is a limited exemption and all activities, other than the exempt act of combining for the specifically designated purpose, would be subject to the antitrust laws. All activities beyond those specifically approved by the bill would continue to be subject to the full force and effect of the antitrust laws.

PREDATORY PRACTICES NOT EXEMPT

It should be noted here, Mr. President, that the bill has been amended to explictly state that predatory practices shall not be exempted herein. This should eliminate fears expressed that the bill would help strong newspapers gobble up weaker ones.

NO NEW PAPERS IN CITY WHERE PAPERS FAILED

Mr. President, it was suggested at the hearings that it would be better to permit a failing newspaper to die than to enact the exemption because a new daily newspaper would enter the void created by the demise of that failing newspaper.

The fallacy of that argument is reflected by the hearing record, which reveals that there are no new entrants into a city where a failing newspaper had ceased operations. Let me cite from that record:

At page 274 of the printed hearings, (1967), on S. 1312:

Mr. CHAMBRIS. For example, let us say two newspapers wanted to get together and they were not able to consummate an agreement and for that reason one of the papers either failed or was taken over by a merger. What has been your experience of a new paper moving in under those circumstances?

Mr. HOWARD. (President of Scripps-Howard Newspapers). Well, we sold in Houston, Texas, and despite a lot of talk, nothing has happened in four years. No new paper has started. And in Indianapolis, Indiana, again, where we beat the business literally trying to find somebody who would buy the paper and . . . nobody wanted it, and nobody has started (a new one). In New York City . . . I do not think any outsider is going to come in. It does not happen.

At page 592 of the printed hearings, 1964, Mr. G. O. Markuson, executive vice president of Hearst Corporation, stated:

It has been suggested by some witnesses at these hearings that there are many new potential entrants anxious to establish newspapers in urban areas where existing newspapers are declining or failing. This is a myth. New publishers have neither earnestly nor actively sought entry into a distressed urban newspaper market, and, in the few instances where attempted, failure usually has resulted. A major metropolitan newspaper is not born solely of good wishes and fond expectations—in addition to able personnel, considerable financial resources are required. It is true that many investors are willing to buy an offset press and publish a suburban paper, but the metropolitan paper is a far different and more costly story. The recent demise of the New York World Journal Tribune confirms that would-be entrants are not attracted to a losing newspaper market.

Mr. President, there is more that I could say today in reviewing the testimony of 24 days of public hearings, in which I actively participated in the colloquies. However, as there will be other sponsors who will speak urging passage of this bill, in the interest of time I ask unanimous consent that the attached concise statement of Mr. Twigg-Smith and colloquies through questions by Chairman HART and me, as noted on pages 611 to 625, be printed at the conclusion of my remarks. Answers to key issues are clearly revealed as reasons why S. 1520 should be enacted into law.

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

(See exhibit 1.)

Mr. FONG. Mr. President, I can speak from firsthand knowledge of the results of a joint operating agreement such as would be permitted under S. 1520, for such an agreement has existed since June 1962 between the Honolulu Star-

Bulletin, an evening daily, and the Honolulu Advertiser, a morning daily. Both papers serve the entire State of Hawaii, not just Honolulu.

BENEFICIAL RESULTS FROM JOINT OPERATIONS IN HONOLULU

The operating economies permitted under the joint agreement have resulted in survival for the Advertiser, which could not have continued to publish in view of the large losses it had been sustaining. Not only has the joint agreement permitted the Advertiser to remain alive, but it also has resulted in profits instead of losses for this paper as well as for the Star-Bulletin.

According to Mr. Twigg-Smith:

Newspaper profits for the years of the plan, before taxes, were as follows: 1962: $43,912, all of it in the last 3 months incidentally; 1963: $53,066, and in that year we had a 44-day strike; 1964: $366,738; 1965: $300,123, the drop coming about because we adopted a double declining depreciation process on our machinery program; 1966: $398,479.

Economic strength means the Advertiser can provide jobs for reporters, delivery men, editorial writers, the whole staff. Had the Advertiser folded, these employees would have been out of work. Where would they have found jobs? As it is, the Advertiser has been able to hire more editorial people than before.

Economic strength means the Advertiser could attract high caliber reporters, even from well-regarded mainland newspapers—and it did.

Economic strength means national and international news coverage could be expanded by the Advertiser—and it did, by adding a second wire service to its basic UPI service.

Economic strength means an average of two additional pages of news daily in the Advertiser.

What is more, economic strength means there has been no diminution of competition in advertising or in editorial writing. There continues an aggressive scramble for advertising dollars among the Advertiser and Star-Bulletin, the small neighborhood newspapers, the many radio stations and television outlets.

Actually, economic strength fostered greater editorial independence. The two papers maintain very vigorous editorial positions, often differing sharply, as they constructively scrutinize government operations, business, and life in our island community, in our Nation, and in the world.

Competition shows up not only in the editorial columns but also in the news pages. For the Star-Bulletin and Advertiser journalists are keenly competitive. Competition keeps them on their toes and the result is better news coverage for the people of my State.

As Mr. Twigg-Smith told the Antitrust and Monopoly Subcommittee:

Where newspapers are stagnant, there you will usually find a stagnant community. Where newspapers are vibrant, their coverage fair-minded, and their editorial pages alive, they are vital factors in community advancement.

I can testify here today that Hawaii is a viable, dynamic, alert, progressive State, thanks in large measure to the invaluable services of our two Honolulu daily newspapers, who compete in everything but production, operation, advertising, and distribution.

I am convinced the people of Hawaii are better served by this arrangement than they would be by a monopoly of a single major newspaper.

Enactment of S. 1520 is essential to the progress and future of Hawaii, as well as other areas of the Nation.

Mr. President, the thrust of our antitrust laws is against monopoly and in favor of competition.

As presently construed by Department of Justice and the courts, however, these antitrust laws applied to joint operating arrangements promote monopoly in newspapers—an effect quite contrary to the basic intent of these laws.

S. 1520 PROMOTES COMPETITION IN IDEAS

On the other hand, the effect of S. 1520 is to promote vital competition, instead of monopoly. S. 1520 is thoroughly consistent with the purpose of the antitrust laws.

Mr. President, in closing I want to say this. Our complicated republican, representative form of government, with it delicate checks and balances and its precious freedoms for its citizens, is the most difficult form of government to operate. Its success depends upon an enlightened and informed citizenry.

In today's complex and technical society, no man is an expert on all subjects. To understand public issues, it is essential that citizens have ready access to different ideas, different analyses, and different points of view on these issues.

America is a pluralistic society. We believe in economic choice in the marketplace. We believe in political choice at the election polls. Freedom of choice is a hallmark of the American system.

By fostering differing news and editorial services, as would occur under S. 1520, we give our citizens a choice in the marketplace of ideas. I truly believe thereby we are strengthening our system of government.

I strongly urge my colleagues to support this measure and to pass it overwhelmingly.

EXHIBIT 1

THE FAILING NEWSPAPER ACT

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 1114, New Senate Office Building, Senator Philip A. Hart (chairman) presiding.

Present: Senators Hart and Fong.

Also present: Senator Inouye.

Also present: S. Jerry Cohen, staff director and chief counsel; Jack Blum, assistant counsel; Peter N. Chumbris, chief counsel for the minority; James C. Schultz, counsel for the minority; Gladys E. Montier, clerk; and Patricio Bario, editorial director.

Senator HART. The committee will be in order.

We welcome our first witness who is better defended and presented than any other witness we have had in this whole series of hearings.

Senator FONG. Mr. Chairman, I wish to welcome warmly Mr. Thurston Twigg-Smith as a witness before this subcommittee, and to introduce this distinguished citizen of the State of Hawaii to you.

Mr. Twigg-Smith is the president and publisher of one of the two major daily newspapers in my State, the Honolulu Advertiser, a newspaper which is more than 100 years old. It was established in 1856. Mr. Twigg-Smith is a fifth generation descendant of one of the most eminent families of Hawaii who helped to build the foundations of our modern Hawaii. He is one of the most highly regarded leaders of my community.

His newspaper, the Honolulu Advertiser, has over the years achieved a position of great distinction in American journalism. Its news columns are unfailingly objective and fair in reporting all "news fit to print." Its coverage of all the newsworthy events is thorough and complete on the local, national, and international levels. Its independent editorial voice has been loud and clear, and always responsible.

In all respects the Honolulu Advertiser has established itself not only as a great newspaper but also as a leader in the State, whose viewpoint is one of the most highly respected and whose voice is always heard.

Mr. Twigg-Smith appears before the subcommittee this morning representing both his newspaper and the Hawaii Newspaper Agency, a joint operating arrangement between the Advertiser and the other great Honolulu daily, the Honolulu Star-Bulletin. This highly successful joint operation has existed since 1962.

Mr. Twigg-Smith, I am pleased and delighted to welcome you to these proceedings. We look forward to your testimony, which I am sure will be of significant assistance to the subcommittee in consideration of the important piece of legislation before us.

Mr. Chairman, I am also very happy that my colleague, Senator Inouye, is here, to give us moral support in this manner. I am quite sure that he would like to say something.

Senator HART. Senator Inouye.

Senator INOUYE. Senator, I wish to join my distinguished colleague to present to this subcommittee a very distinguished Hawaiian, Mr. Thurston Twigg-Smith. I, as a cosponsor of this measure, am especially pleased because Mr. Thurston Twigg-Smith is here in support of this measure and I do hope that this subcommittee will give this bill not only serious consideration but very favorable consideration. It is very important to Hawaii.

Thank you very much, sir.

Senator HART. Thank you, Senator.

If Senator Inouye is free to stay, we would be delighted to have him sit through. I know his schedule.

Senator FONG. Mr. Chairman, to show you how well regarded Mr. Twigg-Smith is, he has an audience here with him, Mr. and Mrs. Richard Thacker from Honolulu. Will you stand, Mr. Thacker and family?

STATEMENT OF THURSTON TWIGG-SMITH, PRESIDENT AND PUBLISHER OF THE HONOLULU ADVERTISER

Senator HART. Sir, we welcome you and having heard about you now, we await your testimony.

Mr. TWIGG-SMITH. I appreciate all the kind comments. Mr. Chairman and members of the subcommittee, my name is Thurston Twigg-Smith and I am the publisher of the Honolulu Advertiser. It is a privilege and a pleasure to appear before you and present my views on S. 1312. As my statement will show, I think this proposed legislation is the long-sought solution to the difficult problem of preserving independent, competitive newspaper voices in major American cities.

This statement will give some of the background that led the Advertiser into becoming one of the 44 newspapers now engaged in joint operating arrangements in 22 cities in America. It also will try to answer some of the questions that have been asked of us, and in summary will set forth some thoughts which have evolved to this writer in many years of worrying about survival and 5 years of living with such a joint operating arrangement.

The Advertiser was founded in 1856 and had survived as an independent voice