would like to ask the gentleman from Ohio (Mr. BROWN) with his knowledge of the newspaper business, if it is not true that many of the union settlements across the Nation in the newspaper field include the agreement that want ads that run for 2, 3, or 5 days be "reset" in each issue?

Mr. BROWN of Ohio. There may be such uneconomic requirements in individual labor contracts signed between certain newspapers and their unions and this could be one of the reasons for the request for this legislation to exempt newspapers from antitrust procedures, because such provisions in contracts could prevent economies in operation that might otherwise be possible in the newspaper business.

Mr. WINN. I thank the gentleman.

Mr. McCULLOCH. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. BELCHER).

Mr. BELCHER. Mr. Chairman, I wish to thank the gentleman from Ohio for yielding to me this time. In Oklahoma we have an illustration of two ways in which to operate newspapers. In Oklahoma City for the last 50 or 60 years one man has owned both daily newspapers, a morning and an evening newspaper. Just the other day he celebrated his 97th birthday. He still drives his automobile. He still goes to his office every day. A man who has that kind of monopoly in a city as big as Oklahoma City is certainly going to get along all right.

In the city of Tulsa we have two newspapers that have been vigorous competitors for the last 30 or 40 years. For the last 20 or 30 years they have printed their papers together. I mentioned the man who celebrated his 97th birthday. A man who was celebrating his 93d birthday was asked, "How does it feel to be 93?" He said, "It feels pretty good, because the alternative is not so good."

I merely want to point out to you that the alternative to these joint operations is not so good. A while ago the gentleman from Iowa asked if under this bill there could be price fixing.

In the Oklahoma City operation there has been price fixing by one man for the last 40 or 50 years, and there has been one editorial policy by one man for the last 40 or 50 years.

Also, if these Tulsa newspapers were to divide up and were to buy new presses and establish a completely new newspaper plant, it would be impossible for the two of them to exist.

The mere fact that there are two newspapers in a city who print their papers separately and are completely separate in their operations does not prevent any kind of price fixing. Those two people can get together on the prices they charge, just as easily as if they print their papers together. So I do not see any reasonable argument at all against this kind of operation, when we say a one-owner operation is absolutely not against the antitrust law, but if two owners print together, that violates the law. I do not know who passed that law or I do not know who made those interpretations, but that certainly does not look reasonable to me.

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. FULTON of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Tennessee.

Mr. FULTON of Tennessee. Mr. Chairman, I would like to ask the gentleman this question: Does the language used in section 4(a) of the bill include a situation where both newspapers were "failing newspapers," as this phrase is used in the bill, at the time the original operating arrangement was first entered into?

Mr. UDALL. It certainly does.

Mr. FULTON of Tennessee. I thank the gentleman.

Mr. UDALL. Mr. Chairman, my hometown is Tucson, Ariz., and that is the place where all this debate about failing newspapers and joint operating agreements began 5 years ago. I support and sponsor this bill, not because it represents all that is good and virtuous and true, or because it will make this a perfect newspaper world, but because it is the only approach I know which stands a chance of checking the downward spiral of newspaper publishing in this country.

Ideally, I would want to see full and complete competition between and among all business entities in this country, including newspapers. But this is not a perfect world, and I think it is a mistake to give up what is merely good in a hopeless struggle for the perfect. Insisting on perfect competition between newspapers in each and every market may sound great, but I fear the result would be disaster—more newspapers ceasing publication, more newspapermen out of work, and more Americans with but one point of view in their daily newspaper diet. For residents of most American cities newspaper monopolies are no longer a threat, or an exceptional case. Monopolies are now the rule in 160 cities; two or more editorial voices are left in only 59.

I am told by some of my friends that defeat of this bill will be good for the country because it will enhance competition, root out the newspapers that can't compete, and create openings for new newspapers to come into being. If this were true, I would certainly oppose the bill and allow the milennium to happen. But this is indeed a vain hope, without substance and without historical precedent. The chilling truth is that in 43 years every attempt to start a new metropolitan newspaper in competition with an existing newspaper has failed. I know personally of three such attempts in my own State of Arizona in the last 25 years. Therefore, to vote against this legislation in the expectation that its defeat will stimulate new competition in newspaper publishing would seem to be highly unrealistic.

Let me tell you about these two newspapers in Tucson which prompted this whole debate. They have been battling each other in news and editorials as long as I can remember. Sometimes they get very angry with one another. They usually support competing political candidates. They more often than not take opposite sides in public debates over zoning, freeways, annexation, bond issues, fund drives and the like. Editorially, they are out to beat each other on news stories every day of the week. In short, they are separate and very distinctly different newspapers, having different policies, and different ways of covering the day's news. But they have had for nearly 30 years, a kind of joint operation of circulation, printing, advertising and other commercial functions.

This is the newspaper situation the court has said is illegal, a threat to public welfare and free competition.

Now let me drive you 120 miles north to Phoenix. Here we find not a combination based on a joint operating agreement, but a total monopoly—two newspapers owned by the same publisher. There are no other daily newspapers in Phoenix; those that tried to compete failed miserably. On all important issues the two Phoenix newspapers take virtually the same editorial stands. This arrangement the court has said is perfectly legal and can continue indefinitely, regardless of the fate of the bill before us today.

Let me say that I am not criticizing the Phoenix papers for being a monopoly or for presenting a united front. If I owned two newspapers, I probably would not come out for Nixon in one and Johnson in the other, or for the Vietnam war in one and against it in the other; this would be the worst kind of cynicism, obviously self-defeating. But my point is that defeat of this bill will not touch the true newspaper monopolies that exist; it will merely disrupt the combinations of the Tucson type which have provided such variety, such spice, such diversity to the cities in which they have been operating these many years.

How ironic that would be. And how doubly ironic if our failure to support this legislation resulted in a succession of total mergers effectively eliminating any semblance of editorial diversity in the 22 cities where joint operating agreements are now in effect.

This is an important point which opponents of this bill apparently fail to appreciate. The courts have allowed all sorts of total mergers to occur in the newspaper field. What they have rejected in this one instance, in the Tucson case, was a partial merger—that is, of advertising and circulation functions. Under our antitrust laws as they stand today it is highly likely that after 2 or 3 years of separation a total merger of any pair of these newspapers in any city could be made to hold up in court. It is only the partial mergers that would be struck down.

Justice Stewart in his dissent in the Tucson case quoted an excerpt from the record of the trial which I think is highly illuminating. The attorney for the defendant asked the Court:

> Well, would Your Honor then think if they had dissolved Star or Citizen or both and simply merged them all into one company, then the failing company doctrine would apply?

The Court's reply was very candid:

> I think if Star acquired all of Citizen's asset and gave stock to the owners of Citizen,

it probably would. I would say that the Government wouldn't have much chance in this particular case of attacking that acquisition.

All we have to do is look at the rest of the Nation to see what is at stake in this legislation. In these 22 cities there is still editorial competition; people can still read more than one point of view in their hometown papers. There are just 37 other cities in which there is still any semblance of editorial competition. But there are 160 cities—more than 73 percent of the total—in which all of the newspapers are owned by a single newspaper publisher.

I know that opponents of this bill hope that the 22 could be joined to the 37 to make 59 cities with full and complete newspaper competition. But I fear that the result would be just the opposite—a movement toward more one-newspaper or one-publisher cities.

In my view, any such "victory" for the cause of antitrust would be a disaster for the country.

Mr. Chairman, I do not lightly advocate a departure from the letter of our antitrust laws. I support the fullest enforcement of these laws, and I favor legislation to extend them into areas, not now protected. But I cannot ignore the rather remarkable disparity between the letter and the spirit of the law in these newspaper cases. Pursuing the letter of the law and its recent interpretation by the court can mean a sharp decline in newspaper competition; modifying the law slightly, as we would do with this legislation, can insure that many cities will continue to enjoy the benefits of the kind of healthy competition I have described.

I urge the passage of H.R. 279 to permit the reinstating of the point operating arrangement in Tucson, Ariz., now barred by the Supreme Court decree in Citizen Publishing Co. against the United States and to provide a limited exemption from the antitrust laws for the other joint operating arrangement cities.

Mr. FULTON of Tennessee. Mr. Chairman, there is no doubt that newspapers in many areas across the country have been experiencing serious economic problems. The Newspaper Preservation Act, I believe, offers a realistic and desirable solution to many of these problems.

At the beginning of 1968, only 67 cities in the United States were fortunate enough to have at least two separately owned newspapers. The number of cities so served has been shrinking steadily over the past 30 years.

Although there is general agreement that failing newspapers are in need of assistance, some have questioned whether the Newspaper Preservation Act provided the best means of supplying that assistance.

What, then, does the bill provide? It provides for a limited antitrust exemption for newspapers which have joint newspaper operating agreements. What would be legalized, in addition to the joint procedures now allowed, would be joint advertising and circulation functions, and agreements to share in profits according to a prior established formula, so-called profit pooling.

Of the 67 two-newspaper cities with separate ownership, 22 of them have entered into some type of joint operating agreement.

Opponents have claimed that these steps are not needed, and that sufficient economies can be gained merely through joint printing, the use of the same delivery trucks and the like. Of course, they do not present actual cases to document their theoretical economic analyses. Indeed, the continuing list of defunct and merged newspapers bears witness to the faultiness in that analysis.

Critics have also warned that advertisers and subscribers would be gouged by the monolithic rate schedules set by the joint commercial operation. That has not been the case, despite the fact that some of the operating agreements date back almost 40 years. I am informed that advertising rates in Hawaii, for instance, have actually declined since the agreement was entered into.

Profit pooling has been a particular target for opponents of the bill. But the sharing of profits arising from the joint commercial venture goes to the very heart of the bill. There is no realistic alternative. Without profit pooling, the bill provides negligible economic benefit to the beleaguered newspapers. And if profits are left to be divided some other way not predetermined—circulation, for instance, or advertising lineage carried for a particular period—the weaker paper will almost certainly suffer because of its less favorable bargaining position at the beginning.

Some of the bill's critics have suggested that we rely on the traditional market mechanisms to eliminate inefficient publishers, and therefore keep open the opportunity that some other, more vigorous competitor will come along to fill the void. This argument ignores history. In cities of 200,000 population or more, there has been no successful new daily newspaper started since 1941. Moreover, there is a viable argument that the bill may actually promote more frequent entry into the newspaper business in certain cities. If someone is considering starting a morning newspaper, for instance, in a city where there is presently only an evening paper, he may be less reluctant to invest substantial capital if he knows that he may be able to negotiate a joint operating agreement with the existing newspaper should his daily prove unable to compete fully.

In short, Mr. Chairman, it seems clear to me that H.R. 279 confronts a real economic problem in a realistic, responsible way. I urge this body to vote its approval.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HALPERN).

Mr. HALPERN. Mr. Chairman, as a cosponsor of the Newspaper Preservation Act, I rise in support of this bill which would grant to newspapers a limited antitrust exemption to enable them to enter into joint business and mechanical operations when necessary to avoid business failure.

There is little disagreement, I think, with the judgment that the public can only benefit from having access to the news presented from more than one point of view. The two leading newspapers here in Washington, the Post and the Star, are a case in point. Regretfully, however, the economic and business facts of life have dictated just the opposite trend in this country since the beginning of the 20th century, to the point where some experts estimate that a market area of 650,000 people or more is necessary if two daily newspapers are to compete and survive. Senator INOUYE, the principal sponsor of this measure in the Senate, indicated during the Senate hearings that today only five cities in the Nation have three or more daily newspapers; only 59 have separately owned, editorially distinct, newspapers; and 22 of the latter have the same kind of joint printing and business procedures used by the Tucson papers against which action was brought by the Justice Department in 1965.

It is clear that if joint operating procedures of this sort are going to be prosecuted under the antitrust laws, the Congress must take action to preserve the independent newspaper voices in many of our cities. According to William A. Small, Jr., owner of the Tucson Daily Citizen, the Antitrust Division of the Justice Department has taken the position that the merger of the commercial aspects of the Tucson newspapers under their joint operating agreement is illegal per se, regardless of any economic justification:

(T)he Division disregarded the economic background and reasons for the joint arrangement between the Citizen and the Star. It disregarded the fact that the Citizen clearly would have failed without the joint arrangement. It disregarded the fact that preservation of two separate news and editorial voices is in the public interest. It disregarded the fact that rates charged by the two newspapers for advertising are reasonable and competitive with other media. These facts are irrelevant, according to the Division.

And in response to the argument of the Tucson papers that termination of the joint operating agreement would cause one of the papers to fail, the Justice Department replied by quoting a statement from a 1963 Supreme Court decision, *United States* v. *Singer*, 374 U.S. 174, 196:

Whether economic consequences of this character warrant relaxation of the scope of enforcement of the antitrust laws, however, is a policy matter committed to congressional or executive resolution. It is not within the province of the courts, whose function is to apply the existing law.

Hence, Congress must act if there is to be any change.

I have cosponsored this legislation in the House because I think this is a case where the spirit, rather than just the letter, of the law must be applied. The purpose of the antitrust laws is to foster competition, not to stifle it. Yet unless this bill is enacted, the effect of existing law will be to drive many editorially independent newspapers out of business, to the long run benefit only of the larger newspaper chains.

I think we must consider the unique position of newspapers in our communities. I certainly recognize that the fundamental principles of antitrust laws are

valid and that they are necessary to guard against abuses in business conduct and to preserve our competitive economy. But newspapers are not like the products of other industrial companies, and we must consider what the long-term effects of the strict application of these laws to joint newspaper operating agreements are going to be. My good friend and colleague from New York, EMANUEL CELLER, summed up this argument very well in a 1963 interview which appeared in Editor and Publisher:

> Personally, I incline to the view that perhaps there might be immunization for newspapers from anti-trust laws in certain cases. If the anti-trust laws were rigidly enforced it may be shown that more harm than good would result.
>
> We are interested in keeping the newspapers alive. We must realize that anti-trust laws in some instances might cause the death of dailies. Then we must ask ourselves: which is more important, maintenance of the anti-trust laws or preservation of the free press?
>
> When it comes down to that kind of choice. I think the preservation of the press outweighs a violation of the anti-trust laws . . .

This bill would exempt from the antitrust laws the kind of joint business and commercial operating agreement undertaken by many newspapers in order to survive. It appears to me that this is an eminently practical arrangement. Advertising is the lifeblood of newspapers, and although the population is continually expanding, the market for newspaper advertising is not keeping pace because of increasing competition for advertising from other media like radio and television. Since advertising goes to the paper that can reach the most customers at the lowest price, the publication with the smaller circulation must cut costs to keep up with his competitor, the quality of his paper will suffer as a result, he will lose even more advertising revenues, and he will be caught up in the downward spiral toward complete collapse. Thus, it makes sense for two newspapers, which could not both survive in a given area on a completely independent and competitive basis, to join forces to realize the economies of a joint business and commercial operation, that would then divide revenues in excess of costs between the two papers in accordance with a predetermined formula. It makes sense from a business point of view and from the point of view of the public interest, for it will enable both newspapers to continue to compete in the area of news coverage and editorial opinion. The arrangement has apparently worked well in Tucson, to the benefit of the public as a whole, because both papers consistently spend more on news and editorial content than most publications of comparable size, and because both have won many awards for editorial excellence.

In sum, I would urge my colleagues to support H.R. 279. It recognizes the economic realities of today which newspapers face, and it offers them a way to join together to solve the business problems of operating a newspaper while enabling them to maintain independent editorial policies. It recognizes that while commercial competition in some cities means certain death for one of the competitors, commercial cooperation will help to keep editorial competition alive. And above all it recognizes that the diversity of information and opinion resulting from two editorially independent newspapers is a highly desirable social value which we should go to great lengths to preserve.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. ADAIR).

Mr. ADAIR. Mr. Chairman, the Supreme Court has stated that it must strictly enforce the antitrust laws without weighing competing public policy factors, as that is the "responsibility of the Congress." Thus, the Congress is obligated to make a final determination as to whether the public policy justifications for a joint newspaper operating arrangement outweigh the considerations underlying the antitrust laws. Basically, this is a choice between fostering editorial competition and diversity on the one hand and wide-open competition without regard to its effect on the preservation of independent competing editorial viewpoints, on the other. Since this weighing of alternatives was not undertaken by the Supreme Court in the Tuscon case, any reliance on the case for our decision today is misplaced.

The recent Tuscon joint newspaper operating agreement case has made this legislation essential. That decision misapplied, in my opinion, the "per se" antitrust rule and set forth too stringent requirements for the failing company defense.

Heretofore, only a contract, combination, or conspiracy having no other purpose than the sole one of suppressing competition was considered a "per se violation" of section 1 of the Sherman Act. The joint operating arrangement merges only the business functions of the two city dailies, and continues two separate corporate entities which maintain separate independently operated news and editorial departments that are competitive. This two-level function which is a unique characteristic of the daily newspaper business was totally ignored by the Supreme Court.

Moreover, the stringent prerequisites set forth for the establishment of the failing company defense to section 2 of the Sherman Act and section 7 of the Clayton Act are unrealistic as applied to a failing newspaper. The strict standard announced in the International Shoe case of a "grave probability of business failure" is not applicable to newspapers as a dying daily cannot recover its lost circulation and advertising revenues by its sole efforts. The other requirement that the acquiring company be the only available purchaser also has no application as a daily on the verge of bankruptcy is not salable.

The experience of Fort Wayne Newspapers, Inc., in Fort Wayne, Ind., which prints the Fort Wayne News Sentinel and the Fort Wayne Journal-Gazette, is illustrative of the need to allow joint operation. The main purpose of the arrangement was the survival of two daily newspapers and editorial viewpoints.

Today, as a result of their joint operating arrangement, both newspapers are published in a modern, efficient plant. Both papers are competitive editorially, and Fort Wayne is one of the few cities of its size in the Nation whose citizens can read daily the articulate and diverse viewpoints of two competitive hometown daily newspapers.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MAILLIARD).

Mr. MAILLIARD. Mr. Chairman, I also want to express my support for this legislation because of the experience we have had in San Francisco, where we have dropped in recent years from four to two daily newspapers. I fear without the approval of the present arrangement between our existing two daily newspapers we would soon be down to a single newspaper, which I believe would be contrary to the interest of the people of the community.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. JARMAN).

Mr. JARMAN. Mr. Chairman, today, economic conditions in communities across the country have made it difficult for two or more newspapers in any given city to remain commercially competitive enterprises. News sources and editorial comment are thus being imperiled.

Costs have escalated rapidly and the source of revenue from advertising is crucial to the success or failure of any given newspaper. It has been proved to be more economical to advertise in the stronger newspaper even though its rates are higher. The weaker newspaper is then forced to compensate for the loss of revenue by cutting back its news and editorial departments. In response to these conditions, the newspaper industry itself developed the joint newspaper operating arrangement to reduce costs and thereby eliminate potential losses. This arrangement has permitted both the weak and strong newspaper to maintain their editorial competition and independence by combining their production and business operations.

A recent court ruling, however, would require that, despite the public interest of maintaining several editorial voices in a community, a newspaper must be in an extreme financial situation before it is allowed to take remedial action. The critical economic problems confronting many newspapers resulting from this case are of such serious proportions as to require immediate legislative action. Instead of a complete merger of the two competitors that would result in the disappearance of all competition between the two, this proposed legislation would allow a joint operating arrangement. It would simply amend the law so that such an arrangement would be considered to be a complete merger. Mr. Chairman, I believe the public interest will be served by the retention of competition in editorial voices and I urge the passage of this bill.

Mr. MURPHY of New York. Mr. Chairman, today's passage by the House of the Newspaper Preservation Act is indeed a victory for freedom of the press in America. It insures the continuation of the

free interplay and competition of ideas that is essential to a well-informed electorate, and to the democratic institutions on which this Nation relies.

For the passage of this act will permit the survival of two independent newspaper voices in 22 cities presently operating under joint agreements, and in most of the 37 American cities which remain with two or more publishers printing in separate plants. By preserving separately staffed newspapers, this legislation also protects employees on those newspapers.

Briefly, the measure exempts joint newspaper operating arrangements from antitrust laws if only one of the newspapers involved is a financially sound publication. The law as it existed until today allowed a total merger with the elimination of commercial and editorial competition, but prohibited a commercial merger which preserves news and editorial competition. The Newspaper Preservation Act gives joint newspaper operating arrangements the same legal standing as a total merger. And, it reopens for consideration all previous joint newspaper operating agreements which were held to be unlawful under antitrust laws.

The Newspaper Preservation Act is truly consistent with the intent and purposes of the antitrust laws—the preservation of competition where it otherwise could not exist. By preserving news and editorial competition, this measure enhances the purpose of the first amendment of the Constitution. Free speech, free press, and the interplay of divergent views have been preserved today.

Mr. LEGGETT. Mr. Chairman, in recent years it has become increasingly apparent that an independent and inquiring press is neither a convenience nor a luxury but rather an essential component of a free society.

The traditional balance of powers between the branches of Government has in some cases not been sufficient. In foreign policy, the Congress is just now beginning to rid itself of its mystical belief that the President is the only one who knows what is going on and the only one who can make major decisions.

I, for one, am more than half convinced that, were it not for the editors and reporters who, unlike the Congress, had the temerity and the integrity to look behind the official euphoria emanating from Southeast Asia, we would blithely have sailed into war with China or worse. For this and many other reasons I am most impressed by the performance of the American news media.

For the benefit of any Agnew devotees who may be present, perhaps I should specify that my high opinion of the gentlemen of the press continues even though they have occasionally had the arrogance, venality, duplicity, and incompetence to fail to treat my pronouncements with appropriate reverence.

But however noble and exhilarating the substantive aspects of journalism may be, the financial aspects can only be described as harrowing. This is particularly true in cities which support more than one paper. A newspaper can go from reasonable prosperity to permanent extinction in a matter of weeks.

The present deteriorated economy has exacerbated the newspapers' predicament even further. In recent months we have even heard sounds of desperation coming from the Nation's foremost newspaper, the New York Times.

For many papers, merger has been the only alternative to extinction. But in a city having only two papers, merger spells monopoly, with concomitant complacency and lack of editorial incentive. It was one thing for the New York World, Sun, Telegraph, Herald, and Tribune to merge over a period of time, for the city still had the Times, Post, and News. But it is quite another thing for both papers in a two-paper city to come under one management.

Desirable as it may be for a city to have more than one independent paper, a newspaper cannot continue if it cannot get out of the red. So we have seen one paper after another go under, and today only 37 cities in the United States are served by two or more competing papers.

However, we also have 22 cities in which two papers operate under what might be called a semimerger. They cut costs by having one advertising department, one circulation department, one accounting department, one printing plant, and so forth. But they serve the public by having two independent and competing publishers, news departments, and editorial departments.

This arrangement, which began in Albuquerque in 1933, has been made possible by a kind of informal nonenforcement of the antitrust laws. But now it appears that, unless we formally legalize them, newspaper semimergers are going to be disallowed under the antitrust laws.

In my opinion, they should be legalized. The function of the antitrust laws, which I enthusiastically support, is the prevention of monopolies. But outlawing semimergers will not prevent monopolies; it will create them. It will force full mergers and end editorial competition in at least 22 cities.

So we must make a carefully specified and carefully controlled exception to the antitrust laws in this one instance in which they are counterproductive. That is the purpose of the act before us, and that is why I shall vote for it.

Mr. EDWARDS of California. Mr. Chairman, separately owned newspapers serving a particular area may legally enter into joint operating agreements which insure substantial savings to each. Under the Tucson case and a ruling by the Department of Justice the major permissible joint activities include joint printing, joint circulation facilities, joint Sunday edition, cost-justified combination advertising rates, and partial joint accounting and billing.

The operating agreements may not include, as a violation of the antitrust laws, price fixing, and profit pooling because these, as a practical matter, eliminate all competition between the two newspapers.

Beginning in 1933, however, newspapers have been operating under agreements providing for price fixing and profit pooling in addition to the five legal activities. It is to the Justice Department's discredit that it did nothing for decades, leading these newspapers to conclude that the operating agreements had the tacit approval of the Justice Department.

The refusal by the Justice Department to institute actions against these agreements for more than 30 years was of concern to many members of the House Judiciary Committee. The Department's dereliction for such an extended period allowed stockholders' rights to become fixed. In 22 cities throughout the country competing newspapers assumed that the Justice Department approved of joint operating agreements that included price fixing and profit pooling. Consideration was given by the Judiciary Committee to legislation that would outlaw future joint operating agreements while permitting existing ones to continue for a definite or indefinite period of time. We immediately concluded, of course, that such a law would be unconstitutional as class legislation.

The Judiciary Committee did improve the Senate-passed version by making it more difficult for new joint agreements providing for profit sharing and price fixing to come into existence. Any new agreements must be approved in advance by the Attorney General, and prior to granting such approval, the Attorney General must determine that not more than one of the newspapers involved in the arrangement is a publication other than a failing newspaper and that approval of such arrangement would "effectuate the policy and purpose of this act."

Regardless of the more stringent requirements for future agreements, enactment of the legislation as proposed would be such a major exemption of the Federal antitrust laws as to make it unwise. Its passage would open the door to new operating agreements throughout the country that would include price fixing and profit sharing. A new regulatory Federal agency to police the agreements would inevitably result. This raises the prospect of Government regulation of newspapers, a loss of editorial independence, and a compromising of the traditional independence of the American press could do irreparable damage to our political, economic, and social fabric. These grave dangers outweigh the considerations raised by the delinquent conduct of the Justice Department in allowing violations to go unheeded for decades, and the legislation should be defeated.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 279, the Newspaper Preservation Act. The importance of the Newspaper Preservation Act cannot be overemphasized. This legislation is designed to protect the public interest and and maintain editorially independent and competitive newspapers in the United States by providing them with an exemption from antitrust laws. This exemption would permit them to enter into certain joint operating arrangements when they are in financial difficulty and enable them to survive.

Many metropolitan newspapers during the 1930's discovered that strong compe-